FEDERAL GOVERNMENT INTERNATIONAL TRADE FUNCTION REORGANIZATION

HEARINGS

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

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FEDERAL GOVERNMENT INTERNATIONAL TRADE FUNCTION REORGANIZATION

THURSDAY, SEPTEMBER 6, 1979

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

The subcommittee met at 9:30 a.m., pursuant to notice, in room 1100, Longworth House Office Building, Hon. Sam M. Gibbons presiding.

Mr. GIBBONS. Mr. Vanik has been detained because of storm damage in his area, and I will read his statement so we can get started.

The Subcommittee on Trade today examines various proposals to reorganize and restructure the international trade functions of the U.S. Government, including the draft proposals of the administration which have been made public and submitted to the Congress. That submission was made pursuant to section 1109 of the Trade Agreements Act of 1979, Public Law 96-39, which directed the President to make such a proposal by July 10, 1979.

There have been hearings by other committees, consultation with Congress and staff, and informal discussions with the private sector on a number of reorganization proposals, including the administration's draft proposals. I want to make clear that this subcommittee clearly recognizes that the jurisdiction over reorganization matters lies with the House Committee on Government Operations. At the same time. the Subcommittee on Trade of the Committee on Ways and Means has a vital and fundamental interest in which departments and agencies are assigned the responsibility for administering the statutes under the jurisdiction of the Committee on Ways and Means and this subcommittee.

Thus, I welcomed the administration's reorganization proposals. Since then there has been more time to reflect on the implications of these proposals for administering the statutes this subcommittee worked so hard to perfect.

I will turn this over to Mr. Vanik now, who is coming out of the storm.

Mr. VANIK [presiding]. In so reflecting on these proposals, certain basic questions have arisen as to whether the proposed reorganization assures the effective administration of the trade statutes only recently revised.

One example is the position and influence of the President's Special Representative for Trade Negotiations. This position was created by the Congress. By statute, the Special Representative for

Trade Negotiations reports to the President and to the Congress on the administration of the trade agreements program and on other trade matters assigned to him by statute. This official has been given a special and unique status by decision of the Congress.

Overall, the Special Trade Representative and the Office of the Special Trade Representative have worked very well, and recent history indicates that the concept of the Special Trade Representative chairing an interagency trade organization is extremely well suited for trade policy implementation, reflecting upon the high lel of day-to-day interest by the private sector and the Congress. It is much more than an office to oversee major trade negotiations. It is an essential means of coordinating the whole sweep of the trade agreements program in cooperation with the Congress, responsive to the needs of the private sector, and the principal adviser to the President in identifying the national interest aspects of trade policy decisions.

I believe this subcommittee welcomes efforts to improve upon the STR's performance and to strengthen its role in even broader aspects of trade policy development and coordination; however, I believe we should consider very carefully before we change the fundamental nature of the STR operation. I personally believe we should resist any effort to change STR's strong leadership role in the interagency structure, with the Special Trade Representative having immediate access to the President and responsive to the Congress on questions of trade policy development and implementation.

Second, all of us recognize we need greater coordination of trade policy; and, in particular, we need a revitalized export policy to meet the full potentials of our ability to export. We need a structure which will continually reflect upon developments here and abroad which impact on our competitive capabilities, which is in a posture to recommend and implement policies which maximize those capabilities in every producing sector.

It is my hope that any reorganization by plan or by legislation will much better identify the export imperative and structure a priority for export in all matters impacting on export performance.

We need to make sure that any organizational change will enhance the effectiveness of our unfair trade statutes. The Antidumping Act, the countervailing duty provisions and the unfair import practices provision—section 337—are complex laws. The statutes demand balanced but effective administration to prevent unfair trade competition. We only recently gave these statutes very careful review and improved the posture for effective discouragement of unfair trade practices in the U.S. markets and abroad.

I will have some questions on just how effective the proposed reorganization will be on the effective administration of these statutes.

In this and in other areas the complexity of trade law and its interrelation to day-to-day responsibilities of agencies make changes in agency responsibility a difficult task to accomplish through reorganization, as opposed to legislation. In the press release announcing these hearings we posed some fundamental questions which I hope will be answered by the Government witnesses today.

I ask that the press release and material supplied by the executive branch relative to reorganization be placed in the record at this point.

[The material follows:]

[Press release of Wednesday, Aug. 15, 1979]

CHAIRMAN CHARLES A. VANIK (D., OHIO) SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES HEARINGS ON FEDERAL GOVERNMENT INTERNATIONAL TRADE FUNCTION REORGANIZATION, SEPTEMBER 6, 1979

The Honorable Charles A. Vanik (D., Ohio) today announced that the Subcommittee on Trade, Committee on Ways and Means, will hold hearings on proposals to reorganize the Federal Government international trade functions, beginning Thursday, September 6, 1979. The Hearing will be held in the Ways and Means Committee hearing room, 1100 Longworth House Office Building, beginning at 9:30 a.m. Reorganization proposals subject of the hearing will include H.R. 4691, as well as the President's trade reorganization proposal announced on July 19 and other proposals made by representatives of the private sector and individuals.

In announcing the hearing, Chairman Vanik noted that the Committee on Ways and Means emphasized in its report on the Trade Agreements Act of 1979 the need for a strengthened trade organization providing a monitoring and enforcement structure which will promote U.S. economic and commercial interests and ensure protection of U.S. rights under the Multilateral Trade Negotiations agreements, the GATT, and all other multilateral and bilateral trade agreements.

Witnesses are requested to address the illustrative issues listed below:

Basic organization structure

What should the basic organization structure be for trade functions:

(*a*) Strengthened STR for policy coordination with most operations and administrative activities transferred to Commerce;

(*b*) Independent agency with Executive Office coordinating body;

(*c*) Separate Department.

Should investment functions also be combined in the same structure?

Unfair trade statutes

1. What is the basic rationale for the transfer of part of the responsibility for antidumping and countervailing duty functions to a new Department of Trade and Commerce? In other words, what shortcomings of the present division of responsibilities between the Treasury Department and the ITC would be corrected by placing a part of the responsibility in an additional agency?

2. Whether or not the functions are transferred, how should antidumping and countervailing duty operations be structured and staffed to avoid present deficiencies?

3. If there is a transfer, how would the policy operation in the new agency interrelate with the basic data and investigative resources that would remain behind in the Customs Service?

4. Should STR or some other interagency body have a role involving discretionary authority, e.g., agreements to accept undertakings by foreign governments or exporters?

5. Why should the responsibility for administering section 337, the unfair import practice provision of the Tariff Act of 1930, be transferred from the ITC to a new Trade and Commerce Department? Why isn't present assignment of responsibility working and how would transfer improve the situation?

6. If a new Department of Trade and Commerce is to make injury determinations under section 337, should it not also make injury determinations under the antidumping and countervailing duty statutes?

Industrial analysis

1. Should a major objective of a Department of Trade and Commerce be to monitor developments affecting individual industry sectors and to formulate policies and programs to encourage industrial innovation and improve the competitive ability of U.S. producers in the domestic and export markets?

2. Should the domestic function in Commerce be responsible to the new Under Secretary of Trade, or have a separate identity, in order to better serve non-trade interests?

3. Should a Department of Trade and Commerce have overall responsibility for maintaining and improving product nomenclature systems, including comparability among statistics on imports, exports and domestic production, and related comparability with international statistical programs?

4. Should non-commercial functions, such as NOAA and the Weather Service, be transferred from Commerce?

Commercial service

1. How large should the commercial service be in terms of number and size of posts covered and should State be phased out of commercial service functions in all posts and a single service created modeled on the FAS?

2. What should be the functions of the commercial service, i.e., should they encompass surveillance and reporting on foreign compliance with trade agreement obligations as well as export promotion and marketing activities? If so, how should the commercial service interrelate with trade policy responsibilities of foreign service posts and with trade policy development and industrial analysis activities in the Executive branch?

3. What should be the composition of a commercial service and should officers rotate duties between Washington, domestic field offices, and foreign posts; or should personnel from State and STR have limited rotation service as well?

STR organization

1. Should STR responsibility for U.S. representation in Geneva include UNCTAD as well as the GATT, particularly if STR assumes responsibility for commodity agreement negotiations?

2. Should STR responsibility for GATT representation assume all GATT functions of the present Geneva Foreign Service Mission and be included under the STR budget?

Export promotion

1. What would be the most effective organization for export promotion and financing; e.g., how should Export-Import Bank activities interrelate with Commerce Department export promotion functions?

2. Should STR have a policy role in either export promotion or financing activities?

3. How and who will develop a comprehensive U.S. export policy?

Officials from the Administration will be the first witnesses. Testimony will be received by the Subcommittee from the interested public following the appearances of the Executive branch witnesses.

In view of the limited time available witnesses will be allotted time for a verbal summary of their statement based on the total time available to the Subcommittee. The full statement will be included in the record. Also in lieu of personal appearances, any interested person or organization may file a written statement for inclusion in the printed record.

Requests to be heard must be received by the Committee by the close of business Monday, September 3. The request should be addressed to John M. Martin, Jr., Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102, Longworth House Office Building, Washington, D.C. 20515; telephone (202) 225-3625.

In this instance, it is requested that persons scheduled to appear and testify submit 30 copies of their prepared statements to the Committee office, Room 1102, Longworth House Office Building, by the close of business Wednesday, September 5, 1979.

Persons submitting a written statement in lieu of a personal appearance should submit at least three (3) copies of their statement by the close of business Thursday, September 13. If those filing written statements for the record of the printed hearing wish to have their statements distributed to the press and the interested public, they may submit 30 additional copies for this purpose if provided to the Committee during the course of the public hearing.

Each statement to be presented to the Subcommittee or any written statement submitted for the record must contain the following information:

1. The name, full address and capacity in which the witness will appear;

2. A list of any clients (or the firm or association he represents) at whose behest or in whose employ the witness appears; and

3. A topical outline or summary of the comments and recommendations in the full statement.

PRESIDENT'S REORGANIZATION PROJECT,
Washington, D.C., July 19, 1979.

HARRY LAMAR,
House Ways and Means.

Attached are the corrected versions of the trade reorganization Fact Sheet and Glossary of Trade Terms. Please note that the corrections involve (1) membership on the Trade Policy Committee of the OMB Director and the CEA Chairman instead of the Assistant for Economic Policy and (2) membership on the new Trade Negotiating Committee.

ERIC HIRSCHHORN.

Attachments.

PROPOSED DEPARTMENT OF TRADE AND COMMERCE (TAC)

Department of Trade and Commerce (TAC) is the name given to the restructured Commerce Department. Under this plan, operational functions in the international trade area would be consolidated in TAC; policy coordination and negotiations would be consolidated in STR. Specifically, the Commerce Department would be enhanced by adding the following:

A post of Under Secretary for Trade would be created;

The TAC Secretary would become an ex officio member of the Board of the Export-Import Bank;

Commercial representation responsibilities in our major trading partners would be transferred from State;

A trade corps would be established;

MTN implementation support, insofar as it relates to nonagricultural matters, would be located in TAC (agricultural matters would go to Agriculture);

The sectoral analysis capability in the Industry and Trade Administration would be upgraded (already underway at Commerce); and,

Import relief functions would be transferred from Treasury (antidumping, countervailing duties, embargoes, national security trade investigations), the International Trade Commission (unfair import practices under section 337 of the Tariff Act of 1930), and STR (staffing for nonagricultural section 301 unfair trade practice cases).

TRADE POLICY COMMITTEE (TPC)

The Trade Policy Committee is the senior interagency trade group. Its members include the Secretaries of State, Treasury, Defense, Interior, Agriculture, Commerce, and Labor, the Attorney General, and the Assistant to the President for domestic affairs; it is chaired by the Special Trade Representative.

TPC functions, conferred by section 242 of the Trade Expansion Act of 1962, or delegated by the President, include coordination of U.S. trade policy, advice to the President on basic trade issues for negotiation and administration of the trade agreements program, and advice to the President on what action he should take on trade relief measures under sections 201(d) and 301 of the Trade Act of 1974.

Under the proposed reorganization, TPC functions would be expanded to include coordinating responsibilities for:

Import relief policy (including antidumping and countervailing duties, to the extent legally permissible);

Energy trade issues;

East-West trade policy, replacing the inactive East-West Foreign Trade Board;

International investment policy; and,

International commodity negotiations.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS (STR)

The Office of the Special Representative for Trade Negotiations was established in the Executive Office of the President by the Trade Act of 1974. The Office is headed by the Special Representative for Trade Negotiations, a Cabinet-level official with the rank of ambassador, who is directly responsible to the President.

The Special Representative is responsible for supervising and coordinating the trade agreements program, and he directs U.S. participation in some trade negotiations with other countries. Ambassador Robert Strauss has just concluded the Multilateral Trade Negotiations. The MTN agreements are now before the Congress for approval.

Under the reorganization proposal, STR would remain in the Executive Office, retain Cabinet status, continue to chair TPC, and become a member of the National Advisory Committee on International Monetary and Financial Policies (NAC). With

a staff close to its current level (59), STR (renamed Office of the U.S. Trade Representative) would assume responsibility for:

Trade policy coordination (both industrial and agricultural);

The lead role in trade negotiations, including commodity negotiations, East-West trade, and MTN-related negotiations (including GATT representation). To ensure that all negotiations are handled consistently and that our negotiating leverage is used to maximum extent feasible, a new Trade Negotiating Committee, directed by STR and including State, Treasury, Agriculture, and Trade and Commerce (TAC), would be created to manage such activities. The Committee will be responsible for negotiation of particular issues, and will coordinate the operational aspects of those negotiations. The Trade Policy Committee would continue to develop basic U.S. negotiating objectives for the trade negotiators.

STR would continue to have the lead policy role with respect to discretionary trade relief functions (escape clause, section 301, and market disruption).

GLOSSARY OF TERMS

Countervailing duties

As defined in section 303 of the Tariff Act of 1930 and upon petition by U.S. industries, the Treasury Department collects countervailing import duties on products that are subsidized by foreign governments.

Dumping

A term defined in the Antidumping Act, 1921. A foreign nation is quality of dumping products in United States markets if the selling price in U.S. is less than the "fair value" (as determined by the Secretary of the Treasury), and such sales cause material injury (or threat thereof) to a domestic industry.

Export-Import Bank of the United States

The Eximbank aids in financing exports of United States goods and services through direct loans and through guarantees and insurance for privately supplied financing.

Escape clause

Escape clause investigations under Sections 201-203 of the 1974 Trade Act to determine whether import relief should be provided to a domestic industry are so called in reference to Article XIX of the General Agreement on Tariffs and Trade (GATT) under which a country may suspend (or escape from) its GATT obligations when increased imports cause serious injury.

Fair value

A term used in section 201 of the Antidumping Act, 1921, it refers to the price at which foreign goods should be sold in the U.S. to avoid dumping. Normally the home market price in the exporting country is considered fair value.

GATT

The General Agreement on Tariffs and Trade is a multilateral treaty concluded in 1947 defining the rules of international trade. The western industrial countries and many less developed countries are members. GATT was part of the reorganization of the international economy after World War II. It provided the basis for the multilateral trade negotiations.

Nomenclature function

The ITC, pursuant to section 484(e) of the Tariff Act of 1930, develops the categories in which imports will be classified and reported.

Orderly Market Agreements (OMA)

A form of import relief. Orderly marketing agreements are negotiated under Section 203(a)(4) of the Trade Act of 1974, with foreign countries and limit imports into the United States of specific articles from those countries. OMAs have often been used as an alternative to the imposition of tariffs.

STR

The Office of the Special Representative for Trade Negotiations in the Executive Office of the President was created by Congress to conduct the Kennedy and Tokyo Rounds of multilateral trade negotiations. The Special Trade Representative chairs the interagency Trade Policy Committee and advises the President in many trade matters.

TAC

The Department of Commerce will be renamed the Department of Trade and Commerce and will include all of the trade-related units and functions transferred to it in the reorganization proposal.

Trade adjustment assistance

Chapter 2 of Title II of the Trade Act of 1974 provides for assistance (principally in the form of income maintenance) to workers hurt by imports. It is administered by the Labor Department. Chapter 3, administered by Commerce, provides assistance to firms and localities similarly hurt.

Trade agreements program

This program, as defined in Executive Order 11846 of March 27, 1975, covers "the negotiation or administration of international agreements which primarily concern trade."

Trade Negotiating Committee (TNC)

The Trade Negotiating Committee, to be chaired by STR and composed of Agriculture, State, Treasury, and TAC, will manage our various bilateral and multilateral trade negotiations (TPC will continue to set negotiating policy).

Trade Policy Committee (TPC)

The Trade Policy Committee, chaired by STR, provides interagency coordination of United States positions in multilateral trade negotiations and certain other trade matters.

Unfair import practices

The International Trade Commission investigates complaints brought under this catchall category for complaints of unfair competition as defined in Section 337 of the Tariff Act of 1930. Historically, the ITC has used this section in patent infringement cases but more recently has extended it to predatory pricing cases (e.g., steel, color televisions). Possible remedies include cease and desist orders, exclusion (embargoes) and consent decrees. The President has the authority to overrule (for "policy reasons") any relief the ITC may recommend.

Unfair trade practices under section 301 of the Trade Act of 1974

Provides a means for domestic industry to seek an investigation of a wide range of foreign market trade practices, including complaints of unfair import restrictions, export subsidies that reduce U.S. sales in third markets and unreasonable restrictions on access to raw materials. After positive findings, President can withdraw trade concessions from the offending country or restrict imports from that country. Section 301 will become a major instrument for enforcing the new MTN codes.

[For release July 19, 1979]

THE WHITE HOUSE FACT SHEET

President Carter today proposed a major reorganization and strengthening of the federal government's international trade functions. The reorganization is designed to expand exports, improve enforcement of U.S. trade laws and otherwise upgrade government trade activities in response to the Multilateral Trade Negotiations (MTN) agreements.

The reorganization proposal was announced today at a press briefing conducted by OMB Director James T. McIntyre, who directs the Administration's reorganization program, and Ambassador Robert S. Strauss, the Special Trade Representative.

The reorganization would:

Consolidate both U.S. trade policy coordination and trade negotiations in the Office of the Special Trade Representative, which would be renamed the Office of the U.S. Trade Representative.

Consolidate the day-to-day operation of the government's non-agricultural trade functions in the Department of Commerce, to be renamed the Department of Trade and Commerce.

Broaden the mandate of the interagency Trade Policy Committee and establish within it a new Trade Negotiation Committee.

These steps are designed to achieve the following objectives: Centralize authority for U.S. trade activities, both policy-making and implementation; promote improved coordination between trade and other U.S. policy objectives; upgrade the priority of government trade activities; establish a strong authoritative voice in the Executive Office of the President to provide coherence and leadership to U.S. trade policy and

negotiations; make one Cabinet Department and one Cabinet Secretary responsible for the operational side of non-agricultural government trade activities; strengthen and better coordinate trade policy development, export promotion and industrial analysis; and strengthen the interagency consultative process on trade policy matters.

United States Trade Representative

The Office of Special Trade Representative, located in the Executive Office of the President, was created by the Congress to conduct the Kennedy and Tokyo Rounds of multilateral trade negotiations (MTN). The Trade Representative, who advises the President on a variety of trade matters, also chairs the interagency Trade Policy Committee and holds Cabinet rank.

Under the proposed reorganization, the Office would remain in the Executive Office of the President and be renamed the Office of the United States Trade Representative. The Trade Representative would retain Cabinet rank and would continue to chair the Trade Policy Committee, whose mandate would be substantially broadened.

In addition to its current responsibilities, the renamed Office of the U.S. Trade Representative would assume the following functions:

Trade policy coordination.—Both industrial and agricultural. Currently, the Office's responsibilites are limited primarily to trade negotiations.

Lead responsibility for trade negotiations.—In addition to multilateral and bilateral negotiations now assigned to the Trade Representative, the Office would be assigned responsibility for: Commodity negotiations (a responsibility now held by the State Department); East-West Trade (State Department); all negotiations related to MTN, including representation to the General Agreement on Tariffs and Trade; all other trade negotiations.

Under the proposed reorganization, the Trade Representative would retain the lead policy role with respect to discretionary trade remedy functions, including escape clause, section 301, and market disruption cases.

The Trade Representative would also become a member of the National Advisory Committee on International Monetary and Financial Policies, which provides guidance to the Export-Import Bank.

The Office of U.S. Trade Representative would assume these new responsibilities with its fiscal 1980 staff level of 59 or one slightly higher.

Trade and Commerce Department

The Department of Commerce now has major responsibilities in export promotion, trade adjustment assistance, and export control. Under the proposed reorganization, the renamed Department of Trade and Commerce would hold responsibility for non-agricultural trade policy implementation in general.

The reorganization would:

Establish the post of Under Secretary for Trade.

Strengthen the Department's lead role in export promotion by assigning it the responsibility for U.S. commercial attachés in our major trading partner countries, a responsibility now held by the State Department.

Designate the Secretary of Trade and Commerce as an ex officio, non-voting member of the Board of the Export-Import Bank.

Assign the Department responsibility for MTN implementation support—for example, education and promotion programs, technical assistance to the private sector, data base development—as it relates to non-agricultural matters. Similar agricultural matters would go to the Agriculture Department.

Upgrade the Department's sectoral analysis capability.

Assign the Department the following import remedy responsibilities: Anti-dumping, countervailing duties, embargoes, national security trade investigations, now held by the Treasury Department; responsibilities with regard to unfair import practices under Section 337 of the Tariff Act of 1930, now held by the International Trade Commission.

The Department would retain staffing responsibility for Section 301 unfair trade practice cases involving non-agricultural matters, held by the Special Trade Representative. Cases involving agricultural matters would be retained by the Department of Agriculture. The U.S. Trade Representative would retain final decision-authority for these cases.

The Department would also retain responsibility for export controls.

Trade Policy Committee

The Trade Policy Committee, which is chaired by the Trade Representative, provides interagency coordination to U.S. positions in multilateral trade negotiations and certain other trade matters.

The Committee is the senior interagency trade group. Its members include the Secretaries of State, Treasury, Defense, Interior, Agriculture, Commerce, and Labor, the Attorney General, the Director of OMB, and the Chairman of the Council of Economic Advisors.

The Committee's functions include those conferred by the Trade Expansion Act of 1962 as well as those delegated by the President. These include: Advising the President on basic trade issues for negotiation and administration; providing policy guidance for the trade agreements program; advising the President on use of various trade relief measures prescribed by the Trade Act of 1974.

Under the proposed reorganization, the Trade Policy Committee's functions would be expanded to include coordinating responsibilities for:

Import remedy policy; for example, anti-dumping and countervailing duties, to the extent legally permitted.

Energy trade issues.

East-West trade policy (now held by the inactive East-West Foreign Trade Board, which is to be abolished).

International investment policy.

International commodity negotiations.

Trade Negotiating Committee

The reorganization proposal provides for the establishment within the Trade Policy Committee of a new Trade Negotiating Committee. This Committee would ensure that all negotiations are handled consistently and that our nation's negotiating leverage is used to the maximum extent feasible.

The committee, to be chaired by the U.S. Trade Representative, would include the Departments of State, Treasury, and Agriculture, as well as the renamed Department of Trade and Commerce. It would be responsible for managing the negotiation of particular issues, and would coordinate the operational aspects of those negotiations. (The full Trade Policy Committee would continue to develop basic U.S. negotiating objectives.)

Mr. VANIK. We have a large number of witnesses today. I strongly urge all witnesses to be brief. All statements will appear in the record in full.

Do any members of the subcommittee have any statements or comments they wish to make before we proceed?

Mr. JONES. Thank you, Mr. Chairman. I have a prepared statement that I would also like to include in the record.

I would like to thank the Chairman for these expeditious and timely hearings on the proposals to reorganize our trade functions. This subcommittee did yeomanly, exemplary work in approving the implementing legislation for the MTN and that particular effort opened up tremendous new trade and economic opportunities for this country.

The second and I think essential step to realize those opportunities is now before this subcommittee, as well as the Government Operations Committee, and that is to bring into rational organization the various trade functions of our government, bring them under one umbrella so from the management, administrative and the policy point of view we can coordinate much better our trade policy than we have been able to in the past. As you know there is a bill before this subcommittee and before the Government Operations Committee sponsored by Mr. Frenzel, me, and four other members of this subcommittee which would reorganize the various trade functions of the government into a Department of Commerce and Trade using the present Department of Commerce as the central location for this reorganization.

Mr. Frenzel and I and others have been working with OMB, Commerce and others over the past year to try to work out the best reorganization plan. With the exception of moving the Export-Import Bank and OPIC to the Department of Commerce, the Jones-Frenzel bill tracks almost identically with what I understand the administration's decision on reorganization is.

What is particularly important is that this reorganization coincide with the Multilateral Trade Agreement implementation in January 1980. I would hope we could do this by statute because I think Senator Taft told President Truman once, if you want the Congress in on the entire flight and any type of landing, you need to have Congress in on the takeoff. I think it would be well for Congress to be in on the takeoff of this reorganization plan.

I would hope we could do it by legislation. If not, I think the reorganization plan is necessary so that the reorganization can take effect in January.

In any event there is one overriding question that I think troubles a lot of the business community and a lot of Americans and that is whether or not the Department of Commerce is the proper place to centralize this reorganization, the theory being that the Department has not been, to say the least, the most aggressive department in our Cabinet and we need a very aggressive trade policy. I hope the administration will address this question. I personally think this is the proper way to go about it and I hope this subcommittee in conjunction with the Government Operations Committee can move quickly on legislation to implement such a reorganization.

I thank the chairman very much for this time and for this hearing.

[The prepared statement follows:]

STATEMENT OF HON. JAMES R. JONES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OKLAHOMA

Mr. Chairman, I am pleased that today this Subcommittee begins its deliberations on one of the most important foreign trade issues currently facing our Nation, namely, how can we organize our trade bureaucracy in such a way as to produce coherent and well-coordinated trade policies with other nations of the world?

It is certainly appropriate that this Subcommittee, having been so instrumental and successful in obtaining passage of the recent MTN implementing legislation, is now moving to achieve the necessary trade reorganization that will bring about the unified trade policy we collectively seek for the United States.

It is my firm belief that the legislation I have sponsored with Congressman Bill Frenzel and six other Members of this Subcommittee (H. R. 4567 and H. R. 4691) represents the first step in bringing about a rational organization, by function, of the numerous federal agencies that are now involved with our various trade programs.

Currently, the major responsibility for expanding exports is divided between the Commerce Department, the State Department, the Ex-Im Bank and the Treasury Department. Various import relief problems are handled by the Office of the Special Trade Representative, the International Trade Commission, Treasury, Commerce, and the Labor Department.

The legislation which Congressman Frenzel and I have developed will consolidate the various trade functions by moving all export expansion and import relief programs into an expanded (and renamed) Department of Commerce and International Trade. At the same time, international negotiating authority would be consolidated in the Office of the Special Trade Representative, which would retain its coordinating role as chair of the interagency Trade Policy Committee.

Mr. Chairman, I have been pleased with President Carter's own recognition of the urgent and pressing need for reform of our trade bureaucracy. In general, I support

the reorganization proposal announced by the Administration in July of this year. With the exception of changes involving the Ex-Im Bank and OPIC, which were omitted from the President's proposal, I believe the Administration and the sponsors of the Jones-Frenzel legislation are very much in agreement.

I share, too, the views of our colleague Congressman Gillis Long, who as a sponsor of similar trade reorganization legislation has correctly stated that far too little effort is currently given to assisting American businessmen in joining the export market, and to encouraging greater export capability within the United States.

I believe, Mr. Chairman, that within the three basic approaches to trade reorganization—Jones-Frenzel, the Administration plan, and the legislation of Congressman Long—we have the nucleus of a legislative solution to the disorganized American trade bureaucracy that, in part, is responsible for our Nation running the largest trade deficit in the world today.

Through the diligent efforts of this Subcommittee in reaching a compromise among the slightly differing versions of the trade reorganization bills now before it, I feel certain Congress and the Administration can take full advantage of what will be an expanded flow of trade between nations resulting from adoption of the MTN. We have this unique opportunity to reorganize our federal trade functions in a truly rational and efficient manner, and I strongly feel we should accept this most timely challenge to give direction to a new and cohesive U.S. trade policy.

I further believe adoption of the Jones-Frenzel legislation, as complemented and perfected by suggestions from the Administration and our colleagues on the Subcommittee, will produce an adequate and well-conceived trade bureaucracy, one which in turn that can develop purposeful and effective trade policies for the United States to pursue with the other nations of the world.

Thank you.

Mr. FRENZEL. Will the gentleman yield? I thank the gentleman for yielding.

I have no idea what he said but I am sure I concur in it.

Mr. JONES. I said what a great fellow Bill Frenzel was. Other than that it was extraneous.

Mr. FRENZEL. I want to thank the chairman for these hearings. I think regardless of what we do, we must recognize in the next few years the most crucial questions we have will be in the field of countervailing duties and antidumping, how those statutes are administered, and whether or not they are effective. In my opinion, much of the time spent by any new agency will be consumed by those issues, because they will be the most crucial issues that we will have to face in the next 10 or 15 years.

I greatly appreciate the chairman expediting these hearings.

Mr. VANIK. I want to thank the gentleman. I want to say I start off in these hearings with objectivity, because I am not committed or wedded to any concepts that have been on the table. I sometimes feel the administration's proposal is designed to deal with the deadline that was called for rather urgently in order to move the Multilateral Trade negotiation. I understand the pressure under which the recommendations were made. My primary concern is that this legislation should work, and that whatever structure we have should function in the most responsible way to achieve the goals we all have in mind. I will certainly want to hear all the testimony, and then make conclusions that I will make public before we go into markup.

Mr. JONES. In fairness to the administration, from the time this subcommittee and other Members of Congress, House and Senate, met with Ambassador Strauss and others at the White House last December and recommended that this type of reorganization go forward, the administration has been working very diligently since that time and I think before then to put together the best possible

package. I think they worked very diligently and methodically, not just in haste.

Mr. VANIK. I am not prepared yet to respond to the package, but I merely wanted to say I approach these hearings with flexibility, and I am ready to be convinced as to the format we should best follow to make this work. We made many commitments during the preparation of the multilateral agreement. We made commitments all over the field about how we would put machinery in control that was going to provide results and provide responsibility.

I am more anxious to see that these commitments are kept as we go through the reorganization plan.

Mr. FRENZEL. Mr. Chairman, I would like to second what my good friend, Congressman Jim Jones has said regarding the merits of the Jones-Frenzel trade reorganization bill. My most important concern is that we accomplish our main objective—to centralize and enhance our trade-related functions in order to give trade the high priority which is so sadly lacking today.

I believe that the Commerce Department is the proper vehicle to receive many trade-related responsibilities from other departments and agencies. Unlike the critics of this approach, I think Commerce can be strengthened to the point where it can act effectively as our main voice on trade matters. The Commerce Department has long been the stepchild of the administration.

It has had a mission considered not very important among administration circles. Our bill, we feel, will give Commerce the clout it deserves in the administration. The Commerce Department has some talented individuals now, and with the new responsibilities will be able to recruit even more top experts in the trade field. We intend to provide the oversight necessary to make sure that the Department does become the vehicle that all of us want to act as the Government's voice on trade matters.

There are many proposals in the trade reorganization area, most of which contain some good ideas. However, we believe that our proposal will be the only one which can be implemented in the least costly, least amount of time. This is of course important, since most of the MTN codes go into effect in January.

The Jones-Frenzel bills charges the Commerce Department with long-range planning on international trade matters, responsibilities to formulate and implement policies to promote exports and to protect U.S. business from unfair trade practices. It will also be charged with analyzing the effect of imports on domestic production. Some of the direct responsibilities that Commerce will receive from other departments and agencies are the commercial attaches and international investment policy from the State Department; some of the international affairs functions from Treasury, as well as the Office of Tariff Affairs and Office of Foreign Assets Control; responsibilities with respect to unfair trade practices from STR; sector analysis, tariff nomenclature and investigation of section 337 unfair trade practices cases from the ITC; determination of worker eligibility for trade adjustment assistance from Labor; the Division of Interindustry and Economic Analysis from Interior. The Eximbank, OPIC and ITC would be transferred to DOCIT as agencies, with the Secretary of DOCIT as director of Eximbank and OPIC.

The STR will remain a small, specialized organization which will direct our negotiations in multilateral and bilateral trade negotiations, including East-West trade and commodity agreements. It will retain its input into the trade policy decisionmaking process by coordinating trade policy and enforcement of trade laws.

We don't claim that the Jones-Frenzel proposal has all the answers, but we feel that it is on the right track. Our management experts over at OMB can address the advisability of particular transfers today much better than we, and we welcome their testimony as well as all of the others on our schedule for the next 2 days.

I urge consideration of the Jones-Frenzel Department of Commerce and International Trade concept.

Mr. VANIK. Our first witness is Mr. McIntyre. We welcome you and your colleagues to the subcommittee. It is my understanding you and Secretary Hodges and Mr. Rivers have statements and the representatives of State, Treasury and Agriculture Departments are here to answer technical questions respecting the reorganization plan. Is that right?

Mr. MCINTYRE. That is correct.

Mr. VANIK. Mr. McIntyre, we will be happy to hear from you.

STATEMENT OF HON. JAMES T. McINTYRE, JR., DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, ACCOMPANIED BY W. HARRISON WELLFORD, EXECUTIVE ASSOCIATE DIRECTOR FOR REORGANIZATION AND MANAGEMENT

Mr. MCINTYRE. The administration will present its testimony in the form of a panel which you have outlined. We are very pleased to appear before you and the members of your subcommittee this morning to present the President's proposal for reorganization of our foreign trade functions.

For much too long trade has been a stepchild in the Government; it has been a second or third level priority in most agencies. I recognize the great deal of time and expertise that this subcommittee has devoted to consideration of the MTN negotiations and the Trade Agreements Act of 1979. In that regard, Mr. Chairman, I want to thank you for the encouraging statement of support for the President's trade reorganization proposal you made at the time of its announcement.

If I might quote from your statement in the Congressional Record of July 19, 1979:

> The proposal is a welcome response to the requirement passed by this House last week in the Trade Agreements Act of 1979, that the President submit to the Congress a proposal to restructure the Executive Branch for foreign trade policy making and reorganization functions.

At the end of your statement I also would like to quote, Mr. Chairman, the following:

> Mr. Speaker, it is my hope that the President's trade reorganization proposal can be acted upon expeditiously as we intended in the Trade Agreements Act of 1979, which this body approved overwhelmingly last week.

The President's trade reorganization proposal reflects the views of several of your colleagues on this subcommittee, such as Congressmen Jones and Frenzel.

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With your continuing support, I hope this proposal can be acted upon expeditiously by the Congress, as you urged. The President has undertaken this reorganization with one primary goal, to improve the Government's capacity to strengthen the export performance and import competitiveness of U.S. industry, taking into account the interest of all elements of our economy.

Accordingly, this reorganization is designed to prepare the Federal Government for aggressive enforcement of the MTN code which potentially will open new markets for U.S. labor, farmers, and business. It aims to improve our export promotion activities so that U.S. exporters, as well as the Federal Government, can better take advantage of trade opportunities and challenges in foreign markets. And it provides an effective mechanism for shaping the disparate, legitimate views of numerous executive branch agencies into an effective, comprehensive U.S. trade policy.

We in the executive branch have labored long and hard over the question of what organization would best promote our trade objectives. We chose to place those aspects of the trade function that most require comprehensiveness, clout and Government-wide perspective, namely, policy coordination and negotiation, in the Executive Office of the President.

We decided to place operational and implementation responsibilities, which are staff intensive, in line departments that have requisite resources, as well as knowledge of and ties to major sectors of our economy. In doing so, we have chosen deliberately to build on the strengths of existing institutions rather than create a separate trade bureaucracy.

The administration reorganization proposal is shaped by the following considerations:

First, our trade structure must take into account the intimate relationship between our trade position and a multitude of domestic policies that affect industry competitiveness. Domestic economic policy, economic development initiatives, energy policy, productivity and innovation problems, and regulatory policy all effect our trade posture and must be analyzed from that perspective. The isolation of trade policy and programs from these domestic considerations has been a significant problem in the past. The Department of Commerce, with enhanced industry analysis capability, must take the lead role in establishing this linkage.

Second, organizational arrangements must reflect that trade is a legitimate concern of agencies who hold primary responsibility for other, sometimes competing, national policies and objectives. Trade is a critical component of our diplomatic relations with foreign countries, necessitating the State Department's constant attention and involvement. Trade and international monetary matters are intimately linked, and hence continued Treasury Department presence on the trade scene is required. USDA's involvement in trade deliberations flows from agriculture's major importance in U.S. trade patterns and the impact of trade on employment in the United States requires careful Labor Department attention to trade matters. The U.S. Government mechanism for trade policy formulation must accomodate these valid institutional interests. Our goal is not to eliminate these differing perspectives but to

provide a means of shaping them, in a timely and definitive manner, into a coherent and balanced national trade policy.

Third, these legitimate, multiple interests require a neutral broker, located in the Executive Office of the President. It is difficult, if not impossible, for a Cabinet department—to say nothing of a subcabinet agency—to direct its sister agencies, because of (*a*) its relative equal status and (*b*) the perception that it would represent or favor a particular constituency, at the expense of a national or Government-wide perspective. We must have one actor with the responsibility and institutional capability to resolve trade policy issues.

Finally, reorganization must recognize that operational functions are best handled outside the Executive Office by those departments that have necessary technical resources and that deal on a day-to-day basis with the relevant sectors of the economy.

The President has concluded that building our trade structure on STR and Commerce best satisfies these considerations.

STR is a unit that has proven itself in the policy and negotiating arenas. To its credit, the Office of the STR has won the confidence of a substantial majority of the private sector. In the recent MTN negotiations, STR was able to develop a negotiating package that represented a broad consensus of national interests. STR's location within the Executive Office and its ready access to the President enabled it to arbitrate effectively among many agencies and constituencies and their often conflicting interests. This office benefited also from the recognition abroad that STR spoke for the President. Its small, tight organizational structure enabled it to operate efficiently and effectively, tapping agency expertise when needed and not duplicating resources existing elsewhere. These are all qualities we must preserve and build on to upgrade our trade apparatus.

Commerce is an agency that has significant experience in trade matters, including policy development, regulation, promotion, and implementation of trade agreements. Commerce contributed importantly to the staff support for our MTN efort. In fact, upwards of 40 Commerce personnel worked full time on all aspects of the MTN and were crucial to the negotiations.

Commerce already helps staff section 301 unfair trade practice cases, another area where the Department has a proven record of effective cooperation with STR. It has both import and export administration experience, and it is an agency for which trade is a major concern. Commerce also offers the advantage of an already established network of broad business contacts and domestic field offices.

Most important, Commerce activities in the areas of sectoral analysis, economic development, productivity improvement, and industrial innovation provide us the ability to link international trade programs with other efforts that have a direct bearing on the competitiveness of our domestic industries.

In the final analysis, we cannot have effective trade programs, we cannot improve our trade posture over the long run, if we do not have a solid understanding of the strengths and weaknesses of our domestic economic base.

In formulating our proposal, we have given close attention to the various congressional proposals. Indeed, our approach includes many aspects of these proposals, particularly that of two members of this subcommittee, Congressmen Jones and Frenzel.

It strengthens STR through additional resources and responsibilities; it expands the policy mandate of the STR-chaired Trade Policy Committee; it centralizes negotiating authority in STR and establishes STR as the primary representative of the United States in trade matters; it unifies and strengthens export development efforts by linking commercial attaches overseas with export expansion programs and with our domestic field offices; it locates import adminstration in a department that has trade as its primary concern; and it establishes an authoritative voice that can mold the various perspectives of the Executive Branch into a coherent national trade policy.

In addition, our approach allows us to avoid several major problems we find in proposals to create a separate trade department or agency. Creation of a separate trade department would isolate trade from programs in Commerce that can have a major positive bearing on American industry's trade competitiveness.

Placement of countervailing duty and antidumping functions in STR, inside or outside the EOP, creates several problems. The management load involved with these programs is immense, and will grow. Placing this responsibility with STR inevitably will divert its attention from the policy coordinator and related neutral broker role that most outside constituencies have urged us to protect.

Adding to STR the sizable staff necessary to carry out this one responsibility will unbalance STR and risk the effectiveness of the lean and efficient STR operation we have today.

In addition, combining lead negotiating responsibility with enforcement creates at least the appearance that CVD and antidumping cases would be matters for negotiation rather than enforcement.

Finally, a trade organization with only agency status, with or without CVD responsibility, will not have sufficient clout vis-a-vis its departmental competitors to act as an authoritative policy coordinator.

Briefly stated, we propose to enhance STR, to be renamed the United States Trade Representative, by centralizing in it trade policy coordination and trade negotiation functions.

We will expand the mandate of the STR-led Trade Policy Committee. We will also make the Commerce Department—to be renamed the Department of Trade and Commerce—the focus of operational trade responsibilities, namely, export promotion, including commercial representation abroad, antidumping and countervailing duty cases, section 337 unfair import practice cases, tariff noemenclature and statistics, the nonagricultural aspects of MTN implementation, national security investigations, and embargoes.

Finally, another improvement, overhauling the sectoral analysis capability of Commerce, will contribute directly to the soundness of our trade efforts.

Mr. Chairman, that concludes the summary of my prepared statement. I would like to submit my entire statement for the record. It includes the detailed proposals of the administration for the reorganization of our trade functions.

[The prepared statement follows:]

STATEMENT OF JAMES T. MCINTYRE, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

I am pleased to appear before you this morning to present the President's proposal for reorganization of our foreign trade functions. I recognize the great deal of time and expertise this Subcommittee devoted to consideration of the MTN negotiations and the Trade Agreements Act of 1979. I want to thank you, Mr. Chairman, for the encouraging statement of support for the President's trade reorganization proposal you made at the time of its announcement. The President's trade reorganization proposal reflects your views and those of several of your colleagues on this Subcommittee, such as Congressmen Jones and Frenzel. With your continuing support, I hope that this proposal can be acted upon expeditiously by the Congress.

NEED FOR REORGANIZATION

Recent events have focused much attention on the vitality of our international trade position and on the way our trade machinery is organized. These events include our negative trade balance, increasing dependence on foreign oil, and the resulting pressure on the dollar. The MTN debate has heightened interest in, and dissatisfaction with, our current trade organization. New challenges, such as MTN implementation and trade with state economies, will further test our government organization.

The President has undertaken this reorganization with one primary goal: to improve the government's capacity to strengthen the export performance and import competitiveness of U.S. industry, taking into account the interests of all elements of our economy. Accordingly, this reorganization is designed to prepare the Federal Government for aggressive enforcement of the MTN codes, which potentially open new markets for U.S. labor, farmers and business. It aims to improve our export promotion activities so that U.S. exporters, as well as the Federal Government, can better take advantage of trade opportunities and challenges in foreign markets. And it provides an effective mechanism for shaping the disparate, legitimate views of numerous Executive Branch agencies into an effective, comprehensive U.S. trade policy.

We in the Executive Branch have labored long and hard over the question of what organization would best promote our trade objectives. We chose to place those aspects of the trade function that most require comprehensiveness, clout and governmentwide perspective, namely policy coordination and negotiation, in the Executive Office of the President. We decided to place operational and implementation responsibilities, which are staff-intensive, in line departments that have requisite resources, as well as knowledge of and ties to major sectors of our economy. In doing so, we have chosen deliberately to build on the strengths of existing institutions rather than create a separate trade bureaucracy.

The Administration reorganization proposal is shaped by the following considerations.

First, our trade structure must take into account the intimate relationship between our trade position and a multitude of domestic policies that affect industry competitiveness. Domestic economic policy, economic development initiatives, energy policy, productivity and innovation problems and regulatory policy all affect our trade posture and must be analyzed from that perspective. The isolation of trade policy and programs from these domestic considerations has been a significant problem in the past. The Department of Commerce, with enhanced industry analysis capability, must take the lead role in establishing this linkage.

Second, organizational arrangements must reflect that trade is a legitimate concern of agencies who hold primary responsibility for other, sometimes competing, national policies and objectives. Trade is a critical component of our diplomatic relations with foreign countries, necessitating the State Department's constant attention and involvement. Trade and international monetary matters are intimately linked and, hence, continued Treasury Department presence on the trade scene is required. USDA's involvement in trade deliberations flows from agriculture's major importance in U.S. trade patterns and the impact of trade on employment in the U.S. requires careful Labor Department attention to trade matters. The U.S. Gov-

ernment mechanism for trade policy formulation must accommodate these valid institutional interests. Our goal is not to eliminate these differing perspectives, but to provide a means of shaping them, in a timely and definitive manner, into a coherent and balanced national trade policy.

Third, these legitimate, multiple interests require a neutral broker, located in the Executive Office of the President. It is difficult, if not impossible, for a Cabinet Department (to say nothing of a subcabinet agency) to direct its sister agencies because of (1) its relative equal status and (2) the perception that it would represent or favor a particular constituency, at the expense of a national or governmentwide perspective. We must have one actor with the responsibility and institutional capability to resolve trade policy issues.

Finally, reorganization must recognize that operational functions are best handled outside the Executive Office by those departments that have necessary technical resources and that deal on a day-to-day basis with the relevant sectors of the economy.

The President has concluded that building our trade structure on STR and Commerce best satisfies these considerations.

STR is a unit that has proven itself in the policy and negotiating arenas. To its credit, the office of the STR has won the confidence of a substantial majority of the private sector. In the recent MTN negotiations, STR was able to develop a negotiating package that represented a broad consensus of national interests. STR's location within the Executive Office and its ready access to the President enabled it to arbitrate effectively among many agencies and constituencies and their often conflicting interests. This Office benefited also from the recognition abroad that STR spoke for the President. Its small, tight organizational structure enabled it to operate efficiently and effectively, tapping agency expertise when needed and not duplicating resources existing elsewhere. These are all qualities we must preserve and build on to upgrade our trade apparatus.

Commerce is an agency that has significant experience in trade matters, including policy development, regulation, promotion and implementation of trade agreements. Commerce contributed importantly to the staff support for our MTN effort. In fact, upwards of 40 Commerce personnel worked full time on all aspects of the MTN and were crucial to the negotiations. Commerce's work was highly praised by Ambassador Strauss; and it is this staff that will be responsible for MTN implementation support in TAC.

Commerce already helps staff Section 301 unfair trade practice cases, another area where the department has a proven record of effective cooperation with STR. It has both import and export administration experience and it is an agency for which trade is a major concern. Commerce also offers the advantage of an already-established network of broad business contacts and domestic field offices. Most importantly, Commerce activities in the areas of sectoral analysis, economic development, productivity improvement, and industrial innovation provide us the ability to link international trade programs with other efforts that have a direct bearing on the competitiveness of our domestic industries. In the final analysis, we cannot have effective trade programs, we cannot improve our trade posture over the long run, if we do not have a solid understanding of the strengths and weaknesses of our domestic economic base.

OTHER REORGANIZATION PROPOSALS

In formulating our proposal, we have given close attention to the several Congressional proposals. Indeed, our approach includes many aspects of these proposals, particularly that of two members of this subcommittee, Congressmen Jones and Frenzel:

It strengthens STR through additional resources and responsibilities;

It expands the policy mandate of the STR-chaired Trade Policy Committee;

It centralizes negotiating authority in STR and establishes STR as the primary representative of the U.S. in trade matters;

It unifies and strengthens export development efforts by linking commercial attaches overseas with export expansion programs and with our domestic field offices;

It consolidates import administration in a department that has trade as its primary concern; and

It establishes an authoritative voice that can mold the various perspectives of the Executive Branch into a coherent national trade policy.

In addition, our approach allows us to avoid several major problems we find in proposals to create a separate trade department or agency. Creation of a separate trade department would isolate trade from programs in Commerce that can have a

major positive bearing on American industry's trade competitiveness. Placement of countervailing duty and antidumping functions in STR—inside or outside the EOP—creates several problems. The management load involved with these programs is immense, and will grow. Placing this responsibility with STR will inevitably divert its attention from the policy coordinator and related neutral broker role that most outside constituencies have urged us to protect. Adding to STR the sizeable staff necessary to carry out this one responsibility will unbalance STR and risk the effectiveness of the lean and efficient STR operation we have today. In addition, combining lead negotiating responsibility with enforcement creates at least the appearance that CVD and antidumping cases would be matters for negotiation rather than enforcement. Finally, a trade organization with only agency status—with or without CVD responsibility—will not have sufficient clout vis-a-vis its departmental competitors to act as an authoritative policy coordinator.

SUMMARY OF THE PRESIDENT'S REORGANIZATION PROPOSAL

Briefly stated, we propose to enhance STR, to be renamed the United States Trade Representative, by centralizing in it trade policy coordination and trade negotiation functions. We will expand the mandate of the STR-led Trade Policy Committee. We will also make the Commerce Department—to be renamed the Department of Trade and Commerce—the focus of operational trade responsibilities, namely export promotion, including commercial representation abroad, antidumping and countervailing duty cases, Section 337 unfair import practice cases, tariff nomenclature and statistics, the non-agricultural aspects of MTN implementation, national security investigations and embargoes. Finally, another improvement, overhauling the sectoral analysis capability of Commerce, will contribute directly to the soundness of our trade efforts.

AN ENHANCED U.S. TRADE REPRESENTATIVE (USTR)

Trade policy coordination.—We propose to expand the mandate of the Trade Policy Committee. As Chair of the TPC, STR will be responsible for coordination of all trade policy, including the following new trade areas:

Import remedies.—The STR, through TPC, will oversee general coordination of the application of import remedies, analysis of long-term trends in import remedy cases and recommendations for any necessary legislative changes. For antidumping and countervailing duty matters, such coordination would center about new precedents, negotiating assurances, and coordination with other trade matters, rather than case-by-case factfinding and determinations.

East-West trade policy.—Since USTR will have lead responsibility on East-West trade negotiations, it will also coordinate East-West trade policy issues. (The TPC also will assume the responsibilities for the largely inactive East-West foreign trade board.)

International investment policy.—This will include issues relating to direct foreign investment in the U.S., direct investment by Americans abroad, operations of multinational enterprises, and multilateral agreements on international investment.

International commodity policy.—Since USTR will assume responsibility for commodity it will also coordinate commodity policy. Such policy is now handled by the Department of State, which shares responsibilities on agricultural commodities with the Department of Agriculture.

Energy trade.—While Energy and State will continue to share responsibility for international energy issues, energy trade matters will be coordinated through the TPC. Energy will become a member of the TPC.

USTR will continue to be responsible for developing TPC trade policy recommendations for the President and for resolving other trade issues within the TPC framework. As in the past, USTR will seek and consider the advice of TPC members and, as also in the past, when any TPC member disagrees with a USTR proposal, that disagreement can be taken to the President. This process has worked well, for example, in the MTN negotiations, and we expect it to continue to do so.

Trade negotiations.—USTR will have the lead role in trade negotiations, including those implementing the MTN agreements, commodity negotiations (now led by State), and East-West trade negotiations (also now led by State). USTR will represent the United States in GATT matters, with such delegation as it deems appropriate. Since the GATT will be the principal international forum for implementing and interpreting the MTN agreements and since GATT meetings, including committee and working group meetings, occur almost continuously, the USTR will have a limited number of permanent officials in Geneva.

To ensure that all negotiations are handled consistently and that our negotiating leverage is employed to the maximum, USTR will manage the negotiation of particular issues and will coordinate the operational aspects of negotiations through a Trade Negotiating Committee consisting of USTR, State, Treasury, and Trade and Commerce. The TPC, though, will continue to coordinate trade policy, including the policy aspects of trade negotiations.

We anticipate that from time to time USTR will delegate its negotiating responsibility to other departments and agencies, principally to members of the Trade Negotiating Committee with special expertise, (e.g., to State for certain commodity negotiations and to Agriculture for agricultural negotiations).

USTR will be concerned not only with on-going trade negotiations and the coordination of trade policies to deal with specific issues, but also with the development of U.S. trade strategies and U.S. trade policies for the longer-term. It will seek to crystalize policy issues and will concentrate attention of government agencies on those issues likely to have a major effect on the future U.S. trade posture. It will oversee the implementation of the MTN agreements. Through the TPC it will raise policy issues relating the effects of economic, energy, foreign and other policies on U.S. trade and it will seek the most advantageous framework for the expansion of U.S. exports and a strengthened ability to compete against imports. The USTR will have adequate resources to enable it to exercise this role.

Dick Rivers, testifying for STR, will discuss how STR plans to handle these additional responsibilities, with particular attention to management issues.

DEPARTMENT OF TRADE AND COMMERCE: A FOCUS FOR OPERATIONAL ACTIVITIES

The Commerce Department, to be renamed the Department of Trade and Commerce, will become the operational focus for trade promotion and for the administration of laws and programs affecting non-agricultural imports and exports. These responsibilities will include MTN implementation support, import relief and export promotion. Given such responsibilities, and membership on the TPC, the Department will play a principal role in trade policy development.

MTN implementation support.—TAC will be responsible for implementation support on non-agricultural matters. This responsibility will include:

Monitoring agreements and targeting problems for consultation and negotiation;

Operating a trade complaint center where the private sector can receive advice as to the recourse and remedies available;

Staffing of formal complaint cases;

Educational and promotion programs regarding the provisions of the agreements and the processes for dealing with problems that arise;

Providing American business with basic information on foreign laws, regulations and procedures;

Consultations with private sector advisory committees; and

General analytical support.

TAC's role is distinct from that of USTR, with the latter managing the broad policy aspects of MTN implementation, setting up procedures and criteria for formal cases, managing Section 301 complaints, and conducting followup negotiations.

Import relief functions.—We propose transferring to TAC the responsibility for administration of countervailing duty and antidumping cases, Section 337 unfair import actions, national security investigations and embargoes.

The present administration of countervailing and antidumping functions has been criticized for delays and lack of coordination with other trade policy instruments. Assigning these functions to TAC, with its primary trade mission, will afford high priority to fact, efficient enforcement. The transfer of the other import functions is designed to correct problems of duplication and inconsistency in enforcement activities. Finally, placing these operations in TAC and not STR also reflects the belief that a proper separation between enforcement and negotiations should be maintained.

Export development.—Our proposal puts new emphasis on export promotion with the transfer to TAC from State of the commercial representation function. This transfer would put both domestic and overseas export promotion activities under a single agency charged with emphasizing expansion of U.S. exports. By having those who assist our export expansion overseas in the same organization with the domestic field offices that help industry and business in the U.S., we will be better able to connect export opportunities overseas with interest in American manufacturers and to better coordinate export promotion efforts. Placing the Foreign Commercial Service in TAC will allow commercial officers to concentrate on the promotion of U.S. exports as their principal activity. They will be able to give undivided attention to assisting American businessmen and women selling abroad. At the same time, their

activities will be fully coordinated with other elements of our diplomatic mission abroad under the Ambassador, who will continue to give major attention to U.S. commercial interests.

Export Development also will be enhanced by improved coordination among trade-involved agencies and operations. Improved coordination between overall trade policy and our export expansion strategies will be achieved through TAC's active participation on the TPC. With close cooperation between USTR and TAC, aggressive enforcement of the new MTN agreements will be used in support of strategies for export expansion. TAC also will be in a position to monitor the impact of various domestic policies on U.S. exports.

Additionally, in order to help ensure that export financing policy is consistent with export promotion policy (and trade policy generally), the Secretary of Trade and Commerce will be made a non-voting member of the Eximbank Board, the principal exporting financing agency.

The Commerce Department is planning internal organizational changes that should enable it to perform its additional trade responsibilities vigorously and effectively. Undersecretary Hodges will describe these important changes in detail in his testimony and explain how a full range of activities already in Commerce, including an upgraded sectoral analysis capability, will be tightly linked to help enhance our trade operations and posture.

CONCLUSION

The reorganization we are proposing today can only partly address America's foreign trade problems. Our organizational structure is not the primary cause of these problems, and restructuring our trade organization will not alone reduce our trade deficit or improve the competitive position of United States industry. To a large extent, trade problems reflect the inability of domestic industry to meet foreign competition due to such competitive disadvantages as low productivity growth, inefficient and outmoded facilities, changing market demands, and high production costs; export disincentives associated with other domestic or international policies; and export policies less vigorous than those of some other countries. I would note, however, that TAC has a critical future role to play in all of these areas, and should more vigorously bring its expertise on such matters to the trade arena.

I believe that the contribution of this proposal will be significant. It will provide us with unified policy direction; improve the application of our trade laws; focus attention on major problem areas; enable the United States to negotiate with foreign governments from a position of strength; and provide a strong institutional base for the new trade order created by the MTN agreements. I share your hope, Mr. Chairman, that the Congress will act expeditiously upon the President's trade reorganization proposal, so that together we can get on with the task of building a stronger American trade position.

Mr. McINTYRE. Mr. Dick Rivers, General Counsel of the Office of Special Trade Representative, will have a short statement to make about STR's role; and, following him, Under Secretary of the Department of Commerce, Mr. Hodges, will also make a short statement on how the function is to be organized in the Department of Commerce.

Mr. VANIK. We will proceed and get the rest of the statements, and hold the questions.

STATEMENT OF RICHARD RIVERS, GENERAL COUNSEL, OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Mr. RIVERS. I do have a very brief statement I will summarize.

Director McIntyre has described the additional responsibilities that the President plans to assign to STR as part of his reorganization proposal. I would like to share with you our current thinking as to how these responsibilities will be handled should the proposal gain congressional approval.

Let me stress that our ideas are still evolving, and that Governor Askew has not yet had the opportunity to review them, so there will undoubtedly be some changes in what I will describe today.

As we envision it, the reorganized U.S. Trade Representative will operate as the current Special Trade Representative does, playing a leadership role on trade policy formulation and trade negotiations in close consultation with the Congress, the private sector and other Government agencies, through the Trade Policy Committee. That approach will be applied to the new areas of trade policy and negotiations—for example, commodities assigned to USTR in the reorganization.

It is our hope that the degree of success achieved by Ambassador Strauss in the MTN process will be continued as the MTN is implemented and will be attained in the newly assigned responsibilities.

The reorganized USTR will continue to be a small, cohesive unit in which resources are applied flexibly as our trade priorities shift over time. Thus, individuals within the USTR would continue to have multiple assignments and work in teams drawn from throughout the Office, when complex issues arise. Small size and flexibility are essential to avoiding a rigid bureaucratic structure.

USTR will need to maintain and expand the variety of capabilities and perspectives that have been critical to the success of the MTN. These include units that provide expertise on MTN codes, sectors, commodities and countries.

While assimilating its added responsibilities, the USTR must assign the highest priority to implementation of the MTN codes and agreements and assure that adequate resources are allocated for that function.

We would create a separate group dedicated to this effort in Washington. This group will be responsible for formulating policy with respect to specific implementation issues and would draw upon other units in USTR, the "Department of Trade and Commerce" and the Department of Agriculture, to analyze and manage problems that arise under those codes and agreements; for example, section 301 complaints.

To assure effective and aggressive representation of U.S interests in the GATT, a deputy USTR will be assigned to Geneva. That individual, with the support of a small professional staff located in Geneva, will be responsible for resolving issues that arise under the GATT rubric, with policy direction from the USTR. It is expected that five positions from the existing U.S. mission to the GATT will be transferred to the USTR to support the USTR deputy.

The sectoral/commodity perspective within USTR will need to be strengthened as a result of growing emphasis internationally and domestically on specific sector/commodity problems.

To provide policy leadership in implementing the MTN aircraft and agricultural sector agreements, the OECD steel arrangement, and UNCTAD commodity agreements already negotiated and in negotiating further agreements, the USTR will require additional expertise. To move forward effectively with the President's textile program approved in March of this year, we will need to strengthen our textile unit. It is anticipated that five positions will be transferred from State to the USTR to establish a base to manage

UNCTAD commodity agreements. New resource requirements beyond these transfers have not yet been estimated.

The geographic/regional perspective within USTR will be enhanced to handle its new responsibilities in East-West trade. It is estimated that five positions would be transferred from State and Treasury to staff this function.

Due to the broader range of issues assigned to the USTR, the Office's coordination capabilities will have to be built up, both externally and internally. Individual cases and issues must be assigned and monitored in a systematic fashion.

A longer range policy function will be needed to anticipate emerging issues and develop a conceptual framework for early action on such issues. We anticipate that a new USTR unit will be needed for this function.

So, in summary, we realize that the virtue of STR in the past has been its relatively small size, its flexibility and mobility. We intend to keep that. However, at the same time, we also recognize the President's plan calls for transfer of new functions to us, and that will require the transfer of some new resources to STR. We intend to achieve that without losing the flexibility and mobility that have been the hallmark of this agency so far.

That concludes my statement. I will be available after Secretary Hodges for any questions you may have.

Mr. VANIK. Mr. Secretary.

STATEMENT OF HON. LUTHER H. HODGES, UNDER SECRETARY, DEPARTMENT OF COMMERCE

Mr. HODGES. Mr. Chairman and members of this important subcommittee, I welcome this opportunity to describe the Department of Commerce's plans for managing a broader range of trade responsibilities. The administration's reorganization proposal centralizes and streamlines our Nation's approach to trade issues. By placing nonagricultural trade line functions within an enhanced Department of Trade and Commerce, the plan creates a strong institutional base for operating the country's trade programs. Consolidating these management activities in the Department of Commerce builds on an agency with extensive trade experience and provides the maximum improvement with a minimum of disruption and taxpayer expense.

By consoliating trade management responsibility and enhancing the Department of Commerce sectoral analysis capability the administration's trade reorganization plan also draws upon a major departmental strength, the ability to link trade to policies affecting domestic industries. the simple fact is that trade problems are industry problems. Until we address them as such, we cannot expect fundamental improvement in our trade performance.

In addition, a major strength of the Department of Commerce is that more than 40 of our personnel provided support to the STR in our very successful negotiations of the MTN. As Mr. McIntyre noted, the entire Commerce effort was highly praised by Ambassador Strauss as being indispensable to the favorable outcome of the MTN.

Under the reorganization proposal, attention to trade matters—as they involve both international and domestic issues—will

become the central mission of the Department and the principal responsibility of the Secretary. In support of the Secretary will be a structure composed of an Under Secretary for Trade, a Deputy Under Secretary, and three Assistant Secretaries: One each for the functional areas of trade development, trade administration and trade policy and programs.

I should stress that the creation of the Under Secretary position in no way suggests a lack of secretarial attention to this area. Rather, we see it as a marked elevation of the trade function, a step insuring that trade policy implementation will receive the kind of day-to-day attention at the very highest levels of the Department that it both demands and requires. The Deputy Under Secretary will be responsible for administrative functions and oversight of daily operations in the Under Secretary's absence.

Four closely associated activities will be managed by the Assistant Secretary for Trade Development. The four will be:

One, the U.S. Commercial Service. This group will form the domestic outreach arm of our trade development activities with offices across the United States to deliver services directly to American businesses.

Two, the Foreign Commercial Service, which will be the Department's overseas arm once the Department absorbs the responsibilities of the Foreign Service Commercial Attachés.

Secretary Kreps and I are personally dedicated to creating a highly professional foreign commercial corps with one main responsibility—the vigorous support of U.S. commerical interests in overseas markets.

Three, our Washington-based trade development bureau, which will plan and develop the programs and services to be delivered by the domestic and foreign services.

Four, our Bureau of East-West Trade. Since the promotion of commercial relations with nonmarket economies constitutes the Bureau's main mission, we think it will operate most effectively by placing it side-by-side with the rest of the Department's trade development functions.

For the first time American business will be able to turn to a single network that extends from domestic field offices to Washington to overseas posts to obtain help in dealing with trade development. We will be able to shift resources from domestic to foreign operations as needed. The proposed organization also holds out the opportunity for providing an integrated service for trade development. The more varied career possibilities— including posting and advancement to senior positions in the field, Washington, and overseas—will greatly enhance our ability to recruit and hold talented professionals.

The second major component of the Department's new implementation responsibilities will be a full range of programs affecting both import relief and export regulation, headed by an Assistant Secretary for Trade Administration. The key organizational improvements we foresee are as follows:

One, the Assistant Secretary will be responsible for antidumping and countervailing duty cases, as well as cases brought under section 337. Accordingly, an official subject to Presidential appoint-

ment and congressional confirmation will now be clearly indentified as managing these crucial activities.

Two, the Assistant Secretary will be concerned solely with trade regulation matters and directly assisted by a trade regulation policy office.

Three, with consolidation, it will become much easier for business to determine the appropriate avenue to get Federal relief from unfair trade practices.

Managing these activities will pose a number of challenges for the Department, many of which go beyond the administrative aspects of any transfer of functions. These programs have suffered in the past from a lack of adequate staffing. The administration is acting to address these problems. We look for early congressional approval of the pending administration request to increase the resources in this area.

The Department of Trade and Commerce will give these import relief programs a very high priority, will address them at a high level and will streamline their operations. We will attract and motivate officers who will have an incentive to make the programs vigorous and effective.

The aggressive implementation of the MTN agreements will be the principal function of the Assistant Secretary for Trade Policy and Programs, who will be responsible for informing U.S. businesses of opportunities and rights under the MTN, for monitoring foreign compliance, and for aiding in the settlement of disputes, identifying problem areas for consideration by the USTR and the TPC, and providing the analytical support necessary for the effective implementation of the MTN and other trade agreements.

Our Department will undertake a major effort to inform and educate U.S. business on the specifics of the MTN. We will insure that specific trade opportunities under the MTN are communicated to U.S. firms and we will establish a central point for collecting and disseminating foreign tender documentation under the government procurement code.

Monitoring foreign compliance is equally crucial. We will establish a Trade Complaint Center, which will be the central contact point to which business will bring complaints and problems regarding the MTN and other trade agreements. We will compare U.S. trade gains under the MTN with those of other nations to insure fair implementation, and we will examine factors affecting U.S. trade to identify issues for consideration by the TPC. In this regard, we will be assisted by the private sector advisory process, to which we will turn for information and advice on all aspects of MTN implementation.

The success of our trade efforts will be impacted by a variety of related issues; and this organizational unit will also have responsibilities for examining foreign investment, taxation, services, antitrust, financial, and other issues affecting trade.

Finally, and most importantly, there is a compelling need for the Federal Government to develop a more comprehensive industrial analysis capability. As I have indicated, increasing the vitality of domestic industry is the only sure route we have to succeed in international competition.

Our department will be taking several steps to strengthen substantially the resources devoted to industrial analysis. The cornerstone of this capability will be a new Bureau of Industrial Analysis, located in the Chief Economist's Office of Economic Analysis. It will be modeled after a highly regarded Bureau of Economic Analysis and will provide highly professional industrial analysis to serve the analytic support needs of government policymakers and industry.

Incidentally, we have at this time installed a temporary freeze on hiring of all noncritical new employees while we assess the additional capabilities that will be required to upgrade our existing resources. We are keenly aware of the importance of our enhanced sectoral analysis capability and will give this new unit full management support. I believe this reorganization will result in a considerably strengthened department, one well equipped to monitor and enforce trade rules in a manner that will protect U.S. rights while insuring that U.S. trade obligations are fulfilled, indeed one better equipped than ever before to promote, foster and develop the foreign trade of the United States.

Thank you.

[The prepared statement follows:]

STATEMENT OF LUTHER H. HODGES, UNDER SECRETARY, DEPARTMENT OF COMMERCE

Putting the Administration's trade reorganization proposal into effect will call for substantial change within the Department of Commerce. We in Commerce have devoted a good bit of our attention to considering just what those changes should be and how the Department must be reorganized to deal with them. Therefore, I welcome this opportunity to describe the Department's plans for managing a broader range of trade responsibilities.

The Administration's reorganization proposal centralizes and streamlines the U.S. approach to trade issues. In so doing, it recognizes the important distinction between trade policy and trade operations. While issues of trade policy and coordination will be the responsibility of the USTR and the TPC, the day-to-day operation of most of the government's non-agricultural trade functions will be the responsibility of the strengthened Department of Trade and Commerce.

By placing non-agricultural trade line functions within an enhanced Department of Commerce, the plan creates a strong institutional base for operating the country's trade programs.

Day-to-day handling of export promotion problems, MTN monitoring and implementation, industry sector analysis, export controls, and import remedies is a tremendous task in itself. Consolidating these management activities in the Department of Commerce builds on an agency with extensive trade experience and provides the maximum improvement with a minimum of disruption and taxpayer expense.

Under the reorganization proposal, attention to trade matters—as they involve both international and domestic issues—will become the central mission of the Department. Trade, in this broad sense, will become the principal responsibility of the Secretary. Our proposed name, the Department of Trade and Commerce, clearly underscores this new orientation.

Matching the increased importance of trade in the Department's mission will be a much strengthened trade organization within the Department. In support of the Secretary will be a structure composed of an Under Secretary for Trade, a Deputy Under Secretary, and three Assistant Secretaries: one each for the functional areas of trade development, trade administration, and trade policy and programs.

The Under Secretary for Trade will be responsible for overall development and management of the Department's trade functions. I should stress that the creation of this position in no way reflects Secretarial abdication of responsibility in this area. Rather, we see it as a marked elevation of the trade function.

The creation of the position of Under Secretary of Trade ensures that the vital area of trade policy implementation will receive the kind of day-to-day attention at the very highest levels of the Department that it both demands and requires.

Indeed, the certainty of daily managerial direction is so important to the success of these trade programs that we propose to go one step further with the provision of a Deputy Under Secretary. This individual will be responsible for administrative functions and guarantees oversight of daily operations in the Under Secretary's absence.

Equally important to top management changes are the Department's plans to integrate its new trade responsibilities with existing programs in the areas of trade development, trade administration and trade policy.

Four closely associated activities, each aimed at helping American industry sell its products in foreign markets, will be managed by the Assistant Secretary for Trade Development. The four will be:

(1) The United States Commercial Service. This group will form the domestic outreach arm of our trade development activities with offices across the United States to deliver services directly to American business. The Service will be built upon the Department's existing Bureau of Field Operations, but the Bureau's mission will shift to become almost exclusively export-oriented.

(2) The Foreign Commercial Service, which will be the Department's overseas arm once the Department absorbs the Responsibilities of the Foreign Service Commercial Attaches. Secretary Kreps and I are personally dedicated to creating a highly professional foreign commercial corps with one and only one main responsibility—the support of American export sales.

(3) Our Washington-based Trade Development Bureau, which will plan and develop the programs and services to be delivered by the domestic and foreign services.

(4) Our Bureau of East-West Trade. Because of the special complexities associated with trade with non-market economies, we believe they must be handled, as is now the case, within a separate organizational unit. In recent years, our Bureau of East-West Trade has acquired an excellent reputation for the quality of its commercial and trade policy activities, most notably for its support of the Secretary's trip to China last spring. Since the promotion of commercial relations constituted the Bureau's main mission, we think it will operate most effectively by placing it side by side with the rest of the Department's trade development functions.

Together, these four units will develop and deliver the basic trade promotion programs of the Department of Trade and Commerce. For the first time American business will be able to turn to a single network that extends from domestic field offices to Washington to overseas posts to get help in dealing with trade expansion.

With integration of domestic and overseas export promotion activities, we can develop strategies to focus all of our Federal resources on the targets that really count for American business. And we will be able to shift resources from domestic to foreign operations as needed.

Of most importance, the proposed reorganization holds out the opportunity for providing an integrated service for trade expansion. The more varied career possibilities—including posting and advancement to senior positions in the field, Washington, and overseas--will greatly enhance our ability to recruit talented professionals. We intend to ensure that our trade development officers will gain, through rotation, wide experience in U.S. field offices, in Washington, and in overseas posts. We believe this will give us the opportunity to build a rewarding and exciting career system which will attract and hold top-flight people.

It makes good sense to consolidate trade development within our Department. We already have substantial expertise in trade promotion, with many specialists who have devoted their careers to conducting export promotion programs. They constitute the core from which we can grow. Moreover, trade promotion cannot stand alone. To be effective, it must be closely allied to expertise on trade statistics, trade policy, trade rules, and domestic industry trends. This expertise exists within the Department, and will be drawn upon to make trade promotion an integral part of the trade policies of the United States.

The second major component of the Department's new implementation responsibilities will be a full range of programs affecting both import relief and export regulations, headed by an Assistant Secretary for Trade Administration. On the export side, these responsibilities are already lodged within Commerce, including those for export licensing, short supply controls, antiboycott compliance, and industrial mobilization. Our aim has been and remains one of enforcing our export regulations vigorously but with the least possible disruption to business.

The most significant change in our operations occurs on the import side and follows from the President's proposal to transfer responsibility to the Department for countervailing duty and antidumping cases, Section 337 unfair import actions, national security investigations, and embargoes. The key organizational develop-

ments we foresee and what they mean in terms of program improvement, are as follows:

(1) The Assistant Secretary will be responsible for antidumping and countervailing duty cases, as well as cases brought under Section 337. Accordingly, an official subject to Presidential appointment and Congressional confirmation will now be clearly identified as managing these crucial activities.

(2) Actual enforcement, investigation, and monitoring in the antidumping and countervailing duty area will receive much deserved high level attention, as they become the near-exclusive responsibility of a Deputy Assistant Secretary.

(3) Regulatory policy considerations, however, will receive the direct attention of the Assistant Secretary, who will be concerned solely with trade regulation matters and who will be assisted by a trade regulation policy office. That change will improve trade regulation, whether on the import or export side.

(4) With consolidation, it will become much easier for business to determine the appropriate avenue to get Federal relief from unfair trade practices.

Managing these activities will pose a number of challenges for the Department that go beyond the administrative aspects of any transfer of functions. First, the Trade Agreements Act of 1979 substantially changes the AD/CVD investigations, making the process more complex and significantly cutting the time allowed for investigations. Coupled with this, we expect a heightened workload. Moreover, these programs have suffered in the past from a lack of adequate staffing. The Administration is acting to address these problems. We look for early Congressional approval of the pending Administration request to increase the resources in this area. Further, we plan to link the trade regulation unit to the Department's resources devoted to industrial sector analysis and foreign commercial representation, as well as to upgrade its own capability for sophisticated foreign market and industrial investigation and analysis.

The Department of Trade and Commerce will give these import relief programs a very high priority, address them at a higher level, streamline their operations and attract and motivate officers who will have an incentive to make the programs vigorous and effective.

The third major area of Departmental trade responsibilities revolves around the unprecedented trade opportunities presented by the MTN agreements. Our competitors are organized to take maximum advantage of these new opportunities, and a major objective of trade reorganization is to ensure that the United States is able to do the same.

The aggressive implementation of the MTN agreements will be the principal function of the Assistant Secretary for Trade Policy and Programs, who will be responsible for informing U.S. business of opportunities and rights under the MTN, monitoring foreign compliance, aiding in the settlement of disputes, identifying problem areas for consideration by the USTR and the TPC, and providing the analytic support necessary for the effective implementation of the MTN and other trade agreements.

A major strength in this area is the fact that more than 40 Commerce personnel worked to provide the principal staff support to STR in the negotiation of the MTN. The entire Commerce effort was highly praised by Ambassador Strauss as being indispensable to the successful outcome of the MTN. Many of these personnel served on the "front line," participating in the U.S. delegations negotiating at Geneva. These personnel, having intimate knowledge of all aspects of the MTN, will now be responsible for the day-to-day implementation of it.

The Department will undertake a major effort to inform and educate U.S. business on the specifics of the MTN. Among other things, we will develop "plain English" summaries and descriptions of the MTN codes, organize conferences and seminars, and ensure that specific trade opportunities under the MTN are communicated to U.S. firms. As another example, we will establish a central point for collecting and disseminating foreign tender documentation under the government procurement code, maintain a subscriber service, and provide advice to firms on how to compete in foreign procurement markets.

Monitoring foreign compliance is also crucial. We will utilize all available sources of information to ensure that U.S. rights are preserved. We will establish a Trade Complaint Center, which will be the central contact point to which business will bring complaints and problems regarding the MTN and other trade agreements. Here, firms will receive advice as to the recourses and remedies available to them. A telephone "hot line" will be initiated to facilitate the operation of the Center.

Analysis is also extremely important to effective MTN implementation. Commerce will take the lead in all statistical issues relating to trade. We will establish

computerized data bases to help ensure tariff cuts are made on schedule, to examine their impacts, and to identify possible problems.

We will compare U.S. trade gains under the MTN with those of other nations to ensure fair implementation, and will examine factors affecting U.S. trade to identify issues for consideration by the TPC. In this, we will be assisted by the private sector advisory process (the ISACs), which will provide information and advice on all aspects of MTN implementation. Along these lines, we will be working to identify sectoral problems for policy consideration and will be preparing positions for international discussions of industrial adjustment and industry sector problems.

This part of TAC will also work closely with the USTR on textiles and apparel. Under a high level official it will participate in textile negotiations, monitor international compliance, and develop a program for improving the industry's competitiveness.

In addition, the success of our trade efforts is impacted by a variety of related issues; and this part of TAC will have responsibilities for examining foreign investment, taxation, services, antitrust, financial and other issues affecting trade. The latter is particularly important in view of the Secretary's position as a non-voting member of the Exim board. Here also is where we will analyze and recommend actions to improve the U.S. investment position, including multinational corporation issues; and where we monitor foreign investment in the United States.

More broadly, we will have a unit dedicated to analyzing all incentives and disincentives to U.S. exports, in order to develop recommendations to improve the U.S. export position. It was here that the concept of the President's National Export Policy was first developed, a policy which is the initial step in strengthening our export competitiveness.

Finally, there is a compelling need for the Federal Government to develop a stronger and more comprehensive industrial analysis capability. Increasing the vitality of domestic industry is the only sure route we have to succeeding in international competition.

The Department will be taking several steps to substantially strengthen its source devoted to industry analysis. The cornerstone of this upgraded industrial analysis capability will be a new Bureau of Industrial Analysis. Located in the Chief Economist's Office, it will be modeled after the highly regarded Bureau of Economic Analysis and will provide highly professional industry analysis to serve the analytic support needs of government policy-makers and industry. We have initiated a temporary freeze on all non-critical new hires while we assess the additional capabilities that will be required to upgrade our existing resources.

The breadth of demand for industrial analysis precludes the possibility of having the Bureau report to the Under Secretary for Trade. The extreme importance of industrial analysis to trade policy and programs, however, is recognized. By drawing upon the expertise of these analysts, the Under Secretary for Trade will be better prepared to develop positions for international discussions of industrial adjustment and industry sector problems.

By consolidating trade management in an enhanced Department of Commerce and upgrading our sectorial analysis capability, the Administration's trade reorganization plan draws upon a major Departmental strength—the ability to link trade to policies affecting domestic industries. In the final analysis, our trade position depends on far more than what we do at the border. It depends on our technology and innovation, our investment in plant and equipment, our productivity, our marketing ability, and our initiative. The simple fact is that trade problems are industry problems, and until we address them as such, we cannot expect a fundamental improvement in our trade performance.

In the post-MTN world, moreover, trade problems will increasingly be concentrated on a sectoral basis. We can see it happening already in basic industries such as steel and chemicals and in technologically-advanced industries where the United States has traditionally been dominant, such as computers, aircraft, and integrated circuits.

These problems will accelerate in the 1980's and we as a government must carefully coordinate our efforts to gain maximum advantage from the MTN with positive measures to help U.S. industries increase their competitiveness.

I believe the reorganized Department of Trade and Commerce will be able to do that, for the reorganization provides the essential ingredients: a higher government-wide priority on trade; more complete trade implementation responsibilities concentrated in one Department; clearer and less ambiguous channels for future trade policy decisions; and a heightened attention to the analysis and solution of the problems facing U.S. industry.

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I believe that this reorganization will result in a considerably strengthened Department—one well equipped to monitor and enforce trade rules in a manner which will protect U.S. rights while ensuring that U.S. obligations are carried out; and one better equipped than ever before to promote, foster, and develop the foreign trade of the United States.

Department of Commerce Proposed Trade Reorganization Plan

SECRETARY OF TRADE AND COMMERCE

The Secretary of Commerce will become the Secretary of Trade and Commerce and trade matters will be the Secretary's principal responsibility. The Department of Trade and Commerce will become the one cabinet department whose principal responsibility is trade.

The Secretary will be ultimately responsible for the following areas of trade activity: export expansion, including both overseas and domestic commercial services; export administration, particularly the export control system; and import regulation programs of antidumping, countervailing duties, and Section 337 cases.

The Department will have a key role in trade policy development and will provide much of the staff and operational base for negotiation and program responsibilities of the United States Trade Representative (USTR).

The Secretary will serve as an ex officio member of the Board of the Export-Import Bank.

As chief operational officer of Trade and Commerce, the Secretary will assure that other elements of the Department whose activities relate to international trade shall appropriately support and coordinate with the Under Secretary for Trade. Included among these activities are industry sector analysis, business development loans, census trade statistics, trade adjustment assistance for businesses and communities, minority business development, industrial productivity analysis, maritime, industrial innovation, cooperative technology, product and industrial standards, and secretarial field representation.

UNDER SECRETARY FOR TRADE

The Under Secretary for Trade will be responsible for overall development and management of the trade functions in the Department of Trade and Commerce. In the Secretary's absence, the Under Secretary represents the Department on the Trade Policy Committee and as ex officio member of the Board of Export-Import Bank of the United States. The Under Secretary will meet with foreign visitors both in the United States and abroad to discuss a broad range of trade matters.

The Under Secretary also coordinates trade regulation, trade policy and programs and trade development to ensure consistency between Administration policy and trade operations. To accomplish this, the Under Secretary oversees coordination between and among the following areas: Investigation/determination functions and the import policy recommendation function; sectoral analysis capability and trade policy and regulatory functions; Foreign Commercial Service and trade policy and regulation; industrial innovation and trade development.

The Deputy Under Secretary will serve as the principal deputy for the Under Secretary for Trade. In the Under Secretary's absence, the incumbent is to act in place of the Under Secretary in all matters pertaining to trade. The Deputy Under Secretary will have no direct operational or program responsibilities.

The Deputy Under Secretary will: Be responsible for oversight of day to day operations to ensure that these activities are conducted efficiently and smoothly; be responsible for the administrative functions (e.g., agency level personnel, budget, administrative services, and others).

ASSISTANT SECRETARY FOR TRADE DEVELOPMENT

The Assistant Secretary for Trade Development will be responsible for carrying out the policies and programs of the Department to promote world trade and to strengthen the international trade and investment position of the United States.

In carrying out these functions, the Assistant Secretary will be responsible for conducting the Department's programs for participation in international trade fairs, trade missions, and other overseas trade promotions; programs conducted within the United States to expand the export-consciousness of American firms and to facilitate entry into international trade; and efforts to provide assistance to American exporters through the facilities of the U.S. Commercial Service and the Foreign Commercial Service. With respect to East-West trade, the Assistant Secretary will

be responsible for conducting the Department's program for expanding trade and investment in Communist countries, and for the formulation and analysis of policies with respect to U.S. commercial policy in those countries.

The Assistant Secretary will be the person responsible for managing and closely coordinating the related trade expansion responsibilities of the Foreign Commercial Service, the Domestic Commercial Service, and the East-West Trade and Export Development units in Washington. This organizational structure will allow, for the first time, management by one person of export expansion activities of the Foreign Commercial Officer in, say, Kuwait, the Domestic Commercial Officer in Indianapolis, and the relevant trade specialist in Washington. It will not only assure unified management of these functions, but will also allow rotation of personnel among the three areas so that coordinated services will be available from point of manufacture to point of sale.

The Assistant Secretary shall advise the Secretary and Under Secretary of policies and programs relating to these functions. The Assistant Secretary will represent the Department on the Board of the Foreign Service and in other matters relating to the commercial responsibilities of the Departments of State and Commerce. The Assistant Secretary will be the National Export Expansion Coordinator.

The specific programs and activities for which the Assistant Secretary is responsible are detailed on the following pages.

FOREIGN COMMERCIAL SERVICE

The Foreign Commercial Service is responsible for assisting American business abroad through counseling, marketing data, project development assistance and liaison with foreign government agencies. The Service provides direct support to Trade and Commerce (TAC) overseas promotional activities such as trade missions, trade fairs, and procurement conferences. It is responsible for the development of marketing and commerical intelligence through the Worldwide Information and Trade System (WITS) for dissemination to the American business community.

The members of the Service will serve as part of the U.S. Embassy staffs and will report directly to the Ambassador or Chief of Mission in each country. The Foreign Commerical Service will provide personalized assistance to American business persons abroad by providing support to Export Development Offices, trade missions, fairs, catalog shows and other activities. The Service will develop trade leads, identify potential agents-representatives and develop other commercial intelligence for transmittal to the East-West Trade and Export Development units in Washington and the U.S. Commercial Service. It also will develop information and report to Trade and Commerce on foreign commercial and industrial trends. The commercial intelligence data obtained by the Service will be disseminated in part through the WITS. The Service will provide support to TAC units in import and export administration and monitoring of multilateral trade agreements. It will assist U.S. business persons in resolving trade complaints against foreign firms and governments.

U.S. COMMERCIAL SERVICE

The U.S. Commercial Service represents Trade and Commerce with the business community in the United States. It provides business with information, technical assistance and counseling on export and investment matters. The Service assists in identifying potential U.S. exporters and participants in overseas promotional events.

The Service administers a system of district offices, currently 43, located in commercial centers throughout the United States. It offers U.S. firms counseling on overseas marketing, technical export information, guidance on the marketing opportunities, and advice on marketing strategies. The service conducts seminars, workshops, and conferences. It utilizes Export Development and East-West Trade information services, including the Worldwide Information and Trade System (WITS). The Service assists in obtaining commercial information from U.S. firms for use in Export Development planning and evaluation. It also advises the business community of significant trade developments, trade policy issues and technological developments.

The U.S. Commercial Service publishes "Commerce Business Daily."

The U.S. Commercial Service will include a staff of 353.

EXPORT DEVELOPMENT

The Export Development unit has primary responsibility for planning the export development programs in non-Communist countries. Its mission is to expand U.S. exports. It develops promotional programs conducted by the U.S. and Foreign Commercial Services and provides them with analytical and technical support.

This unit performs the program planning and evaluation activities for the Assistant Secretary and has responsibility for determining program priorities for the Foreign and U.S. Commercial Services. It supports overseas promotional activities through management of Export Development Offices, development of overseas trade missions, sponsorship of special missions, and other trade and investment activities. This unit, particularly its staff of country commercial experts, is responsible for providing counseling services to U.S. business on foreign markets, for market research, and for technical support to other units of Trade and Commerce (TAC).

This unit supports staff for Trade and Commerce information programs, including the Worldwide Information and Trade System (WITS). Such information is disseminated through the Foreign and U.S. Commercial Services for use by the U.S. business community. This unit also conducts a nationwide campaign on export awareness through specialized counseling, seminars, publications, joint industry/government activities, and assistance in competing for major overseas projects. The Foreign Commercial Service stages promotional events and the U.S. Commercial Service assists in identifying participants.

Additionally, this unit coordinates the program activities of the President's Export Council which provides advice from the private sector to the Secretary and the President on issues relating to export expansion activities.

The Export Development unit has a staff of 450.

EAST-WEST TRADE

The East-West Trade unit, established in 1972 to foster commercial and economic relations between the United States and communist countries, helps American firms conduct business in communist countries; develops and explains East-West trade policy; strengthens governmental mechanisms for expanding trade; and expands understanding of issues and opportunities in East-West trade.

This unit conducts the day-to-day bilateral commercial contacts with the embassies and other communist government entities in the U.S. It provides support for the Cabinet-level joint economic commissions, seeks resolution of commercial problems, and assists in the development of commercial policy toward individual communist countries. It collects, analyzes, and disseminates information about economic conditions, trade-related laws and regulations and market opportunities, and advises U.S. firms on country oriented trading problems. It also maintains day-to-day liaison with the major private U.S. bilateral councils on eight individual communist countries.

This unit offers practical services to help U.S. firms promote and market products in communist countries. It conducts briefings on "how to do business", arranges contacts between U.S. business and foreign trade organization officials, disseminates information on business opportunities in communist countries; and assists U.S. firms in transaction problems involving Federal agencies. In addition, this unit plans, recruits for, and manages trade promotion events such as fairs, technical sales seminars, and catalog shows in communist countries.

Lastly, this unit formulates, analyzes and makes recommendations about legislative and broad policy issues arising in East-West trade. It studies trade potential, balance-of-payments projections, econometric modeling of communist economies, and the economic impact of East-West trade on the United States, its communist trading partners, and other nations. It also maintains a major statistical data base on East-West trade and provides analyses of trade trends.

The unit has a staff of 92.

ASSISTANT SECRETARY FOR TRADE ADMINISTRATION

The Assistant Secretary for Trade Administration will have overall responsibility for the managment and operation of the principal programs involving the regulation of imports and exports. The incumbent advises the Under Secretary and Secretary on the policies and programs relating to trade administration.

The Assistant Secretary is responsible for import administration: antidumping investigation and enforcement and countervailing duty investigation and enforcement. The Assistant Secretary will be directly assisted by an Office of Antidumping and Countervailing Duty Policy of 15 people.

The Assistant Secretary is responsible for export administration: export licensing and enforcement, including national security, foreign policy, and short supply export controls.

The Assistant Secretary is also responsible for a number of special regulatory programs: antiboycott compliance, industrial mobilization, foreign trade zones,

unfair import practices, (§ 337) national security investigations, and several other statutory import programs.

The specific programs and activities for which the Assistant Secretary is responsible are detailed on the following pages.

IMPORT ADMINISTRATION

The Import Administration unit is responsible for the investigation of antidumping and countervailing duty cases. Following investigation, this unit makes a formal recommendation for disposition of the case.

In countervailing duty cases, this unit investigates and determines whether a subsidy is being provided with respect to the manufacturer, production or exportation of merchandise imported into the United States. As part of the same process, the International Trade Commission (ITC) investigates and determines whether an industry is materially injured or is threatened with material injury. If both of these determinations are positive, a countervailing duty is imposed in the amount of the net subsidy determined to exist.

In antidumping cases, this unit investigates and determines whether merchandise is sold or is likely to be sold in the United States at less than fair value. As in countervailing duty cases, the ITC investigates material injury. If both determinations are positive, an antidumping duty is imposed, equal to the amount by which fair foreign market value exceeds the U.S. price of the merchandise.

In addition to these two functions, this unit will also include the following import related activities:

Unfair import practices (§ 337 cases) involve the investigation and determination as to whether unfair methods of competition or importation cause substantial injury to domestic industry. The vast majority of current actions involve claims of patent infringement.

The foreign trade zone program evaluates and processes applications by port communities seeking to establish limited duty free zones as part of local economic development programs.

Special statutory import programs relate to the import of quota allocation watches and watch movements from U.S. territories, and the import of educations, scientific, and cultural materials by nonprofit institutions pursuant to the Florence Agreement.

The Import Administration unit consists of 310 persons.

EXPORT ADMINISTRATION

The Export Administration unit is responsible for export controls for reasons of national security, foreign policy, and short supply. The major functions of the program are policy planning, licensing, compliance, and short supply monitoring and licensing.

The policy planning function includes developing and coordinating recommendations on export control policies and programs, reviewing export license applications that present particular foreign policy or security issues, and coordinating with other Executive Branch agencies on licenses and policies requiring interagency review.

The licensing function includes the development of export control procedures and regulations, technical analysis and review of products, participation in interagency review of license applications, statistical and analytical reports of export licensing activities, and formal issuance of licenses.

The compliance function includes the investigation and prosecution of export control violations.

The objective of the short supply function is to restrict the excessive export of items in domestic short supply and to reduce the inflationary impact of foreign demand.

In addition to export controls, this unit will include the antiboycott and industrial mobilization programs.

The antiboycott program involves the administration and enforcement of the foreign boycott provisions of the Export Administration Act and the monitoring of the impact of foreign boycotts on the United States. This includes the investigation and enforcement of compliance with the law as well as the processing of boycott reports.

The industrial mobilization program monitors and assures timely availability of material and products essential to industrial performance on contracts for national defense. This includes stockpile management of strategic and critical materials and an emergency preparedness function designed to identify industrial products and

facilities which are essential to mobilization readiness, national defense, or post-attack survival and recovery.

The Export Administration unit will include 195 persons.

ASSISTANT SECRETARY FOR TRADE POLICY AND PROGRAMS

The Assistant Secretary for Trade Policy and Programs is responsible for developing and operating an effective trade policy implementation mechanism within the Department of Trade and Commerce and for operating a variety of trade and investment programs to improve the U.S. trade position.

The Assistant Secretary provides overall direction and coordination of international economic policy formulation, research, and analysis within the Department, advising the Secretary and Under Secretary on such policies and programs.

The Assistant Secretary for Trade Policy and Programs will be principally responsible for the follow-up, implementation, and monitoring of the MTN. The Assistant Secretary will be responsible for closely coordinating with other involved offices and agencies these responsibilities and the process of educating U.S. business on the rights and opportunities resulting from the MTN.

The Assistant Secretary supports the Department's activities in international trade, economic, and investment matters—and is an active participant in U.S. representation in GATT, OECD, UNCTAD, ILO and other multilateral deliberations and negotiations. The Assistant Secretary establishes and supervises the implementation of the Department's interagency policy role in such organizations as the NSC, STR, and the NAC, particular responsibility for MTN implementation and TPC support.

The Assistant Secretary's immediate office includes a country analysis staff which supports certain joint economic consultative mechanisms (e.g. Korea, Yugoslavia); operates trade facilitation efforts to resolve specific commercial complaints (e.g. Japan); and provides staff support to the Secretary and Under Secretary for meetings with foreign visitors and trips abroad.

The specific programs and activities for which this Assistant Secretary is responsible are detailed on the following pages.

TRADE AGREEMENTS

The Trade Agreements unit is the primary source of trade policy development and support within the Department of Trade and Commerce. It identifies key trade policy issues and develops Departmental positions. A major responsibility of this entity is implementation of the MTN and other trade agreements for all non-agricultural matters.

Trade Agreements' activities include implementation and monitoring of MTN tariff and nontariff agreements, as well as investigation and resolution of problems in foreign country application of those agreements. Another function is the development of information and cases arising under the MTN, including the operation of the Trade Complaint Center, the central contact point to which business will bring complaints and problems regarding MTN and other trade agreements, and where the private sector will receive advice as to the recourse and remedies available to them. Operation of the private sector advisory process (ISACs) under the expanded scope of TPC coverage—including investment, East-West trade, etc.—in addition to trade agreements, is administered here.

In the import relief area, Trade Agreements (1) provides staff analyses to be used by the TPC in reviewing and considering section 201, 301, 406 import relief cases; (2) monitors relief actions; and (3) develops Departmental policy on orderly marketing agreements.

Trade Agreements develops a continuing program of examining post-MTN issues for negotiation or consultation, identifying and cataloguing foreign trade practices, such as those affecting trade in "services." It recommends policy objectives for Departmental officials to present in interagency and international forums. In addition, it develops plans for educating the U.S. business community on general and specific trade opportunities resulting from the MTN.

Another major function is participation in, and, as appropriate, leading negotiations and/or renegotiation of bilateral and multilateral trade agreements, such as the expansion of MTN code agreements, commodity agreements, orderly marketing agreements, international sector agreements, etc.

Other activities include the examination of U.S. access to raw materials and other resources located abroad and the recommendation of appropriate U.S. action in this area.

This unit will consist of 75 persons.

FINANCE AND INVESTMENT

This unit develops and implements policies and examines laws, reguiations, and institutions in the financial and investment areas to determine their effect on U.S. trade and investment flows. It recommends change in these to improve the U.S. trade position, and it monitors and analyzes inward foreign investment in the United States.

It represents the Department in international finance and development assistance affairs, especially those affecting export expansion. This includes providing analyses and staff support for Departmental representation on the National Advisory Council (NAC) and other bodies dealing with export finance, export guarantees and credit insurance, and bilateral and multilateral aid loans.

It examines the effect of U.S. tax laws and practices on U.S. trade competitiveness (DISC, foreign tax credits, taxation of U.S. overseas personnel, etc.). It conducts comparative analyses of foreign tax practices, and makes recommendations for changes.

Representing the Department in matters relating to U.S. direct investment, it analyzes investment trends and consults with business on U.S. regulations and international practices affecting investment. It recommend actions in bilateral, multilateral negotiations on investment. It develops positions on multinational corporation (MNC) issues, providing staffing for Departmental participation in MNC code issues and investment disputes. It advises on programs, policies and legislation affecting investment abroad and analyzes the balance of payments effects of such investment.

It analyzes transactions of domestic and international trade financing institutions from the perspective of effects on U.S. trade. It compares U.S. practices with foreign practices and recommends changes in U.S. practices. It also provides staff support for Secretarial membership on Export/Import Bank Board.

It develops recommendations to improve the access of U.S. service industries to foreign markets, representing the Department at interagency and international groups dealing with aviation, sea an multimodal proposals.

It operates statutory programs to monitor and analyze foreign investment in the United States. It identifies problems and recommends remedial action as necessary.

The Finance and Investment unit will include 55 persons.

POLICY PLANNING AND ANALYSIS

This unit conducts research and analysis on U.S. trade and on all factors affecting future trade prospects, developing policy recommendations to enhance the international trade competitiveness of the United States. It is the principal source within the Department for developing positions on international positive adjustment policies and on international sectoral issues. On the basis of its own research and analysis as well as that of the new Bureau of Industrial Analysis (BIA) and other parts of the Government, this unit forecasts future trade trends and is responsible for developing longer term policy options for U.S. trade and investment.

In conducting policy analyses of positive adjustment issues and international sectoral issues, it draws on the micro-economic and industry analyses of BIA, using these studies and data along with other information to formulate and evaluate policy options and to recommend policy positions. It develops positions to take on international positive adjustment policies in the OECD and other forums, it focuses on sectoral issues related to MTN implementation and to other trade and investment agreements and policies, and it participates in or heads U.S. delegations to international meetings concerned with sectoral or positive adjustment issues.

In supporting the development of faster U.S. export growth and a stronger competitive position, this unit examines the effects of trade incentives and disincentives of the U.S. and other governments. It serves as the central contact point for collecting and evaluating information on the likely effects of changes proposed to improve the U.S. export position, developing policy options and recommendations.

It also forecasts longer-term trade developments, with particular emphasis on identifying future trade problems that will face the United States. It identifies longer-run trade and investment policy objectives, basing these on its forecasts and its program of research into U.S. trade and the factors affecting U.S. competitiveness. It evaluates the effectiveness of U.S. trade and investment policies and compares these with major competitor nations. It uses mathematical models to simulate the effects of future policy alternatives, and provides the planning framework for trade policies and programs.

The Policy Planning and Analysis unit also develops and maintains computerized data bases and provides trade and international economic statistics to other parts of the government and to U.S. business.

This unit will include 70 persons.

TEXTILES AND APPAREL

The Textiles and Apparel unit is the organization in Trade and Commerce that is responsible for the economic well-being of the U.S. textile and apparel industries, domestically and internationally. Its major efforts include negotiating bilateral textile and apparel import restraint agreements;[1] monitoring imports from controlled (agreement) countries and uncontrolled countries, providing staff and technical support to the Committee for the Implementation of Textile Agreements (CITA); and, promoting the expansion of exports of textiles and apparel.

This unit prepares monthly performance reports which show imports compared to restraint levels for each bilateral agreement country. Problems of implementing the agreements are analyzed and brought before CITA for resolution. This unit makes special tables and analyses used by the U.S. negotiators of textile and apparel agreements. To accomplish this, it gathers and reports basic statistical data on imports. It prepares monthly reports on the overall import picture, comparing current monthly data with prior years. It is concerned with monitoring imports from uncontrolled countries. It classifies problems arising under agreements and trains foreign officials in U.S. classification procedures.

In addition, this unit provides current economic data and analyses of conditions in the domestic textile and apparel markets, including the impact of imports on these markets. It is responsible for the textile and apparel export expansion program and, in conjunction with the STR and other organizations, reduction of non-tariff barriers. Finally, it provides structural assistance to the industry in the form of new technology, research and development, and management training.

The Textile and Apparel unit will have a staff of 47.

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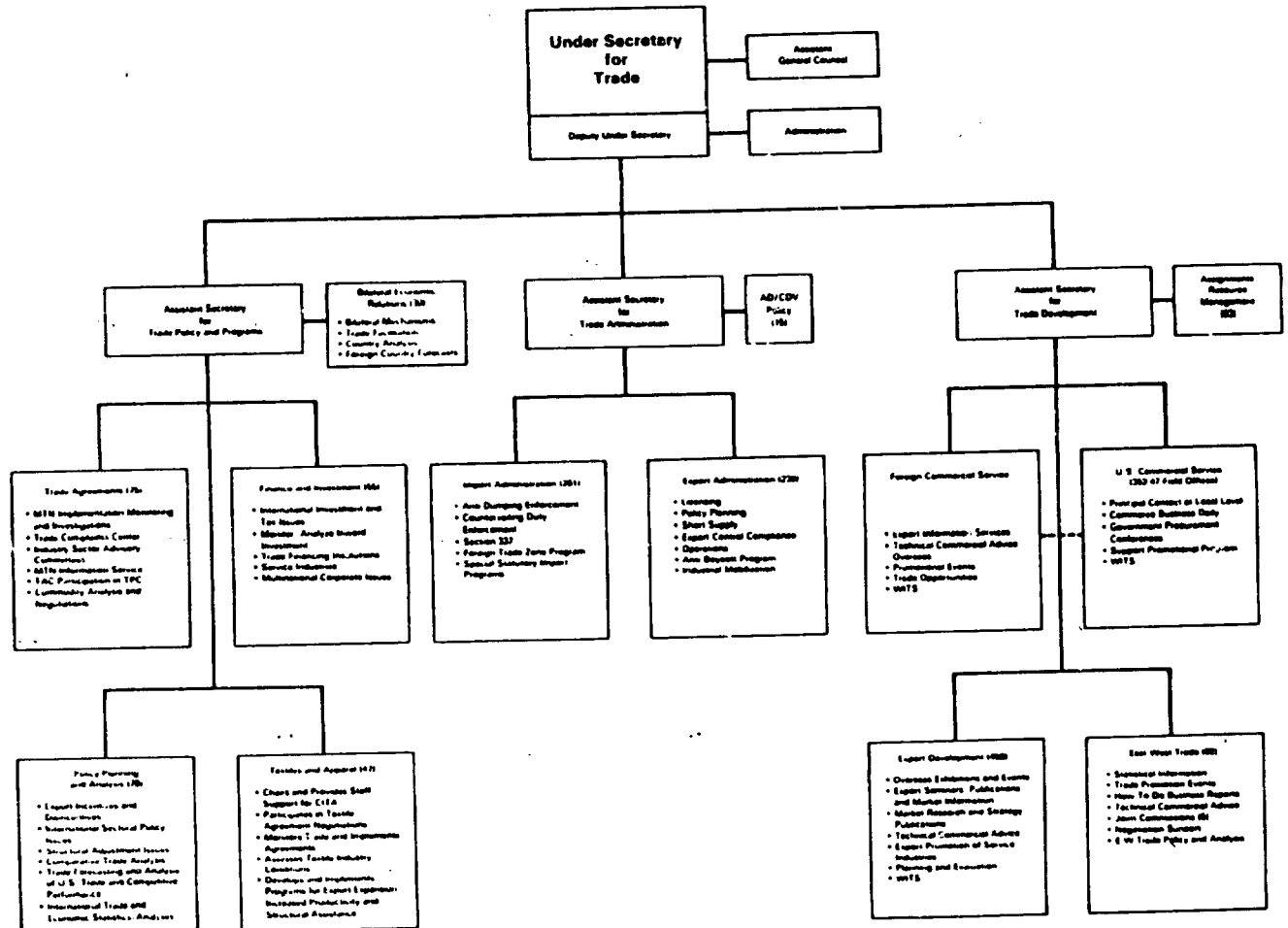
[1] This is done as part o negotiating teams made up of State, Labor, and headed by the Chief Textile Negotiator from the Office of the Special Trade Representative.

Proposed Trade Component of the Department of Trade and Commerce



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UPGRADED SECTORAL ANALYSIS PROGRAM FOR TRADE AND COMMERCE

The Department will establish a major capability for industrial analysis, policy development and selected industry assistance efforts. The cornerstone for this capability will be a new Bureau of Economic Analysis which has a reputation of objective, highly credible macroeconomic analysis and reporting. Like BEA, the Bureau of Industrial Analysis (BIA) will report to the Department's Chief Economist and have parity with BEA and the Census Bureau. The components of the Department's new industrial program, beginning with BIA, are as follows:

BUREAU OF INDUSTRIAL ANALYSIS (BIA)

The Bureau of Industrial Analysis will provide, to a variety of clients, objective and professional sector-specific and cross-sector information and analysis. Its principal role will be to serve the analytical support needs of policy makers in Trade and Commerce, in the Executive Office of the President, and in other Departments and agencies. It will also provide industry specific information to the Under Secretary for Trade for export development targetting, short supply, import administration and industrial mobilization requirements. It will provide the data base, on a microeconomic basis, which policy makers may use in considering issues and proposals directed at or affecting particular industries.

The principal activities of BIA will include preparation of the following:

Current and project data on industrial prices, production, inventories, etc. at various levels of aggregation;

Information on industrial operations, industry structure, industrial processes, interindustry relationships, plant capacity etc.;

Assessments of economic conditions in various industries, including analyses of the impact of such factors as labor conditions, trade development, productivity, capital availability and others on industrial performance, as well as early identification of industry problems and opportunities;

Impact analyses to be used in Federal decisionmaking on current policy and program issues such as legislation, EPA regulations, ITC recommendations, trade negotiating positions, energy policy proposals, etc.;

Sophisticated research on issues such as productivity, capital investment and industry structure.

BIA will have a staff of approximately 190 people, primarily economists and industry specialists. Approximately 140 positions will be filled with qualified Departmental staff. Approximately 50 positions will be filled through Secretarial reprogramming of vacant positions throughout the Department.

The head of BIA will be an individual with recognized credentials and management ability selected in consultation with the Government's top economic policy advisors. Similarly qualified officials will be recruited to fill 5 or 6 career SES second-level management positions within the Bureau.

ASSISTANT SECRETARY FOR POLICY

The Office of the Assistant Secretary for Policy will provide policy analysis on industry and cross-industry issues. The Office will be augmented by the transfer of resources from ITA's Office of Business Policy Analysis. This staff of approximately five will be combined with other Policy positions in a new Office of Industrial Policy Analysis. This Office will be responsible for:

Analyzing and making policy recommendations on cross-industry issues such as taxation, antitrust, labor issues and policies affecting small business.

Making policy recommendations regarding the Government's undertaking actions in support of endangered or emerging industries.

Analyzing the policy and operational tools available to meet industrial development needs, and determining what institutional mechanisms, such as tax legislation, regulatory reform, direct assistance, and others, are most appropriate.

ASSISTANT SECRETARY FOR SCIENCE AND TECHNOLOGY

The Assistant Secretary for Science and Technology now has staff capability for assessing industry-specific technology conditions, which are becoming an increasingly important aspect of our overall economic and competitive position. To supplement this capability, 7 positions from the former BDBD Office of Business Policy Analysis will be transferred to the Assistant Secretary to provide needed support for comprehensive reviews of the technological implications of Federal environmental regulations. In addition, the Assistant Secretary will establish and Industrial Development Projects Staff. This staff will be made up of 13 positions transferred from the Office

of Business Programs (formerly part of the abolished Bureau of Domestic Business Development). This staff will draw upon the analytical products of the Bureau of Industrial Analysis and the scientific/technological support available from the National Bureau of Standards, the Patent and Trademark Office and the National Technical Information Service in order to develop options for specific programs to aid distressed or emerging industries. In this way, industry assistance programs, such as those involving the footwear, steel and jewelry industries, will have an institutional base in the Department, and be better able to take advantage of all of its policy, industrial analysis and operational resources.

UNDER SECRETARY FOR TRADE

The Department's proposed new trade authorities have yielded a reorganization proposal establishing an Under Secretary for Trade under whom all trade development, trade policy and import and export administration programs will be organized. The Bureau of Industrial Analysis will be a prime supplier of industrial data and interpretation to the Under Secretary in the management of all of these programs. However, a cadre of 30 people will be assigned to the Under Secretary for Trade for industrial work of special importance to trade program managment. This staff will operate on a project basis, drawing upon the central capability of BIA and tailoring its analyses to import policy needs, export promotion planning, MTN implementation, etc.

DEPUTY UNDER SECRETARY FOR REGIONAL AFFAIRS

While recognizing the primary role of its industrial analysis efforts in supporting Federal Government policy and program decisionmaking, the Department has a continuing obligation to meet the business community's needs for information and assistance. To meet this obligation, the Department will transfer resources in the former BDBD Office of the Ombudsman to the Deputy Under Secretary. This staff will serve as the focal point for business inquiries, routine assistance and special projects such as conferences and seminars on business related topics.

SUMMARY OF STEPS TO UPGRADE THE SECTORAL ANALYSIS PROGRAM IN THE DEPARTMENT OF TRADE AND COMMERCE

1. Chief Economist

Abolish: Office of Industrial Economics with 15 positions.

Add: Bureau of Industrial Analysis with 190 positions including 50 vacancies to provide industrial information and analysis.

2. Assistant Secretary for Policy

Add: Office of Industrial Policy Analysis with 13+ positions (5 from BDBD) to support in-depth analysis of industrial issues, with formulation of appropriate Federal policy response.

3. Assistant Secretary for Science and Technology

Add: 20 positions to support design and management industry assistance projects and technological review of environmental regulations.

4. Industry and trade Administration

Abolish: Bureau of Domestic Business Development with 233 positions.

Transfer to Under Secretary for Trade: Office of Textiles with 32 positions to support trade negotiations. Research staff with 30 positions to support MTN implementation.

5. Deputy Under Secretary for Regional Affairs

Add: Ombudsman for Business with 16 positions to provide a focal point for business inquiries and routine assistance.

Mr. VANIK. Thank you. I would like to address some of my questions to the Office of OMB and Mr. McIntyre.

One of the items of business that concerns me very much, but in your statements and in statements by others I see nothing about, is a very important part of the trade program. This is one of the commitments we made that I was very much concerned with. That is on the issue of adjustment assistance, which by statute STR has the responsibility to coordinate. What is the administration's inten-

tion with respect to this obligation we incurred in connection with the passage of the MTN legislation?

Mr. McINTYRE. Mr. Chairman, as you well know we are working with the Congress, to try to resolve some of the issues that concern us with respect to the trade adjustment assistance legislation. Those discussions are ongoing now. We are working very closely with the Departments of Labor and Commerce who are carrying on those discussions with the Members of Congress. I hope we can come to a satisfactory resolution on that piece of legislation. We have not at this time.

Mr. VANIK. I hope that the administration will consider the modest improvement that was made in the program by H.R. 1543 which was developed in the subcommittee, and overwhelmingly approved by the House earlier this year. I know Mr. Downey would like to make a statement on this point.

Mr. DOWNEY. Mr. Chairman, I am glad you raised that point. I am thankful that Mr. McIntyre and hopefully the administration will reconsider their position. I want to make it as clear as I can there are a lot of people who supported MTN and feel that it is the direction this country should be headed but who are very, very concerned, and I think rightfully, about displacement in American industry as a result of free trade or increased trade opportunities for other countries.

The Office of Management and Budget has written some very strong and I think irresponsible comments with respect to broadening the base of trade adjustment assistance to parts manufacturers and other aspects of the bill that ultimately passed the House. I would hope you would reconsider that position because it is my intention to continue to support the trade policies of the administration.

I will do so a lot more zealously if I know the administration will be more forthcoming with trade adjustment assistance.

Mr. McINTYRE. I can only reiterate that we are trying to work out some of the very difficult issues. The one you mentioned, the extension of benefits to secondary groups of beneficiaries, people that are not directly impacted but who are indirectly impacted, is a very difficult question and it represents a fundamental change in existing policy. It is a change that should not be made very lightly.

What we have tried to do is to explore the implications of that proposed policy change and determine exactly what we are getting into if we agree to the change. That is only one of several other major issues that the new trade adjustment assistance bill raises. But I can assure you and Chairman Vanik that we have not put our heads in the sand on that legislation, that we are trying in a responsible manner to work out a solution to these very difficult problems.

It is also a very costly proposal. I would hope that you would want the person in charge of the purse strings of this Government to be concerned about cost and that is what I am trying to do.

Mr. DOWNEY. We are also concerned about cost.

Mr. McINTYRE. I hope we can do something about it. We are concerned about both the issue and the funding. I have to constantly watch the purse strings.

Mr. VANIK. We appreciate that effort, but we have a commitment we have made to a large segment of our community that supported the multilateral trade negotiation on the basis that we would have a strengthened, more meaningful adjustment assistance program. I am mindful of that commitment, and I hope we can respond to it.

If Commerce is going to have a principal role in trade policy development, what will be the role of the other agencies in developing policy to be coordinated by STR? One of the things that concerns me, isn't there a danger that STR's traditional trade policy role would be weakened in this structure?

Mr. MCINTYRE. Mr. Chairman, I think just the contrary will happen. I think we have seen in the MTN negotiations a process developed in which the Office of Special Trade Representative has taken a principal role as the trade spokesman for the Government, the principal trade spokesman for the President. I think that model is a good model to build on and that is what we have done in our proposal. We do have a number of agencies in the Government that have a direct concern with trade policy. In my testimony I mentioned three or four, the Agriculture Department, the Department of State, and others. So I think that by establishing the STR in the Executive Office of the President, continuing the Special Trade Representative as a Cabinet-level official, enhancing the Special Trade Representative's position as Chair of the Trade Policy Committee and broadening the membership of that committee will give us a much better process for developing trade policy. I think it will strengthen our trade policy formulation and will certainly strengthen the U.S. Office of Trade Representative.

Mr. VANIK. Would the TPC also coordinate and provide policy guidance on other issues to the extent they impact on trade? For example, taxation of U.S. imports to companies and individuals abroad, antitrust policies, commercial matters affecting service such as shipping, aviation, insurance, fishing rights, policy guidance on export control and finance. If not, why not?

Mr. MCINTYRE. I think, first of all, that the Trade Policy Committee would have trade policy as its primary concern. Obviously if there are other actions or other policies enunciated in the government which would have some impact on trade it would be a matter that the Trade Policy Committee should discuss, consider and if appropriate make its views known either to the respective agency or to the President so that those viewpoints could be taken into account in arriving at any final dicision. I would not suggest, however, that nontrade policymaking responsibilities which reside by statute in other agencies would be a matter that the Trade Policy Committee would have primary responsibility for.

Obviously they have to be able to comment on things that impact on trade, even if it is not a direct trade-related issue.

Mr. VANIK. Under the OMB proposal would STR-TPC have a role in developing and coordinating export policy? Who would have lead responsibility in the Executive Branch for developing comprehensive and effective policy to improve U.S. productivity and competitiveness, including export policy and oversee its impementation, and how will they do it?

Mr. McINTYRE. The Commerce Department, under our proposal, would have the primary responsibility for export promotion. The Trade Policy Committee, chaired by the STR, would have the responsibility of coordinating our trade policies and on that committee would be the Department of Trade and Commerce. So the coordination of policies would be a responsibility of the Trade Policy Committee.

The development and execution of export policy would be the responsibility of the Department of Trade and Commerce. Mr. Hodges may want to expand further on that.

Mr. HODGES. I have no further comment on that. We would have the responsibility as outlined in the trade development portion of my testimony. Trade policy coordination would be the responsibility of the committee.

Mr. VANIK. Mr. Gibbons.

Mr. GIBBONS. Mr. McIntyre, somewhere in that bureaucracy that you are the current head of there is a great antipathy toward adjustment assistance. It is not new. It did not come with this Administration. I hope that somewhere it will be rooted out and at least exposed and we will find out who is responsible for it. Trade adjustment assistance is not a new cost. The cost is there. It is just a question of who is going to bear the cost. I think it is fair that the Federal Government bear the cost because it is our change in policies and our programs that really make this come about. As long as we have that antipathy in your organization toward adjustment assistance we are going to have political troubles with it up here on the hill, and political troubles with all of our trade policy.

So I think it is in our best interest to find the causes of the antipathy and get it rooted out and for the Federal Government to shoulder its responsibility for having a good fair trade adjustment assistance program. I don't mean to scatter Federal dollars all over the landscape but it is inconsistent in my mind not to recognize that the American manufacturing business is largely a group of parts assemblers these days. Very few people manufacture entire products. Parts suppliers are just as vitally affected by trade policy as are the final assemblers.

Now, as I look over these proposals—and I am cosponsor of the bill sponsored by Mr. Jones and Mr. Frenzel—I worry about the role of STR. I have watched it for years now, and I have served 27 years on committees. I think I understand how committees work. I know their shortcomings. It looks to me like what you have done with STR is give them a gavel and say you go out and coordinate all these independent agencies of Government. Mr. McIntyre can't do that. Not everybody has the personality of Bob Strauss. I think a lot of people are new in STR or going to be new. Fine people, but not everybody has the personality of Bob Strauss. I don't want to see anything in the proposal that comes up here that diminishes the strength of STR. It looks to me that by giving STR a gavel and Chairmanship and saying coordinate with Commerce, coordinate with Agriculture, coordinate with State, and everybody else that you know, he is going to get a lot of smiles and a lot of junior-level secretaries attending his meetings and policy is going to run on just as it has for 200 years in these various agencies.

I would like to have you respond to that. Is STR going to have the clout, the legislatively given clout to call these agency heads in together to knock heads as Bob Strauss apparently was able to do in his own inimitable way and get this job done?

Mr. McINTYRE. The short answer to your question, Mr. Gibbons, is, yes. I think STR will have the clout to bang heads together and make the necessary policy decisions.

Mr. GIBBONS. What in your proposal gives him that clout?

Mr. McINTYRE. First, the Office of U.S. Trade Representative would not only be a Cabinet-level agency; it would also be an agency in the Executive Office of the President, unlike other cabinet departments or agencies.

Mr. GIBBONS. In other words, he is at super cabinet level; is that correct?

Mr. McINTYRE. He is in the Office of the President, and that gives——

Mr. GIBBONS. Be responsive to my question. Is this a super Cabinet position, or is it at the same level as Secretary of Commerce?

Mr. McINTYRE. Neither of those. It is not a super Cabinet position; it is in the Executive Office of the President. The Executive Office of the President is an arm of the Presidency which Congress has recognized as being very effective in coordinating and staffing related type agencies, so that we can pull together those functions that cut across other Cabinet departments.

Mr. GIBBONS. Let me ask the question again: Is he at the same level, as far as power, authority and responsibility, as the Secretary of the Interior, the Secretary of Agriculture, or on trade matters is he above them?

Mr. McINTYRE. In the trade proposal we will submit to the Congress, the Trade Representative will have the responsibility of making final decisions on trade policy.

Mr. GIBBONS. As I understand your answer to my question, the answer is "Yes," on trade policy he is above the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of State in those matters.

All right. That is all the questions I have. Thank you.

Mr. VANIK. Mr. Jones?

Mr. JONES. Thank you, Mr. Chairman.

First, let me congratulate the administration for, I think, good cooperation in consulting with Congress, in formulating the plan, and with at least a strong "B-plus", if not an "A", on the final plan.

I agree that the reorganization should take place by January.

What I would like to pursue with you is how strong your feelings are of whether this should be by the reorganization plan, or should it be by legislation.

I agree with Mr. Gibbons, that the reorganized department, as well as the STR, needs to have maximum clout so that we can really focus attention on trade policy. My tendency is to believe that if Congress gives it that clout through legislation, that it is all the better.

So, my first question, Mr. Director, or any of your colleagues, how strongly do you feel whether this should be by Executive order or by legislation?

Mr. McINTYRE. You mean by reorganization plan or by legislation? I feel strongly, Mr. Jones, if you want to get this proposal into law, so that it will be operational by the time the MTN is effective in January 1980, the only way you are going to be able to accomplish that is by reorganization plan.

Mr. JONES. Why is that?

Mr. McINTYRE. Congress has many issues facing it now. Its schedule is very, very tight. The energy proposals that Congress will be considering are going to take up a lot of time on your schedule. SALT will take up a lot of the Senate's time. The appropriations bills, the budget resolution, will take up a lot of time, depending on when the Congress intends to adjourn.

I would suggest that legislation would have a difficult time making it through the process in time for this proposal to become effective in January.

We have not introduced a reorganization plan. We have spent this August and last July and the first week in September consulting with Congress, with various interest groups, with the committees and their staffs, to try to iron out the problems, just as you did on the MTN legislation, so that when the plan is introduced, we will have worked out those problems with the Congress, and it can move through with a great deal of consensus.

Mr. JONES. When is it going to be introduced?

Mr. McINTYRE. We have not made a decision yet. If we are to get something passed, and if we are to get a plan introduced in time to get it passed this session, I think it has to be done by the first half of September.

Mr. JONES. If you introduced it by the first half of September, it could not become effective until the first half of November.

Mr. McINTYRE. Sixty congressional days.

Mr. JONES. So, later in November?

Mr. McINTYRE. It could become effective sooner if Congress voted the plan out.

Mr. JONES. During that period of time, if Congress were able to get through the process and pass legislation, is that just as acceptable to you?

Mr. McINTYRE. If Congress is able to do it. What we are interested in is getting an acceptable reorganization of our trade functions through the Congress. Our goals are the same, but I think that the realistic approach in getting this proposal acted on this year would be to use the reorganization plan route. That is what the reorganization authority is there for.

One other point about that: The legislation authorizing the use of reorganization plans provides for a 30-day amendment period, so that if there is a need to amend the plan the President can transmit an amendment. I think that is a very important provision, very beneficial, so that we have time to iron out any difficulties that might still exist after the plan is introduced.

Mr. JONES. Do you feel there is going to be the need for any additional statutory authority for the new Secretary of the Department of Trade and Commerce in addition to a reorganization plan?

Mr. McINTYRE. There will be ultimately a need for legislation to deal with the commercial attachés, the commercial service.

Mr. JONES. Is that the only area you contemplate right now?

Mr. McINTYRE. At the present time, yes.

Mr. JONES. Let me ask you, on that commercial attaché suggestion, will they be the same, will the corps be the same size, will it be strictly a transfer from State to Trade and Commerce or will it be expanded size?

Mr. McINTYRE. Initially, our intention would be to transfer personnel from the Department of State who are currently involved full time in the commercial attaché, commercial representation functions. Obviously, conditions in the world change; our trading relationships change, and I think we have to recognize that fact and be flexible enough to have changes in our commercial representation.

Mr. JONES. But the reorganization plan can affect the transfer of existing commercial attachés to Trade and Commerce, and what you are saying, for their retirement, in other functions they will have to change the statute?

Mr. McINTYRE. That is correct. If you develop a separate personnel system for these officers, otherwise during the interim period they would remain as Foreign Service Officers.

Mr. JONES. One of the criticisms of using the Department of Commerce as the focal point for the reorganization is that there is too much deadwood in Commerce at the present time, and there was the feeling that you needed some statutory authorization to clean out some of this deadwood, so you could really have an aggressive cabinet-level Trade Department.

Do you agree with that statement, first of all, and whether you do or not, what can be done by the reorganization plan to clean out the deadwood?

Mr. McINTYRE. I have heard that same statement. I do not of my own personal knowledge know of any deadwood in the Department of Commerce. I think they carried out their responsibility under the MTN negotiations in a superb manner. Ambassador Strauss indicated to me he feels they have done so.

I would let Under Secretary Hodges speak for his own department. Let me suggest, however, one thing: The way you straighten out management problems is through improving management. I think with the Civil Service reform bill, that the Congress overwhelmingly passed we have the framework to deal with personnel-related-type problems that we did not have prior to the passage of that law. But if there is a problem, I think you have to tackle it from the management perspective, and I would like to ask Under Secretary Hodges to respond.

Mr. JONES. Before he responds, I agree with you that improved management is going to be necessary. Again one of the criticisms of Commerce is that they need new life in their management levels and they could use some new bodies over there. Would OMB look kindly on establishing some new management positions or transfer of some new management positions into this new Department?

Mr. McINTYRE. We already have recommended 130 new positions that would go into investigating functions in the antidumping and countervailing duty areas which, if approved by Congress, would be transferred to the Department of Commerce under this reorganization proposal; so there are some new positions there. We have also

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agreed to an Under Secretary for Trade which is a new management position.

We have agreed to one new Assistant Secretary position which is a high-level management position. However, if it can be justified to us that there is a need for additional new positions to carry out these responsibilities we in OMB will have an open mind toward such additions.

Mr. JONES. What I would like to get from OMB is a priority treatment because I think clearly the one piece of legislation that this Congress has passed that is very meritorious is the trade bill and to implement it properly is going to have to have a complete, total commitment of support from OMB and the entire administration.

Mr. MCINTYRE. Mr. Jones, you can be assured that so long as I am there you have that commitment and support. I have been meeting with Governor Askew and he and I have a very good working relationship. We have known each other for a number of years. I don't see any problem in finding adequate resources for both STR and the Department of Trade and Commerce to carry out our obligations and responsibilities under the MTN agreements.

Mr. HODGES. First I want to address the management point. In any organization management is critical, and I believe that the team that Secretary Kreps has assembled in the Department of Commerce is first-rate. It can and is rejuvenating the Department of Commerce. Moreover, the upgrading of management of the trade function through the appointment of an Under Secretary and additional Assistant Secretaries will be important to strengthening this major function.

Also, we have asked OMB for authority to establish additional SES positions within this new organization to give it added management strength. These will not be new people but rather an upgrading of the level of their responsibilities. We will also receive vacancies with the transfer of functions. Some 10 percent, over 100 vacancies, will be coming in. This will give us new opportunities to add to the staff.

We have about 125 vacancies in the trade area right now. We have put a freeze on hiring so that we can assess our future personnel needs.

I would also like to point out that changes are already taking place. The average age of the people within the Industry and Trade Administration is some 45 years of age and we have had a significant inflow of younger people in the last few years. I think there are dramatic opportunities to manage this unit effectively. I am convinced you will be very proud of the new Department of Trade and Commerce.

Mr. JONES. I imposed on the committee's time but I do have one final question. It pertains to the reasons why Eximbank and OPIC were not included in this reorganization. Would you not agree that the Secretary of Trade and Commerce should have a much more direct and persuasive role in Eximbank operations, perhaps being chairman?

Mr. MCINTYRE. Mr. Jones, we looked at that question for a very long time. Our feeling was that the Eximbank was working well; that if we could make improvements in its operation and its rela-

tionship to other Government programs, those improvements could be probably in the area of better coordination with other policies. To that end we recommended that the Secretary of Trade and Commerce be an ex officio, nonvoting member of the Board so that trade policies and the financing policies could be coordinated at the time the decisions were being discussed and made by the Board of the Eximbank. We feel that that will work well and will serve the purpose of coordinating those policies.

I think that that will be sufficient to keep the financing and trade policy question in the loop. In addition, STR will become a member of the NAC.

As far as OPIC is concerned, we made a reorganization proposal several months ago which put OPIC into an organization called IDCA. The Congress has approved that reorganization. We felt OPIC was more of a developmental organization than it was a trade organization and that is what we have been told at least by the Members in the House who are concerned about and oversee OPIC activities.

We therefore did not propose another reorganization of OPIC at this time. We did, however, put IDCA on the Trade Policy Committee so that we will have all of those organizations that have some interest in trade policy decisions on the Trade Policy Committee. In that way, OPIC-type issues will come before the trade policy group.

Mr. JONES. Thank you for your answer. I think OPIC should have more of a trade rather than aid function, so I am not totally convinced; but that is a difference of opinion perhaps. Thank you, Mr. Chairman.

Mr. GIBBONS. Mr. Downey?

Mr. DOWNEY. I would like you to convince me if you could, Mr. McIntyre, of the advisability of separating out here the administration of unfair trade practice laws and the area of trade policy. Spell it out. You spelled it out pretty well on pages 8 and 9 of your statement but it seems to me that during the negotiations of MTN, Ambassador Strauss was able to come up here and say, well, we have to extend this waiver of countervailing duties and I have to have this as one of my tools in the arsenal to go back and deal with these other countries.

Now you may say MTN was a unique case. But I seriously doubt—and maybe you can dissuade me of this—that the unfair trade practice laws are not going to be politically administered. I would like to think they are but I think there will be political judgments made in the administration of them. I am wondering isn't it better to keep that despite the fact you want a lean bureaucracy and all those other nice things about STR? Isn't it possibly a good thing to have that as one of the arrows in the quiver, if you will, when you deal with other countries on trade policy?

Mr. MCINTYRE. As I said in my testimony we felt that it was important that the overall policy with respect to antidumping and countervailing duties be an area that the Trade Policy Committee would have responsibility for. But we felt it was important to delineate between the enforcement functions and the negotiating functions. The enforcement functions should be a responsibility of a line department which has a primary responsibility for trade, and for specifically for overseeing the effective enforcement and

implementation of the MTN agreements within the context of an overall policy that would be approved by the trade representative.

Mr. DOWNEY. Let me interrupt you there. Wasn't Ambassador Strauss able to hold out the countervailing duty waiver and other things to people at the time he was negotiating this agreement and thereby get them to make some of the concessions they made? Am I misunderstanding what happened?

Mr. MCINTYRE. I would have to get Mr. Rivers to comment on that.

Mr. RIVERS. Congressman, the waiver was originally put in the Trade Act of 1974 by the Congress as a negotiating tool, it is true, because it was recognized it would not be possible to negotiate new rules on subsidies and countervailing duties if at the same time the United States were countervailing willy-nilly without a demonstration of injury. However, I think in the administration of countervailing duty program it is in the interest of the United States not to have it side by side at the same office with the negotiating function. I think too often criticism in the past has been that decisions have been taken in countervailing duty cases for sort of extraneous overall negotiating reasons, so to me the distinction makes sense between the operational function which requires enormous resources and the overall policy function which I believe is sufficient for STR.

Mr. DOWNEY. As a practical matter wouldn't somebody you were dealing with from another country, a trading partner, if they had problems with countervailing or antidumping, wouldn't they raise that issue anyway? Wouldn't they say, listen, I know you bought this from us but you have been so rigorous in enforcing this other aspect of law that we are having some trouble back home convincing some of the television manufacturers and the shoemakers in our own industry that this is something we can't get from you?

As a practical matter when does this, if ever, become not political and not a question for negotiation?

Mr. RIVERS. It varies from case-to-case but in my judgment it is best that that is not a lever which is right within the Office of the Special Trade Representative. There is, however, one important point that I think should be kept in mind. That is under the new regime that is contemplated in the administration of countervailing and antidumping statute there will come a time in these cases and cases will arise which will just not be resolvable in the traditional sense of imposition of duty. Congress recognized that and instituted these procedures under very tight constraints for termination and discontinuance of cases. At that point I think that is when the negotiating policy function merges with the operational function and that is where STR will come in. But I don't think we want STR in the daily operation of that program.

Mr. DOWNEY. I take it that is your judgment on that?

Mr. MCINTYRE. Let me make one other point because you asked a broader question on countervailiing and antidumping duties. Mr. Rivers can expand on this but the discretionary relief authority, section 301 and several other sections, would remain in STR. The escape clause, disruption, and other discretionary relief authorities would remain with STR. You might want to comment further on that.

Mr. RIVERS. That is a very important distinction. There are certain statutes such as section 301 which are inherently negotiating tools. There are other statutes which Congress has not intended to be negotiating tools. They are remedial statutes such as antidumping and countervailing duty statutes. That is an important distinction and it is reflected in this proposed reorganization.

Mr. DOWNEY. I agree with my colleague from Oklahoma that is a pretty good proposal and I will probably support it, but it concerns me that an individual like Strauss—and I hope Mr. Askew can fill his shoes as I am sure he will—might hold this out in negotiations with another country and then suddenly say we are sorry fellows, the enforcement is really in somebody else's hands. We have nothing to do with that any more. It would strike me, if I were dealing with you in that situation, as being a little unbelievable. But if you say it is better for policy I am prepared to accept your judgment on that.

Mr. MCINTYRE. In the analogy you just gave I don't think STR has had that authority anyway in terms of enforcement.

Mr. DOWNEY. They may never have had it statutorily but when you have Ambassador Strauss coming here and explaining that this is a half glass of water, half full, and we have to learn how to deal with this problem, and that he has to track this enforcement thing back to other countries—maybe we have been misled here, and that is possible, that happens, but I just think other countries and certainly Congress has had at least in their own minds that this STR was something that could wheel and deal and this would be one of the negotiating tools in the arsenal.

But if you suggest it is not one of the ways you want to go in the future, purely a policy coordinated with some of these powers he has under section 301, that is all right.

Thank you, Mr. Chairman.

Mr. GIBBONS. Mr. Guarini.

Mr. GUARINI. Mr. McIntyre, at any rate you would be against a separate department such as advocated by Senator Long and Senator Byrd in their respective bills?

Mr. MCINTYRE. We think a separate department is unnecessary. I tried to enumerate several reasons for that in my testimony, but the short answer to your question is, yes, we would be opposed to a separate department.

Mr. GUARINI. Between the Jones-Frenzel bill and the OMB proposal there is very, very little difference, as I see it. It depends on whether or not the President is to set it up and organize it, or whether or not Congress is to have its impact; is that correct?

Mr. MCINTYRE. No; I think there are a few basic differences: Mr. Jones and Mr. Frenzel's bill would transfer Eximbank into the Department of Trade and Commerce—it would transfer OPIC; and a part of the ITC functions, I believe, also would be transferred. I think those are the major differences.

Otherwise, we are very close in our proposed reorganization plans.

Mr. GUARINI. In regard to the time element that we have involved—and this is what you addressed yourself to—could you point out the problems that we would have in the Jones-Frenzel

bill if we went by the statutory way, instead of the reorganization method?

Mr. McINTYRE. I think the primary problem we would have is one of time. It is a scheduling question. Under the reorganization authority, the President can transmit a reorganization plan, and there is a certain time during which something has to happen, either affirmative or negative, on that reorganization proposal.

The reorganization plan is a certain way to insure that there is some decision on a trade reorganization plan this year by the Congress.

Mr. GUARINI. What would be lost, actually, if we went a little slower and in a statutory way, and got Congress' input as far as MTN is concerned? It would still go along the same way; it would still be implemented. There would not be any substantive reason; it would just take more time to think out our procedures; isn't that correct?

Mr. McINTYRE. That is one way to phrase it. I don't think anybody who is proposing that we go by reorganization plan route wants to take any time away from the Congress for consideration of the proposal. In fact, we have intentionally held back submission of either legislation or a plan, so that we could try to work out any differences that existed, and send something up to congress that would meet most of the needs and the objectives of the Congress.

I think that the process of consultation has brought us a long way toward a consensus as to what the proposal should be.

Mr. GUARINI. Then what we are really talking about is how we can best effect some type of consolidation, so that we can have a more effective trade program for the United States. Are you afraid that there may be in the political process too much compromise and give or take, where the President might be able to come up with a more coherent or cogent program?

Mr. McINTYRE. I am not worried about the end product.

What I am concerned about is that if you are serious, if you in the Congress want a reorganization proposal in place by January when the MTN codes become effective, then it is my judgment that the only way you are going to get that is by reorganization plan.

Mr. GUARINI. The question is, what is so important, or magic, to have everything in place by January? Of course, it would be preferable if we had it in place, but I don't see where we would particularly lose anything, and this other way you would have the complete cooperation of Congress.

Mr. McINTYRE. There is a major problem, and let me ask Mr. Carswell, of the Treasury Department, to address a major problem that will confront us if we don't have a plan.

STATEMENT OF ROBERT CARSWELL, DEPUTY SECRETARY, DEPARTMENT OF THE TREASURY

Mr. CARSWELL. As you know, this committee has been vigorous in its pursuit of more effective administration in the antidumping and countervailing duty laws, and it strongly supported, and there was put into MTN legislation enacted by Congress a much more competitive antidumping and countervailing duty law schedule, and this committee has also suggested that the administration was understaffed in this area. The Treasury Department in particular,

and in response to all of that, we have gone to the appropriations committees and we are requesting additional personnel; and we are going to organize the way that is to be done. Now, that involves hiring—assuming the appropriations committee does provide the money—that involves hiring at least 130 people by the end of this year, because this all has to be in place by the first of the year when the statute that Congress has enacted becomes effective.

Mr. GUARINI. You could not do that under existing structure?

Mr. CARSWELL. Hiring 130 people when you don't know whom they are going to work for is difficult. We have to get high-grade personnel here. This committee has emphasized the kind of people we need here are people of professional quality. We have no difficulty with that, but when you are trying to hire professional people and you can't tell them whom they are going to work for and under whose supervision they are going to be, it is not very easy. That is the process we are in now. The sooner this gets settled, the better.

The reorganization plan will make it clear that it will get settled in time for the people that we have to hire to know whom they are going to work for and what policy considerations they are going to have to deal with, and so on. That is a very real problem if we are to hit the ground running 3 months from now. That is all we have left; and if this sits around and nobody really knows, and a fight starts, frankly, I don't think our hiring problems are going to be met.

Mr. GUARINI. The only thing I am trying to get to in my mind is whether or not you feel that there could be some additional input in Congress, Congess could give you that permit, or end up with a better type of a department, rather than to have just the Executive Department do it by itself. The answer may well be that the executive department is more equipped and they know their problems and they know how they can set up a smoother piece of machinery; is that your opinion?

Mr. MCINTYRE.I would like to respond to that. First of all, there can always be more input and more discussion from the Congress, but the implication of your question is that there has not been enough.

Let me say we have been working on this proposal for a long time. We have been working on this particular proposal almost a year. We have been working on trade reorganization considerations for more than a year. During that period of time we have consulted consistently on the bill with Members of Congress and their staffs and the committee staffs.

We have worked through most of July and August, intensely, in a consulting process with the Congress on this proposal. Even after a reorganization plan is introduced—by the way, Congress has to act on a reorganization plan; it is not something the President just does automatically.

Mr. GUARINI. He just acts up and down.

Mr. MCINTYRE. That is an important act, up and down. Congress has to act, but even after a plan is introduced, there is a 30-day period, 30 legislative days, in which the President can amend the reorganization plan and make changes in it to accommodate any problems that might occur.

So, nobody is trying to cut off any needed and legitimate consultation process with the Congress. We have probably done more consulting with Congress in this reorganization process than any other in the history of this country.

Mr. VANIK. I yield to Mr. Martin for a brief question.

Does anyone here have a question of Mr. McIntyre?

Mr. Shannon?

Mr. MARTIN. Mr. Shannon has questions?

Mr. SHANNON. I have a brief question for Mr. McIntyre. The question I have is this, Mr. McIntyre:

In my district, and in my State, we have a large number of small, high technology businesses that are very largely dependent on export markets for their business, despite their size. I am concerned with helping some of these people do one-stop shopping for trade help. I wonder—under the new reorganization plan, will some of the problems of fragmentation in export licensing, and some of the other problems that have existed be taken care of? Will there be one person that these people can go to to help them with trade questions, helping get export licenses and that sort of thing?

Mr. MCINTYRE. Let me refer that question to Under Secretary Hodges. In my judgment, the consolidation of the export functions in the Department of Trade and Commerce and the network of domestic field offices that the Department already has combined with the commercial representation in foreign countries will provide the needed linkage from the domestic markets to foreign markets, will help a great deal. But let me ask Secretary Hodges to expand on that.

Mr. SHANNON. Just to make my question clearer, other than coming to me, whom should they go to?

Mr. HODGES. To me.

Mr. SHANNON. Give me your private telephone number before you go.

Mr. HODGES. Further, I feel the question you raise addresses what we are doing. We facilitate the needed exports for this country. We are export promotion/export development department. In the future we will have one export-oriented official responsible for the domestic office in your district, and in each around the country; we will enhance our staff in Washington and in foreign commercial service. As a result there will be one-stop assistance vis-a-vis outreach effort and promotion efforts.

Licensing is under the same department. There will be a different person managing our licensing program because it involves different procedures. Still, our goal is to facilitate licensing and to be certain that it is expedited. I think we are making marked progress in improving our licensing activities.

Mr. SHANNON. Mr. Chairman, do you want me to continue?

Mr. VANIK. Finish up your time.

Mr. SHANNON. Perhaps Mr. Rivers, or anybody else, if I could give you one case, one story, about an incident that took place in my district: If you could tell me how reorganization in this kind of case would be handled——

There is high-technology company in Massachusetts called Data General Corp., which had some problems a couple of years ago in marketing its products in Brazil, and it has since run into similar

problems in Spain. The reason it had problems is because imports were restricted in those countries by licensing laws.

Data General went to STR a couple of years ago, I think in 1977, and brought it to the attention of Ambassador Strauss, and they were told that the matter would be taken up in a bilateral negotiation with Brazil. Nothing has happened since that conversation in 1977.

I am wondering what the correct procedure with that type of case would be with the reorganization plan, and who would be handling that, and what sorts of steps would be taken?

Mr. RIVERS. Mr. Hodges has indicated the general export function will be lodged in the Commerce Department, and Mr. Hodges will, in the interim, have that responsibility. However, the case you described is not simply a question of finding markets and facilitiating exports; it is a case where someone has obviously undertaken to export and run up against a nontariff barrier in a foreign market.

Now, I am not familiar with the details, but in the course of the multilateral trade negotiations there was an exercise known as nontariff measures not dealt with multilaterally; that is instead of nontariff barriers being dealt with in the context of a multilateral code, in which 20 or 30 countries might be participating, it was a bilateral exercise in which countries made request and offers of one another. What you were told, what your constituent was told, was that we would pursue the matter and make a request of Brazil.

Not being familiar with the details, I can't tell you what happened. Apparently we made a request and the Brazilians declined to negotiate.

Since the conclusion of the MTN, however, there have been two developments: One, there is a licensing code which imposes on signatories certain obligations in the use of licensing as an impediment to trade. So if your constituent continues to have that kind of problem with Brazil, then he has as his option the bringing of a section 301 complaint against the Brazilians, and that would be within STR.

There would still be, probably inevitably, as in dealing with a bureaucracy like the Federal Government, there could be a little bit of confusion; more than a little in some instances. But in dealing with an unfair trade practice, where somebody has encountered nontariff barriers in a foreign country, STR would be principally in charge of it.

Mr. SHANNON. Under the reorganization, would it be correct, the correct procedure would be, for my constituent to go directly to STR, to Commerce or Commerce goes to STR, or I don't see that this meets the problem of fragmentation of trade policy?

Mr. RIVERS. Your constituent would probably want to go to both. He would probably want to see Mr. Hodges and discuss the problem with Mr. Hodges, and his staff, being aware of the nature of the problem, immediately releasing it if it was a kind of problem that section 301 was designed to deal with. So, I think, in that case it would be a joint Commerce/STR exercise.

Mr. HODGES. To facilitate your constituent's efforts in dealing with the bureaucracy, which I think we are improving, we plan to establish a Trade Complaint Center. It would be located under the

Assistant Secretary of Trade Policy and Programs. It is a one-stop shop for any kind of concerns and frustrations, external and internal. Advice would be given, and assistance, as to whom your constituent should see. I will give your that phone number too.

Mr. SHANNON. Let me ask you about a slightly different aspect of this problem. There are a lot of problems that develop where so-called national security considerations come in. Another business in my district was negotiating a contract with the People's Republic of China to sell high technology equipment. I think it was a $4 million contract, and it was determined by the Department of Defense, I believe, that the memory capacity of this machine was large enough so that there were some national security implications involved.

As a result, this contract has been tied up within the bureaucracy. I don't know whether the State Department or STR—I don't know who it is—even though the French industrialists have gone to China and agreed, without any of the bureaucratic entailments.

How can we expect our high technology industries in particular to compete with foreign manufacturers if we are going to impose this burden on them, and other countries are not going to impose the same burden on their industries. How will the reorganization coordinate the efforts of the Defense Department and the State Department to protect the national security interest?

Mr. HODGES. You raise a very important issue. The Department of Commerce, under the Assistant Secretary of Trade Administration, would have export regulations and would issue export licenses.

We are upgrading that effort within the trade structure and giving it the power that facilities licensing and more generally our export interest.

You raise the question about the Department of Defense, for example. Without knowing the specifics, I would point out that other departments may be involved too.

Mr. SHANNON. The problem with high-technology industries is that too often by the time the problem is addressed the technology is obsolete; and so by the time the Defense Department and the various layers of bureaucracy approve the export of the piece of equipment, it is no longer really marketable.

Mr. HODGES. That is not a bureaucratic problem, that is a policy decision by the Department of Defense.

Mr. SHANNON. How does this trade reorganization address this?

Mr. WELLFORD. There are two ways. You are creating through this reorganization a strong trade policy advocate—the strengthened U.S. Trade Representative. You are giving a strong export promotion role and other role to the Secretary of Commerce. Both of those Cabinet-level appointees working through the Trade Policy Committee, are going to be in a position to raise these issues in interagency format, to raise them with the President when necessary, and to cut through some of the administrative layer that occasionally burden important and legitimate national security impacts on trade.

Mr. SHANNON. Other than the Trade Policy Committee there is no specific line authority that will be established in the special trade representative to overrule the Defense Department?

Mr. WELLFORD. No. That would require a change in statutes even if it were advisable.

Mr. MARTIN. I would like to welcome my two friends and constituents. I welcome you and your colleagues here. It is impressive that you are all here speaking with one voice about the proposed reorganization of trade responsibilities and functions. I want to say to my colleagues that—particularly with regard to Secretary Hodges—we expect the same zeal and tenacity and effectiveness from him in his role in pursuing the kinds of problems Mr. Shannon has raised as he put forth in his former professional way where he was so successful in Charlotte, N.C.

In the various proposals that have been made there is no attention given to legislation. Generally you are sharing with us and describing what your proposals are with regard to reorganization within the present authorities of the administration. Others, as I understand it, have raised questions about legislative accompaniment. At this point I heard Mr. McIntyre describe that this would be legislative responsibility, deciding whether to object to it or not. That is one issue. But, as I heard the discussion here, I think it is clear to say there is not going to be any partisan opposition to what you are proposing.

In fact it will probably be bipartisan endorsement of the concepts which you are raising, increasing the effectiveness of our trade and export enhancement capabilities. Do you anticipate a need for legislative backup too? I ask both Secretary Hodges and Mr. Wellford.

Mr. WELLFORD. I think Mr. McIntyre answered that question. Given the extremely heavy schedule, particularly in the Senate, if we want to get something through in time to have a strong Federal trade organization in place when MTN becomes effective in January of next year, I think we have no choice but to proceed by reorganization plan. We might be lucky. The legislative process might move more swiftly than ordinarily and no obstacle develop, but at this point there is no way we can be sure about that. With a plan, we know that within a set period of time a decision up or down will be made by Congress and we will have something in hand in time for next year.

Mr. MARTIN. On that point I think you are wise on that. You don't have to blame it on the Senate. I think the fragmentation which exists within the congressional committees generally is another reason for the same strategy you are espousing. You could get off into side issues of jurisdiction. Those will come in time anyway.

If you raise those now through legislation it would probably further bog down the enactment of what you want to do.

Mr. HODGES. I agree with you completely.

Mr. MARTIN. One of the virtues of this proposal which has been touched on in questions by Mr. Shannon is the separation of commercial enterprises, export enhancement from foreign policy questions, which are questions of the State Department. I would suggest to you that there may also be a concomitant loss of effectiveness though if the personnel who will be representing us overseas will not have the same status as those in the State Department who carried those functions before. Would you elaborate as to how we

overcome that? How we beef up that status and effectiveness of our representatives in offices overseas?

Mr. HODGES. We have made plans for the Foreign Commerce Service. We do not foresee a problem of status, however. We are working closely with the State Department in developing our plans. Our intention is to move Commerce attachés into the Department of Trade and Commerce. Within the Foreign Commerce Service they will be more closely allied with our domestic field offices. Consequently, there can be interchange of assignments in the future for the development of personnel. There will also be interchanges with our Washington office. It is a question of coordination and career development. It is clearly not one of status in any way.

We do have a lot of personnel policies to work out, and, as we mentioned earlier, there are portions of that which will require followup legislation, for example, transferring pension benefits and so forth. We want to do everything we can to protect those individuals and insure their same status.

Mr. MARTIN. You see a need to enhance those positions?

Mr. HODGES. We see a need to focus more on the efforts of the Commerce attache towards working more explicitly with U.S. business and selling if you will. We see the role of the commercial officers as promoting U.S. products and U.S. industry, of looking out for No. 1.

Mr. MARTIN. I commend you for that. I yield back my time, Mr. Chairman.

Mr. VANIK. Mr. Lederer.

Mr. LEDERER. No questions.

Mr. SCHULZE. I have no questions.

Mr. MOORE. Mr. Smith, I was on the Agriculture Committee during the passage of the Agricultural Trade Act of 1978. One provision of that act required an upgrading of the agricultural counselor, or whatever it was called, to promote agricultural exports. Looking back on that act, we left it up to Secretary of Agriculture and the Secretary of State, as to what the full range of duties and the title of that official was to be. What was ultimately decided?

Mr. SMITH. Under the legislation, it provided authority for the agricultural attachés to have the rank of consul where previously they could only have the rank of attaché. We have been working closely with the State Department on this and if I remember the numbers correctly we have 10 that have been designated as consulars in our major posts overseas and plans are to have another 10 very shortly this year, so it is moving along well.

Mr. MOORE. We are upgrading those officials?

Mr. SMITH. Yes, sir.

Mr. MOORE. They answer to the Secretary of Agriculture now in terms of exporting agricultural products?

Mr. SMITH. The system we operate under, our employees are all GS employees working in the Department and report to the Secretary but when they are overseas, legislation was provided which gives them the full diplomatic title and status in the Embassies.

Of course they have to wear a dual hat when they are overseas reporting to the Ambassador as the President's representative.

Mr. MOORE. I had suggested when we had a meeting last month with the members of the administration, that something be done with the commercial representatives, and I see in section 302 of the proposed reorganization plan that we are transferring these personnel from the Secretary of State to the Department of Commerce and Trade. Now, I want to be sure these commercial representatives are not downgraded but in fact hold the same rank that they hold now which I understand is counselor and attaché. I would like a commitment or a statement from the representatives of the administration that when these people are transferred they will not be downgraded; quite the contrary they possibly will be upgraded. What are the plans? The details are not spelled out.

Mr. HODGES. I think we are of one mind at Commerce. There should be no downgrading whatsoever, and I don't see a problem of the sort that you describe.

Mr. MOORE. What do you anticipate their rank will be when they are under the new department?

Mr. HODGES. They will enjoy their current rank and titles. Diplomatic privileges and immunities will go with them also, and that is not at issue. We have yet to work out a number of details on the personnel side as Mr. McIntyre indicated earlier but there is no point of——

Mr. WELLFORD. The status will be the same. We will work out the exact title. Under Secretary Read and I will be working closely together on that.

Mr. MOORE. I am pleased with that. I think this is a very worthwhile section in the reorganization plan, and I personally feel that the MTN if it means anything means that world trade is going to become far more competitive. I think this whole reorganizatoin plan is a tremendous step in the right direction toward making us more competitive and I certainly want to see these representatives transferred, as you indicated, but not downgraded. At least give them the same rank as we intended when the Congress passed the Agricultural Trade Act of 1978.

Thank you, Mr. Chairman.

Mr. VANIK. Mr. Lederer.

Mr. LEDERER. No questions.

Mr. VANIK. Mr. Gibbons.

Mr. GIBBONS. What is the size of the STR office now and what will the size be after the reorganization?

Mr. RIVERS. The present complement of the office is 59 positions, that is the ceiling beginning October 1. We are watching very closely the evolution of the thinking in the Congress with respect to what functions ought to be transferred. It is difficult to give you a precise number at this point as to what resources we will need in the future to carry out this function.

As I indicated in my statement, we intend to remain a relatively small and lean agency; however, there are functions being transferred to us for which we simply do not have the resources to adequately carry out under our present ceiling. We have made some rough estimates. We took a look at the number of people who were involved in the multilateral trade negotiations at peak; that is, the number of various people in various agencies that we were drawing on full time and we have come up with an estimate that

we believe the functions could be carried out somewhere in the neighborhood of—I am advised I better not give a number. We really need more resources.

Mr. GIBBONS. I am the last one to suggest the growth of the bureaucracy but I think the President has learned a cruel lesson. Most Presidents I have known have never told the full truth about the size of the White House staff. The present President got elected with a view that most of his predecessors had told the truth about the size of their staffs. They borrowed a lot of people and I think the Carter administration takes a little longer to do things because it tried to do them with too few people.

Now I hope that the STR office will profit by that. If the STR office is going to coordinate policy and exercise these vast functions that it has, it is going to need the troops to do it and it is going to need troops with enough clout to do it, too. They can't come into meeting and come into the discussion always being understaffed. I know there is a certain pecking order that most people in the bureaucracy follow—what the pay is, what the title is—and you are going to have to give the pay and the title to those people or they are not going to get the job done. The STR can't do it by himself.

I would like some suggestions as to where the agencies can be cut and I can give you plenty of those to make up for increasing the STR staff, but I hope that when we get through with this that most of our American business people who have a real product or service to sell will look upon the world as their market, not just their State of their country or North America—look upon the world, I think that should be our aim and objective for the remainder of this century.

I don't mean subsidizing exports but it has been my observation visiting the very fine State Department people who work with these problems that they cannot possibly handle the problems of U.S. business trying to export in the big Embassies. There is just too much work to do and not enough resources there and I hope that we will recognize that as a serious problem in America's trade policy. If you have any comments on that, I would like to hear them. What about it?

Mr. WELLFORD. The kind of need you are talking about is a U.S. Trade Representative in the Excutive Office because of the clout that the Executive Office gives. We are also aware that we are giving additional responsibilities to the Trade Representative and that some increase in resources is going to occur as a result; exactly how much that will be is being discussed through the normal budget process and with Governor Askew and his staff. We don't have a figure yet but clearly there is going to have to be some enhancement of resources.

Mr. VANIK. Mr. Jones.

Mr. JONES. The only thing I say, Mr. Chairman, with regard to the commercial attaches and commercial counselors is that those of us who are interested in putting this reorganization plan through by legislation felt very strongly after having visited a number of countries, particularly Japan, that we have very few people, if any, in the commercial attache area who could sell anything and one of the main important things we need to do is to promote, sell, U.S.

products, give the same emphasis that Great Britain, Germany, Japan do. If there are people who do not want to transfer and become good, strong, aggressive salesmen we hope they will be left in the State Department to do diplomatic work and we will be able to recruit some aggressive salesmen for the commercial corps. Is that going to be provided for in the reorganization plan?

Mr. WELLFORD. It is certainly our intention that the foreign commercial service have aggressive salesmanship as a selection criterion.

Mr. HODGES. That is the fundamental point, that we get involved in selling "Made in America", and part of the reorganization is designed to facilitate that.

Mr. JONES. I think you will find this committee is virtually unanimous on that. Thank you very much.

Mr. GIBBONS. I have some questions now about Geneva. How will this function be carried out in Geneva? Will the Deputy STR become the U.S. representative to GATT? I would like to hear from all of you on this because I want to know whether the STR is going to handle the functions of GATT and, two, whether the Deputy STR will become the U.S. representative.

Mr. RIVERS. Mr. Gibbons, I hate to speak for Governor Askew, he is the ultimate man to decide this, but it is my impression that we are contemplating a Deputy Special Trade Representative in Geneva who would be the chief representative of the United States at GATT and he would have a small staff. The reason for that is we believe if the work of the last 5 years is really to bear the fruit that we hope it will it is going to be dependent upon our revitalizing the GATT and that we should have a very high level and aggressive representative in Geneva in order to achieve that end. There are, however, some questions remaining.

Mr. GIBBONS. Let me ask the OMB.

Mr. WELLFORD. We expect that the STR will be responsible for U.S. participation in GATT. I should point out that the U.S. officials in Geneva are going to be part of the Geneva Mission and they are going to perform their duties obviously in coordination with the overall goals of U.S. interests in Geneva and its UN activities there. We are not going to be operating apart from all that.

Mr. GIBBONS. As far as GATT is concerned, I am not worried about all the rest of the U.S. functions in Geneva. I am worried about GATT. Is the STR office in Geneva going to be running the GATT operation?

Mr. WELLFORD. Yes.

Mr. VANIK. I have some questions I would like to read into the record and request that they be responded to in writing.

Assuming the STR becomes responsible for U.S. representation to the GATT, how will this function be carried out in Geneva?

(*a*) Will a Deputy STR become U.S. representative to the GATT? Would this person be stationed in Geneva, or shouldn't this person be responsible for interagency trade agreements policy coordination in Washington, traveling to Geneva periodically for important meetings with a small permanent staff stationed there?

(*b*) What will be the relationship between STR Geneva and the U.S. Mission in terms of reporting, office space, administration?

(c) Will the STR rather than the State Department budget include the funds for all Geneva representation to the GATT, including travel, staff, and representation allowances?

Will STR responsibility for GATT representation include only functions under Council auspices and the MTN agreement committees and also for the Textile Surveillance Board and the GATT Antidumping Committee?

If STR becomes responsible for negotiation of commodity agreements, would this include STR as chief U.S. representative to the UNCTAD on commodity issues? Should the STR representative to the GATT also be U.S. representative to the UNCTAD?

I think I can have these questions all prepared and submitted for the record, and I have some additional questions. I will place these questions in the record, and you can have them before you leave today.

I have a series of about seven questions or eight questions for the Commerce Department, which I hesitate reading at this time, and one question of the State Department, and seven questions to the Treasury Department. So before you leave today, I would hope that you would pick up the questions that are prepared, and then prepare your responses so they can be inserted in the record at this point.

Mr. WELLFORD. We will do that.

[The questions and answers follow:]

QUESTIONS SUBMITTED BY MR. VANIK

Question. Specifically, which functions of the State Department would be transferred to STR and Commerce? What do you envisage as State's role and specific functions in trade under the OMB proposal, particularly in East/West trade and commodity agreements?

Answer. Under the Administration proposal, all 162 full-time commercial officer positions would be transferred to Commerce. The East-West Foreign Trade Board would be abolished and its functions transferred to the TPC and (in the case of reports to the Congress) to the President.

In addition, lead responsibility for commodity trade negotiations would be transferred to STR. Lead responsibility for negotiating bilateral trade agreements with Communist countries, which has been handled by State in the past, would be assigned specifically to STR. Because of the heavy foreign policy content in commodity and East/West issues, we expect State to continue playing a major role in the formulation of U.S. policies in these areas. In some instances, we expect State to be assigned the responsibility to conduct negotiations. Representation of the U.S. concerning GATT would be transferred to STR as well.

In addition, State would continue to advise the President on the fulfillment of emigration and other political requirements of the Trade Act of 1974.

Question. Why is trade now apparently going to be the principal activity of the Commerce Department?

Answer. In today's world of economic interdependency, our Nation's economic performance is greatly influenced by the international competitiveness of its home industry. As a consequence, it no longer suffices to measure economic progress against purely domestic standards; rather the progress must be measured against world standards. What this means is that the fundamental focus of economic development on particular has changed.

Thus, even though economic and industrial development in general will continue to constitute the Department of Commerce's overall goal, with its trade responsibilities the Department will assume the building of the international competitiveness of the United States as its principal mission. There are two sides to this task: (1) Promoting the development of industries, technologies, and economic infrastructures that can serve as the springboard for exports and (2) fostering the structural adjustment of our industrial system, and its technical and infrastructure base, to accommodate changing international competition. Throughout, concern for trade (including services) will be the unifying focus of the Department, for the Nation's

accomplishments in trade will be the barometer of our ability to build an economy consistent with the economic realities of the 1980s.

Question. Should the Commerce Department concentrate its resources and attention on business and trade activities exclusively and non-commercial functions such as NOAA and the U.S. Fire Administration be transferred?

Answer. The Department manages four closely associated sets of activities, those related to trade, economic development, industry, and technology. Each contributes to the same overall objective: the promotion of the Nation's economic growth, particularly industrial vitality. Each plays a role in determining how the country performs on the trade front. In other words, all the Department's activities directly or indirectly affect the private business sector.

At one time the Administration contemplated transferring NOAA, but decided against it after consultation with the Congress. The Fire Administration has been transferred to the new Federal Emergency Management Agency as a result of Reorganization Plan No. 3 of 1978.

Question. Specifically, how will the trade reorganization in Commerce you have outlined relate to other activities of the Commerce Department, particularly dealing with domestic industry?

Answer. Accompanying trade reorganization will be the upgrading and expansion of the Department's industry analysis capabilities, evidenced most notably by the establishment of a new Bureau of Industrial Analysis (BIA) and paralleled by the addition of industrial policy analysis and program management resources in the Office of the Assistant Secretary for International Economic Policy, the Assistant Secretary for Science and Technology, and the Assistant Secretary for Policy. BIA will provide for highly professional, prompt, and objective analysis of trade issues affecting specific sectors of the domestic economy. The offices of the Assistant Secretaries mentioned above, equipped with their new industry capabilities, will be in a position to integrate trade policy, technology policy, and general economic policy with the policies and programs that bear on domestic industry. Recognizing that trade problems often are sectoral problems, what, in effect, the Department plans to do is to lodge attention to the trade-domestic industry linkages in the Department's units responsible for dealing with these linkages.

It should also be pointed out that the Department already has established a number of mechanisms and programs that link trade with domestic industry: for example: (1) An intradepartmental committee (composed of officials from the Department's trade, technology, and economic development components) to address the problems of structural adjustment of industry; and (2) the Department's footwear, steel, and apparel industry programs.

Question. How would Commerce be reorganized overall to carry out its present and new trade responsibilities under the OMB proposal?

Answer. The Commerce reorganization proposal is attached.

Department of Commerce Proposed Trade Reorganization Plan

SECRETARY OF COMMERCE

Trade, as it involves both international and domestic issues, will become the central mission of the Department and the principal responsibility of the Secretary of Commere. The main goal of Commerce will be to foster international competitiveness of U.S. industry.

The Secretary will be ultimately responsible for the following areas of trade activity: export expansion, including both overseas and domestic commercial services; export administration, particularly the export control system; and import regulation programs of antidumping and countervailing duties.

The Department will have a key role in trade policy development and will provide much of the staff and operational base for negotiation and program responsibilities of the United States Trade Representative (USTR).

The Secretary will serve as an ex-officio member of the Board of the Export-Import Bank.

As chief operational officer of Commerce, the Secretary will assure that other elements of the Department whose activities relate to international trade shall appropriately support and coordinate with the Under Secretary for International Trade. Included among these activities are industry sector analysis, business development loans, census trade statistics, trade adjustment assistance for businesses and communities, minority business development, industrial productivity analysis, maritime, industrial innovation, cooperative technology, product and industrial standards, and secretarial field representation.

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UNDER SECRETARY FOR INTERNATIONAL TRADE

The Under Secretary for International Trade will be responsible for overall development and management of the trade functions in the Department. In the Secretary's absence, the Under Secretary will represent the Department on the Trade Policy Committee and as ex officio member of the Board of Export-Import Bank of the United States. The Under Secretary will meet with foreign visitors both in the United States and abroad to discuss a broad range of trade matters.

The Under Secretary also will coordinate trade regulation, trade policy and programs and trade development to ensure consistency between Administration policy and trade operations. To accomplish this, the Under Secretary will oversee coordination between and among the following areas:

Investigation/determination functions and the import policy recommendation function;

Sectoral analysis capability and trade policy and regulatory functions;

Foreign Commercial Service and trade policy and regulation; and

Industrial innovation and trade development.

The Deputy Under Secretary will serve as the principal deputy for the Under Secretary for Trade. In the Under Secretary's absence, the incumbent is to act in place of the Under Secretary in all matters pertaining to trade. The Deputy Under Secretary will have no direct operational or program responsibilities.

In addition, the Under Secretary will be responsible for: Oversight of day to day operations to ensure that these activities are conducted efficiently and smoothly; and administrative functions (e.g. agency level personnel, budget, administrative services, and others).

ASSISTANT SECRETARY FOR TRADE DEVELOPMENT

The Assistant Secretary for Trade Development will be responsible for carrying out the policies and programs of the Department to promote world trade and to strengthen the international trade and investment position of the United States.

In carrying out these functions, the Assistant Secretary will be responsible for conducting the Department's programs for participation in international trade fairs, trade missions, and other overseas trade promotions; programs conducted within the United States to expand the export-consciousness of American firms and to facilitate entry into international trade; and efforts to provide assistance to American exporters through the facilities of the U.S. Commercial Service and the Foreign Commercial Service. With respect to East-West trade, the Assistant Secretary will be responsible for conducting the Department's program for expanding trade and investment in Communist countries, and for the formulation and analysis of policies with respect to U.S. commercial policy in those countries.

The Assistant Secretary will be the person responsible for managing and closely coordinating the related trade expansion responsibilities of the Foreign Commercial Service, the Domestic Commercial Service, and the East-West Trade and Export Development units in Washington. This organizational structure will allow, for the first time, management by one person of export expansion activities of the Foreign Commercial Officer in, say, Kuwait, the Domestic Commercial Officer in Indianapolis, and the relevant trade specialist in Washington. It will not only assure unified management of these functions, but will also allow rotation of personnel among the three areas so that coordinated services will be available from point of manufacture to point of sale.

The Assistant Secretary will advise the Secretary and Under Secretary for International Trade of policies and programs relating to these functions. The Assistant Secretary will represent the Department on the Board of the Foreign Service and in other matters relating to the commercial responsibilities of the Departments of State and Commerce. The Assistant Secretary will be the National Export Expansion Coordinator.

The specific programs and activities for which the Assistant Secretary will be responsible are detailed on the following pages.

FOREIGN COMMERCIAL SERVICE

The Foreign Commercial Service will be responsible for assisting American business abroad through counselling, marketing data, project development assistance and liaison with foreign government agencies. The Service will provide direct support to Commerce overseas promotional activities such as trade missions, trade fairs, and procurement conferences. It will be responsible for the development of marketing and commercial intelligence through the Worldwide Information and Trade System (WITS) for dissemination to the American Business Community.

The members of the Service will serve as part of the U.S. Embassy staffs and will report directly to the Ambassador or Chief of Mission in each country. The Foreign Commercial Service will provide personalized assistance to American business persons abroad by providing support to Export Development Offices, trade missions, fairs, catalog shows and other activities. The Service will develop trade leads, identify potential agents/representatives and develop other commercial intelligence for transmittal to the East-West Trade and Export Development units in Washington and the U.S. Commercial Service. It also will develop information and report to Commerce on foreign commercial and industrial trends. The commercial intelligence data obtained by the Service will be disseminated in part through the WITS. The Service will provide support to Commerce units in import and export administration and, working with Embassy economic officers, will monitor the multilateral trade agreements. It will assist U.S. business persons in resolving trade complaints against foreign firms and governments.

U.S. COMMERCIAL SERVICE

The U.S. Commercial Service will represent Commerce with the business community in the United States. It will provide business with information, technical assistance and counselling on export and investment matters. The Service will assist in identifying potential U.S. exporters and participants in overseas promotional events.

The Service will administer a system of district offices, currently 43, located in commercial centers throughout the United States. It will offer U.S. firms counselling on overseas marketing, technical export information, guidance on the marketing opportunities, and advice on marketing strategies. The Service will conduct seminars, workshops, and conferences. It will utilize Export Development and East-West Trade information services, including the Worldwide Information and Trade System (WITS). The Service will assist in obtaining commercial information from U.S. firms for use in Export Development planning and evaluation. It will also advise the business community of significant trade developments, trade policy issues and technological developments.

The U.S. Commercial Service will publish "Commerce Business Daily."

The U.S. Commercial Service will include a staff of 353.

EXPORT DEVELOPMENT

The Export Development unit will have primary responsibility for planning the export development programs in non-Communist countries. Its mission will be to expand U.S. exports. It will develop promotional programs conducted by the U.S. and Foreign Commercial Services and will provide them with analytical and technical support.

This unit will perform the program planning and evaluation activities for the Assistant Secretary and will have responsibility for determining program priorities for the Foreign and U.S. Commercial Services. It will support overseas promotional activities through management of Export Development Offices, development of overseas trade missions, sponsorship of special missions, and other trade and investment activities. This unit, particularly its staff of country commercial experts, will be responsibile for providing counseling services to U.S. business on foreign markets, for market research, and for technical support to other units of Commerce.

This unit will support staff for Commerce information programs, including the Worldwide Information and Trade System (WITS). Such information will be disseminated through the Foreign and U.S. Commercial Services for use by the U.S. business community. This unit will also conduct a nationwide campaign on export awareness through specialized counseling, seminars, publications, joint industry/government activities, and assistance in competing for major overseas projects. The Foreign Commercial Service will stage promotional events and the U.S. Commercial Service will assist in identifying participants.

Additionally, this unit will coordinate the program activities of the President's Export council which provide advice from the private sector to the Secretary and the President on issues relating to export expansion activities.

The Export Development unit will have a staff of 450.

EAST-WEST TRADE

The East-West Trade unit will help American firms conduct business in communist countries; will develop and explain East-West trade policy; will strengthen governmental mechanisms for expanding trade; and will expand understanding of issues and opportunities in East-West trade.

This unit will conduct the day-to-day bilateral commercial contracts with the embassies and other communist government entities in the U.S. It will provide support for the Cabinet-level joint economic commissions, will seek resolution of commercial problems, and will assist in the development of commercial policy toward individual communist countries. It will collect, analyze, and disseminate information about economic conditions, trade-related laws and regulations and market opportunities, and will advise U.S. firms on country oriented trading problems. It will also maintain day-to-day liaison with the major private U.S. bilateral councils on eight individual communist countries.

This unit will offer practical services to help U.S. firms promote and market products in communist countries. It will conduct briefings on "how to do business," will arrange contacts between U.S. business and foreign trade organization officials, will disseminate information on business opportunities in communist countries, and will assist U.S. firms in transaction problems involving Federal agencies. In addition, this unit will plan, recruit for, and manage trade promotion events such as fairs, technical sales seminars, and catalog shows in communist countries.

Lastly, this unit will formulate, analyze and make recommendations about legislative and broad policy issues arising in East-West trade. It will study trade potential, balance-of-payment projections, econometric modeling of communist economies, and the economic impact of East-West trade on the United States, its communist trading partners, and other nations. It will also maintain a major statistical data base on East-West trade and will provide analyses of trade trends.

The unit will have a staff of 92.

ASSISTANT SECRETARY FOR INTERNATIONAL ECONOMIC POLICY

The Assistant Secretary for International Economic Policy will be responsible for developing and operating an effective trade policy implementation mechnanism within the Department and for operating a variety of trade and investment programs to improve the U.S. trade position.

The Assistant Secretary will provide overall direction and co-ordination of international economic policy formulation, research, and analysis within the Department, advising the Secretary and Under Secretary on such policies and programs.

The Assistant Secretary will be principally responsible for the follow-up, implementation, and monitoring of the MTN. The Assistant Secretary will be responsible for closely coordinating with other involved offices and agencies these responsibilities and the process of educating U.S. business on the rights and opportunities resulting from the MTN.

The Assistant Secretary will support the department's activities in international trade, economic, and investment matters—and will be an active participant in U.S representation in GATT, OECD, UNCTAD, ILO and other multilateral deliberations and negotiations. The Assistant Secretary will establish and supervise the implementation of the Department's interagency policy role in such organizations as the NSC, USTR, and the NAC, particular responsibility for MTN implementation and TPC support.

The Assistant Secretary's immediate office will include a country analysis staff which will support certain joint economic consultative mechanisms (e.g., Korea, Yugoslavia); will operate trade facilitation efforts to resolve specific commercial complaints (e.g., Japan); and will provide staff support to the Secretary and Under Secretary for meetings with foreign visitors and trips abroad.

The specific programs and activities for which this Assistant Secretary will be responsible are detailed on the following pages.

TRADE AGREEMENTS

The Trade Agreements unit will be the primary source of trade policy development and support within the Department. It will identify key trade policy issues and will develop Departmental positions. A major responsibility of this entity will be implementation of the MTN and other trade agreements for all non-agricultural matters.

Trade Agreements' activities will include implementation and monitoring of MTN tariff and non-tariff agreements, as well as investigation and resolution of problems in foreign country application of those agreements. Another function will be the development of information and cases arising under the MTN, including the operation of the Trade Complaint Center, the central contact point to which business will bring complaints and problems regarding MTN and other trade agreements, and where the private sector will receive advice as to the recourse and remedies available to them. Operation of the private sector advisory process (ISACs) under

the expanded scope of TPC coverage—including investment, East-West trade, etc.—in addition to trade agreements, will be administered here.

In the import relief area, Trade Agreements (1) will provide staff analyses to be used by the TPC in reviewing and considering section 201, 301, 406 import relief cases; (2) will monitor relief actions; and (3) will develop Departmental policy on orderly marketing agreements.

Trade Agreements will develop a continuing program of examining post-MTN issues for negotiation or consultation, identifying and cataloguing foreign trade practices, such as those affecting trade in "services." It will recommend policy objectives for Departmental officials to present in interagency and international forums. In addition, it will develop plans for educating the U.S. business community on general and specific trade opportunities resulting from the MTN.

Another major function will be participation in, and, as appropriate, leading negotiations and/or renegotiations of bilateral and multilateral trade agreements, such as the expansion of MTN code agreements, commodity agreements, orderly marketing agreements, international sector agreements, etc.

Other activities will include the examination of U.S. access to raw materials and other resources located abroad and the recommendation of appropriate U.S. action in this area.

This unit will consist of 75 persons.

FINANCE AND INVESTMENT

This unit will develop and implement policies and will examine laws, regulations, and institutions in the financial and investment areas to determine their effect on U.S. trade and investment flows. It will recommend changes in these to improve the U.S. trade position, and it will monitor and analyze inward foreign investment in the United States.

It will represent the Department in international finance and development assistance affairs, especially those affecting export expansion. This includes providing analyses and staff support for Departmental representation on the National Advisory Council (NAC) and other bodies dealing with export finance, export guarantees and credit insurance and bilateral and multilateral aid loans.

It will examine the effect of U.S. tax laws and practices on U.S. trade competitiveness (DISC, foreign tax credits, taxation of U.S. overseas personnel, etc.). It will conduct comparative analyses of foreign tax practices, and make recommendations for changes.

Representing the Department in matters relating to U.S. direct investment, it will analyze investment trends and consult with business on U.S. regulations and international practices affecting investment. It will recommend actions in bilateral and multilateral negotiations on investment. It will develop positions on multinational corporation (MNC) issues, providing staffing for Departmental participation in MNC code issues and investment disputes. It will advise on programs, policies and legislation affecting investment abroad and will analyze the balance of payments effects on such investment.

It will analyze transactions of domestic and international trade financing institutions from the perspective of effects on U.S. trade. It will compare U.S. practices with foreign practices and recommend changes in U.S. practices. It will also provide staff support for Secretarial membership on the Export-Import Bank Board.

It will develop recommendations to improve the access of U.S. service industries to foreign markets, representing the Department at interagency and international groups dealing with aviation, sea, and multimodal proposals.

It will operate statutory programs to monitor and analyze foreign investment in the United States. It will identify problems and will recommend remedial action as necessary.

The Finance and Investment unit will include 55 persons.

POLICY PLANNING AND ANALYSIS

This unit will conduct research and analysis on U.S. trade and on all factors affecting future trade prospects, developing policy recommendations to enhance the international trade competitiveness of the United States. It will be the principal source within the Department for developing positions on international positive adjustment policies and on international sectoral issues. On the basis of its own research and analysis as well as that of the new Bureau of Industrial Analysis (BIA) and other parts of the Government, this unit will forecast future trade trends and will be responsible for developing longer term policy options for U.S. trade and investment.

In conducting policy analyses of positive adjustment issues and international sectoral issues, it will draw on the micro-economic and industry analyses of BIA, using these studies and data along with other information to formulate and evaluate policy options and to recommend policy positions. It will develop positions to take on international positive adjustment policies in the OECD and other forums, it will focus on sectoral issues related to MTN implementation and to other trade and investment agreements and policies, and will participate in or will head U.S. delegations to international meetings concerned with sectoral or positive adjustment issues.

In supporting the development of faster U.S. export growth and a stronger competitive position, this unit will examine the effects of trade incentives and disincentives of the U.S. and other governments. It will serve as the central contact point for collecting and evaluating information on the likely effects of changes proposed to improve the U.S. export position, developing policy options and recommendations.

It will also forecast longer-term trade developments, with particular emphasis on identifying future trade problems that will face the United States. It will identify longer-run trade and investment policy objectives, basing these on its forecasts and its program of research into U.S. trade and the factors affecting U.S. competitiveness. It will evaluate the effectiveness of U.S. trade and investment policies and will compare these with major competitor nations. It will use mathematical models to simulate the effects of future policy alternatives, and will provide the planning framework for trade policies and programs.

The Policy Planning and Analysis unit will also develop and maintain computerized data bases and provide trade and international economic statistics to other parts of the Government and to U.S. business.

This unit will include 70 persons.

TEXTILES AND APPAREL

The Textile and Apparel unit will be responsible for the economic well-being of the U.S. textile and apparel industries, domestically and internationally. Its major efforts will include negotiating bilateral textile and apparel import restraint agreements;[1] monitoring imports from controlled (agreement) countries and uncontrolled countries; providing staff and technical support to the Committee for the Implementation of Textile Agreements (CITA); and, promoting the expansion of exports of textiles and apparel.

This unit will prepare monthly performance reports which show imports compared to restraint levels for each bilateral agreement country. Problems of implementing the agreements will be analyzed and brought before CITA for resoulution. This unit will make special tables and analyses used by the U.S. negotiators of textile and apparel agreements. To accomplish this, it will gather and report basic statistical data on imports. It will prepare monthly reports on the overall import picture, comparing current monthly data with prior years. It will be concerned with monitoring imports from uncontrolled countries. It will classify problems arising under agreements and will train foreign officials in U.S. classification procedures.

In addition, this unit will provide current economic data and analyses of conditions in the domestic textile and apparel markets, including the impact of imports on these markets. It will be responsible for the textile and apparel export expansion program and, in conjunction with the Office of the United States Trade Representative and other organizations, reduction of non-tariff barriers. Finally, it will provide structural assistance to the industry in the form of new technology, research and development, and management training.

The Textile and Apparel unit will have a staff of 47.

ASSISTANT SECRETARY FOR TRADE ADMINISTRATION

The Assistant Secretary for Trade Administration will have overall responsibility for the management and operation of imports and exports. The incumbent will advise the Under Secretary and Secretary on the policies and programs relating to trade administration.

The Assistant Secretary will be responsible for import administration: antidumping investigation and enforcement and countervailing duty investigation and enforcement. The Assistant Secretary will be directly assisted by an Office of Antidumping and Countervailing Duty Policy of 15 people.

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[1] This will be done as part of negotiating teams made up of State, Labor, and headed by the Chief Textile Negotiator from the Office of the United States Trade Representative.

The Assistant Secretary will be responsible for export administration: export licensing and enforcement, including national security, foreign policy, and short supply export controls.

The Assistant Secretary will also be responsible for a number of special regulatory programs: antiboycott compliance, industrial mobilization, foreign trade zones, and several other statutory import programs.

The specific programs and activities for which the Assistant Secretary will be responsible are detailed on the following pages.

IMPORT ADMINISTRATION

The Import Administration unit will be responsible for the investigation of antidumping and countervailing duty cases. Following investigation, this unit will make a formal recommendation for disposition of the case.

In countervailing duty cases, this unit will investigate and determine whether a subsidy is being provided with respect to the manufacturer, production or exportation of merchandise imported into the United States. As part of the same process, the International Trade Commission (ITC) investigates and determines whether an industry is materially injured or is threatened with material injury. If both of these determinations are positive, a countervailing duty is imposed in the amount of the net subsidy determined to exist.

In antidumping cases, this unit will investigate and determine whether merchandise is sold or is likely to be sold in the United States at less than fair value. As in countervailing duty cases, the ITC investigates material injury. If both determinations are positive, an antidumping duty is imposed, equal to the amount by which fair foreign market value exceeds the U.S. price of the merchandise.

In addition to these two functions, this unit will also include the following import related activities:

The foreign trade zone program evaluates and processes applications by port communities seeking to establish limited duty free zones as part of local economic development programs.

Special statutory import programs related to the import of quota allocation watches and watch movements from U.S. territories, and the import of education, scientific, and cultural materials by nonprofit institutions pursuant to the Florence Agreement.

The Import Administration unit will consist of 310 persons.

EXPORT ADMINISTRATION

The Export Administration unit will be responsible for export controls for reasons of national security, foreign policy, and short supply. The major functions of the program are policy planning, licensing, compliance, and short supply monitoring and licensing.

The policy planning function includes developing and coordinating recommendations on export control policies and programs, reviewing export license applications that present particular foreign policy on security issues, and coordinating with other Executive Branch agencies on licenses and policies requiring interagency review.

The licensing function includes the development of export control procedures and regulations, technical analysis and review of products, participation in interagency review of license applications, statistical and analytical reports of export licensing activities, and formal issuance of licenses.

The compliance function includes the investigation and prosecution of export control violations.

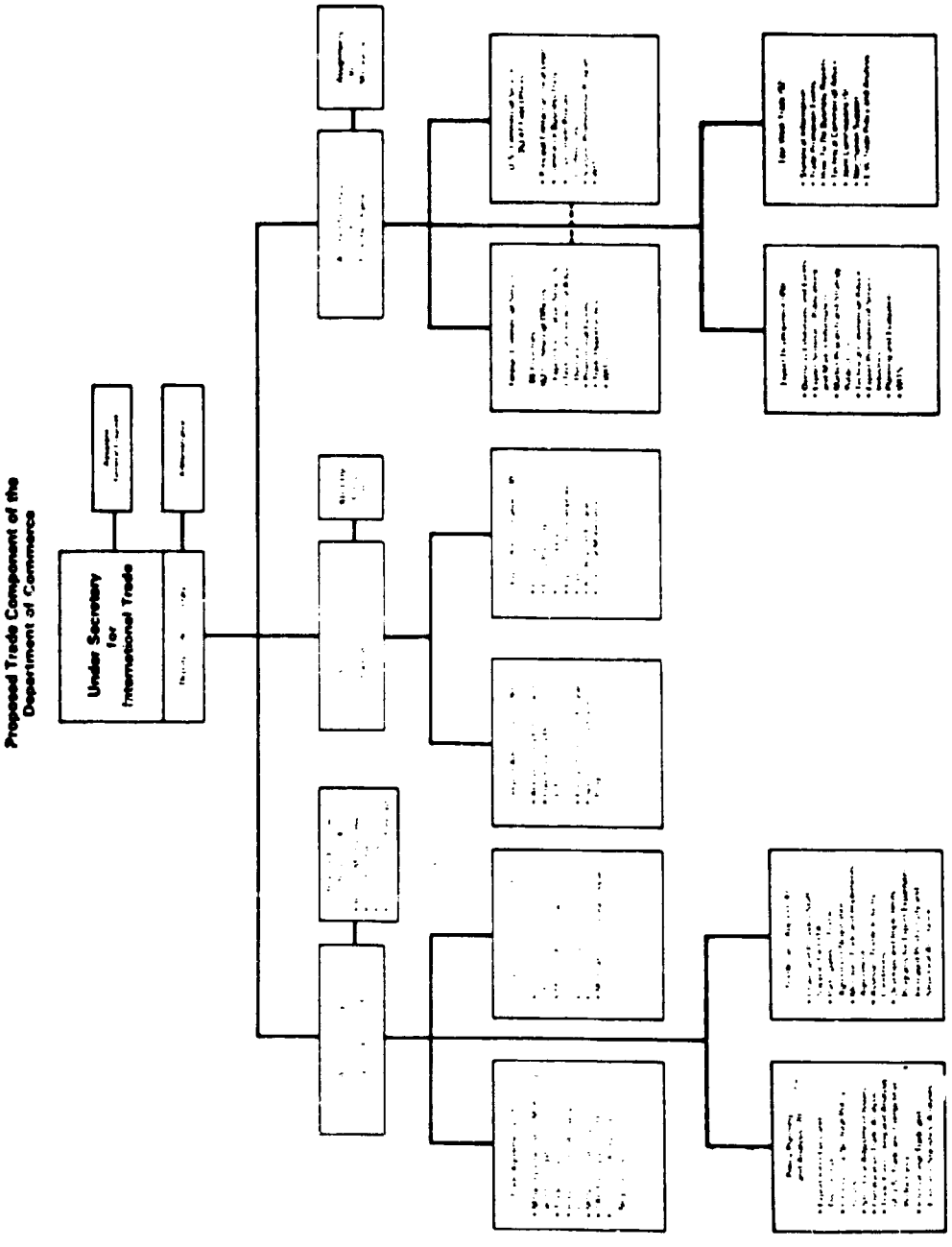
The objective of the short supply function is to restrict the excessive export of items in domestic short supply and to reduce the inflationary impact of foreign demand.

In addition to export controls, this unit will include the antiboycott and industrial mobilization programs.

The antiboycott program involves the administration and enforcement of the foreign boycott provisions of the Export Administration Act and the monitoring of the impact of foreign boycotts on the United States. This includes the investigation and enforcement of compliance with the law as well as the processing of boycott reports.

The industrial mobilization program monitors and assures timely availability of material and products essential to industrial performance on contracts for national defense. This includes stockpile management of strategic and critical materials and an emergency preparedness function designed to identify industrial products and facilities which are essential to mobilization readiness, national defense, or post-attack survival and recovery.

The Export Administration unit will include 195 persons.



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Question. Currently the Department of Commerce develops export promotion policies and influences the selection, training and promotion of Foreign Service Officers assigned overseas as Commercial Attaches. With 2,000 people in Commerce's Industry and Trade Administration developing these programs, how can the fundamental failure of U.S. export promotion be attributed to a handful of Foreign Service Officers overseas?

Answer. ITA maintains a total staff of 900 people, of which 550 are located in Washington, to develop and implement export development programs. An additional staff of 350 people are located in U.S. District Offices to deliver these programs and services to the U.S. business community. An additional 1100 people in ITA are assigned statutory responsibilities for trade, policy, regulatory requirements and industrial mobilization.

The Foreign Service Officers now assigned to commercial work support these programs overseas. They provide on-site support to visiting U.S. business people, gather commercial intelligence for reporting to U.S.-based U.S. business people, and assist American participation in the various exhibition programs staged in their countries.

While the Foreign Service Officers overseas have been only one factor in the performance of U.S. export promotion, Commerce intends to give high priority to the work of the new Foreign Commercial Service and provide it with the resources necessary to do its job.

Question. There is nothing in the Administration's proposal that outlines how we are going to do a better job for the U.S. businessman. This proposal attacked the fringes rather than the heart of the question. In fact, I've noticed a number of new Commerce Department computer systems for exports. For example, the LARS (Licensing Application Review System) and WITS (Worldwide Information and Trade System). In establishing these new and expensive systems what marginal or ineffective programs have you discovered and eliminated?

Answer. The new organizational structure provides the opportunity to respond to changing market conditions and rapidly shift overseas resources in conjunction with domestic industry requirements.

Insofar as export development is concerned, the proposal is aimed at improving the overseas arm of export development services. Key to our export development program are our contacts with U.S. and foreign businesses through district offices in the United States and commercial officers overseas. We anticipate a significant improvement in our ability to deliver services through the integration of all activities in the field, Washington, and overseas in one agency.

The new Commerce computer systems that are being developed to support exports will complement the organizational changes by providing the sophisticated tools necessary to carry out the export programs in a more efficient manner. Many obsolete procedures that have contributed to poor program performance will be eliminated when the WITS and LARS System are implemented.

For example, over twenty different forms that are required now to collect data from U.S. companies will be consolidated into two forms for data collection in the WITS System. In addition, the movement towards an on-line conversational system with instantaneous communication between potential foreign buyers and U.S. companies will permit the elimination, in some cases, of hard copy publications, which sometimes are outdated by the time they are reviewed and published.

Question. Members of this committee have worked extremely hard to get the new trade legislation passed. The MTN provides a unique opportunity for the next decade. Now we must organize the U.S. Government so that the American businessman has an opportunity to compete on fair terms overseas. A recent cable from our Embassy in Bonn indicated that the German government plans official participation in 19 U.S. trade shows in 1979-80. That's export promotion. I understand that the U.S. plans to participate in 4 shows. How can you possibly expect to promote exports with that kind of performance?

Answer. The U.S. market provides foreign business with the greatest commercial opportunities in the world. consequently, foreign business people concentrate on at least two markets when developing their business plans: their own market and the American market. As a result, a substantial portion of their export resources are directed towards the United States.

The overseas promotional efforts we have planned in Germany are based on export opportunities in Germany relative to other markets and to our total promotional program budget. The 4 shows currently planned for Germany represent almost ten percent of planned shows overseas for 1980.

The number of trade shows, however, should not be used as the sole or perhaps even major criterion measuring or defining the adequacy of our trade promotion of

motivation and stimulation rather than simply one of assisting in the promotion of products overseas. Thus, our 1980 program reflects an increased emphasis on programs designed to stimulate and encourage U.S. firms to export through assistance and information provided in the United States.

Question. What will be the functions of the commercial service in the Commerce Department?

Answer. The Foreign Commercial Service will be responsible for assisting American business abroad through counseling, marketing data, project development assistance and liaison with foreign government agencies. The Service will provide direct support to Commerce overseas promotional activities such as trade missions, trade fairs, and procurement conferences. It will be responsible for the development of marketing and commercial intelligence through the Worldwide Information and Trade System (WITS) for dissemination to the American business community.

The members of the Service will report to the Ambassador or Chief of Mission in each country. The Foreign Commercial Service will provide personalized assistance to American business persons abroad by providing support to Export Development Offices, trade missions, fairs, catalogue shows and other activities. The Service will develop trade leads, identify potential agents/representatives and develop other commercial intelligence for transmittal to the East-West Trade and Export Development units in Washington and the U.S. Commercial Service. It also will develop information and report to Commerce on foreign commercial and industrial trends. The Commercial intelligence data obtained by the Service will be disseminated in part through the WITS. The Service will provide support to DOC units in import and export administration and monitoring of multilateral trade agreements. It will assist U.S. business persons in resolving trade complaints against foreign firms and governments.

Question. Would Commerce acquire commercial attache representation in all foreign posts from the State Department or only in major countries? Will the transfer be phased in or immediate?

Answer. It is our proposal that Commerce will acquire commercial attache representation from the State Department in 66 major countries; this will include all 162 full-time commercial positions now in State. Officers in those countries will report to Commerce effective January 1, 1980, but they will remain in the Foreign Service until the end of their tours of duty. At that time, each of those Foreign Service Officers and other State personnel will be offered the opportunity to transfer permanently to Commerce or assume a new position in the State Department.

Question. What will be the relationship between the commercial service and trade policy responsibilities of the foreign service posts?

Answer. The Foreign Commercial Service will, in general, be responsible for providing assistance to U.S. businesses overseas, commercial intelligence and overseas trade promotional activities. Trade policy functions such as representations to foreign governments will continue to be provided by economic and political officers of the embassies. Commercial officers will, of course, be familiar with trade policy problems that have an impact on our ability to sell goods and will work closely with other parts of the Embassy to ensure that maximum feasible efforts are made to reduce foreign impediments to U.S. exports.

The Ambassador, as the President's representative, is responsible for and has authority over his mission's operations. He is assisted by a Country Team composed of senior Embassy officials. Under the reorganization plan, the senior foreign commercial officer in each country will report directly to the chief of mission and will be a member of the Country Team.

Question. How large will the service be? How and from what source would Commerce obtain well-qualified personnel to ensure a high caliber commercial service with expertise in subjects covered by the MTN agreements and other foreign commercial policies and business practices?

(a) Will the commercial attaches being transferred from the State Department include personnel from other agencies, such as STR on a rotation basis, and qualified individuals from the private sector for limited tours?

(b) Will commercial attaches be rotated between foreign posts, Washington, and Commerce field offices for specific tours of duty?

(c) Will commercial attaches specialize in specific subject areas or in all areas for a specific country?

Answer. The new Commercial Service in the Commerce Department is to start with a force of approximately 162 officers overseas, plus between 481 and 494 foreign service nationals. The 162 individuals would be principally of Foreign Service Officers now specializing in commercial work, including some career Commerce

officers assigned for limited periods to Foreign Service positions abroad under the State/Commerce Exchange Program.

(a) The commercial officers transferred from State will not initially include personnel from STR or other agencies. As for qualified individuals from the private sector, this source of experience and expertise has not been sufficiently utilized, and we will seek to increase the use that is made of private sector potential.

(b) The proposed organizational structure provides that the Washington-based program organization, the foreign and the domestic commercial services all will report to the same Assistant Secretary. This will help ensure that rotations of personnel will occur among all elements of the trade development effort.

(c) Both—in larger countries, the number of personnel will make possible varying degrees of specialization. In small countries, the one or two commercial officers present will have to cover all areas.

Question. How will activities of and knowledge obtained by the Commercial Service inter-relate and be coordinated with trade policy development and coordination in the Executive Branch and industrial analysis by the Commerce Department?

Answer. It is important that a close connection exist between trade policy and export development in order to ensure both that trade policy reflects the information developed from working with U.S. business and that U.S. business is able to take advantage of opportunities emerging from trade policy initiatives. The establishment of an Under Secretary for International Trade, responsible for both the promotion and policy roles of the Commerce Department, will facilitate this process on a day-to-day basis.

Currently within Commerce, good working relationships exist among trade policy, export development, and industry analysis. We have, for example, formed a task force at the working level involving both trade policy and trade development to ensure that we take maximum advantage of the opportunities created through the MTN.

In addition the Foreign Commercial Service Officers will (1) provide information to the Washington staff through WITS and other intelligence-gathering activities that will be useful in formulating trade policy, (2) be called upon to conduct inquiries in support of sectoral studies that will provide the basis for trade policy positions, and (3) provide guidance on trade policy objectives, etc. that will be used in strategic policy and trade promotion planning.

Question. I would think that the countries where American business really need their Embassy's help would be in the developing countries where the rules of the game are never clear, always changing, where the environment is especially difficult, and in the Eastern European contries where the role of the foreign government is so large. As I understand the reorganization, the new commercial service would be for the larger more developed markets where the business assistance role of the U.S. Government is not clearly defined and the problems are protectionism and barriers to trade.

It would seem that where the needs are greatest for special business assistance you will use the traditional Foreign Service. In markets where the role would more clearly be Government-to-Government negotiation and where the Ambassador or even higher level persons have a significant role to play, you will be setting up more narrowly defined export promotion offices. Why is this the case?

Answer. The new commercial service will give high priority to all markets in which a high growth potential for U.S. export exists. This includes selected Eastern European countries as well as countries where special economic conditions offer outstanding sales possibilities. For example, we expect to step up our commercial information, assistance, and promotional services in the oil rich Arabian Peninsula. Here the Foreign Commercial Service's prime tasks will be to assist U.S. in coping with unfamiliar commercial laws and customs and in competing for major contracts with a multibillion dollar annual export potential.

Export Development Offices (EDOs) will be located physically in several major trading partners, some of which are developing countries such as Brazil, Singapore and Mexico. The facilities will be located here because these countries are regional commercial centers and are therefore the best places for EDOs. For example, the EDO in Brazil will bear major support responsibility for our trade promotion events throughout South America.

Question. How would the Commerce Department be organized under the OMB proposal to improve its industry sector information and analysis capability?

Answer. The Department's plans are outlined in the working paper "Upgraded Sectoral Analysis Program for Commerce," a copy of which is attached.

UPGRADED SECTORAL ANALYSIS PROGRAM FOR COMMERCE

The Department will establish a major capability for industrial analysis, policy development and selected industry assistance efforts. The cornerstone for this capability will be a new Bureau of Industrial Analysis modeled after the Bureau of Economic Analysis which has a reputation for objective, highly credible macroeconomic analysis and reporting. Like BEA, the Bureau of Industrial Analysis (BIA) will report to the Department's Chief Economist and have parity with BEA and the Census Bureau. The components of the Department's new industrial program, beginning with BIA, are as follows.

BUREAU OF INDUSTRIAL ANALYSIS (BIA)

The Bureau of Industrial Analysis will provide, to a variety of clients, objective and professional sector-specific and cross-sector information and analysis. Its principal role will be to serve the analytical support needs of policymakers in Commerce, in the Executive Office of the President, and in other Departments and agencies. It will also provide industry specific information to the Under Secretary for International Trade for export development targetting, short supply, import administration and industrial mobilization requirements. It will provide the data base, on a microeconomic basis, which policymakers may use in considering issues and proposals directed at or affecting particular industries.

The principal activities of BIA will include preparation of the following:

Current and projected data on industrial prices, production, inventories, etc. at various levels of aggregation;

Information on industrial operations, industry structure, industrial processes, interindustry relationships, plant capacity, etc.;

Assessments of economic conditions in various industries, including analyses of the impact of such factors as labor conditions, trade development, productivity, capital availability and others on industrial performance, as well as early identification of industry problems and opportunities;

Impact analyses to be used in Federal decisionmaking on current policy and program issues such as legislation, EPA regulations, ITC recommendations, trade negotiating positions, energy policy proposals, etc.; and

Sophisticated research on issues such as productivity, capital investment and industry structure.

BIA will have a staff of approximately 190 people, primarily economists and industry specialists. Approximately 140 positions will be filled with qualified departmental staff. Approximately 50 positions will be filled through Secretarial reprogramming of vacant positions throughout the Department.

The head of BIA will be an individual with recognized credential and management ability selected in consultation with the Government's top economic policy advisors. Similarly qualified officials will be recruited to fill 5 or 6 career SES second-level management positions within the Bureau.

ASSISTANT SECRETARY FOR POLICY

The Office of the Assistant Secretary for Policy will provide policy analysis on industry and cross-industry issues. The Office will be augmented by the transfer of resources from ITA's Office of Business Policy Analysis. This staff of approximately five will be combined with other Policy positions in a new Office of Industrial Policy Analysis. This Office will be responsible for:

Analyzing and making policy recommendations on cross-industry issues such as taxation, antitrust, labor issues and policies affecting small business;

Making policy recommendations regarding the Government's undertaking actions in support of endangered or emerging industries; and

Analyzing the policy and operational tools available to meet industrial development needs, and determining what institutional mechanisms, such as tax legislation, regulatory reform, direct assistance, and others, are most appropriate.

ASSISTANT SECRETARY FOR SCIENCE AND TECHNOLOGY

The Assistant Secretary for Science and Technology now has staff capability for assessing industry-specific technology conditions, which are becoming an increasingly important aspect of our overall economic and competitive position. To supplement this capability, 7 positions from the former BDBD Office of Business Policy Analysis will be transferred to the Assistant Secretary to provide needed support for comprehensive reviews of the technological implications of Federal environmental regulations. In addition, the Assistant Secretary will establish an Industrial Development

Projects Staff. This staff will be made up of 13 positions transferred from the Office of Business Programs (formerly part of the abolished Bureau of Domestic Business Development). This staff will draw upon the analytical products of the Bureau of Industrial Analysis and the scientific/technological support available from the National Bureau of Standards, the Patent and Trademark Office and the National Technical Information Service in order to develop options for specific programs to aid distressed or emerging industries. In this way, industry assistance programs, such as those involving the footwear, steel and jewelry industries, will have an institutional base in the Department, and be better able to take advantage of all of its policy, industrial analysis and operational resources.

UNDER SECRETARY FOR INTERNATIONAL TRADE

The Department's proposed new trade authorities have yielded a reorganization proposal establishing an Under Secretary for International Trade under whom all trade development, trade policy and import and export administration programs will be organized. The Bureau of Industrial Analysis will be a prime supplier of industrial data and interpretation to the Under Secretary in the management of all of these programs. However, a cadre of 30 people will be assigned to the Under Secretary for International Trade for industrial work of special importance to trade program management. This staff will operate on a project basis, drawing upon the central capability of BIA and tailoring its analyses to import policy needs, export promotion planning, MTN implementation, etc.

DEPUTY UNDER SECRETARY FOR REGIONAL AFFAIRS

While recognizing the primary role of its industrial analysis efforts in supporting Federal Government policy and program decisionmaking, the Department has a continuing obligation to meet the business community's needs for information and assistance. To meet this obligation, the Department will transfer resources in the former BDBD Office of the Ombudsman to the Deputy Under Secretary. This staff will serve as the focal point for business inquiries, routine assistance and special projects such as conferences and seminars on business related topics.

SUMMARY OF STEPS TO UPGRADE THE SECTORAL ANALYSIS PROGRAM IN THE DEPARTMENT OF TRADE AND COMMERCE

1. Chief economist

Abolish: Office of Industrial Economics with 15 positions.

Add: Bureau of Industrial Analysis with 190 positions including 50 vacancies to provide industrial information and analysis.

2. Assistant Secretary for Policy

Add: Office of Industrial Policy Analysis with 13+ positions (5 from BDBD) to support in-depth analysis to industrial issues, with formulation of appropriate Federal policy response.

3. Assistant Secretary for Science and Technology

Add: 20 positions to support design and management industry assistance projects and technological review of environmental regulations.

4. Industry and Trade Administration

Abolish: Bureau of Domestic Business Development with 233 positions.

Transfer to Under Secretary for Trade: Office of Textiles with 32 positions to support trade negotiations. Research staff with 30 positions to support MTN implementation, import policy needs, export promotion planning, etc.

5. Deputy Under Secretary for Regional Affairs

Add: Ombudsman for Business with 16 positions to provide a focal point for business inquiries and routine assistance.

Question. Questions were asked regarding tariff nomenclature and statistical reporting:

Why the OMB proposal did not transfer to Commerce ITC responsibilities for tariff nomenclature and statistical reporting under the TSUS or those responsibilities for comparability among domestic and international statistical systems on imports, exports and domestic production?

What considerations led to proposing no change in present responsibilities?

Should Commerce have overall responsibility for maintaining and improving product nomenclature systems?

Answer. After long and careful consideration, including discussions with the Congress, we concluded that the tariff nomenclature function was an essential part of the mission of the International Trade Commission and that section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)) provides an adequate input for Executive branch trade policy and operational concerns.

Question. Would a reorganized Commerce Department make the domestic function responsible to the new Under Secretary for International Trade or would it have a separate identity to also serve non-trade interests? If the latter, how will domestic input be coordinated with trade functions?

Answer. In view of the substantial increase of departmental responsibilities related to trade, it is our conclusion that the duties of the Under Secretary for International Trade should be limited to those directly associated with international trade matters. Trade responsibilities alone will constitute a significant management challenge for the Under Secretary. Added to this will be the Under Secretary's task of ensuring that coordination with other major departmental functions is carried out. As for how the Department plans to link its trade component to others more directly concerned with domestic-industry problems, please see our answer regarding overall organization (page 3).

Question. How will Commerce be organized under the OMB proposal to coordinate and interrelate effectively sector analysis with industrial innovation policies and programs and with export promotion efforts, including control administration and financing policies of the Export-Import Bank?

Answer. In part, this question is answered in our working paper, Upgraded Sectoral Analysis Program for Commerce (page 11), and on page 3. As the working paper indicates, the Assistant Secretary for Science and Technology will establish an Industrial Development Projects Staff to draw upon the analytical products of the Bureau of Industrial Analysis and to meld these with the scientific/technological support available from the National Bureau of Standards, the Patent and Trademark Office, and the National Technical Information Service. The output will be programs designed to assist emerging or declining domestic industries.

We see two linkages between sectoral analysis and export promotion. First, export promotion depends on actual export opportunities, which, in turn, depends on how foreign countries adhere to the trading rules established under MTN. The staff of the Assistant Secretary for International Economic Policy will be expanded by the addition of 30 people assigned to deal with industry specific issues. These personnel, of their own and drawing on BIA as necessary, will provide the analysis to determine whether, in quite specific industry terms, MTN-related export opportunities are becoming a reality. In other words, we shall be intergrating industry expertise into our program to monitor foreign compliance with MTN.

Second, effective export promotion depends on the ability to identify potential U.S. exporters and to target program efforts to them. The potential of a U.S. company to enter into exporting is a function of its product assortment, its cost position relative to foreign suppliers, its marketing capability, its market position within the domestic economy, and so on. In short, export potential is a function of the full range of micro-economic considerations that enter into private business decisions. With BIA and its micro-economic analytical capabilities, the Department should be able to identify those constellations of firm and industry characteristics indicating high export potential, leading, thereby, to better directed export promotion activities.

Question. Will Commerce also formulate programs and policies to increase industrial innovation and productivity and to improve the competitiveness of U.S. producers in the domestic market as well as abroad?

Answer. The main function of Commerce's Office of Science and Technology, headed by an Assistant Secretary, is to do just this. During the last year, at the request of President Carter, Commerce assumed lead responsibility for conducting a Domestic Policy Review of industrial innovation. This review, involving many Federal agencies, widespread private sector collaboration, and extensive academic, technology, and science community input, has resulted in a comprehensive assessment of the opportunities by which Government policies and programs may encourage private sector industrial innovation. Results from this review will serve as a springboard for policy and program initiatives in the innovation and productivity field for some time to come.

In addition, the Department's Office of the Chief Economist is devoting substantial resources to the analysis of productivity trends within the economy. With the creation of the Bureau of Industrial Analysis this effort will be expanded and made even more sector-specific. In the final analysis, much of what the Nation accomplishes on the trade front depends on what it accomplishes in the areas of innova-

tion and productivity. Accordingly, the Department regards attention to innovation and productivity as one of its highest priority tasks and one which is an integral part of its enlarged trade responsibilities. Indeed, one of the most compelling arguments for building on Commerce in the trade reorganization is the fact that the Department has substantial resources devoted to innovation and productivity questions.

In short, trade, innovation, and productivity are not separate matters (just as domestic industry cannot be divorced from the international economy). All bear on each other, and the Department intends to deal with them in an integrated manner.

Question. Would you please describe the various sections of the Customs Service which have any responsibility with respect to antidumping and countervailing duties investigations or the administration of an antidumping countervailing duty code? For example, what role is planned by the Customs attaches in foreign countries; what are the responsibilities of the import specialists and District Directors in the field; and what divisions of Customs Service Headquarters are involved in these cases?

Which of these functions are to be transferred under the Administration's proposed plan?

Answer. The primary responsibility for the administration of the antidumping and countervailing duty laws in Customs rests within the Office of Commercial Operations. Within this office, the Trade Analysis Division is responsible for control of all investigations from receipt of petitions and initiations of cases to the issuing of antidumping findings or countervailing duty orders and the subsequent enforcement of these actions. It is this unit that analyzes all data received in the course of an investigation and make recommendations based on this information.

Although related to antidumping functions, administration of the steel trigger price mechanism by the Trade Analysis Division presents a very different Customs processing cycle. One group within the Division sets trigger prices, another acts as the Special Steel Task Force with responsibility for dealing with all steel invoices, analyses, questionnaires, inquiries and recommendations. While there is significant involvement of Customs' field offices in these activities, it is impossible to separate the trigger price functions of import specialists from their overall responsibilities.

Other units within or under the Office of Commercial Operations that render support services to the Trade Analysis Division are:

Regulatory Audit Division.—Accounting expertise.

Technical Services Division.—Laboratory services and product expertise.

Office of Regulations and Rulings.—Responsible for the proper legal review of any protests received in connection with the assessment of antidumping or countervailing duties.

Field Personnel at Ports of Entry.—Data collection services and where findings and orders exist, the application of appraised values or percentage duty amounts furnished by Headquarters for individual entries.

Within the Office of the Comptroller, the following groups render support to the Office of Commercial Operations:

Office of Data Systems.—Assists in the automation of data collection and processing.

Office of Financial Management and Program Evaluation.—Overall planning and budget functions and collections.

Office of Human Resources.—Provides staffing support.

Office of Administrative Program.—Provides logistical support.

Other offices that render support to the Office of Commercial Trade are:

Office of the Chief Counsel.—Provides legal review and advice in connection with the processing of antidumping and countervailing duty investigations.

Office of Investigations.—Performs verifications of data received overseas and in the United States.

Within the Office of Commercial Operations, all dumping and countervailing duty functions presently performed by the Trade Analysis Division and the Office of Regulations and Ruling will be transferred to the Commerce Department. All functions now performed in these areas by the Office of the Chief Counsel and the Office of Investigations will also go to Commerce. Commerce will be able, as necessary, to request and inspect documentation relative to cases processed under these statutes.

Question. Since the entire Customs Service is not being transferred, what mechanism is being developed to coordinate the new responsibility of the Commerce Department and the remaining responsibilities of the Customs Service in this area?

Answer. We have established a group within Customs Headquarters that will be the focal point for information flowing between Commerce and Customs. This co-

ordination group will work on a top priority basis in moving information in both directions and in clearing up any problems as they arise.

Question. Will orders to the field regarding assessment of dumping and countervailing duties be made through Customs Headquarters or Commerce?

Answer. We intend that Commerce will generate specific instructions. When needed, these will be on an entry-by-entry and product-by-product basis, to implement findings and orders. These instructions will be transmitted to the coordination group referred to above for immediate transmittal to appropriate Custom field offices.

Question. Will Customs continue to be responsible for collection of dumping and countervailing duties? If payment is not forthcoming, who will decide whether to take stronger collection measures, for example, suspension of immediate delivery privileges?

Answer. The ministerial functions relative to the collection of dumping and countervailing duties will remain with the Customs Service. As a revenue collecting agency, the Customs Service will be responsible for deciding whether to take stonger collection measures where payment is not forthcoming. However, the responsibility will not include adjustment or compromise of dumping or countervailing duty claims for policy, which is transferred to Commerce by section 5(a)(1)(G) of the reorganization plan.

Question. How will the investigative and data collection functions of the Customs Service be related and coordinated with the work of Commerce personnel in antidumping and countervailing duty cases?

Answer. Investigative and data collection functions relative to the analyses of dumping and countervailing duty cases and orders will be assumed by the Commerce Department. There will still be a need, however, for the Customs Service to supply the Commerce Department with information relative to assessments and collections, the value and volume of imported merchandise, and copies of all commercial documents subject to case analyses or order. The accumulation and transfer of this information will be handled by the coordination group at Customs Headquarters.

Question. Exactly which functions would be transferred from Treasury into STR and the Commerce Department under the OMB proposal? Would any trade functions remain in Treasury aside from the Customs Service?

Answer. The Office of Tariff Affairs will be transferred from the Treasury Department. Its functions are as follows:

Reviews Customs Service recommendations for action in antidumping (AD) and countervailing duty (CVD) cases and in national security investigations under section 232 of the Trade Expansion Act of 1962. Actions are taken in the name of the Secretary by the General Counsel, including initiations of investigations, tentative determinations, final determinations and modifications and revocations of outstanding orders;

Prepares the formal papers on which actions are taken.

Participates in investigations through review with the Customs Service staff of methodology, legal issues and through consultation with counsel and representatives of parties and governments concerned;

Drafts regulations, notices, annual reports for the Secretary, STR, GATT Secretariat on AD and CVD laws and their administration;

DAS (Tariff Affairs) heads, and personnel from OTA staff, U.S. delegation to GATT Antidumping Committee; and

Prepares briefing papers, testimony, speeches for senior officials, prepares replies to correspondence on programs administered.

Reporting directly to OTA but staffed by Customs is the Office of Special Programs. It performs the following functions:

Calculates and publishes quarterly revisions to "trigger process" for imported steel mill products under the "Trigger Price Mechanism" (TPM);

Considers additions to, deletions from and modifications of classes of products subject to the TPM;

Coordinates with the Customs Service Special Steel Task Force on recommendations for self-initiations of formal antidumping investigations;

Drafts notices and reports; prepares briefing papers, testimony and speeches; prepares analyses of effects of TPM, prepares replies to correspondence on TPM.

There will remain in Treasury many trade-related functions. For example, the Assistant Secretary for International Affairs has four trade-related offices—International Trade, Raw Materials and Oceans Policy, East-West Economic Policy, and Trade Finance.

The Treasury Department, as well as other agencies in the Government, will retain substantive and policy interest in trade matters. This is consistent with longstanding Congressional intent (see, for example, section 242 of the Trade Expansion Act of 1962) that U.S. trade policy take into account a number of domestic and international interests, including those of financial institutions, labor, consumers, business, farmers, importers, exporters, etc. Retaining some trade personnel in Treasury will allow that department to fulfill the role.

We should add that, although the Office of East-West Economic Policy performs some functions that are trade-related, its primary responsibility is to act as Treasury's policy staff for East-West economic and finance matters.

Question. How would Commerce be reorganized and staffed to administer the dumping and countervailing duty laws?

Answer. The Commerce reorganization plan provides for a new Assistant Secretary for Trade Administration. This Assistant Secretary will have overall responsibility for the management and operation of the principal programs involving the regulation of imports and exports as well as advising the new Under Secretary for International Trade and the Secretary on programs and policies relating to trade administration. The Assistant Secretary will have as a primary responsibility the efficient and effective enforcement of the antidumping and countervailing duty statutes.

The Deputy Assistant Secretary for Import Administration will head the unit responsible for the investigation of both antidumping and countervailing duty cases. Following an investigation, this group will make a formal recommendation for disposition of the case and, if the determination is positive, will monitor and evaluate countervailing and antidumping duty orders.

Question (a). In what ways does Commerce intend to remove and avoid future deficiencies in the administration of these laws?

Answer. The Commerce Department anticipates a number of program improvements. A new Assistant Secretary for Trade Administration will be responsible for the enforcement of the antidumping and countervailing duty statues. Thus, an official appointed by the President and subject to Senate confirmation now will be clearly identified as managing these crucial activities. In addition, these areas will become the nearly exclusive responsibility of a Deputy Assistant Secretary for Import Administration. This arrangement will give enforcement, investigation and monitoring in the antidumping and countervailing areas the concentrated high level attention they require.

In the past, these programs have suffered from a lack of adequate staffing. The Department plans to address this problem. There will be a significant increase in personnel and, by giving these import relief programs a higher priority and higher level attention, we expect to motivate officers who will make the program vigorous and effective.

Question (b). How do you envisage interrelating and coordinating with the Customs Service for basic data and investigative resources in this area?

Answer. The intention in the Administration proposal is to transfer a substantially whole operation to Commerce from the Customs Service. All case initiation, investigations, verifications and analyses would take place in the new organization. Included in this would be the ability to provide such data as are necessary to allow the Customs Service to liquidate entries subject to Department of Commerce findings or orders.

The relationship between Commerce and the Customs Service concerning the remaining duties that Customs would perform (e.g., levying antidumping or countervailing duties at the port of entry) would not differ from existing interagency arrangements. Commerce would coordinate with Customs the same way 40 other agencies now coordinate with the Customs Service when it performs services for them (e.g., collection of internal revenue taxes, quantitative restraints, animal and plant quarantine, and other).

Question (c). Some private sector concern has been expressed that a "liberal, foreign policy bias" of the Treasury will be replaced by a "protectionist bias" in Commerce administration of these laws; would you comment?

Answer. By placing antidumping and countervailing functions in a strengthened Department of Commerce with its primary mission as trade, high priority will be afforded to the fast, efficient enforcement intended by U.S. law. The Commerce Department is of the firm opinion that the process of pursuing an antidumping or countervailing duty case must be viewed primarily as adjudicatory in nature. In line with this philosophy, the Department will administer these areas impartially and straightforwardly on the basis of fact and law.

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However, there is a valid role for policy oversight in these areas. Presently, there is no policy review in antidumping and countervailing duty cases outside the Department of the Treasury. As a result of the Administration's reorganization proposal, import remedy policy, to the extent permitted by law, will be added to the mandate of the Trade Policy Committee and the U.S. Trade Representative.

Because of the essentially adjudicatory nature of countervailing and antidumping duty cases, this policy review will relate to new precedents, negotiating assurances and coordination with other trade matters, rather than case-by-case fact-finding and determinations.

Question. Assuming STR becomes responsible for U.S. representation to the GATT, how will this function be carried out in Geneva? Will a Deputy STR become U.S. Representative to the GATT? Would this person be stationed in Geneva, or shouldn't this person be responsible for interagency trade agreements policy coordination in Washington, travelling to Geneva periodically for important meetings with a small permanent staff stationed there?

Answer. The U.S. Trade Representative will, as now, have two Deputies—one responsible for representation at the GATT in Geneva and one in Washington, each with the rank of Ambassador. There will, of course, be close coordination between the Trade Representative's Washington and Geneva offices to assist in trade policy formulation.

The U.S. Trade Representative will also have a limited number of other personnel permanently stationed in Geneva. Thay will coordinate with the overall goals of pursuing U.S. interests in all Geneva activities.

Question. What will be the relationship between STR Geneva and the U.S. Mission in terms of reporting, office space, administration?

Answer. See attached Memorandum of Understanding.

Question. Will the STR rather than the State Department budget include the funds for all Geneva representation to the GATT, including travel, staff, representation allowances?

Answer. The funds for our representation at the GATT in Geneva (travel, staff, representation allowances, and the like) will be in USTR's budget.

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF STATE AND THE U.S. TRADE REPRESENTATIVE

1. The U.S. Mission to the European Office of the United Nations, Geneva, will consist of the Representative of the USA to the offices of the UN, Geneva, with the rank of Ambassador (U.S. Rep) and the Deputy U.S. Special Trade Representative in Geneva with the rank of Ambassador (Amb/USTR/G).

2. The Amb/USTR/G will be responsible in Geneva under the direction of USTR for all areas where such responsibilities are conferred on the latter by law or by the President.

3. The U.S. Representative will be responsible for all other areas which have been under his purview at the U.S. Mission to date.

4. The U.S. Mission will be responsible on request for providing administrative and other support to the Amb/USTR/G and staff on a reimbursable basis.

5. The Amb/USTR/G will be accredited to the United Nations, Geneva, for entitlement to diplomatic privileges and immunities. As appropriate, STR employees will be granted diplomatic titles; diplomatic privileges and immunities will be requested for them.

6. The potential for overlapping responsibility of the U.S. Representative and Amb/USTR/G for U.S. interests in Geneva necessitates close coordination between the Representative and Amb/USTR/G. The U.S. Representative and the Amb/USTR/G will be responsible for keeping each other fully informed about all matters which may be of interest to each other. In areas of actual or potential overlap of responsibilities, they will make every effort to reach agreed positions. If this is not possible, each shall without delay transmit his views for appropriate resolution in Washington.

7. The USTR and Deputy USTR in Geneva will have an unrestricted right to communicate on a timely basis using Diplomatic Telecommunication System facilities according to the procedures established for communication during the MTN between the U.S. Delegation to the MTN and USTR.

8. On request, State is prepared to utilize Foreign Service Act authorities for time limited appointments to give USTR personnel equivalent benefits and services (medical, insurance, schools, etc.). Similarly on request the Department will detail personnel to USTR on an agreed basis.

9. Nothing in this memorandum of understanding should be construed as impairing the responsibilities conferred upon the U.S. Ambassador to Switzerland by law or by the President.

BEN H. HEAD,
Under Secretary of State for Management.
ROBERT D. HORMATS,
Deputy U.S. Trade Representative Designate.

Funds for any U.S. contributions to the GATT, like funds for all U.S. contributions to international organizations, will remain in the State Department budget.

Question. Will STR responsibility for GATT representation include only functions under Council auspices and the MTN agreement committees or also the Textile Surveillance Board and the GATT Antidumping Committee?

Answer. The Trade Representative's responsibility for GATT representation will also include functions of the Textiles Surveillance Board and the GATT Antidumping Committee. Following past practice, USTR may invite Commerce or State to attend particular committee meetings as appropriate.

Question. If STR becomes responsible for negotiation of commodity agreements, would this include STR as chief U.S. representative to the UNCTAD on commodity issues? Should the STR representative to the GATT also be U.S. representative to the UNCTAD?

Answer. The Trade Representative will be the chief U.S. representative for negotiations in UNCTAD when trade or commodity issues are the primary issues under consideration. The Trade Representative will delegate these responsibilities, when appropriate, to such agencies as State and Agriculture. State will continue to manage the varying forms of coordination for conferences that involve a whole range of less developed country interests.

Question. Under the OMB proposal, how will the office of the Special Trade Representative be organized and staffed: a) overall, b) to carry out its new East-West trade and commodity agreement functions, and c) enforcement of the MTN agreements and section 301 cases in general, both under domestic procedures and presenting complaints to the GATT?

Answer. STR would remain in the Executive Office, retain its Cabinet status, continue to chair the Trade Policy Committee, and become a member of the National Advisory Committee on International Monetary and Financial Policies (NAC). STR would be enhanced further by the addition of the following responsibilities: (1) Trade policy coordination—both industrial and agricultural; (2) the lead role in trade negotiations, including commodity negotiations, East-West trade, and MTN-related negotiations (including GATT representation). STR would chair a new Trade Negotiating Committee (a subcommittee of the TPC).

STR would continue to have the lead policy role with respect to discretionary trade remedy functions (e.g., escape clause, section 301, market disruption).

The Office of the USTR will be the lead agency for the negotiations listed. That does not mean, however, that an official from that Office—which will remain a small unit—will necessarily lead every delegation. In all probability, the Department of State will continue to handle many negotiations on commodities and East-West trade, with oversight and policy guidance from the U.S. Trade Representatives and the Trade Policy Committee. Officials from the Office of the U.S. Trade Representative will lead our delegations to GATT. Since the GATT will be the principal international forum for implementation and interpreting the results of the Tokyo Round, the Trade Representative will be very active there. And, since GATT meetings, including committee and working group meetings, occur almost continuously, the Trade Representative will have some permanent staff in Geneva to represent the United States at the GATT.

Question. How many additional staff do you envisage being required and of what type?

Answer. The Office of the Special Trade Representative currently has a staff of 59. The new Office of the United States Trade Representative, the successor agency to STR, would have added responsibilities. These new responsibilities will require additional staff to perform them effectively.

We are requesting a supplemental fiscal year 1980 appropriation of $4,456,000 for STR. This will bring its personnel level up to 116.

Question. To what extent will STR rely on staffing by other agencies, and in which areas?

Answer. STR, with a total staff of 116, will rely upon line agencies considerably for staffing assistance. This has worked fairly well in the past.

Examples of matters that STR is likely to staff out include section 301 cases, negotiations that require the particular expertise of an agency, and sectoral analyses.

Question. Will STR assume any policy development or coordination role on export policy?

Answer. The Trade Representative, with the advice of the Trade Policy Committee, will set basic policy goals for all agencies with export promotion responsibilities.

The Trade Representatives will serve as Vice Chair of the Overseas Private Investment Corporation Board of Directors, as a non-voting Director of the Export-Import Bank, and as a member of the National Advisory Council on International Monetary and Financial Policy.

Question. Should STR have its own trade policy staff person rotated in major foreign capitals as part of the commercial service to monitor foreign trade policies and practices, particularly compliance with the MTN agreements?

Answer. In some instances, a small number of USTR staff may need to go abroad from time to time to assist in oversight of MTN enforcement. Should such a need arise, appropriate positions will be authorized.

Question. Will STR include any staffing of the new coordinating functions of the interagency Trade Policy Committee under the OMB proposal, for example, on energy trade issues and international investment policy?

Answer. STR's present staff of 59 will be increased to 116, if Congress approves a fiscal year 1980 supplemental request that the Administration is about to transmit. The coordinating functions of the Trade Policy Committee will be staffed by STR personnel.

Question. How will interagency trade policy coordination be conducted, i.e., will the Trade Policy Staff Committee and its task forces coordinate all trade policy at the staff level with recourse to the Trade Policy Review Group and the Cabinet-level Trade Policy Committee, or will interagency coordination be changed in structure and/or membership?

Answer. The Trade Policy Staff Committee, an office director-level group, staffs the Trade Policy Committee on broad trade policy issues. The Trade Policy Review Group, an assistant secretary-level group, acts as an appellate body for the lower group. The Cabinet-level Trade Policy Committee will take the lead responsibility for advising the USTR on implementation of actions or recommendations made within the lower groups.

We will expand the mandate of the TPC to include advice on: (1) Such import relief functions as countervailing duties and antidumping assessments, functions not now covered by an interagency process; (2) international direct investment policy; (3) international commodity policy; (4) East-West trade issues; and (5) energy trade issues.

The TPC will be further enhanced by the establishment of the Trade Negotiating Committee. Composed of STR, State, Treasury, Agriculture, Labor, and Commerce, the TNC will manage the operational aspects of trade and MTN-related negotiations.

Mr. VANIK. There are obviously a lot of important details in reorganization that require a close look by the subcommittee. Could I have a commitment from the administration to meet with the Subcommittee on Trade in an informal markup soon to assure that our concerns as to how the trade status will be impacted can be properly addressed and necessary amendments and changes be made either under the reorganization plan or under legislation. In other words, I would like to have the meeting with you so that we can go over this whole procedure before we go into markup.

Mr. WELLFORD. Mr. Chairman, we would be glad to have a meeting with the subcommittee.

Mr. VANIK. Thank you very much, and thank you for your time this morning. I appreciate the extensive testimony that has been submitted.

I want to say at this time that it is the intention of the subcommittee to remain in session throughout the lunch hour, so those who are testifying later can accommodate themselves. We are going to stay here during our lunch time, and we suggest that you

do the same, because it is our intention to proceed right straight through the agenda without interruption for lunch. The only interruptions will be those that are occasioned by calls from the floor for the rollcall vote.

Thank you very much.

I hope these are not all administration people who are leaving the room, because it looks like it might be overstaffed.

Those not involved in the hearing will please clear the meeting room so we can proceed with testimony.

Our next witness is Mr. William L. Wearly, chairman, International Economic Affairs Committee, and chairman and chief executive officer of Ingersoll Rand Co.

Mr. Wearly, identify the gentlemen with you if you would like.

STATEMENT OF WILLIAM L. WEARLY, CHAIRMAN, INTERNATIONAL ECONOMIC AFFAIRS COMMITTEE, NATIONAL ASSOCIATION OF MANUFACTURERS; ACCOMPANIED BY LAWRENCE A. FOX, VICE PRESIDENT, AND JOHN R. BABSON

Mr. WEARLY. On my right is Mr. Larry Fox, vice president of the National Association of Manufacturers, and on my left is Mr. Jack Babson, vice president of Ingersoll Rand Co.

Mr. VANIK. Your entire statement will be in the record as submitted and you may read from it or except from it as you choose.

Mr. WEARLY. Thank you, Mr. Chairman.

I am pleased to appear here today representing the National Association of Manufacturers. I would just like to make a couple of informal comments to you and the committee. I think too many observers of the world trade scene have the concept that our foreign customers need to buy from us or even must buy from us. My testimony today deals with the adequacy and the priorities of the proposed reorganization.

I should like to take a minute to mention to you some personal observations based upon my experience in selling goods in the world marketplace. There are really very few customers that have to buy from us today, not even the sophisticated high technology equipment because most of it is available somewhere else.

You know, sir, international customers don't buy from us for the same reasons that you and your wife don't buy from a merchant. This may be because the merchant does not respect your wife's opinion and that is why she does not buy from him. It may be that the merchant does not give his customers top priority. It may be even that the merchant said he didn't like the way you raise your children or he didn't offer favorable terms.

This is all reflected by what I like to term our American arrogant hypocrisy that we know what is best for the rest of the world and we lay down the conditions on which they can buy from us. It seems we set up the barriers and then we try to provide ways to get over the barriers without actually removing the barriers. I think we need an organization today headed by a man with the expertise, with the peer respect and with the clout to remove these barriers.

The dramatic reversal of the Nation's trade balance and the dollar's problems in world currency markets reflect the urgent international economic challenges now facing this country. Last

year the United States ran another record trade deficit of over $28 billion—a figure that would have been unimaginable just a few years ago. In the manufactured goods area the United States dropped from a $20 billion surplus in 1975 to a deficit of almost $6 billion last year while Germany and Japan had surpluses of $51 billion and $72 billion, respectively. The continuing U.S. deficit can mean higher domestic unemployment, dollar problems abroad, growing inflation at home and reduced growth in the U.S. standard of living. As to unemployment, I believe our failure to hold our exports now is accounting for several hundred thousand lost jobs.

The U.S. Government announced an export expansion program. However, little has been accomplished beyond a modest increase in the Export-Import Bank's financing activities. Many of the Government's own policies actually continue to discourage exports. Additionally, the U.S. Government has failed to act effectively against foreign countries engaging in unfair trade practices which have harmed important segments of U.S. industry.

Opportunities exist to improve U.S. trade performances by making our economy more competitive at home and by improved access for U.S. goods to foreign markets. NAM has supported the recently concluded multilaterial trade negotiations—MTN—which established improved rules for expanding world trade. However, as in all negotiations, the MTN was a give and take proposition. We can be certain that other countries will act to followup on what we have given. We likewise must be prepared to take our negotiated benefits by vigorously implementing and enforcing the new agreements in support of U.S. interests.

On the basis of past performance, it seems clear that there must be a reorganization of the U.S. Government's international trade apparatus if all these challenges are to be met successfully. The current system of diverse, overlapping or even competing functions and authorities almost guarantees that there will be no adequate leadership in this area. U.S. international economic interests can no longer be treated as the poor stepchild of other national concerns. This policy area deserves high level attention on a sustained, integrated basis and requires a top policy spokesman and advocate at the Cabinet level of Government.

A number of proposals have been introduced to improve executive branch organization for the conduct of trade policy. Senators Ribicoff and Roth have introduced a bill—S. 377—to consolidated Federal policymaking and execution into one Department of International Trade and Investment—DITI. Senators Byrd, Stevenson, and others have introduced bills which offer somewhat different consolidation patterns but are directed at similar objectives.

In the House, Congressmen Jones and Frenzel of the Committee on Ways and Means have introduced their bill—H.R. 4567—which transfers the main trade policy funtions of the Government to the Department of Commerce. Congressman Neal, Chairman of the International Investment and Monetary Policy Subcommittee of the House Banking Committee, has introduced a companion piece to Roth-Ribicoff, H.R. 3859. Congressman Long has also introduced a bill—H.R. 4995—which places the main responsibility for trade policymaking and execution in the office of the STR. In late July the administration announced its own reorganization proposal.

After nearly a full year of study during 1978, NAM's International Economic Affiars Committee voted last November to support the consolidation of international trade and investment functions into a single Cabinet Department and specifically endorsed a modified version of S. 377. I would like to describe our reasons for that decision since those reasons constitute the criteria against which we measure all current reorganization proposals.

A reorganization proposal should help improve the U.S. Government's ability to respond effectively to at least six identified major problem areas: (1) Inconsistent policy; (2) negotiating leverage; (3) international agreement enforcement and followup; (4) analytic economic research; (5) business promotion services and (6) eliminating unnecessary duplication. NAM supports a consolidated Department of International Trade and Investment (DITI) as the best reorganization alternative to meet these objectives.

A DITI Cabinet officer would be in a strong organizational position to become a needed advocate for broad, international economic views to counterbalance State's diplomatic focus, Treasury's financial outlook and various agencies' self-interest perspectives. New policy initiatives harmful to U.S. international economic interests more likely would be challenged at an early stage, while further efforts could be made to alter or clarify presently inconsistent policies. Without a Cabinet Department charged with international trade and investment responsibility, the current scattered authority will continue, with each agency pursuing interests more central to their primary mission than U.S. economic competitiveness in world markets.

While other industrialized nations have centralized their economic negotiations in one organization, U.S. negotiating interests are weakened by uncoordinated actions and positions among the various government agencies involved in international economic activities. A DITI would integrate many such activities into one department while also providing the coordinating mechanism to tie other departments more closely into a central negotiating team. Consolidation of most important relief functions also would give the United States a more forceful and effective mechanism for dealing with unfair foreign trade practices.

Closely related to the need for better U.S. leverage in negotiations is the requirement of more effectively following up on international trade and investment agreements once they are reached. It is especially important now to take full advantage of new U.S. trade opportunities resulting from the tariff and nontariff measure concessions obtained in the MTN. A followup program must encourage new export efforts with adequate commercial information, export credit financing, license approval and other actions, while assuring that foreign governments do not close off the newly negotiated opportunities. In particular, the various nontariff barrier codes will be meaningless for American interests unless an effective U.S. Government enforcement mechanism is devised. This type of practical implementation follow-up would be handled best by a single integrated department structure.

ANALYTIC ECONOMIC RESEARCH

Today many scattered agencies now have some involvement in the Government's international economic data collection and analysis activities. The integration of these staffs in a DITI would enhance the Government's capability to identify and encourage future areas of national economic strength, as well as provide earlier warnings to help avoid domestic dislocation arising from international economic forces.

BUSINESS PROMOTION SERVICES

Business promotion services such as export expansion efforts and Eximbank financing could benefit by closer coordination with the new single department. Eximbank should be given greatly expanded funding authority and greater flexibility to meet foreign export credit competition, and Eximbank management should remain independent. Certainly for smaller companies new to the overseas market, an integrated international trade and investment department would be a less confusing and more reliable ally than the current array of agencies scattered all over town which offer various bits and pieces of business support programs.

UNNECESSARY DUPLICATION

An added benefit to the improved analytic and promotional capabilities of a DITI would be the elimination of unnecessary and costly duplication of activities which currently exists in many international economic policy areas.

We believe that the bottom line to this analysis regarding an International Trade and Investment Department proposal comes out clearly on the positive side. Government reorganization is not a panacea, but it is a necessary step to complement other policy actions. It is NAM's position that consolidation of current international trade and investment functions into one department, as proposed in S. 377, is the best approach to this problem. We would, however, like to suggest a few modifications in the bill.

RECOMMENDED CHANGES TO S. 377

The major change which we would recommend for S. 377 is the addition of a specific interagency coordination mechanism which would have two levels. First, standing coordinating committees could be established within DITI in major issue areas such as international commodity policy, export promotion, trade and investment negotiations, and so forth. The regulations governing these interagency committees should give clear policy leadership to DITI whose staff would act as the Secretariat.

Some issues, of course, may ultimately require White House discussion and decision. Therefore, a second coordination level should involve a White House group, with appropriate Cabinet-level membership chaired by the DITI Secretary. This group would be designed to insure top level, interagency consideration of controversial major policy issues.

A second modification to the bill would be to incorporate the International Trade Commission (ITC) fully into the new Department. The ITC could function in the same semi-autonomous manner as provided in the bill for Eximbank and OPIC.

Finally, we suggest some further broadening of the proposed department's authority, specifically in the areas of trade adjustment assistance and mixed credits, for the reasons outlined in our full written statement.

Thus far I have discussed the proposal to establish a Department of International Trade and Investment while suggesting some desirable modifications to S. 377. We believe that such a modified proposal represents the best reorganization option and urge its serious consideration by this committee.

Before closing, I would like to make a few comments specifically on the proposal recently outlined by the administration. Many of the details of that proposal, of course, still are unclear and we will look forward to studying them closely as they are developed more fully. However, at least the following assessment can be made.

The administration's proposal recognizes many important problem areas and takes several steps toward their resolution. We would support elements of the proposal which consolidate some of the currently scattered trade functions. In particular, we support: First, the consolidation into one office of negotiating authority over a broad range of international economic subjects; second, upgrading of the Commerce Department's sectoral analysis capability for trade expansion purposes; and third, the transfers of most import relief and unfair trade response functions.

The administration proposal, however, fails to go far enough in meeting the necessary objectives of reorganization. The proposal puts two agencies in charge of trade rather than consolidating all responsibilities in a single cabinet department. As a result, policy and implementation functions are split between a White House Trade Representative Office and the renamed Trade and Commerce Department. An even further division of authority occurs when Commerce trade responsibilities are delegated to an Under Secretary, thereby adding a new actor to the process and meaning that the Secretary will continue to be occupied by a variety of traditional nontrade matters.

Vitally important MTN followup responsibilities are also split between the Trade Representative and Commerce so that the negotiators are separated organizationally from investigators, analysts and other staff support functions. The Trade Representative is given broader new negotiating responsibilities but no additional staff to carry them out. Either these issues will not receive the attention they deserve, or else there will again be an awkward reliance on staff controlled by other organizations. One gets the impression that the reason for separating the trade personnel in this manner may have more to do with considerations regarding the size of the White House staff rather than economic or good management criteria. We believe that these trade areas are too important to artifically split policy and negotiations from analysis and implementation in this manner. Such a division will only be detrimental to the objectives of sustained, coherent international trade programs.

Several important policy areas also appear to be short-changed in the administration's proposal. Export expansion is not given priority attention in the new organizational arrangement. International investment policy is fitted within a broadened agenda for the Trade Policy Committee but no practical consolidation of authority or functions is accomplished. Even the transfer of overseas commercial officers to the Trade and Commerce Department is a partial measure since it affects only those officers located in certain foreign countries.

In summary, we believe that the administration's proposal falls short of the prompt, forceful action needed to address the country's urgent trade problems. In the end, trade authorities and functions still would be split unnecessarily. We must have one strong trade policy leader who has the full implementation resources of a unified cabinet department, including the negotiating authority to both "reward" and "punish." The administration's proposal does not meet this standard and therefore is significantly weaker than S. 377.

In conclusion, Mr. Chairman, I would like to commend you, along with your colleagues, for perceiving the urgent and serious task facing this country in the international marketplace, and for taking the initiative to begin steps aimed at meeting this challenge. Certainly a reorganization of governmental functions by itself is not a complete answer to our problems but it is a necessary if not fully sufficient step toward their solution.

Better national trade and investment policies are needed but we will stand a better chance of achieving those policies with a forceful, full time international trade advocate at the department level than we do now when both authority and responsibility are spread throughout the government. Better implementation of policies also is needed: but again, effective implementation is more likely to come from a consolidated, integrated government trade department than from scattered agencies and offices which at times even seem to operate at odds with each other. NAM supports the consolidation of current government functions into a Department of International Trade and Investment. We are confident that this committee will be responsive to our position on trade reorganization.

Thank you.

[The prepared statement follows:]

TESTIMONY OF WILLIAM L. WEARLY, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, INGERSOLL-RAND CO., AND CHAIRMAN, NAM INTERNATIONAL ECONOMIC AFFAIRS COMMITTEE, ON BEHALF OF THE NATIONAL ASSOCIATION OF MANUFACTURERS

SUMMARY

1. Growing U.S. interdependence with the world economy requires that the formulation and implementation of U.S. foreign economic policy be accorded a higher priority in the governmental system. Record annual trade deficits and the dollar's weakness abroad perhaps are the most dramatic examples of the competitive economic challenge facing this country. The currently unfocused U.S. government approach to international economic policy-making and execution is inadequate to these tasks.

2. Basic advantages to be derived from reorganized governmental authority over foreign economic policy lie in: (1) More consistent policy with greater attention to international economic considerations; (2) enhanced international negotiating leverage; (3) increased follow-up on international agreement obligations and opportuni-

ties; (4) better analytic economic research; (5) improved business promotion services; and (6) elimination of unnecessary duplication between government departments.

3. Consolidation of currently scattered international trade and investment functions of the government into a new department, coupled with an inter-agency coordinating mechanism, offers the most substantial benefits for recognizing the increased importance of international economics in both governmental policy formulation and implementation.

4. A number of bills involving the consolidation of the government's trade and investment functions have been introduced in the Senate and the House. However, S. 377 seems to address many of the problems which currently plague the conduct of U.S. economic policy-making and execution. The bill is an innovative and positive response to reorganization needs which contains the necessary basic consolidation proposals to establish an effective international trade and investment department. Several constructive modifications could be made in the bill, including provisions for a specific inter-agency coordination mechanism, the further incorporation of ITC functions, and the clarification of authority over trade adjustment assistance policy and commercial aspects of foreign aid programs.

5. The Administration's recent reorganization proposal falls short of necessary consolidation objectives. Trade authorities and functions still would be split unnecessarily. There would not be a strong trade policy leader, with unified cabinet department resources, whose primary mission is the improvement of U.S. competitiveness in world markets.

6. NAM supports S. 377, with the suggested modifications, and urges positive and timely Congressional action on this proposal.

STATEMENT

Mr. Chairman and members of the Committee, I am William L. Wearly, Chairman and Chief Executive Officer of the Ingersoll-Rand Company. I am appearing today on behalf of the National Association of Manufacturers (NAM) as Chairman of the NAM International Economic Affairs Committee. As you know, NAM is a voluntary, non-profit association of some 13,000 business firms, large and small, located in every state of the nation. The Association's member companies account for about 75 percent of American industrial output and provide about the same percentage of the nation's industrial jobs.

My own firm is primarily a producer of heavy capital equipment, along with some consumer products. We have manufacturing plants in 24 states and serve or do business in 119 foreign countries. Our sales amount to over $2.3 billion, of which about $450 million consists of machinery and equipment exported from this country. More than 6,400 of our employees in this country, or nearly 20 percent of our domestic work force, are engaged in export-related jobs, plus nearly an equal number for our suppliers.

New international challenge

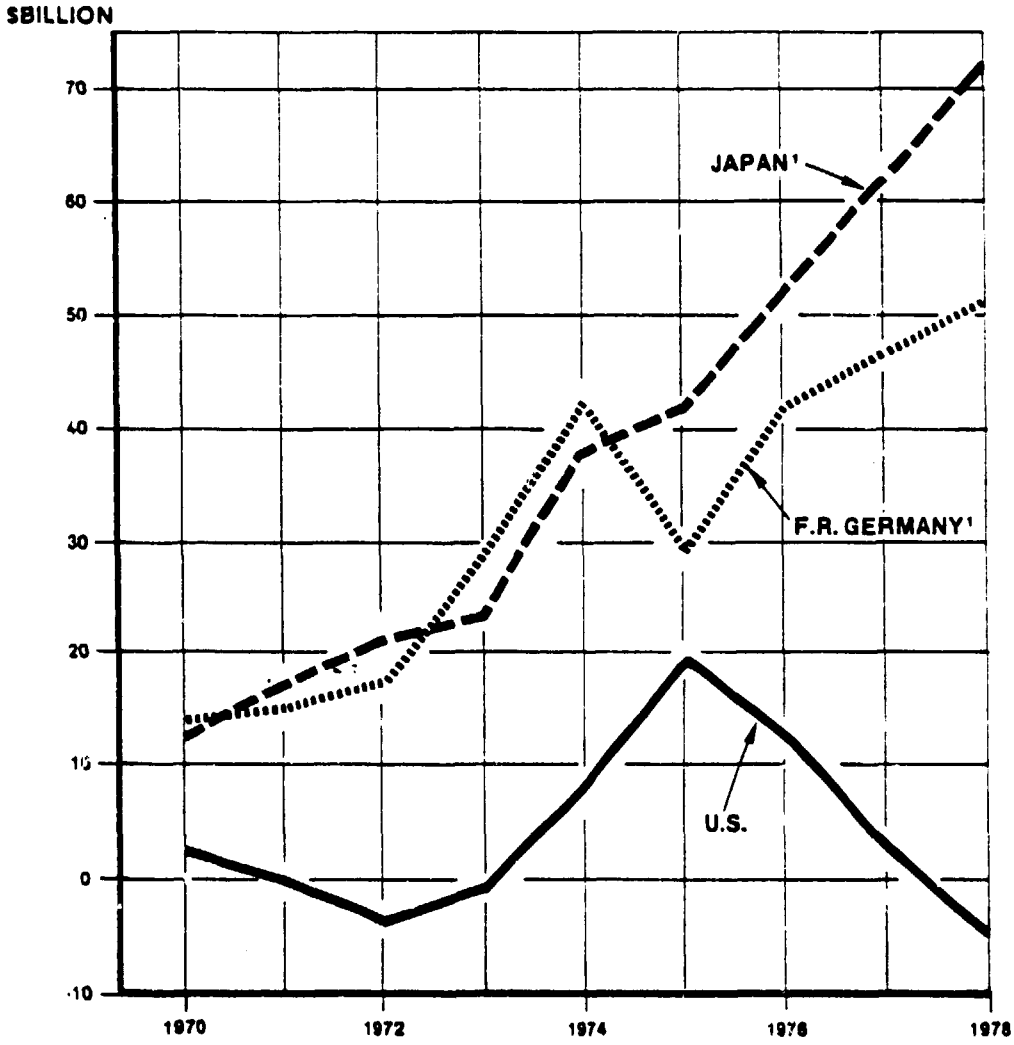
The stake of my firm in world commerce, as well as that of many NAM member companies, has grown enormously over the last decades. The internationalization of the world economy truly has reached the United States. Administration figures show that one of every nine manufacturing jobs in this country depends on export sales; one out of every three dollars of corporate profits comes from international activities, either exports or foreign investment; and imports supply over one-fourth of U.S. consumption in twelve of fifteen key industrial raw materials. The share of trade in this nation's GNP has doubled over the last decade or so and, if investment is included, the level of U.S. involvement in the world economy is at least as great as that of Japan or the EEC, taken as a group.

This internationalization of the world economy has brought with it numerous opportunities and challenges requiring new approaches in analytical, structural and organizational terms. Many U.S. companies have reorganized themselves more than once in the past ten years to improve the functions of their international operations. The U.S. Government, on the other hand, which naturally plays a tremendous role as policy-maker, negotiator and energizer in dealing with the consequences of economic interdependence, has failed to organize itself effectively to meet these new tasks. There is a growing perception in business, financial circles, academia, the Congress and elsewhere that there has to be a better way to develop and implement the nation's international economic policy.

The dramatic reversal of the nation's trade balance and the dollar's problems in world markers have spurred consideration of alternative organizational proposals. While government intervention in currency markets since late last year has bolstered the dollar, these are not long-term corrective actions and do not address the

fundamental problems which underlie the dollar's weakness. Last year the United States sustained another record trade deficit of over $28 billion—a figure that would have been unimaginable just a few years ago. This deficit has serious implications for the nation's economy in terms of higher unemployment, dollar problems abroad and growing inflation at home. While most press accounts usually stress the admittedly large role of increasingly costly oil imports in this deficit, it is often overlooked that the decline in our manufactured goods trade balance was more significant last year than oil in accounting for the larger trade deficit. Indeed, our trade position in manufactured goods, which represent two-thirds of the dollar value of U.S. exports, generally has been declining rapidly in both absolute terms and relative to major U.S. trading competitors. In just three years, from 1975 to 1978, the U.S. trade account in manufactured goods dropped from roughly a $20 billion surplus to a deficit of over $5.8 billion, while the surplus of Germany and Japan has jumped to over $51 billion and $72 billion, respectively.

BALANCE OF TRADE IN MANUFACTURES, U.S., F.R. GERMANY, AND JAPAN, 1970 - 1978



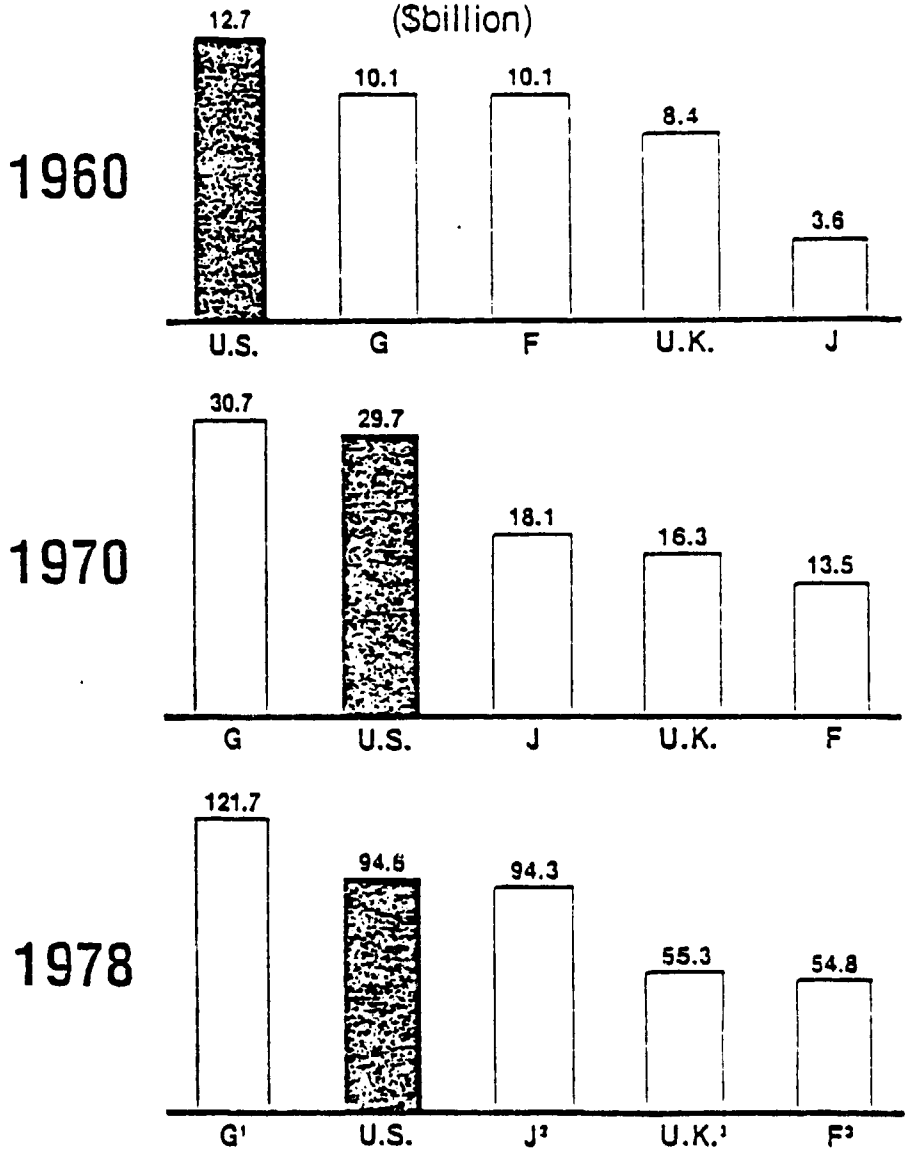
¹ 1978 figure based on second quarter, annualized.

Source: Department of Commerce, International Economi ndicators.

The United States has lost its once unchallenged position in world commerce. In 1970 Germany moved ahead of the U.S. as the world's leading exporter of manufactured goods and since has widened its lead. The U.S. share of total world exports

has continued to drop from an 18 percent share in 1970 to only 13.7 percent in 1977—and bear in mind that every one-tenth of one percentage point represents over $1 billion in trade, or 40,000 jobs, $2 billion in U.S. GNP and $400 million in Federal tax revenue.

EXPORTS OF MANUFACTURED GOODS
U.S., F.R. GERMANY, FRANCE, U.K., AND JAPAN
1960, 1970, AND 1978
($billion)



[1] 2d quarter, 1978, annual rate.
[2] 11 months, 1978, and extrapolated from December figures for exports of all goods.
[3] 1st quarter, 1978, annual rate.

Source: Department of Commerce, International Economic Indicators: U.S.-Japan Trade Council.

Some will argue that exchange rate developments—further devaluation of the dollar or revaluation of the yen and the mark—will rectify the U.S. trade problem. Others may contend that the current problem is mainly due to the business cycle; i.e., that because the U.S. has grown more rapidly than Japan or Western Europe in the last few years, it is importing more and exporting less than other countries in response to this conjunctural business cycle situation. I believe, however, that

reliance on exchange rate developments or business cycle changes to correct the American trade position and improve the U.S. balance of payments position more generally, represents a theoretical view held by some economists, but shared by very few businessmen.

Much of the responsibility for the poor performance of U.S. exports must fall on government, both the U.S. and foreign governments, for their increasingly counterproductive role in international business transactions. The U.S. government, for its part, recently has been succeeding more in discouraging rather than promoting increased exports. The absence of effective export stimulants, the continued growth of bureaucratic red tape and the often counterproductive use of presumed export leverage to pursue non-economic policy objectives, have all served to place a series of self-imposed restraints on U.S. exports. Additionally, the U.S. Government has not been able to act effectively against foreign countries engaging in unfair trade practices which have brought harm to important segments of U.S. industry.

In short, the U.S. Government has not effectively pursued this nation's increased international economic interests, either in supporting U.S. foreign business activities or resisting the unfair practices engaged in by other countries on behalf of their own national industries. We believe that the Government simply has not kept pace with the country's changed economic realities. U.S. interests in the international economy can no longer be the poor step-child of other national concerns. This policy area deserves high-level attention on a sustained, integrated basis and requires a top policy spokesman and advocate at the cabinet level of government. Today there is no single government department charged with looking after this nation's international trade and investment position. In fact, the currently scattered system of diverse, overlapping or even competing functions and authorities almost guarantees that there will be no adequate guidance in this vital national interest area.

International trade reorganization proposals

A number of proposals have been introduced to improve Executive Branch organization for the conduct of trade policy. Senators Abraham Ribicoff and William Roth have introduced a bill (S. 377) to consolidate the currently fragmented federal policy-making and execution apparatus into one Department of International Trade and Investment (DITI). The bill does not expand the size of the Cabinet, since it subsumes the Special Representative for Trade Negotiations post, and does not authorize any new bureaucracy nor government regulatory activity. It does, however, provide a consolidated policy Department with a strong mandate and the tools to promote and protect U.S. international trade and investment interests. Senators Robert Byrd, Adlai Stevenson and others have introduced bills which offer somewhat different consolidation patterns, but are directed at similar objectives.

In the House, Congressmen James Jones and William Frenzel of the Committee on Ways and Means have introduced their bill (H.R. 4567) which transfers the main trade policy functions of the government to the Department of Commerce. Congressman Stephen Neal, Chairman of the International Investment and Monetary Policy Subcommittee of the House Banking Committee, has introduced a companion piece to Roth-Ribicoff, H.R. 3859. Congressman Gillis Long has also introduced a bill (H.R. 4995) which places the main responsibility for trade policy-making and execution in the office of the Special Trade Representative. In late July the Administration announced its own reorganization proposal.

After nearly a full year of study during 1978, NAM's International Economic Affairs Committee voted last November to support the consolidation of international trade and investment functions into a single cabinet Department, and specifically endorsed a modified verson of S. 377. I would like to describe our reasons for that decision, since the rationale underlying the decision constitutes the criteria against which we measure all current reorganization proposals.

Reorganization objectives

A reorganization proposal should not be viewed as a panacea for basic economic problems. It does not replace the need for an expansion of productive capital investment or other important economic requirements that relate to domestic as well as international economic policy. However, a reorganization should help improve the U.S. government's ability to respond effectively to at least six identified major problem areas of inconsistent policy, negotiating leverage, international agreement enforcement and follow-up, analytic economic research, business promotion services and eliminating unnecessary duplication. NAM supports a consolidated Department of International Trade and Investment (DITI) as the best reorganization alternative to meet these objectives.

Inconsistent policy.—A DITI Cabinet Officer would be in a strong organizational position to become a needed advocate for broad, international economic views to

counter-balance State's diplomatic focus, Treasury's financial outlook and various agencies' self-interest perspectives. This top-level advocacy would be complemented by DITI's staff capability to assume leadership positions on specific inter-agency policy groups. By building such institutionalized international economic advocacy views into the system, new policy initiatives harmful to U.S. international economic interests more likely would be challenged at an early stage, while efforts could be made to alter or clarify presently inconsistent policies. Absent a cabinet department charged with international economic policy responsibility, the current situation is likely to continue with authority scattered in diverse agencies, each pursuing interests more central to their mission than U.S. economic competitiveness in world markets.

For example, export promotion has for many years been promulgated as a national policy goal. Periodically there are special efforts to fashion a new governmental effort to encourage U.S. business, particularly smaller firms, to enter the overseas market. However, the present export programs like trade fairs, embassy commercial officers or the DISC are overwhelmed by the continued proliferation of governmental restraints on exports. Long-standing export controls in security-sensitive areas and antitrust policy inhibitions are now being joined by human rights considerations, environmental impact studies, and other self-imposed export disincentives. The bureaucratic requirements of these programs not only conflict with a national export promotion effort, but they are particularly burdensome and restrictive on smaller firms lacking large administrative staffs and unfamiliar with the rigors of multinational, cross-cultural marketing. A strong Cabinet-level advocate of international economic goals is needed to challenge the desirability and specific application of proliferating non-economic controls on U.S. Export promotion efforts.

The Domestic International Sales Corporation (DISC) is another good example of how inconsistency can help undermine a beneficial program. The DISC was established to help promote U.S. exports and partially offset foreign export subsidy measures. The debate ensuing from calls for its termination point to the need for a better coordinated government policy benefiting from a broader overview perspective. The Treasury Department focuses on DISC tax revenue questions, the Commerce Department on export promotion and the STR on negotiating a trade-off in reducing foreign export subsidies. Governmental policy on DISC seemingly shifts with the ebb and flow of these several departments' interests and fortunes, creating uncertainty as to the future of the program and government's commitment to its objectives. Under these circumstances, companies are understandably reluctant to undertake long-range export expansion efforts which may be undercut by government policy shifts in mid-stream. Other similar examples of negative impact from such inconsistent policies are evident in the recent controversy over calls for foreign environmental impact statements on exports; extraterritorial enforcements of U.S. antitrust, corrupt payments, and other areas.

Negotiating leverage

Most other industrialized nations have a centralized, consolidated trade administration organization. The organizationally scattered trade authority in this country means that U.S. negotiating interests can be compromised by uncoordinated actions and positions among the various government agencies involved in international economic activities. Foreign negotiators are able to exploit position differences among U.S. agencies while American officials cannot draw upon all the potiential negotiating leverage inherent in this country's central role in international commerce. This point was referred to in hearings before this Committee last year in the presentation by former Deputy Special Trade Representative Harold Malmgren.

A DITI would integrate many of the government's international economic activities into one department, while also providing the incentive and capability to staff a coordinating mechanism to tie other agency functions into the information needs and policy positions of a central negotiating team. For example, former Ambassador Strauss might have benefited in his effort to open up the Japanese economy to U.S. imports if he had had some means of taking into account and influencing the course of civil air negotiations with Japan concerning landing rights in the Dallas-Ft. Worth area. U.S. negotiating strategy and tactics can benefit from the coordinated leverage which may be available through knowledge of discussions in such areas as aviation, fisheries, communications, agriculture and others. The DITI role in integrating governmental international economic functions with appropriate interagency coordination leadership would enable it to develop over time the type of "institutional memory" currently lacking in the U.S. government which would underpin U.S. negotiating leverage in future international economic discussions.

Another very important application of improved U.S. negotiating leverage concerns the proliferation of foreign governmental involvement in trade flows, particu-

larly regarding subsidization of export promotion drives. A consistent and coordinated U.S. government response is needed to unfair foreign trade practices. The current U.S. system lodges contervailing duty and anti-dumping actions in the Treasury Department, certain investigation and recommendation functions with the International Trade Commission (ITC), negotiating authority for orderly marketing agreements or other arrangements with the Special Trade Representative's (STR) Office, with various other functions falling to the State Department, Agriculture Department or other agencies on specific subjects such as sugar imports quotas, commodity negotiations, etc. The consolidation of most of these functions under the centralized direction of a new DITI structure, while drawing on specific agency expertise where necessary, would give the U.S. a better coordinated and effective mechanism for dealing forcefully with their unfair trade practices.

International agreement enforcement and followup

Closely related to the need for better negotiating leverage is the requirement of effective follow-up mechanisms to implement international trade and investment agreements. The most important example concerns the non-tariff measure agreements just concluded in the Geneva Multilateral trade negotiations. Regardless of the substantive merits of these agreements, codes in areas such as subsidies, government procurement and standards, will be meaningless for U.S. interests unless an effective follow-up enforcement mechanism is devised. While full use will have to be made of the GATT Secretariat and other relevant international bodies, the task of vigorously defending U.S. interests in the implementation of the codes must fall primarily on the U.S. government. The job really will be two-fold: to take full advantage of new U.S. trade opportunities resulting from tariff or non-tariff measure concessions, and to assure proper enforcement of the international rules against unfair foreign trade practices.

First, there should be a systematic attempt to exploit fully the trade or investment opportunities for the U.S. which are achieved in an international trade or investment agreement. Although there are differing opinions as to whether the U.S. successfully negotiated for everything it might have from the "Kennedy Round" of trade talks in the 1960s, there is little dispute that there was incomplete follow-up to exploit the potential trade opportunities which were gained. A similar challenge will arise in translating potential gains from the current round of multilateral trade talks in Geneva into real export gains for U.S. business. The realization of such trade growth requires a coordinated followup program to communicate the potential opportunities; encourage the development of new export efforts with adequate commercial information, export credit financing, license approvals, etc.; and assure that foreign government actions do not close off the newly negotiated opportunities. This type of practical implementation follow-up would be handled best by an integrated DITI-like structure which has the added advantage of first-hand knowledge of the agreements, since the DITI would handle their negotiation.

Closely related to the above point is the second track of follow-up actions to ensure vigorous enforcement of agreed international and national rules and regulations against unfair foreign trade or investment practices. The U.S. network of Treaties of Friendship, Commerce and Navigation with other countries has been a useful, but seldom fully enforced standard governing bilateral economic relations. Similarly, the U.S. has not effectively utilized GATT procedures nor other accords, like the OECD agreement on the liberalization of capital movements, to protect the nation's interests in international commerce. This problem of effective enforcement follow-up will be even more important with regard to the various codes negotiated in the multilateral trade negotiation. There is widespread recognition that non-tariff measures, particularly subsidies, customs regulations, licensing practices, government procurement and product standards, have surpassed tariff rates in terms of their impact on world trade. Negotiated codes to constrain governmental intervention in these areas will seek to prevent or reduce such trade distorting tactics. However, any satisfactory international agreements on these topics will require a sophisticated U.S. implementation capability to ensure that the agreed rules are enforced. The same conclusion holds regarding utilization of the less detailed but still important 1976 OECD agreements on national treatment of foreign enterprises and international investment incentives and disincentives. An integrated U.S. trade and investment department offers the greatest potential for providing the continuing enforcement and implementation attention needed to achieve U.S. economic objectives.

In the past the U.S. too often has let potential new trade opportunities slip away and been unable or reluctant to seek redress against unfair foreign actions. A unified cabinet department such as DITI, which has responsibility for negotiating the agreements and which also incorporates the government's trade promotion

mechanisms, would be ideally situated to follow-up effectively on agreements coming out of multilateral trade talks or in relation to other areas, as for example the national treatment or capital movement agreements in the OECD.

Analytic economic research.—The current scattering of agencies with some involvement in international economic functions has dispersed the government's data-collecting and analytic research capabilities. Despite the government's collection of massive amounts of raw information, there is little long-term or in-depth analysis done by the federal government on fundamental international economic issues. The integration of information-gathering and analysis staffs in a DITI would enhance the capabilitity to indentify and encourage future areas of national economic strength as well as provide the earlier warnings necessary to help avoid domestic dislocations arising from international economic forces.

During the periods of a large U.S. surplus, American industrial competitiveness was taken for granted and little attention was paid to component elements which provided the surplus position. Now that the trade account has dramatically reversed into the deficit category, there is some concern about injured domestic industries, but still little evaluation of economic strength areas. Many foreign governments target export growth industries and encourage their expansion. The U.S. system does not and should not allow for the same measure of governmental planning as is carried out abroad, but U.S. policy-makers should be more aware of the elements of the country's economic strength when developing negotiating strategy and follow-up programs to maximize U.S. export opportunities in future years. A centralized analytic staff also could provide more accurate assessments regarding the effectiveness of various government programs, such as the DISC. One of the problems regarding the DISC is the absence of an authoritative professional study which can draw on consolidated government information to evaluate properly the program's effectiveness in terms of its full international economic implications.

There has been a recent increase of concern regarding the adverse impact on a number of domestic industries due to international economic factors. Import competition, particularly resulting from subsidized or otherwise unfair foreign practices, has highlighted this development. However, other domestic dislocations can result from longer-term shifts in the relative competitiveness of economic factors in various countries. There has been much discussion about the desirability of some form of "early warning" system for such dislocations, especially to key appropriate adjustment actions. However, early identification of economic trends or foreign government actions likely to affect adversely U.S. domestic interests are unlikely without a professional economic analysis drawing upon consolidated government data. The growing interdependence of the U.S. with the world economy makes it imperative that the U.S. Government develop an analytic research capability which can underpin informed and timely decision-making on foreign economic policy issues.

One further illustration of the disadvantages of the current information gathering and analysis system arises from this country's experience in conducting multilateral trade negotiations. The governmental specialists who are to study and evaluate the international competitiveness of thousands of particular products are dispersed in at least four major departments and agencies: Commerce, STR, ITC and Agriculture. The U.S. approach to negotiations essentially has been to begin from scratch each time, attempting to use the STR Office to forge the necessary coordination links between the various staffs to provide a thorough and coherent analysis. Without denigrating the enormous efforts of the involved individuals, this approach has had obvious problems and does not serve the country well. The relevant analytical staffs should be consolidated into one internationally-oriented department. There they can formulate the best integrated positions and also develop over time the institutional memory from one negotiation to the next which has so benefited our foreign trading partners.

Business promotion services.—Business promotion services such as export expansion efforts and Eximbank financing could be aided by closer coordination within a single departmental framework. Certainly for smaller companies new to the overseas market, an integrated international trade and investment department would be a less confusing and more reliable ally than the current array of agencies which offers various facets of business facilitation services. A new exporter or smaller firm is especially inhibited from taking advantage of government business facilitation services because they are scattered in a Washington bureaucratic maze nearly indecipherable to someone new to the area.

Consolidation of business facilitation services such as Commerce trade fairs and buyer information, Eximbank, State commercial opportunity programs, OPIC and other related areas should improve coordination among the services. A smaller firm

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seeking to enter the overseas market could be directed to one central contact point in a consolidated department which could in turn draw upon the full range of integrated inhouse facilities to construct the package of services appropriate to the firm's needs. Additionally, the presence of the analytic research capability in DITI would complement the facilitation services and improve the ability of the government to work with U.S. business to meet increasingly sophisticated foreign competition in world markets. Foreign government-business "combinations" often out-class even the largest American firms in their efforts respecting major foreign projects. Larger firms thus also could work more closely with the U.S. Government in overcoming efforts by foreign firms supported by their governments.

The U.S. Export-Import Bank exists to serve U.S. exporters in financing, insuring or guaranteeing export transactions. However, the fractionalization in oversight and direction of Eximbank policies and programs limits the Bank in terms of customer services as well as reduces its ability to achieve an international reduction of export financing support levels. As a completely separate agency, Eximbank has lacked departmental support to uphold its mission objectives in both interagency and Congressional reviews of its policies. This relative institutional weakness inhibits the ability of the Bank to advance its programs as an integrai part of U.S. foreign economic policy objectives. In recent years this problem led to a cutback in Eximbank support of U.S. export financing needs and the imposition on Eximbank programs of various restrictive non-economic constraints. Additionally the relatively poor results obtained thus far in U.S. efforts to achieve an internationally-agreed lowering of export financing support levels may be due in part to the absence of an integrated international economic department with adequate incentive and negotiating leverage to accomplish such an agreement. Consolidation of Eximbank within a DITI structure would more closely align Eximbank policies with overall national economic objectives and provide the agency with the departmental support to help accomplish its mission to facilitate U.S. exports through offering American exports financing arrangements competitive with those offered by our major foreign competitors.

Unnecessary duplication.—A counterpart benefit to the improved analytic and service capabilities of a DITI would be the elimination of unnecessary and costly duplication of activities which currently exists in many international economic policy areas. Information-gathering functions of Commerce, Treasury, the International Trade Commission and other agencies could be combined in a way that reduced the reporting burden placed on companies while providing a centralized collection point so that policy-makers are aware of all the data which is available to them. Currently, despite some good efforts by the OMB to regulate governmental survey efforts, there is still a great deal of overlap and duplication in information being sought and a general ignorance, both public and private, of the data which are already available. One basic problem is that many different agencies are authorized by various statues to conduct studies in ambiguous international economic areas. Better control over these broad investigatory and survey powers could be managed through a consolidation of the government's information-gathering and evaluation staffs into a centralized unit in one department. This integration would also provide a more accurate and readily accessible assessment of what data already is available to policy-makers. Many functional or regional department sections also could be consolidated—for example, the numerous East-West trade and Middle East bureaus—to effect a cost-savings while providing for more centralized data evaluation and policy follow-up. Major departments such as State and Treasury would need to retrain some broad international economic staff capability since these issues can impact heavily on their principal policy missions. However specialized staff functions should be transferred to a new department and statutory restrictions placed on the reestablishment of duplicative activities.

Possible counter arguments

There are several counter arguments to a DITI-type organizational approach. Two concerns reflect nearly polar opposite expectations—that DITI would be a weak, redundant agency or that DITI would be a powerful government mechanism subject to "capture" by a narrow, single-minded trade philosophy. The first objection anticipates that departments and agencies currently involved in international economic affairs could somehow either retain their supposedly transferred functions or would build them up again after a short period of time. In this view, creation of a DITI would simply add a redundant layer of bureaucracy with duplicating sections being maintained in the other major departments. One way to safeguard against this possibility would be enactment of legislative provisions strictly limiting staff expansion in the departments from which functions were transferred.

The other fear of an excessively strong department rests on two bases. First, support for a powerful government department seemingly runs counter to general business opposition to greater government intervention and control in the economy. A well-organized, coordinated department eventually could develop planning and regulatory funtions which might add further controls and restrictions on private enterprise. Partially offsetting this fear is the recognition that some degree of government involvement is unavoidable and, in the international arena, private companies often will need active U.S. Government involvement to gain removal of foreign government restrictions or unfair practices. In fact, the new multilateral trade agreements presume such governmental involvement.

The other factor underlying a fear of a strong department is its possible capture by a single, doctrinaire trade philosophy, either protectionist or totally free trade in outlook. The broad international economic scope of DITI's mandate might enable it to disrupt or override current organizational checks and balances between competing policy interests. However, a DITI in the U.S. would not be comparable to the unitary policy control sometimes exercised abroad, such as by MITI in Japan. Potential counter-weights would still be present in the U.S. system through, for instance, the broader economic policy-making role of Treasury and the integration of domestic with international economic policy concerns in councils such as the Economic Policy Group. What DITI would seek to do is provide a stronger international spokesman and negotiator at the top, while integrating lower-level policy-making and implementation into a more identifiable and therefore presumably more effective and responsible organizational unit. It should be recognized, however that business should not expect a DITI necessarily to be a spokesman for business interests per se, but rather for general U.S. international economic policy interests which bring the broadest benefit to all economic sectors.

A third major objection to the DITI proposal concerns its feasibility. The current sentiment in the Executive Branch to a DITI proposal appears to range from hostility to cautious interest. Some key Administration figures have expressed initial opposition to a separate international economic department, while a few have suggested that the idea merits consideration in light of the seriousness of current international economic problems. It should be anticipated, however, that departments which would lose functions and personnel to DITI could constitute a major political obstacle to Administrative support for and final Congressional passage of such a bill.

Summary arguments.—The following summary outlines major pro and con arguments which generally are raised with regard to the proposal to create a new consolidated international trade and investment department, particularly as it related to U.S. business interests.

Con	*Pro*
1. Most problems stem from differences in the economic systems used by different countries, and U.S. government organizational changes won't affect such basic differences.	While not a cure-all, a strong Cabinet advocate would strengthen international economic interests in top Administration policy councils and help restrain agencies whose own particular interests may conflict with foreign economic policy goals.
2. Companies have learned to work with the status quo, using diverse contact points. Some may have no particular reason to be dissatisfied with the current structure.	All companies could benefit from less fragmented authority where resolution of U.S. policy problems requires identification of responsibility. Smaller companies especially would be better served by a "one-stop" integrated department than the current confused scattering of programs in many agencies.
3. Support for DITI would be supporting greater government intervention and control in the economy rather than opposing such a trend.	Government involvement is a fact which will not change, especially in the international area. It is better to try to improve government policy than to fight against any governmental role.

4. A better organized, coordinated government department could become a powerful opponent and seriously inhibit company operations.	An effective international trade department is necessary to pursue U.S. interests. For example, implementation of NTB agreements arising from GATT negotiations will require constant follow-up that fragmented agencies are unlikely to provide. In areas such as government procurement, industry needs U.S. government involvement to gain removal of foreign government restrictions.
5. On many international issues, competing interests need to be brought to a head in the White House for decision and could not be resolved by a new department.	A small White House council could handle particular policy issues requiring direct Presidential involvement, while maintaining the advocacy and operational integration functions of a new international economic department.
6. Individual personalities rather than government structure make the most practical differences in government action.	It would be easier to attract good people to lead a better organized, more powerful international economic department.
7. A new Department would inevitably mean more staff and governmental expenditures, adding new tax burdens without necessarily eliminating international economic functions in some of the currently involved agencies.	Costs could be constrained in a new department, especially through statutory limitations on staffing in other agencies where functions have been transferred to the new department.
8. A new Department is not politically saleable. It cuts across Congressional jurisdictions, would be opposed by agencies losing functions and does not have Administration support.	Now may be a good time to press for a new Department because of the public recognition given to the trade deficit and dollar problems abroad. Any reorganization proposal encounters Congressional jurisdiction difficulties, while the longer-range Administration position on the issue cannot be predicted.

Recommended changes to S. 377

We believe that the bottom line to this analysis regarding an International Trade and Investment Department proposal comes out clearly on the positive side. There is now better recognition of the serious international trade problems facing this country and a growing consensus that strong steps must be taken to help correct the continuing prospect of a large national trade deficit. Government reorganization is not a panacea, but it is a necessary step to complement other policy actions. It is NAM's position that the consolidation of current international trade and investment functions into one department is the best alternative approach to this problem. We support passage of the bill (S. 377), but we would like to suggest a few modifications to it.

The major change which we would recommend for S. 377 is the addition of a specific inter-agency coordination mechanism. It must be recognized that even with the formation of DITI, the State and Treasury Departments would still retain limited basic staffs to deal with major international economic issues, where their basic governmental role requires that they deal with foreign governments on questions related to such issues. Other agencies whose role is basically domestic also are involved in policy matters affecting business abroad. Some examples of such overlap are the Environmental Protection Agency, the Civil Aeronautics Board, the Nuclear Regulatory Commission, the Federal Trade Commission, the Federal Communications Commission, the Antitrust Division of the Justice Department, etc. An interagency policy coordination mechanism seems desirable to tie these agencies into the policy process, as well as to make certain that DITI takes into account the viewpoints of the mainline Departments of State, Treasury, Commerce, Labor, Agriculture, Energy and Defense.

The inter-agency coordination mechanism could have two levels. First, a coordinating body could be set up in DITI with standing committees in major issue areas such as international commodity policy, export promotion, trade and investment negotiations, etc. The regulations governing this inter-agency body should give clear policy leadership to DITI, whose staff would act as its Secretariat, thereby enabling the coordination mechanism to achieve better policy consistency and effective international negotiating leverage.

Some issues, of course, will ultimately need a focal point for White House decisions. This need seems most likely to arise where the issues involve particularly complex interrelationships between domestic and international economic policy and in regard to policy items with a high domestic or foreign political content. Therefore, the second coordination level should involve an international Trade and Investment Group (ITIG) created in the White House, with appropriate Cabinet-level membership, but chaired by the DITI Secretary. This Group, with a small staff to handle meeting mechanics and the preparation of papers for the President when necessary, would be designed to insure top-level inter-agency consideration of major policy issues with an over-all or government-wide focal point that can best be achieved at the White House.

Some issues obviously still would be susceptible to bureaucratic pulling and hauling, especially as to whether the decision-making body should be ITIG or the Economic Policy Group (EPG). However, such conflict probably would be unavoidable under any circumstances and the ITIG mechanism at least gives the DITI Secretary a better advocacy position and a higher degree of expertise regarding international economic concerns than currently exist in White House councils. In contrast to a CIEP-type alternative, the ITIG would not be expected to handle the broad range of mid-level inter-agency issue coordination (this function would be performed by the DITI-based mechanism). Thus, the narrower mandate of ITIG, focusing on only important issues unresolved at lower official levels, should allow sufficient attention to key issues without resort to a large White House staff. This approach also recognizes that active direct Presidential involvement is a factor which cannot be assumed on a continuing basis. Therefore, the Group's chairmanship is delegated to the DITI Secretary, allowing for discretionary Presidental participation as warranted, yet giving the Group Chairman more stature than if the position were held by a sub-Cabinet level appointee.

A second modification to the bill would be to incorporate the International Trade Commission (ITC) fully into the new department. The ITC could function in the same semi-autonomous manner as provided in the bill for Eximbank and OPIC. We recognize the legislative history behind a fully independent ITC, but we question if the rationale would be as valid in the light of a broad reorganization giving one Cabinet Secretary clear responsibility in the international trade area and specifying strong Congressional oversight authority of that department's work. We do not believe it necessary to retain some parts of the ITC's international trade functions in a fragmented manner outside of a consolidated departmental structure.

Finally, we suggest some further broadening and/or clarification of the proposed department's authority, specifically in the areas of trade adjustment assistance and foreign aid. A DITI should have overall responsibility for and authority over trade adjustment assistance policy. This change is especially desirable given the probable relationship of trade adjustment assistance programs to any final agreement on a multilateral safeguards code. Provision should be made, however, for a delegation of program implementation authority to other departments, if appropriate. For example, the Labor Department logically should administer the worker adjustment assistance programs, but DITI should have full authority over the program's policy aspects to assure that it fits within a coherent national trade policy. A good model for this approach is provided in the bill already, where DITI is given authority over international agreements on agriculture, but many Foreign Agriculture Service implementation functions are retained by the Agriculture Department. We believe that the agriculture and trade adjustment assistance programs are sufficiently specialized that they would benefit from administration within one of the other Departments, but DITI should have general international policy authority over both areas.

In regard to foreign aid, we suggest a limited role for DITI concerning the use of mixed credits. This is an area where the U.S. is being placed at a disadvantage by other governments which are able to offer a trade financing package with concessional aid components in it. Perhaps the best way to handle this issue in the bill would be to add in Section 4 a function specifying that DITI should coordinate the use of mixed credit arrangements until such time as some effective international harmonization standards on this practice are established.

Comments on other reorganization proposals

The preceding discussion has covered the benefits of consolidating the government's trade and investment functions and authorities into a Department of International Trade and Investment, as well as suggesting some possible improvements to S. 377. We believe that such a modified proposal represents the best reorganization option and urge its serious consideration by the Congress.

Sponsors of the other alternative reorganization proposals in the Senate and the House should be commended highly for recognizing the pressing need for trade reorganization. NAM's relative enthusiasm or lack thereof regarding these other options can be measured against the objectives of the preferred best alternative option outlined above.

Before closing, I would like to make a few comments specifically on the proposal outlined by the Administration two months ago. Many of the details of that proposal, of course, still are unclear and we will look forward to studying them closely as they are developed more fully. However, at least the following assessment can be made.

Administration proposal

The Adminstration's proposal recognizes many important problem areas and takes several steps toward their resolution. We would support elements of the proposal which consolidate some of the currently scattered trade functions. In particular, we support: (1) The consolidation into one office of negotiating authority over a broad range of international economic subjects; (2) upgrading of the commerce Department's sectoral analysis capability for trade expansion purposes; and (3) the transfers of most import relief and unfair trade response functions.

The Administration proposal, however, fails to go far enough in meeting the necessary objectives of reorganization. The proposal puts two agencies in charge of trade rather than consolidating all responsibilities in a single cabinet department. As a result, policy and implementation functions are split between a White House Trade Representative Office and the renamed Trade and Commerce Department. An even further division of authority occurs when Commerce trade responsibilities are delegated to an Under Secretary, thereby adding a new actor to the process and meaning that the Secretary will continue to be occupied by a variety of traditional non-trade matters.

Vitally important MTN follow-up responsibilities are also split between the Trade Representative and Commerce, so that the negotiators are separated organizationally from investigators, analysts and other staff support functions. The Trade Representative is given broader new negotiating responsibilities, but no additional staff to carry them out. Either these issues will not receive the attention they deserve, or else there will again be an awkward reliance on staff controlled by other organizations. One gets the impression that the reason for separating the trade personnel in this manner may have more to do with considerations regarding the size of the White House staff rather than economic or good management criteria. We believe that these trade areas are too important to artificially split policy and negotiations from analysis and implementation in this manner. Such a division will only be detrimental to the objectives of sustained, coherent international trade programs.

Several important policy areas also appear to be short-changed in the Adminstration's proposal. Export expansion is not given priority attention in the new organizational arrangement. International investment policy is fitted within a broadened agenda for the Trade Policy Committee, but no practical consolidation of authority or functions is accomplished. Even the transfer of overseas commercial officers to the Trade and Commerce Department is a partial measure, since it affects only those officers located in certain foreign countries.

In summary, we believe that the Administration's proposals falls short of the prompt, forceful action needed to address the country's urgent trade problems. In the end, trade authorities and functions still would be split unnecessarily. We need one strong trade policy leader, who has the full implementation resources of a unified cabinet department, including the negotiating authority to both "reward" and "punish." The Administration's proposal does not meet this standard and therefore is significantly weaker than S. 377.

CONCLUSION

Mr. Chairman, I would like to commend you along with your colleagues, for perceiving the urgent and serious task facing this country in the international marketplace, and for taking the initiative to begin steps aimed at meeting this challenge. Certainly a reorganization of governmental functions by itself is not a

complete answer to our problems, but it is a necessary if not fully sufficient step toward their solution.

Better national trade and investment policis are needed, but we will stand a better chance of achieving those policies with a forceful, full time international trade advocate at the department level than we do now when both authority and responsibility are spread throughout the government. Better implementation of policies also is needed, but again, effective implementation is more likely to come from a consolidated, integrated government trade department than from scattered agencies and offices which at times even seem to operate at odds with each other. NAM supports the consolidation of current government functions into a Department of International Trade and Investment.

Mr. VANIK. Thank you.

Mr. Frenzel.

Mr. FRENZEL. I have a single question with two parts. We will hear from a number of witnesses that there are some differences of opinion regarding the appropriate way to reorganize trade functions. The first question is, therefore, have you detected differences among business people and business groups? The next question is, do you think it is feasible to consider the organization suggestion by the President or by myself and Mr. Jones as a necessary first step toward the ultimate solution of a DITI or something comparable?

Mr. WEARLY. I believe, based upon talking to many business men personally, that if the question were posed to them, "How do you think would be the best way to reorganize?" I believe they will uniformly answer that it should be put in one department. I have talked to many people about this. I think they will say, "Now if you are asking what is politically possible, maybe that is not politically possible," but I believe underlying every statement would be one department is needed.

Now I would say to you, sir, that in the shape we are in today in international trade maybe we have to suppress political expediency in the interest of getting ourselves back in first class shape as a trading nation.

Mr. FRENZEL. I think that is a good statement and one in which I will concur. You will recall that we had an export task force last year, most of whose suggestions were rejected outright by the administration. I guess sometimes political expediency is better than political status quo, and we will do the best we can. We appreciate very much your testimony and your help in our deliberation.

Mr. VANIK. Next is the Chamber of Commerce of the United States, Irene W. Meister, chairman, subgroup on Government organization, export policy task force—vice president, international—American Paper Institute, and Howard Weisberg, director, international trade policy.

STATEMENT OF IRENE W. MEISTER, CHAIRMAN, SUBGROUP ON GOVERNMENT ORGANIZATION, EXPORT POLICY TASK FORCE, CHAMBER OF COMMERCE OF THE UNITED STATES

Mrs. MEISTER. I am Irene W. Meister, vice president, international, American Paper Institute, and member of the export policy task force of the Chamber of Commerce of the United States. I am also chairman of that task force's subgroup on Government organization which was established recently to amplify the chamber's posi-

tion on government reorganization for the conduct of international economic policy.

With me is Mr. Howard Weisberg, director of international trade policy for the national chamber. As you know, the chamber represents a membership of over 83,000 organizations ranging from small to large members.

The national chamber, Mr. Chairman, has a longstanding interest in government organization for the effective development and implementation of international economic policy. This committee knows well how supportive the chamber has been during the MTN and how actively it worked for the passage of the Trade Agreement Act of 1979. An important element of the post MTN era is the effective organizational framework within which the agreements are to be implemented and new trade policies developed, coordinated, and enforced. To realize the goal of trade expansion, the United States must first have a continuing commitment on the part of the President and the Congress to trade as a national priority and second a streamlined administration of international economic functions.

Our numerous trade problems are due in part to insufficient leadership toward a greater national export consciousness, to discouragement on the part of potential and current exporters caused by the lack of clear trade policies, and to the splintering of priorities within different departments of the Federal Government.

Because our trade with other countries has a major impact on the domestic economy, the scope of any meaningful reorganization of the trade-related functions should take into consideration the full range of international economic policy, together with its ramification for domestic policies and for overall foreign policy, instead of being limited to the management of export- and import-related problems per se.

Prior to the submission of a reorganization plan by the administration on July 23, the chamber advocated the establishment of the position of Assistant to the President for International Economic Policy—we called it IEPA for short—who would be responsible for the formulation, coordination, and, in certain limited and specific areas, implementation of international economic policy. This individual would work in tandem with a similarly designated person for domestic economic policy and with other cabinet members to insure a proper balance of U.S. domestic economic, international economic, and foreign policy objectives. He would function within an overall congressional and Presidential commitment to the importance of international economic policy and would have the primary responsibility for advising the President in this area. The chamber testified on this particular point before the Senate Government Affairs Committee on July 26.

As in the case of the STR, who is presently accountable to the President and Congress, the IEPA would be similarly accountable. Thus, an important element of congressional oversight over trade would be retained. In our written statement, Mr. Chairman, we spell out specific areas of responsibility which IEPA should have.

We have developed a list of 10 objectives that should be met for an effective trade reorganization, and we evaluated the various

reorganization proposals within that framework. I would like to list these 10 criteria.

One, there must be effective coordination between domestic and international economic policy and between international economic policy and foreign diplomatic policy.

Two, the trade administering bodies must have the strong confidence of, and be receptive to, inputs from the private sector—including industry, agriculture, labor, and consumers.

Three, the bodies administering trade activites must have the ability to attract first-rate people.

Four, follow-up to the MTN agreements must be vigorous and timely, requiring a strongly motivated, permanent, and professional negotiating cadre.

Five, the heads of the bodies administering trade activities must be directed to upgrade trade issues to higher levels of decision-making authority and to commit the resources that are essential to policy implementation.

Six, in the development of trade policy, balance must be maintained between export and import interests.

Seven, policy development and administration must deal comprehensively with all segments of international economic policy, including, but not limited to: trade expansion; international investment; monetary and foreign aid activities as they relate to trade; service sector trade; export finance; energy trade; trade regulation; trade-related taxes; and the extraterritorial reach of U.S. trade laws.

Eight, trade policy should reflect long-term strategic planning as well as responses to current conditions.

Nine, international trade requires a strong, broadly-based export finance and credit institution to meet effectively the competitive conditions faced by U.S. exporters.

Ten, the role of the private sector advisory committees, established to enhance the knowledge of the U.S. negotiators in the MTN, should be continued and expanded into the formulation of trade policy.

To meet these criteria, substantial changes will be required in all departments and agencies with responsibility for international economic policy.

We evaluated the Administration's proposal of July 23 in terms of the chamber's 10 criteria just outlined. In principle, we support the administration's initiative and are especially pleased with the expanded roles of the U.S. Trade Representative and the Trade Policy Committee as a promising step in the direction of the chamber's recommendations. We still have several serious reservations, however, about the plan caused, to a considerable degree by the fact that the plan in its outline form lacks specifics for defining: (*a*) the mechanics of coordination between trade and international monetary and investment policies; and (*b*) the details on reorganization of the enhanced STR and the Commerce Department.

Within the framework of the chamber's 10 reorganization criteria, we would like to make the following additional observations and recommendations with respect to the administration's proposal:

One, we recommend that a greater emphasis be placed on the development of policies, as a key function of the Trade Representative. In this role of policy development, close collaboration with the chief domestic economic policy formulator is essential, as well as with the Department of State which has the overall responsibility for U.S foreign policy. Along with the Trade Representative's permanent negotiating functions should go a permanent, professional negotiating cadre.

Two, the administration's plan should make it clearer that the Trade Representative, in his role as chairman of the Trade Policy Committee, would be responsible for seeing that trade policy reflects long-term planning.

Three, the proposed Trade Policy Committee could be an effective instrument for maintaining a balance between the export-oriented and import-impacted industries, but greater emphasis should be placed on the need for cooperation and clearly defined relationships among agencies involved in international economic policy.

Four, because the Commerce Department has responsibilities for both domestic and foreign commerce, the enhancement of its trade role is consistent with the need for coordination between domestic and international ecomomic policy. On the other hand, the administration needs to demonstrate that along with the transfer of additional responsibilities to Commerce goes a commitment, as well as ability on the part of the Department, to be fully responsive to the needs of U.S. industry. The mere changing of the Department's name and the broadening of its jurisdiction is insufficient.

Five, upgrading the quality of the staffs of all agencies concerned with trade and international investment is essential. A new mechanism to achieve this goal should be clearly spelled out in the administration proposal. The most effective structural changes in the trade bureaucracy will be abated by substandard staffing. The Commerce Department has a history of problems in this area.

Six, the Secretary of Trade and Commerce has many responsibilities in areas unrelated to trade which diminish the Secretary's attention to the trade matters. Although the administration's proposal attempts to remedy this situation by the establishment of the post of Under Secretary of Trade, there is still a need for emphasizing a clear commitment on the part of the Secretary of Trade and Commerce to trade objectives.

Seven, given the present effectiveness of the Export-Import Bank, leaving this function largely unchanged, we believe, is a wise decision. The designation of the Secretary of Trade and Commerce as an ex officio nonvoting member of the Eximbank Board should provide a degree of policy coordination between export promotion and financing. We do wonder, however, if there should not be some kind of "dotted-line" relationship to the Trade Representative for policy issues. The administration proposal also fails to provide the link to the other trade-related financial institutions.

Eight, the administration plan fails to mention a specific mechanism to assure continued and timely input from the private sector. The chamber recommends that the role of the private advisory committees established by the Trade Act of 1974, and reconfirmed by the Trade Act of 1979, be expanded through the reorganization

plan to include input toward policy formulation for trade and international investment. We also recommend that there be clear access on the part of the advisory committees both to the Commerce Department and to the Office of Trade Representative.

Nine, we emphasize that the success of the new undertaking will depend upon the cooperation among agencies, which can only be enforced by the President. It is essential that the clearest of mechanisms be established for a continuing consultation at the top as well as at the working level among the Office of Trade Representative and other involved cabinet departments.

In conclusion, Mr Chairman, the fact that the national chamber's remarks have focused exclusively on the administration's plan does not mean that we do not find merit in some of the legislative proposals for trade reorganization. We feel strongly, however, that the reorganization authority granted the President is a politically more feasible approach than the legislative route. Therefore, we urge that the administration, the Congress, and the private sector work together to develop a mutually satisfactory plan. We would rather have this process take a few extra months than end up with a trade reorganization shaped more by politics than by trade realities.

If the United States is to obtain maximum benefits from the MTN, so vital toward redressing our serious international payment situation, effective coordination and administration of our international economic policies should indeed be a top national priority. Congressional participation in the reorganization process is essential, and we commend the House Trade Subcommittee for taking the necessary initiative.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF THE CHAMBER OF COMMERCE OF THE UNITED STATES

I am Irene W. Meister, Vice President, International, of the American Paper Institute and a member of the Export Policy Task Force of the Chamber of Commerce of the United States. I am also chairman of that Task Force's Subgroup on Government Organization which was established recently to amplify the Chamber's position on government reorganization for the conduct of international economic policy. With me is Howard Weisberg, Director of International Trade Policy for the National Chamber. The Chamber represents a membership of over 83,000 small, medium, and large businesses, 1,270 trade associations, and over 2,600 state and local chambers of commerce.

The National Chamber supports, in principle, the Administration's reorganization proposal, but we have reservations which I will detail shortly. I will also offer recommendations pertinent to the Administration's proposal.

BACKGROUND

The Chamber of Commerce of the United States has a longstanding interest in government organization for the effective development and implementation of international economic policy. We have participated in many of the congressional and executive branch considerations of the subject since the days of the Reciprocal Trade Agreements Act of 1934. More recently, in 1974 the National Chamber appointed a working group to develop recommendations for organizational changes in the context of the ongoing Commission on the Organization of the Government for the Conduct of Foreign Policy. Its conclusions, though made in reference to the now defunct Council on International Economic Policy, were substantially in line with those we are presenting today.

The Chamber vigorously supported approval of the Tokyo Round of the multilateral trade negotiations (MTN) as an essential step toward a freer world trading environment in which the U.S. economy can prosper. The National Chamber also

has been active in the development of the MTN implementing legislation and worked for the passage of the Trade Agreements Act of 1979.

The signing of the MTN agreements and the passage of the implementing legislation, however, are only the beginning of a new trade era—one which will require different tools and fresh approaches in international economic policy. We agree with Ambassador Robert Strauss that without effective implementation, the MTN agreements would be worth very little. An important element of the post-MTN era will be the effective organizational framework within which the agreements are to be implemented and new trade policies developed, coordinated and enforced. Presently, there are too many voices, often unorchestrated, dealing with international economic policy for this country. This situation is not conducive to optimizing our trade performance.

The Carter Administration has raised export expansion to a national priority level and, by its growing legislative efforts in the trade area, it is clear that Congress feels a sense of urgency on trade issues. To realize the goal of trade expansion, the United States must have: (a) continued commitment to trade as a national priority on the part of the President and the Congress; and (b) a streamlined administration of international economic functions. The latter, in turn, requires a strong policy development and coordinating body for international economic policy, whose head would have direct access to the President and a link to the Congress.

Our trade deficit, currently well in excess of $30 billion for each of the past two years, and the drop in the U.S. share of world exports to 12 percent from 21 percent in 1957 are illustrative of the decline in U.S. trade performance. These problems are due in part to insufficient leadership toward a greater national export consciousness, to discouragement on the part of potential and current exporters caused by the lack of clear trade policies, and the splintering of priorities within different departments of the federal government. To overcome these shortcomings, a reorganization of the government's international trade policy machinery is a necessary first step.

The underlying principle behind any reorganization effort must be a recognition that international trade is an integral part of both overall economic policy and foreign deplomatic policy and cannot be viewed in a vacuum. Just as the world has become more economically interdependent, so has our domestic economy become significantly affected by our trade with other countries. The positive multiplier effect of exports on the domestic economy is often overlooked or underestimated Successful international economic policy must evolve within a framework that takes fully into account the impact on the domestic economy of present and future import and export flows. In addition, the fact that trade is international brings it within the realm of foreign policy.

It follows, therefore, that the scope of any meaningful reorganization of the trade-related functions of government should take into consideration the full range of international economic policy, together with its ramifications for domestic policies and for overall foreign policy, instead of being limited to the management of export and import-related programs per se.

ASSISTANT TO THE PRESIDENT FOR INTERNATIONAL ECONOMIC POLICY

Prior to the submission of a reorganization plan by the Administration on July 23, 1979, the Chamber of Commerce of the United States advocated the immediate establishment of the position of Assistant to the President for International Economic Policy (IEPA), who would be responsible for the formulation, coordination and, in certain limited and specified areas, implementation of international economic policy. This individual would work in tandem with a similarly designated person for domestic economic policy and with the Secretary of State to ensure a proper balance of U.S. domestic economic, international economic and foreign policy interests. He would function within an overall congressional and presidential commitment to the importance of international economic policy and would have the primary responsibility for advising the President in this area. The National Chamber testified on this point before the Senate Governmental Affairs Committee on July 26.

The establishment of an IEPA position could be handled within the existing framework of the position of the Special Trade Representative (STR), but it should be of a higher order than was originally conceived in the Trade Act of 1974. As in the case of the STR, who is presently accountable to both the President and the Congress under the Trade Act of 1974, the IEPA Would be similarly accountable. Thus, an important element of congressional oversight would be retained.

The IEPA should be responsible for policy development and coordination in such areas as: East-West trade; North-South trade (commodities); energy trade; trade

regulation; export finance; trade expansion; trade-related taxes; international investment; service sector trade; science and technology transfer; and monetary and foreign aid activities as they relate to trade and investment. We recommended that input from all of the relevant agencies be coordinated through IEPA chairmanship of a cabinet-level international economic policy committee.

The IEPA also should be responsible for the negotiation and implementation of all multilateral and bilateral trade negotiations. He must have a highly qualified analytical and negotiating staff to carry out his functions.

The Administration proposal concerning the new role of the U.S. Trade Representative appears to be a promising step in the direction of the National chamber's recommendation. We strongly support this aspect of the proposal, but recommend that greater emphasis be placed on the development of policies as a key function of the Trade Representative. In this role of policy development, close collaboration with the chief domestic economic policy formulator is essential, as well as with the Department of State which has the overall responsibility for U.S. foreign policy. We also recommend that the Trade Representative's responsibilities be defined to cover international economic policy, rather than just trade.

OBJECTIVES FOR AN EFFECTIVE REORGANIZATION

Th following list of ten objectives that should be met for an effective trade reorganization were developed by the National Chamber to evaluate the various reorganization proposals:

(1) There must be effective coordination between domestic and international economic policy and between international economic policy and foreign diplomatic policy.

(2) The trade administering bodies must have the strong confidence of, and be receptive to inputs from, the private sector—including industry, agriculture, labor and consumers.

(3) The bodies administering trade activities must have the ability to attract first-rate people.

(4) Follow-up to the MTN agreements, as well as to ongoing multilateral and future bilateral and multilateral negotiations, must be timely and vigorous, requiring a strongly motivated, permanent and professional negotiating cadre.

(5) The heads of the bodies administering trade activities must be directed to upgrade trade issues to higher levels of decision-making authority and to commit the resources that are essential to policy implementation.

(6) In the development of trade policy, balance must be maintained between export and import interests.

(7) Policy development and administration must deal comprehensively with all segments of international economic policy, including, but not limited to: trade expansion; international investment; monetary and foreign aid activities as they relate to trade; service sector trade; export finance; energy trade; trade regulation; trade-related taxes; and the extraterritorial reach of U.S. trade laws.

(8) Trade policy should reflect long-term strategic planning as well as responses to current conditions.

(9) International trade requires a strong, broadly-based export finance and credit institution to meet effectively the competitive conditions faced by U.S. exporters.

(10) The role of the private sector advisory committees, established to enhance the knowledge of the U.S. negotiators in the MTN, should be continued and expanded into the formulation of trade policy.

To meet these criteria, substantial changes will be required in all departments and agencies with responsibility for international economic policy.

THE ADMINISTRATION PROPOSAL

We evaluated the Administration's proposal of July 23 in terms of the National Chamber's ten criteria just outlined. In principle, we support the proposal and are especially pleased with the expanded roles of the U.S. Trade Representatives and the Trade Policy Committee. We still have certain reservations about the plan, however, caused to a considerable degree by the fact that the plan in its outline form lacks specifics for defining: (1) The mechanics of coordination between trade and international monetary and investment policies; and (2) The details on reorganization of the enhanced Commerce Department.

Within the framework of the National Chamber's ten reorganization criteria, we would like to make the following additional observations and recommendations with respect to the administration's proposal:

(1) Because the Commerce Department has responsibilities for both domestic and foreign commerce, the enhancement of its trade role is consistent with the need for coordination between domestic and international economic policy. On the other hand, the Administration needs to demonstrate that along with the transfer of additional responsibilities to Commerce goes a commitment on the part of that department to be fully responsive to the needs of U.S. industry. The mere changing of a department's name and the broadening of its jurisdiction is insufficient.

(2) Upgrading the quality of the staffs of all agencies concerned with trade and international investment is essential. A new mechanism to achieve this goal should be clearly spelled out in the Administration's proposal. The most effective structural changes in the trade bureaucracy will be abated by substandard staffing. The Commerce Department has a history of problems in this area.

(3) Along with the Trade Representative's permanent negotiating functions should go a permanent, professional negotiating cadre.

(4) The Secretary of Trade and Commerce has many responsibilities in areas unrelated to trade which diminishes the Secretary's attention to trade matters. Although the Administration's proposal attempts to remedy this situation by the establishment of the post of Undersecretary for Trade, there is still a need for emphasizing a clear commitment on the part of the Secretary of Trade and Commerce to trade objectives.

(5) An underlying objective of the reorganization plan should be a commitment to a balance between export and import interests. The proposed Trade Policy Committee could be an effective instrument for maintaining this balance. The need for cooperation and clearly defined relationships among agencies involved in international economic policy should be emphasized.

(6) The Administration's plan should make it clearer that the Trade Representative, in his role as chairman of the Trade Policy Committee, would be responsible for seeing that trade policy reflects long-term planning in addition to response to current conditions.

(7) Given the present effectiveness of the Export-Import Bank (Exim), leaving this function largely unchanged is a wise decision. The designation of the Secretary of Trade and Commerce as an ex officio nonvoting member of the Eximbank board should provide a degree of policy coordination between export promotion and financing. We do wonder, however, if there should not also be some kind of "dotted-line relationship" to the Trade Representative for policy issues. The Administration proposal is also lacking to the extent that it fails to provide for the other trade-related financial institutions.

(8) The Administration's plan fails to mention a mechanism to assure continued and timely input from the private sector. The value of private sector input in trade negotiations and policy formation has been demonstrated during the multilateral trade negotiations (MTN). The National Chamber recommends that the role of the private sector advisory committees established by the Trade Act of 1974 for the MTN, and reconfirmed by the Trade Act of 1979, be expanded through the reorganization plan to include input toward policy formation for trade and international investment.

(9) The success of the new undertaking will depend upon the cooperation among agencies, which can only be enforced by the President. It is essential that the clearest of mechanisms be established for a continuing consultation at the top as well as the working level among the Office of the Trade Representative and the Departments of Commerce and State.

CONCLUSION

The fact that the National Chamber's remarks have focused exclusively on the Administration's plan does not mean that we do not find merit in some of the legislative proposals for trade reorganization. We feel strongly, however, that the reorganization authority granted the President is a politically-more-feasible approach than the legislative route. Legislative proposals are likely to be delayed by conflicting committee jurisdictions. Therefore, we urge the Administration, the Congress and the private sector to work together to develop a mutually satisfactory plan. We would rather have this process take a few extra months than end up with a trade reorganization shaped more by politics than by trade realities.

The United States attained substantial improvements in the international trading environment through the multilateral trade negotiations and congressional participation in the trade negotiation process has been an important ingredient in the successful outcome. If the United States is to obtain maximum benefits from the MTN, so vital toward redressing our serious international payments situation, effective coordination and administration of our international economic policies should

be a top priority. Congressional participation in the reorganization process is essential, and we commend the House Trade Subcommittee for taking the necessary initiative.

Mr. GIBBONS [presiding]. Thank you, Ms. Meister. It is a pleasure to see you back. I know you have been busy with these negotiations and I know the effective role that you played in the leadership that led to all of this.

As I understand it, you would like a stronger program than apparently the administration is putting forward. one that has more centralized authority and more clout, but you say that the political realities and the necessity for taking action would lead you to support their plan if their plan measures up to your expectations. Am I correct in that?

Ms. MEISTER. We feel, Mr. Chairman, that with the specific recommendations that we have made in our testimony the most important thing is the policy part of the plan. Mere shifting of responsibilities within the departments is not going to solve the problem, and, therefore, the chamber concentrated most of its attention on the development of recommendations for an effective policymaking body. This is what we are emphasizing in our proposal.

Mr. GIBBONS. Now one of the things that struck me about the present STR office is that they had to operate with a lot of borrowed personnel from the different agencies. It is my personal belief that you don't get the kind of policy—I started to call it loyalty but that sometimes can be misconstrued. The borrowed personnel obviously recognize the fact of life that eventually they are going back to their mother agency and they are going to feel some very close kinship to that and to some extent reflect the views of their future boss or the future agency that they will have to work with. Now am I wrong in that approach to them in this problem?

Ms. MEISTER. Well, Mr. Chairman, it would be impossible for us to say that you are wrong, since one of our recommendations specifically stresses the point that there must be a permanent body of experienced professionals working in the new Office of the Trade Representative. We consider proper staffing an indispensable ingredient for that office if it is to be responsible for policy formulation. We totally support your position on that.

Mr. GIBBONS. Now how do you believe that the new enhanced STR, we will call it, is going to be able with the small 54 person staff that he has now, a questionable sized staff—how can he really get the cooperation of these other agencies and the action of the other agencies?

Ms. MEISTER. Well, Mr. Chairman, first of all, we didn't focus on the specific number of people. But since the Trade Representative's Office will have assigned to it new responsibilities by the present proposal, obviously they will have to increase the key senior professional staff. The job could not be done with the borrowed staff, or their problems will continue.

The question of coordinating, of course, will depend on how seriously that point is taken by the chief executive, the President. If he will lend his full support to the need for coordinating the international trade function, then the Trade Representative will have this

major tool available to him. Under our recommendation, he will be responsible to both the President and the Congress. Success will depend on the President's making trade enhancement a true national priority. This is essential.

Mr. GIBBONS. One of the things that I have observed is that in these high-level cabinet positions that really the cabinet members do not attend the meetings most of the time and they delegate that responsibility to some subordinate and that subordinate goes there and that subordinate really can't make a decision. He has got to take that back to his boss and the boss will finally make the decision, maybe, and it won't be based upon the group dynamics of the meeting but it will be based upon a series of memorandums that are finally read and digested and to some extent understood. I am afraid that there just will not be the kind of follow through, the team spirit, that we need at the trade level if we follow the proposal that has so far been put forward by the President. Now I would like to have your comment on that.

Ms. MEISTER. Mr. Chairman, again I fall back on the point that if the administration is serious in giving real attention to that policy of coordinating, then the boss, the President, will have to see to it that the responsibilities are not delegated in the policymaking function down the line and that the new STR has sufficient clout through his link to the White House to enforce attendance by the relevant cabinet members when matters of national importance are being discussed. This is the only way that coordination can be achieved. I don't know whether any other form of organization would improve that particular method of operation because, regardless of what the format is, cooperation of other agencies will be totally essential no matter how you look at it. I don't know that you can resolve it except through a total commitment on the part of the President.

Mr. GIBBONS. Well, you know, I will tell a story out of school now and I hope that former President Johnson will forgive me for doing this but I think it illustrates a point and it is one that was burned into my mind indelibly. I was in a conversation one day with him and some of his subordinates and it was not a matter that I was particularly interested in but it was obvious that the President was interested in it and he just bore right in. He said to the person involved, how many times have I got to ask you or tell you to get something done? You know, he said, I had this problem with you and I have it with all the rest of the bureaucracy and I don't know why I have so much trouble.

I don't know of any President who was any more determined than Lyndon Johnson and knew how to make people jump than Lyndon Johnson. Really, when you hear that from a man with the awesome powers that he had and the personnel he had—and it was not a civil service person who was involved. It could have been a person in a department—to express the frustration he did in getting them to move and get action out of them.

I am afraid that the STR office had a unique personality involved in Bob Strauss. I have seen other STRs and they could not get the ball rolling. Maybe it was just coming together with a lot of portions in history that made it possible for Bob Strauss to get it rolling, but—looking down the road, giving a man a gavel and

giving him access to the President is not particularly going to get the job done when he has got to coordinate these particular functions. I recognize that politically it is going to be better to let them go through the Presidential reorganization process and the legislative process. But as so many people have said we are in such dire shape as far as international trade is concerned we have got to do some very dramatic and some very determined things. I just hope this new enhanced STR that we have does not end up with a gavel and a pen and not much other power than that, because I am very skeptical that he is going to be able to deal with even under secretaries and get much accomplished when it comes to coordinating.

Mr. Frenzel.

Mr. FRENZEL. I want to thank the witness, too. She has been one of our most trusted and valued advisors over the years. We do appreciate your help.

I think what you have done, however, is to point out how impossible our chore is. I think you have set standards that are much too high for us to achieve, just as the previous witness did. We are going to do our best, and we are going to hope to make some improvements, but we are not going to scale Mount Everest in this adventure. I hope the private sector does not believe that we have that capability.

I am amused at your specification that we need to have a permanent professional negotiating cadre, look at what happened to our present STR. Strauss was promoted to the White House. Alan Wolff went into private life. Dick Rivers, who testified before us this morning, is moving on to private practice. We pay the chief executives of corporations that annually lose millions of dollars more in bonuses than we pay the people who are supposed to negotiate complicated international agreements for us.

I think you have asked an awful lot. We are going to do our best. We will try to measure up to some of your aspirations but don't hold it against us if we don't quite make it.

Thank you very much.

Ms. MEISTER. Thank you.

Mr. GIBBONS. Thank you so much.

Our next witness is Mr. Robert L. McNeill, executive vice chairman of the Emergency Committee for American Trade.

Mr. McNeill comes to us with a rich background in trade, having served with distinction during the earlier negotiations in GATT.

Mr. McNeill, you may proceed as you wish.

STATEMENT OF ROBERT L. McNEILL, EXECUTIVE VICE CHAIRMAN, EMERGENCY COMMITTEE FOR AMERICAN TRADE

Mr. MCNEILL. Mr. Chairman and members of the committee, I am pleased to be with you today to present a statement just adopted by the members of the Emergency Committee for American Trade on government trade reorganization. The statement is as follows:

The members of the Emergency Committee for American Trade welcome President Carter's recent proposals for reorganization and strengthening of the Federal Government's international trade functions. We have examined them and we support them as neces-

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sary steps to help insure effective implementation of the international trading rights and obligations of the United States.

While a number of ECAT's members would have preferred greater consolidation of the Government's international commercial functions than that proposed by the President, we feel that a sound first step has been recommended and that it provides the organizational nucleus for future improvements.

We should like to offer two recommendations. First, we are particularly concerned that the responsibility for centralized development of international commercial policy appears to be slighted in the President's proposal. It would assign coordination and negotiation responsibilities to the U.S. Trade Representative and operational and implementational support responsibilities to a newly constituted Department of Trade and Commerce. Other agencies would continue their appropriate trade responsibilities. Our recommendation would be to give the U.S. Trade Representative clear responsibility for policy formulations and further responsibility for its implementation, including oversight responsibility for regulations as they affect international trade to insure their consistency with our GATT and other international trade commitments. This necessarily would provide the Trade Representative with authority for the policy content of some programs primarily administered by other departments and agencies, but we believe this necessary for the conduct of sound commercial policies.

Mr. GIBBONS. Excuse me, I have to go vote.

[Whereupon, a short recess was taken.]

Mr. GIBBONS. The hearing will resume.

Mr. MCNEILL. Second, we strongly support President Carter's proposal that responsibility for coordinating international investment policy be placed under the newly constituted Trade Policy Committee and recommend that U.S. tax policy and other policies such as antitrust that relate to international business explicitly be included. The international competitiveness of American industry is vitally affected by such policies.

The proposals of the Carter administration, for example, to eliminate DISC, the foreign tax deferral provisions and to modify the foreign tax credit would severely harm the competitiveness of U.S. industry with consequent damage to domestic employment and to the U.S. balance of payments. And yet, these proposals are made at the same time that the President exhorts American industry to increase its exports. This kind of policy inconsistency could be detected, discussed and possibly avoided under effective Trade Policy Committee coordination and supervision.

In light of the proposed new responsibilities of the U.S. Trade Representative, we would hope that the President would include him as a key member of the administration's top economic advsory team.

We further hope that Congress will act expeditiously on trade reorganization proposals.

Most members of the ECAT task force that recommended the above statement to our general membership were skeptical about creation of a new cabinet trade department for a variety of reasons. Among them was the belief that functions taken from existing departments and transferred to a new one would soon be

replicated in the department from which taken, since each of them has a valid departmental interest in foreign trade. On the other hand, all members felt a need for an improved government structure to monitor and enforce U.S. rights and obligations under the new international trade codes, to develop and effectively coordinate consistent U.S. trade and investment policies, and otherwise to assist and promote U.S. exports.

The President's July 19, 1979, reorganization proposal poses a host of organizational and program questions. We look forward to seeing the details.

Thank you, Mr. Chairman.

Mr. GIBBONS. I agree we cannot decide on how to vote until we look at the details of it.

That has been the reason for some of my questions today, to try to pin down just what is going to be the role and scope of the job of this new enhanced STR that we have. Like you, I feel that we are going to have to have a very close coordinating of not only our tax policy and our antitrust policy—and by the way I think our antitrust policy is obsolete as far as it applies to foreign trade and I believe that our business interest should be allowed to get together overseas as long as it does not adversely impact upon our domestic competitiveness and so I generally support what you have to say there.

I think practically speaking it would take the Congress a long time to pass a bill and probably we may not come out with as good a bill as the President is going to put forward and so I am hoping that his proposal will at least meet my minimum specifications. You may comment on that if you wish. We are certainly glad to have had you here today. I know of your deep interest and long time expertise in this matter.

Mr. MCNEILL. Thank you very much, sir. I am in full agreement with what you said and I have nothing further to state.

Mr. GIBBONS. Thank you sir.

Our next witness will be the U.S. Council of the International Chamber of Commerce, Mr. William Walker, a longtime friend of ours who will be here to speak for the international chamber.

STATEMENT OF WILLIAM N. WALKER, VICE CHAIRMAN, COMMERCIAL POLICY COMMITTEE, U.S. COUNCIL OF THE INTERNATIONAL CHAMBER OF COMMERCE

Mr. WALKER. Thank you, Mr. Chairman. It is a great pleasure for me to be back before the Trade Subcommittee.

Let me introduce myself for the record. I am William N. Walker. I am a partner in a New York City law firm and appear this afternoon in my capacity as vice chairman for commercial policy of the U.S. Council of the International Chamber of Commerce.

I have a prepared statement which I will submit for the record, Mr. Chairman.

Mr. VANIK. It will be admitted and you may proceed as you wish.

Mr. WALKER. I won't burden you and the committee with a recitation of all my points but let me take as a point of departure a number of the questions that you have raised during the course of the morning, Mr. Chairman, because I think they tend to point at the specific problems which we see with the administration's pro-

posal. While we share the general consensus that reorganization is necessary, we have some concerns about the proposal that has been made.

During the course of the morning you asked of one witness how it was that Bob Strauss was able to pull off the success that he did pull off with the MTN. To be sure, as you pointed out, Bob Strauss is a flamboyant personality and his personal capabilites played an important role but I would suggest there are institutional arrangements that made it possible for those qualities to bring about the results that they did and in fact I would say that these same institutional characteristics enabled Fred Dent in the Ford administration to administer the MTN in a coherent and a nondisorganized way. In fact I would argue, really, Mr. Chairman, that the STR's role in administering the MTN represents itself the only area of U.S. trade policy which has in recent years been conducted in a coherent and responsible way and that has an institutional base which I would describe as follows.

First, that the STR has the designated statutory responsibility for coordinating diverse views. That authority really extended only to the MTN. We are now talking about including in the STR a whole range of other activities and it seems to me crucial that the reorganization plan make it plain that the STR has a single sole responsibility for these trade policy issues that fall within his jurisdiction and that in my view is the first weakness of the administration proposal. I believe also the proposal advanced by Mr. Jones and Mr Frenzel dilutes responsibility among the STR. the Secretary of Commerce and the Undersecretary of Commerce and that to the extent that there is an overlap and a confusion of roles as there inevitably will be with that kind of separation then it seems to me that one of the prime objectives of the reorganization is undermined.

Second, having in addition to the responsibility for coordinating the views of the various governments acting through the trade policy staff committee and the trade policy review group and so on, the STR then had the authority to implement that policy so that policy formulation and implementation were married, not separated. The STR had the responsibility for conducting the negotiations in Geneva acting through a deputy STR that carried out the instructions developed through the interagency process and there was no way to end run the system.

More than that there was an important element of public accountability. The Congress and private interest groups and members of the public all knew where the responsibility lay, it lay with the STR, and that also I think is important in terms of the dealings with foreign governments and they knew that they had to deal with the STR and had a much more difficult time in going around to other agencies in Washington, as they of course do, to "end run" the system from their standpoint.

So the second drawback that we see in the administration proposal and in the Jones/Frenzel approach is separating policy from implementation. In my view, Mr. Chairman, that is a very serious flaw and the most serious flaw because if STR is to be given the additional responsibilities that are contemplated really by all of the proposals and expansion of its role which we support, it clearly

needs more people to be able to do that job. Otherwise, if it does not have the additional people, it is going to be forced to delegate responsibility to other agencies, it will be forced to rely upon borrowed employees, and the opportunities will be ripe for end running the system and for a breakdown in the interagency coordinating process and we will be right back with the kind of diffusion and confusion of roles which led to the desire for reorganization in the first place.

So I would argue that if you have got the expanded policy responsibility you need the added implementation authority which in turn means more people. Inevitably if the STR is located in the Executive Office of the President, there is going to be pressure for a whole variety of reasons to hold down the number of people and we have seen that in the testimony this morning. I had hoped, Mr. Chairman, that you might be able to point down OMB a bit more as to how many people they are going to be able to make available to STR. The number of 60 or fewer that was contained in their proposal strikes me as hopelessly unrealistic and even twice that many strikes me as being inadequate.

So having followed this analysis I go along with the approach that 4,995 would create STR as a separate agency within the executive branch but no longer in the Executive Office of the President. I would have to say to you in all candor that there is some difference of view on this within the council but there are a number of us who feel very strongly with the notion that being a part of the Executive Office of the President confers additional access and authority upon the STR is greatly exaggerated, that the mystique of being a part of the Executive Office of the President is vastly overrated in my view.

What is necessary is for the individual who has the responsibility to have the statutory authority and the staff capability to carry on the job. Obviously anyone who has this responsibility is going to naturally have that stature in part because of the statutory authority that he wields but the point is that the special trade agency as the Gillis-Long bill would characterize it could then have a critical mass of—he proposes 400 bodies and that strikes us as a reasonable figure to carry on the extensive responsibilities that are charged with developing policy forms so that you would have this marriage that I have spoken of as of policy responsibility and implementation.

Finally, I have the view that it would be desirable to include within that special trade agency the responsibility for administering the antidumping and countervailing duty status. Congressman Downey earlier today was inquiring about that and to be sure an argument can be made that separating enforcement from administration makes sense. I think it is correct when Congressman Downey suggested that inevitably the decisions that are rendered in antidumping and countervailing phases are political; that is to say, the most important of them have very serious diplomatic ramifications that simply can't be ignored. They figure prominently in bilateral and multilateral discussions which the Government has. The Government's ability to deal with the problems that are raised by these two proceedings ought to be dealt with by the same

individual who has the responsibility for formulating and carrying out U.S. trade policy.

If you will indulge me, let me cite two examples to you of reasons why I think putting that responsibility in the STR makes sense. You may recall that in I believe it was November 1975 the Treasury Department terminated and dismissed a major dumping action that had been brought concerning imported automobiles into the United States. It had been a source of considerable concern to the Japanese and to the Europeans and they were actively seeking action by the U.S. Government to terminate those proceedings.

Well, in fact the Treasury Department did so but there was no active consultation with the STR's office and therefore even though the decision was one which could have brought forth a concession or a series of concessions from the Europeans and the Japanese, the left hand and right hand didn't know what they were doing and so the advantage was lost. In the same vein I would argue that the ability of the U.S. Government to obtain a better deal in the orderly marketing agreement with Japan on TVs would have been enhanced would they have been able to make certain commitments with respect to the handling of the antidumping group proceeding which is now pending against the Japanese TV producers.

In summary, Mr. Chairman, we support the organization which would enhance the role of the STR, but would insure that the STR has the prime responsibility for carrying on trade policy, and that it be coupled with substantial implementation authority. That, in turn, means, in our view, that it needs to be outside the Executive Office of the President to eliminate the artificial ceiling on staffing which results.

[The prepared statement follows:]

STATEMENT OF WILLIAM N. WALKER, VICE CHAIRMAN, COMMERCIAL POLICY COMMITTEE, U.S. COUNCIL OF THE INTERNATIONAL CHAMBER OF COMMERCE

Mr. Chairman, Members of the Subcommittee, I appreciate this opportunity to appear and to present views concerning the subject of trade reorganization. My name is William N. Walker. I am a partner in a New York City law firm and specialize in international trade matters. I appear before this committee in my capacity as vice chairman of the commercial policy committee of the U.S. Council of the International Chamber of Commerce to present the views of the U.S. Council to the subcommittee. I was Deputy Special Representative for trade negotiations from June 1975 through the end of May 1977 and in that capacity served as Ambassador and Head of the United States Delegation to the Tokyo Round of Multilateral Trade Negotiations in Geneva.

U.S. Council shares the widely held view that reorganization of the responsibilities for dealing with trade issues in the U.S. Government is both timely and important. These responsibilities are fragmented among too many agencies and there is no central authority for coordinating and resolving different views on trade policy issues. It is important that these shortcomings be remedied, first because international trade is an increasingly important element in the U.S. economy and second, because implementation and enforcement of the agreements negotiated in the Tokyo Round will require fast and effective action on the part of the U.S. Government if the potential benefits of the agreements are to be fully realized.

Clearly, reorganization alone cannot be regarded as a panacea for U.S. international economic problems. Our declining share of world export markets, the chronic balance of payments deficit and a lagging U.S. dollar are problems which must be addressed on a wide range of policy fronts. A mere reshuffling of boxes on an organization sheet is no guarantee of any improvement. Still, the U.S. Council believes that organizational arrangements which better reflect the nature of the trade policy issues which the U.S. confronts and the sensitive balance which must be struck among competing interests can significantly improve U.S. performance in dealing effectively with trade matters.

As a point of departure, it is important to emphasize that most trade policy issues cut across a wide range of interests; they give rise to differing and often conflicting attitudes among various segments of the American economy. Ultimately, of course, it is the President who must select among the various alternatives and decide U.S. policy on these issues. As a practical matter, however, the President personally gets involved in only a handful of the most important of these issues; for the remainder, another institutional arrangement must suffice.

I would suggest to the Subcommittee that the single most important defect in the U.S. Government trade policy machinery is the absence of an effective and influential organizational mechanism for resolving conflicting interests arising in trade matters. The single exception is the responsibility discharged by the President's Special Representative for Trade Negotiations (STR) in the limited area of the Multilateral Trade Negotiations. That function, which has ended now that the MTN is largely finished, included most (though not all) of the elements needed for effective government decision-making on trade policy issues. STR's MTN responsibilities can therefore serve as an analytic model for the subcommittee's deliberations.

Let me suggest what I consider to be the most important of these elements.

1. COORDINATION OF DIVERSE INTERESTS

The MTN embraced a wide array of economic interests which were reflected by different government agencies: the interests of the agricultural community were reflected by the U.S. Department of Agriculture, those of workers by the U.S. Department of Labor and those of industry by the U.S. Department of Commerce. The Council of Economic Advisers and the U.S. Treasury Department were concerned with the macro-economic implications of the negotiations, the State Department with their foreign policy impact and the Justice Department with their effect upon competition. The interests of other departments and agencies were also affected. In addition, there was an elaborate private sector advisory arrangement to furnish information and offer guidance to the negotiators. For the first time, there was also an extensive effort to involve members and staffs of the appropriate House and Senate committees in the negotiating process.

Inevitably, all of these varying interests gave rise to widely different views on a whole range of substantive and procedural issues. The STR had the responsibility for coordinating and resolving conflicting views; most important to the issue before this Subcommittee, it also had the authority to perform this responsibility. It carried out its role through a series of inter-agency coordinating committees: the working-level trade policy staff committee, which thrashed out most of the detailed questions; the trade policy review group, composed of more senior officials which dealt with those issues which could not be decided at a lower level and, ultimately, the trade policy committee, chaired by the STR and composed of cabinet officers of the agencies involved. As a practical matter, this latter body met only rarely; decisions were either made at lower levels or through less-formal consultations among senior officials and it was rarely, if ever, necessary to involve the President. But STR was the agency in charge and divergent interests had to be resolved through the STR-managed system.

The important point, therefore, is that there was both a system for resolving issues and sufficient authority vested in STR to make the system work. There is no other area of U.S. trade policy where these two essential elements coexist.

2. IMPLEMENTATION AUTHORITY

Having presided over the decision-making process in the MTN, STR had the authority to carry out the decisions ultimately reached. It did not have to rely upon some other agency for execution. The U.S. MTN Delegation in Geneva was part of STR, was headed by a Deputy STR and carried out instructions developed in the inter-agency process. This role was an essential element in maintaining the integrity of the inter-agency coordination process since no agency could make an "end run" and negotiate directly; everything had to be run through the STR-manager system.

3. PUBLIC ACCOUNTABILITY

There was never any questions about where the responsibility lay for carrying on the MTN: Congress, private interest groups and members of the public all could look to one central authority: the STR. Equally important, our trading partners and their negotiators also knew that they had to deal with the STR and their ability to

maneuver for advantage with Washington Agencies was thereby significantly curtailed.

I recommend to the subcommittee that these three elements should constitute an appropriate benchmark to be used in evaluating the competing proposals for reorganization of the trade responsibilities of the U.S. Government and I would like to use them as a basis for commenting on the major reorganization proposals which are now under consideration.

While all of the reorganization proposals embody a number of these elements, both the Administration's proposal and H.R. 4567, the proposal sponsored by Congressmen Jones and Frenzel, fail to establish a single body with clear and unquestioned authority to formulate U.S. policy on trade issues equivalent to the authority exercised by STR on MTN issues. Under both proposals, authority is divided among the Secretary of Commerce, the proposed new Under Secretary of Commerce for Trade Policy and the STR. In my view, this diffusion of responsibility and authority would tend to perpetuate the confusion and uncertainty in the handling of trade issues which has characterized the government's performance to date and produced the need for reorganization in the first place.

By contrast, however, the changes proposed in H.R. 4995, introduced in late July by Congressman Gillis Long, would centralize responsibility for dealing with a wide array of trade issues in a single cabinet officer—the Special Trade Representative—through a two-tier organizational arrangement. First, H.R. 4995 would create an enhanced STR Office (which it would call the Special Trade Agency) vested with authority over the more traditional trade functions (e.g. trade negotiations, east-west trade and commodity agreements) as well as authority over unfair trade practice proceedings, antidumping and countervailing duty actions and U.S. export policies. All of these are interrelated subjects and centralizing responsibility over them in a single agency will eliminate a substantial degree of the current overlap and confusion in policy formulation and implementation. The inter-agency coordinating process used successfully by STR during the MTN can be readily adaptable to the responsibilities envisioned for STA.

Second, H.R. 4995 would provide for establishment of a cabinet-level Trade Coordinating Council, chaired by STR, with broad jurisdiction over matters which have not traditionally been dealt with in a traded policy context (e.g. export control policy, energy trade issues, international investment, tax and antitrust policies and the integration of domestic and foreign policies relating to international trade), thus providing greater assurance of a coordinated approach to trade issues cutting across a number of different departments of government. Conferring leadership upon the STR fixes responsibility upon a single official, rather than dividing it among several officials, thereby greatly increasing the prospect that it will be effective.

Thus, in my view, H.R. 4995 offers a better vehicle for assuring the first objective of the analysis I offered a moment ago, i.e. centralizing responsibility for resolving conflicting views to a far greater extent than now exists and vesting the responsible official with sufficient authority to carry out that responsibility effectively.

The second objective, marrying implementation authority with policy formulation also seems to be better served by H.R. 4995 both because of the substantive duties assigned to the projected STR/STA and by virtue of its proposed organizational location. All of the proposals would vest STR with expanded authority but the administration proposal and H.R. 4567 would continue it in the Executive Office of the President and the Administration suggests that it can discharge its new responsibilities with a staff of less than 60 people.

Every administration wants to hold down the size of the Executive Office of the President; but this objective is in conflict with creating a body capable of effectively discharging broad trade policy responsibilities. It is unrealistic to assume that STR can carry out expanded duties with a diminished staff. Staff limitations of this kind will inevitably force STR to delegate responsibility to other departments, a process which would undermine the integrity of the inter-agency coordinating process and would lead to renewed diffusion of responsibility and accountability.

The amendment proposed by H.R. 4995 would remove the STR/STA responsibilities from the Executive Office of the President. While there is some difference of view on this issue within the U.S. Council, my own view, strongly shared by a number of other Council members is that the importance of organizational location within the Executive Office of the President—and the mystique of proximity to Presidential authority as a consequence—is vastly exaggerated. What is important is for the agency involved to have centralized responsibility, adequate authority to carry out its mission and, of course, the ability to attract well-qualified and highly motivated personnel. H.R. 4995 proposes to establish the Special Trade Agency as an independent agency within the Executive Branch, but not in the Executive Office

of the President. It would thereby remove the artificial constraint on staffing that is endemic to the Executive Office of the President and allow creation of a staff large enough to do the job. An agency of this kind, vested with adequate statutory authority and possessing sufficient substantive capability, can perform the role originally envisioned for a new Department of International Trade and Investment without the need for a large new bureaucratic apparatus.

Let me emphasize that I do not favor the creation of a large new bureaucracy. Congressman Long has proposed a number of 400 as the staffing level for STA, a figure which I believe is reasonable. The objective is not to acquire a larger staff for its own sake, but to acquire the necessary capability to carry out the mission effectively. During the MTN, STR had a staff of between 90 and 100. This was not really enough to do the job properly since it forced STR to rely upon the other agencies for basic research and the development of most positions. The subcommittee is familiar with "the tyranny of the first draft" and will appreciate that there were many occasions in which departments could deflect initiatives with which they disagreed by failing to staff them properly. The enhanced STR/STA should have enough internal capability to force the departments to respond better. Moreover, all of the proposals envisioned vesting STR (or STA) with responsibilities significantly greater than those which it discharged during the MTN; it stands to reason that these new responsibilities cannot be properly carried out with a smaller staff.

In addition, the Administration proposal and H.R. 4567 contemplate transferring responsibility for administering the antidumping and countervailing statutes to an expanded Department of Commerce rather than to STR. By contrast, H.R. 4995 would vest these responsibilities in the new STA. In keeping with the analytic rationale which calls for marrying implementation with policy formulation to the extent possible, I believe the proposal in H.R. 4995 is preferable. Countervailing duty and antidumping proceedings, in most instances, have important trade policy implications and separation of operational responsibility for these statutes from policy formulation invites inefficiency and lack of coordination.

Let me cite two examples; in late 1975, the Treasury Department dismissed a very large antidumping proceeding involving automobiles imported into the United States from Europe and Japan. Treasury's decision was made without consultation with STR. As a result, despite the fact that the decision was one which the European Community and the Japanese were actively seeking, and one for which they would probably have been willing to make concessions in other areas, no quid pro quo was even asked for, let alone received. Similarly, there is reason to believe that, in negotiating the orderly marketing agreement with the Japanese covering imported TV sets in early 1978, additional concessions could have been obtained by STR if it had been able to make certain commitments concerning the separate antidumping action concerning Japanese TV imports which was being handled by Treasury. The point in both cases is that STR's negotiating ability is enhanced by the extent of its operational authority and that, for that reason, it sums desirable to include in its mandate authority for administering antidumping and countervailing duty proceedings.

To conclude, Mr. Chairman, the U.S. Council favors reorganization of the trade functions within the U.S. government. We believe that the guiding rationale for such a reorganization should be establishment of a strong centralized entity with responsibility for resolving differences of view and authority to formulate U.S. policy. We believe the absence of such an entity on most trade and related issues is the single most important shortcoming of the current U.S. trade policy machinery. In addition, we favor vesting this entity with significant implementing responsibility and to provide it with adequate staff to do its job. Such an arrangement would serve the interest of Congress in discharging its constitutional responsibility for the regulation of foreign trade and would benefit private sector interests and the American public at large by assuring improved accountability in the conduct of American trade policy.

Mr. GIBBONS. You feel that the proposal that has been put forth by the administration because it separates implementation and policy worries you. You said also it would be weak because you are afraid that it is going to end up with too small a number of staff to get the job done. It is almost heresy here to say that you need staff to get the job done, but you do need staff to get things done.

You feel that putting it in the Executive Office of the President would always restrict the number of warm bodies you would have

on board because of the political problems of Presidents having fewer staff people than their predecessor originally had.

So you would create a separate agency, and in effect the head would be a super secretary of the particular agency with the power to coordinate with other agencies. Am I correct?

Mr. WALKER. Yes; it is. I don't know that I would characterize it as a supersecretary, but he would perform the role in the range of trade policy issues that Bob Strauss performed in the area of the MTM, where clearly he did have authority to overrule other departments with conflicting views.

Mr. GIBBONS. If he is not going to have powers to coordinate greater than an ordinary secretary, I don't see how you are going to get any coordination. He could write statutes until the ink jumps off the paper if he does not have coordinating powers. We are going to have to enhance that position with more than just a secretary's prerogatives.

Mr. WALKER. That is right. The only way to overcome that is to couple implementing authority with policymaking authority. If the STR has the authority to implement the policy, then the other agencies that are affected by that policy are going to play the coordination game.

Mr. GIBBONS. You said that Strauss was able to do this because he had both policymaking decisions and implementing decisions. Would you spell that out a little more clearly for me?

Mr. WALKER. I will try to, Mr. Chairman. The role of the STR in the conduct of the multilateral trade negotiations, the STR conducted his coordination function through the Trade Policy Staff Committee and the low-level staff party composed of representatives of all the affected departments, who thrashed out the details of the various issues and policy positions.

There was a group above that, the Trade Review Policy Group, the TPRP, which was an assistant secretary or a deputy assistant secretary group. Finally there was a Trade Policy Group composed of cabinet officers, but the work was done at the lower levels. So the coordination process brought to bear all the views of the Government on the various issues that were involved and the decision was made to reach a consensus and to accommodate conflicting views and conflicting attitudes but ultimately the STR had the authority to make the necessary decisions, and he implemented those decisions by conducting the negotiations in Geneva through his deputy STR there, and the delegation there.

The foreign governments could negotiate on those issues, and the U.S. Government could articulate its position through that mechanism. You had these two in tandem together, policy and the implementation.

My concern with the administration's proposal and with the Jones-Frenzel bill is that they tend to fragment that process by dividing policy formulation from implementation. If the enhanced Commerce Department has substantial operational responsibility, then its willingness to participate fully in the interagency coordinating process, for example, I think is reduced.

I think that if the STR is going to have the implementing responsibility, then it follows that it needs the people to the job. If he needs the people to do the job, it has to be outside the Executive

Office of the President because you cannot put three or four departments in the Executive Office of the President.

Mr. GIBBONS. Our next panel is composed of Mr. Alan William Wolff, former Deputy Special Trade Representative, Peter Suchman, formerly with the Department of the Treasury and the Department of State, Mr. Myer Rashish, consulting economist; and Mr. Theodore Gates.

STATEMENT OF ALAN WOLFF, FORMER DEPUTY SPECIAL TRADE REPRESENTATIVE

Mr. WOLFF. Thank you, Mr. Chairman. I appreciate the opportunity to testify before you today on reorganization of the trade functions of the executive branch.

It is very good to be back before this committee. I have spent so much time here in the last few years that I would very much miss visiting with you occasionally.

There is a definite need for reorganization to get on with the tasks at hand. I see the main challenges which the United States must face in the coming months in the trade field as the following: (1) Implementing the Tokyo Round Multilateral Trade Negotiation—MTN—agreements; (2) formulating and implementing a successful national export policy; (3) enforcing the new and improved unfair trade practice laws contained in the Trade Agreements Act; (4) improving the coordination of all U.S. trade policies as a basis for more effective representation of U.S. interests abroad; and (5) planning for negotiations in areas still requiring attention, such as services.

These tasks will not wait and executive branch reorganization must be completed before they will even be adequately addressed. The first steps have been taken, with the nomination of Governor Askew to be STR, and the submission of a reorganization proposal. The conclusion of consultations with Congress and the private sector submission of a formal reorganization plan are urgently needed so that the Government can proceed with the tasks outlined above.

Absent an effective trade organization, the code machinery will not be put into place rapidly in Geneva. There will be fewer code signatories. The remaining agreements—on counterfeiting, safeguards, the agricultural framework—may be lost. Our attention to enlarging our export position will remain inadequate. The enforcement provisions of the codes and the domestic remedial statutes may well be discredited. And the problems of the insurance, shipping, transportation, and other service industries will continue to receive insufficient attention.

Thus, I emphatically disagree with those who suggest that there is no urgency to organize now. Delay is too costly.

The fact that prompt action is required does not imply that drastic changes are required. In fact, much can be done with relatively modest changes. We should build on the strengths of the current system. There are, however, a number of weaknesses in the current structure that require a cure.

I would outline the principal requirements of trade reorganization as follows:

One, locate policy coordination for all trade issues in a single broadly representative body.

Two, establish a single chief negotiator for trade issues, to be the chief trade spokesman at home and abroad, responsible to both the President and Congress, with an adequate private sector advisory mechanism.

Three, place responsibility for enforcement of unfair trade practice laws in one individual for whom the administration of these laws is his primary concern, not a secondary interest, and provide him with adequate resources.

Four, strengthen the Government's positive role in export promotion, minimizing export disincentives.

Five, improve U.S. representation abroad of commercial interests, in key capitals and in the GATT.

Six, enhance the Government's analytical capabilities of key industrial sectors.

It is my strong feeling that the Government ought to have a single framework for policy coordination, negotiation, and enforcement, whether the trade involved is of goods or services, whether it is industrial or agricultural, whether the commodity is steel or rubber, whether the foreign country with which we trade has a market or a nonmarket economy, whether it is developed or less-developed, or whether a trade issue is deemed bilateral or multilateral in nature.

The current organization chart for trade matters reflects as much accident as it does planning. Which Department handles trade problems with an Eastern European country depends on which Secretary was most influential 6 or 8 years ago, Treasury, Commerce, or State, or on the nature of the remedy, STR or Treasury, or upon the type of commodity, wheat or steel, or on whether it involves a product or a service. For services, the lack of organization is greatest; for insurance matters, one might seek help at STR or State, Treasury, or Commerce; for shipping, STR, State or Commerce; for banking, the answer is even less clear.

It is no answer to say that our trade has not clearly been impaired by this confused pattern. A good deal of damage has been done, in our commercial relations with Russia and China, where we have lost position to our Western competitors; in our commercial relations with developing countries—the markets of the future; in the commercial aspects of energy and defense arrangements; and in our impact as a Government on export activities, where we have given a series of confusing signals to the private sector.

The time has come to remedy this situation. Our balance-of-payments position requires it. Our newly ratified trade agreements, to be truly meaningful, require it. There is a crying need to put our house in order. This fact is recognized by this hearing, by the administration proposal, and by the Jones-Frenzel proposal and by Mr. Long's bill.

While it is my personal preference to have all trade functions in a single agency, I realize that the time is not ripe to create a Department of Trade. There is no consensus that a Trade Department is needed. It is thus too great a step to accomplish in the near term. Therefore, what is needed is a compromise, satisfying no one fully, but getting on to the job at hand.

One of the key benefits of the Long bill, shared by the administration's proposal, is the bringing together of trade policy coordination. The interagency format best assures that trade agreement decisions are made taking into account the interests of each sector of the economy. Each participating agency is responsible for seeing that particular effects of a trade action are fully brought out: the effects on the industry immediately concerned, Commerce, on workers, Labor Department, on the economy as a whole, Treasury, CEA, on consumers, CEA, Council on Wage and Price Stability, on agriculture, USDA, on competition, Justice, and so forth. The Cabinet and the President, when his decision is necessary, can then make their judgments on the basis of a broad range of policy considerations.

Today, this interagency process is absent from the whole area of East-West trade, dealing with nonmarket economies. This is technically the responsibility of the East-West Trade Board, but this Board does not meet.

For other areas the process is fragmented. Commodity policy is not dealt with as a part of a coherent trade policy. It is often considered primarily a foreign policy concern, rather than an essential part of this country's trade policy. It is often considered primarily a foreign policy concern, rather than an essential part of this country's trade policy. The policymaking process and the degree of policy coordination differ substantially depending on whether the product concerned is steel, copper, rubber, beef, or wheat. The proposals before the committee today go far to cure this defect.

The United States is widely considered the greatest commercial power in the world. Our leverage is considered vast, both in commerce and through our political and military interests. In my experience, these letters, essentially political categories of influence not only do not provide leverage, and in my view they are not well-adapted nor particularly useful for that purpose, but are susceptible on occasion to use as leverage against the United States.

The interrelationships that should exist among our commercial interests, that are utilized by many foreign governments, go unrecognized in this country. In my experience as a negotiator for the United States over the last decade, I saw a serious need for the commercial policies of this country to be coordinated. Export policy, aviation, banking, insurance, shipping, construction contracting, fishing rights, the sale of gas or oil pipelines, maritime affairs, the provision of export finance, the taxation of U.S. exports and U.S. entities abroad engaged in exporting, antitrust policy affecting exports, other policies that result in substantial disincentives to exports, export controls, and international investment policy, are all part of U.S. commercial policy.

They are interrelated in fact, whether recognized as such or not. The threads should be gathered together. The provision in the Long bill for an independent Trade Coordination Council or Committee, with a separate staff, is a necessary step. The Council staff should be lean and maintained separately from the line functions of the STR, and responsible directly to the STR. It should perform purely a staff function, not substituting its judgment for the collective judgments of the Cabinet officers chiefly concerned with trade.

The Executive Director of the Council should have solely a staff role, supporting the STR as Chairman of the Council. The Special Trade Representative should consult with, but not be directed by the Council. No policy or program can be run effectively by a committee. The Council would assure, however, that all relevant points of view are considered for important policy decisions. When there are serious differences, the question would be put to the President for decision.

This country needs a single voice, at home and abroad, which speaks for the President on trade issues. Unfortunately in recent years, responsibility for trade has tended to become fragmented. Increasingly bilateral commissions and mechanism governing trade relations between a given foreign country and the United States have been established. There is no single person responsible for trade with all countries. Nor is any one Cabinet officer responsible for all trade issues with any particular country, given the split in jurisdiction by subject matter. This undermines our negotiating position for all subjects through our inability to relate one commercial interest to another. Some interests, particularly in service industries, have no representation at all.

The lack of a single focus for trade also results in a lesser degree of responsibility to the Congress and to the public for some trade decisions. The ability to have a meaningful input into trade decisions requires established channels. This existed for the Multilateral Trade Negotiations—MTN, both with the Congress and with a thousand statutory private sector advisers, as well as with the public more generally. Fragmentation of responsibility deprives the Congress and the public of an effective voice on many other trade issues.

The STR should be the chief U.S. negotiator for all U.S. commercial interests abroad, including the MTN and GATT agreements, East-West trade, bilateral agreements, export credit agreements, commodity agreements, service industry issues and investment matters. The STR should also be the chairman of the various bilateral economic commissions and consultative arrangements, for example, with the Europe Community and Japan, which have been established.

Other more specialized areas, for example, maritime, aviation, fisheries, should be examined over the next 2 years to see whether they should be included in a single department. In fact, I would suggest that the whole issue of trade organization be reexamined by the President and the Congress within 2 years of the effective date of the current reorganization proposals to see what further consolidation would be warranted.

One of the principal aras of criticism that brought about the decision to reorganize the trade functions of the Government was the broad public perception that the administration of our trade remedies was being given inadequate attention. This is to some extent a fair criticism. While Government resources devoted to many aspects of regulation of economic activity have increased dramatically, the number of people assigned to providing remedies, particularly for unfair foreign trade practices, has remained excessively lean. This is due to a variety of factors, including the low order of budgetary priority assigned the remedies within the Treas-

ury Department, and the desire to keep the Executive Office of the President small.

Each of the proposals before the committee today seeks to rectify this. The administration's bill puts the trade remedies for most unfair practices in a new Department of Trade and Commerce. Problems of injurious import competition and international remedies are placed in the U.S. Trade Representative's office. This is a reasonable division of responsibility, if it is felt that trade negotiation and the political process must be kept separate from the administration of trade remedies. Another reason for the split, to keep the Executive Office small, should not be a determinative factor.

In the final analysis, I do not believe that the provision of remedies can be divorced from trade negotiation. While routine cases will not require policy guidance beyond the application of precedent, the cases which raise the most fundamental questions are inescapably political in nature, both in terms of the domestic political process and international economic relations.

The countervailing duty case against the rebate of European value added taxes was doomed to failure regardless of what the supposed intent of the 1897 Congress was on this kind of tax. This kind of case will never be a matter simply of legal precedent. Nor does the fact that these are political issues necessarily work against the interests of domestic producers either—the creation of the trigger price mechanism for steel and the system of multilateral and bilateral agreements for textiles can nowhere be found spelled out in our statutes. The decisions to establish these programs were taken at a high political level.

This argues for the bringing of major trade policy decisions, in all trade cases, into the hands of the Special Trade Representative, and the Trade Policy Committee structure. This is consistent with the basic approach of H.R. 4995. This could be done by bringing the 75–125 officials needed to enforce the countervailing duty law and the Antidumping Act into the Office of the Special Trade Representative. But given constraints on the size of the Executive Office of the President, and the concerns raised by the idea of unifying fully enforcement and negotiating functions, an alternative approach must be sought.

Cases raising serious policy issues, which often require a negotiated solution, could be settled or otherwise concluded under the policy direction of the STR, in consultation with the Trade Policy Committee.

The key trade issues of the next decade surround the administration of the antidumping and countervailing duty laws. Handling these cases in isolation in another Department can fundamentally weaken this Nation's trade posture. If these two laws are not to be administered within a single trade department, or agency such as STR, they can either be left to Treasury or placed, as in the President's proposal, in a Department of Trade and Commerce. The problem of choosing between the two is less one of divergencies in policy inclination between the Secretary of Treasury, responsive to considerations of the economy as a whole, versus the Secretary of Commerce, responsive to concerns of producers, retailers, and consuming business enterprises, because the two do not differ as much

as one might expect, but it turns more on the question of which agency would devote adequate resources to these functions. In either department, enforcement of these two unfair trade practice statutes will not be the highest priority of the agency.

It will be extremely important, wherever the functions are placed, to have an identifiable official, an Assistant Secretary, whose job consists almost entirely of administering these statutes. What is needed is accountability, which requires visibility and individual responsibility. For this reason, the Assistant Secretary for Enforcement should be appointed by the President with the advise and consent of the Senate. It will be up to the committees of the Congress through regular oversight hearings to focus sharply on whether the resources, the personnel and budget, devoted to this function are adequate. This will help assure that a color television case is never repeated.

I would emphasize again, however, that since it is the Nation's trade policy that is being decided in large part in these cases, that the administrator must operate within the overall policy guidance of the STR, in consultation with the interagency Trade Policy Committee. The next step, a few years from now, might be to consider whether to unify all the trade functions in a single agency.

The administration proposal, H.R. 4691, and H.R. 4995, each removes the commercial officers from the State Department, and I believe that this is a positive step. Our trade representation abroad is very uneven. Foreign Service officers generally do not view a commercial position as the best means for career advancement. This results in the most talented and senior officers seeking other appointments. This is another manifestation of the fact that trade is a secondary issue to every department. In the State Department, issues are considered to be of either high or low policy, and commercial interests are most often relegated to the latter category. This does not imply that there are not highly talented Foreign Service officers currently occupying commercial positions, but that one cannot rely on having a highly motivated, high quality throughout.

U.S. commercial representation abroad for market development should be upgraded. This should be the responsibility of a separate new U.S. Commercial Service, subject to the direction of the Secretary of Trade and Commerce. The Commercial Service should be made more attractive than service as a career Department of Commerce employee in order to attract the new people who are needed to bolster some of the excellent people the Commerce Department now has.

It would also be useful to give added flexibility to the management of this function by being able to bring talented people in from the private sector for limited tours of duty. Out export interests would best be served by halting the increasing trend toward isolating the Government from the private sector, which prevents interchange between the two due to exaggerated fears of conflicts of interest.

As a separate matter, certainly the STR should directly control and staff the U.S. Mission to the GATT in Geneva. This is provided for in the President's proposal. It is extremely important to the

follow-through on our trade agreements. The United States has a history of wanting to bring the troops home prematurely as soon as peace is declared. Our Geneva MTN delegation is closed, our negotiators are dispersing. This action should be reversed, urgently.

A reasonably good case can also be made for the Special Trade Representative having trade policy officers abroad in key capitals who are responsible to him. This is a separable function from that of market development for U.S. exports.

Fundamentally, U.S. export performance depends on our competitiveness, not on U.S. Government intervention. We need most to increase the rate of new investment and technological innovation, to increase the growth in productivity, and to reduce the rate of inflation.

We have learned that we cannot rely fully on exchange rate adjustment to keep U.S. products competitive in world markets. The health of the international economic system depends on a dollar in which there is confidence in the face of the huge strains caused by the rapid and disruptive increases in the price of energy. While adjustments in individual currency relationships may well tend to preserve competitiveness in a particular market, exchange rate actions will not be a ready tool for export policy.

There are obviously a number of policy decisions that bear directly on U.S. export performance, even if they are not explicitly designed for that purpose. Tax aids for capital investment, accelerated depreciation, and tax credits for research and development are all of great importance. As noted above, policies other than those which are strictly limited to trade, for example, antitrust policy, defense offset agreements, gas and oil pipeline agreements, taxation of individuals abroad, etc cetera, should be reviewed from time to time from a trade point of view. The Interagency Trade Policy Committee should perform this role. It should also be the body that gives basic guidance to our export finance programs, both of the Export-Import Bank and the Commodity Credit Corporation, rather than retaining these functions in the Treasury's National Advisory Council on International Monetary and Financial Policy.

Export control policy decisions should also have the benefit of this interagency process. Currently, there are a variety of mechanisms for providing interagency coordination for export control decisions. Only a small percentage of cases are adversely affected by the lack of a single coherent broadly based interagency discussion, but these cases involve substantial amounts of money and foster an excessive feeling in the private sector that the licensing process is a capricious one in which delay substitutes for decision. There are valid reasons for imposing foreign policy, strategic or short supply controls, as the Export Administration Act envisages. But the agency seeking to prohibit an export should have a formal process to go through to make its case.

Regular interagency procedures would help assure that controls are fully justified, as would delays. This is important not only to individual businesses but to our national reputation as a reliable source of supply and as a country whose foreign policy is steady and predictable. Therefore, at least those controls which are not strictly justifiable under the military security provisions of the

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Export Administration Act should be subject to regular review in the Trade Policy Committee framework.

One of the glaring weaknesses in the formulation of economic policy within the executive branch is the absence of governmental expertise with respect to our basic industrial sectors. Thus, while an industry's problems may be due to a variety of causes—perhaps antitrust policy or environmental regulation—the only remedies which the Government has at hand are restrictions on trade at the border.

Logically, the Trade and Commerce Department should know enough about the basic industrial sectors of the U.S. economy to be able to estimate what the impact would be of a given antitrust policy or a new set of antipollution standards. What is needed is not industrial planning by the Government, but an informed awareness of the impact that other policies of the Government can have on an American industry. The President's plan appears to envisage an enhancement of the sectoral analysis capability within the Commerce Department. I feel that this is a very important element of any proposal.

The need for reorganization of the trade functions of the Government is real and not just political. Dissatisfaction with the Federal Government's handling of a wide variety of trade matters could be assuaged through the improvements embodied in the administration proposal, the Jones-Frenzel proposal, the Long bill. I believe that the efficiency of Government would be substantially improved under each of these proposals. I believe that STR as an institution has been remarkably successful in conducting U.S. trade policy and that we should build upon that success. I would add to one or the other of these proposals the following elements:

For the Trade Policy Committee, review of issues of trade in services as well as goods. Replacement of the National Advisory Council as the interagency forum giving guidance to the lending activities of the Export-Import Bank and the Commodity Credit Corporation. I believe this would be preferable to making the Secretary of the Department of Trade and Commerce Chairman of the Eximbank Board or making the STR a member of the NAC.

Coordination of policy for most governmental commercial matters, e.g., export policy, aviation, fisheries, shipping, and energy, tax and antitrust policies as they affect trade, and export controls.

Coordination of Government policy with regard to foreign investment.

For the Special Trade Representatives, provide direct control of our representation to the GATT and the new Codes of Conduct in Geneva.

Assign responsibility, insofar as policy control is concerned, for enforcement of all the unfair trade practice laws, included in H.R. 4995, given to the new Department of Commerce and Trade in the Administration's proposal.

Consolidation of all negotiating functions, including agreements for limitations on export credits, commodity agreements, East-West trade, et cetera.

For the Department of Trade and Commerce, enhance its capability to analyze and assess the impact of Government programs on the competitive position of our basic industries.

Create a U.S. Commercial Service: the State Department's Commercial Officer function would be transferred to a new Federal service, free to hire from the private sector, to represent U.S. commercial interests abroad. It could be considered whether Eximbank might be associated with this entity in having some of its loan officers serve abroad. The entity would report to the Secretary of Trade and Commerce.

The essence of the reorganization outlined above would be:

One, a single chief trade spokesman for this country responsible to the President and Congress, and drawing on the advice of a statutory private sector advisory mechanism: the STR.

Two, a single focal point of trade policy coordination, the STR working in consultation with the Trade Policy Committee.

Three, an identifiable official with adequate staff to enforce our unfair trade practice laws: an Assistant Secretary for enforcement, who will be accountable to the Congress and public, will give the enforcement function the priority it requires, and will function within the policy guidance of the STR.

Four, a Department, one of whose principal purposes would be export promotion: The Department of Trade and Commerce. (The idea of a Department of Trade and Commerce is workable independent of whether the enforcement functions are transferred from the Treasury Department or not.

Five, a plan that can be put into effect rapidly so that the new codes can be made effective, so that the remedies promised by the Trade Agreement Act will in fact be available, and so that the other trade areas requiring attention such as services can receive immediate attention.

Mr. Chairman, the administration's proposal and the others such as the Jones-Frenzel bill and the Long bill are aimed at the same problems. They represent major steps forward toward solving the organizational problems affecting trade issues.

I helped draft the President's proposal. I favor it as a reasonable next step although it is my understanding that it was offered not as a final, nonamendable proposal but as a reasonable basis for consultation with the Congress. The administration's proposal is the result of a number of compromises needed to meet legitimate concerns. While there are a few details that any of us would change, I would urge this committee, and the other committees of the Congress addressing this subject, to build on the administration's proposal as the basis for arriving at a formal reorganization plan that represents the broadest possible consensus and can command wide enough support for immediate implementation.

Thank you, Mr. Chairman.

STATEMENT OF PETER O. SUCHMAN, FORMER DEPUTY ASSISTANT SECRETARY FOR TARIFF AFFAIRS, DEPARTMENT OF THE TREASURY

Mr. SUCHMAN. Mr. Chairman, my name is Peter O. Suchman. I am an attorney, in private practice in Washington with the firm of Sharretts, Paley, Carter & Blauvelt, P.C., specializing in customs and trade law. Prior to entering private practice in 1977, I spent 13 years with the U.S. Government, in the Treasury and State Departments, for the most part in the area of international trade and

commerce. From 1974 to 1977 I was Deputy Assistant Secretary for Tariff Affairs in Treasury, supervising the administration of the antidumping and CVD laws, and was the U.S. representative to the GATT Antidumping Practices Committee in Geneva. Previously, I was Director of the Office of Trade Policy at Treasury. At the State Department my posts included Special Assistant to the Under Secretary for Economic Affairs, and international economist in the Bureau of Economic Affairs. I also served as economic, commercial and political officer at U.S. consulates abroad while a Foreign Service officer.

I believe that my experience in the trade field during the past 15 years has given me some insight into the problems which this committee seeks to address in considering the reorganization of the U.S. Government for the conduct of trade policy and the administration of the Trade Agreements Act of 1979. I appear here today in my personal capacity and not representing any client or group of clients. The views expressed here are my own.

For some time it has been apparent to informed observers that the U.S. Government is structurally unprepared to deal with the complex issues and procedures it now faces in international trade. No one is really in charge of the trade functions of the executive branch save the President, who generally has higher priority items to deal with. An interagency committee system with a White House official, no matter how talented, trying to massage decisions from a half dozen Cabinet agencies, while he is largely dependent on those same agencies for staff support, is no substitute for a department whose sole function is the pursuit of the national interest in international trade.

Perhaps the worst effect of this improvised structure for the conduct of international trade is the absence of a career international trade bureaucracy in the United States. At the more senior levels in the various departments, decisions are made by appointees, and to some extent civil servants, with all manner of experience—corporate lawyers, bankers, businessmen, former elective officeholders, professors, diplomats—but rarely by anyone who has previously attended a session of the General Agreement on Tariff and Trade, or attempted to negotiate a tariff reduction with out major trading partners.

Young people with marvelous educational credentials and unlimited potential seeking entry into the trade field have no place to begin—they are on their own, scrambling around from department to department. Those already in Government who want to concentrate on trade have to bob and weave through a bureaucratic obstacle course to create a career path, broad and deep enough to warrant major responsibilities—resigning from one agency to take assignments in another in order to participate in trade negotiating rounds, or to obtain experience in a different aspect of international trade. They may have to give up career benefits because the meaningful senior positions in some agencies are in one way or another political appointments, or risk advancement because accepting an out-of-agency assignment often dooms any chance of promotion. At the end of each round of trade negotiations our expertise in large part melts away—driven to the private sector or academia as STR shrivels to its corporal's guard permanent size.

We are in desperate need of an international trade and commercial service to staff our agencies at home, and abroad for the conduct of trade policy on a continuous basis. Without a place to call home in the Government, a ministry where the No. 1 priority is international trade, such a service cannot effectively be created and maintained.

If for no other reason than this, a reorganization centralizing all international trade policy functions in one new agency is an idea whose time should have come. The Trade Reorganization Act of 1979, recently introduced by Representative Long in large measure would accomplish this. The administration, however, has made a proposal which unfortunately falls far short of the mark.

Perhaps no reorganization question has generated more heat and less light than the subject of the so-called unfair trade practice statutes and their past and future enforcement. The administration plan would have its major substantive impact here. It is to this subject, specifically the administration of the antidumping and countervailing duty laws, excluding the ITC injury function, that I wish to devote the remainder of my statement.

The Treasury Department has been severely criticized by some Members of Congress and private sector interests for its implementation of these statutes. Much of this criticism is unfounded, and based on misconceptions and misinformation. Furthermore, if blame is to be levied for the failure of these statutes to adequately protect domestic industries, it must be shared by the Congress and by administrations past and present for an unwillingness to address the real problems of how to deal with declining U.S. competitiveness, for producing laws which are progressively more legalistic and simplistic in an increasingly interdependent world, and for failing to provide the resources necessary to implement these laws.

There is a mistaken belief that effective enforcement of the antidumping and countervailing duty laws will cure most, if not all, of the ills of U.S. industry in competing with overseas producers. This belief has been encouraged by past administrations, because Presidents and STR's find it easier to obtain trade legislation and support for policies of trade liberalization if they pay lip service to the idea that domestic producers will be protected from import competition by these laws, as tariff barriers decline. This administration has perhaps gone even further than its predecessors in this dangerous game. When expectations are unfulfilled and imports continue to increase at the expense of domestic producers, there has been a tendency to look only at the implementation of the antidumping and countervailing duty laws rather than at more basic problems, such as declining productivity or the target earning philosophy of U.S. management. As a result the statutes have been made even more inflexible and punitive. This approach has failed to solve the problems of noncompetitive U.S. industries in the past and can be expected to create continued difficulties for the agencies administering the U.S. trade program in the future because:

Some major U.S industries are not competitive even if trade is free but fair and are unlikely to become so without basic, painful restructuring. Such restructuring is delayed by the imposition of import relief, which merely subsidizes these producers out of the pockets of the American consumer;

The unfair practices complained of are often used by American producers and exporters to the same degress as foreigners, and as U.S. enforcement becomes more onerous retaliation becomes more likely;

In the real world determining the facts surrounding production and export in a foreign country is a difficult, time-consuming exercise even when interested parties are fully cooperative. Congress cannot legislate these realities away and procedures are therefore doomed to be increasingly arbitrary and therefore legally vulnerable if quick and simple results are demanded;

International political relationships will require negotiated, compromise solutions to major trade problems no matter what U.S. law may prescribe, or international agreement permit.

While the inadequacies of the antidumping and countervailing duty laws and import relief statutes in general are not the subject of these hearings, they must be considered in determining the validity of the criticisms which have been directed at Treasury. In this regard I would urge this committee to consider now, and as a part of the examination of the structure of the trade bureaucracy, scheduling a review and reevaluation of the import relief statutes within 1 or at the most 2 years of the effective date of title I of Public Law 96-39. By then the deficiencies of that statute should be easily demonstrable.

There have, of course, been instances where Treasury and Customs' performance over the years has been deficient and to that extent the present examination of this program can result in improvements. Problems have often been the result of the failure by successive administrations to devote a high priority, in terms of resources and Cabinet-level interest to the administration of these statutes. Beginning in the late 1960's, through the Trade Act of 1974 and culminating in the recently enacted Trade Agreements Act of 1979, Congress has demanded ever swifter, more legalistic, and adversarylike procedures. During the same period, there has been consistent reluctance by the executive branch, because of budgetary restraints, to increase the number of people assigned to carry out these functions. In fact there may actually be fewer people today engaged in investigating unfair trade practice complaints than there were 10 years ago. So, while statute and congressional pressure have increasingly restricted the time for completion of investigations and required greater procedural formality, sufficient resources have not been made available. Furthermore, inflexible procedures have forced Treasury to tie up scarce resources in major, complex investigations which in the end after months of investigation were resolved by compromise, political solutions outside the framework of the statutes—to no one's surprise. On the other hand, minor cases which should have been quickly disposed of have not been subject to negotiated solutions. In order to appease those who demand a legalistic, punitive approach, except when political realities foreclose such an approach, procedures drag on to the bitter end, and continue to drain resources through lengthy monitoring and assessment stages.

There is no reason to believe that these problems will go away by simply transferring the function to some other agency such as the Commerce Department. Any improvement will come as the result

of devoting adequate manpower to the task. Logically better results can be expected by leaving these functions where they are, in the agency with established expertise, and adding appropriate resources. For instance, consideration must be given to the fact that Customs expertise in valuation procedures common to all normal duty assessments has direct application in the analyses required during antidumping investigations. An agency concentrating all international trade policy functions of the U.S. Government under one roof may or may not be the best place for the administration of the antidumping and countervailing duty laws. Adequate resources would be more likely to be available and career professionals could be used interchangeably and would gain exposure to the import relief provisions, overseas commercial functions, the varying aspects of negotiation, export expansion, commodity issues, et cetera, while senior officials would be fully aware of the broader economic interests of the United States. On the other hand, broad policy considerations ought not unnecessarily intrude on what is essentially an investigative process.

However, the administration plan contemplates no such agency. What is being proposed is the dispersion of the present Treasury/Customs function to the Commerce Department and the Office of the Special Trade Representative, with some undefined role for the interagency Trade Policy Committee, and possibly some investigative function remaining in the customs service. The division of these functions among two or more agencies would be extremely unwise. Short time limits for completion of investigations make it more important than ever that fair value and subsidy investigations be tightly controlled, from beginning to end by the ultimate decisionmaker.

The second problem with past administration of these laws, other than lack of resources, has been the division of investigative, analytic, and decisionmaking functions between the customs service and the Office of Tariff Affairs in Treasury.

At least under the present arrangement all those concerned are responsible to the same Cabinet officer, and even so friction, duplication, and resulting delay have been present. It is our understanding that a major reorganization has been under study by Treasury and Customs to eliminate this problem but that the July 19 announcement has brought this effort to a halt.

Internal Treasury reorganization offers a far more logical means of improving performance in this area than the OMB proposals the administration has put forward. It is a mistake to base a reorganization, as OMB has, on making clear distinctions between operational and policy aspects of these cases, or between discretionary and nondiscretionary functions. Any attempt to do so will inevitably lead to bureaucratic infighting and finger pointing among the agencies concerned, and will create uncertainty for parties to investigations, who will never be sure who is in charge.

The policy-level official whose final approval is required in determinations can expect to be bombarded by requests from the interested parties, congressional staff, and the press for hearings, interviews, and interventions. Furthermore, the critical policy issues most likely to arise are extremely technical in nature. For example, should circumstances of sale adjustments be granted for cer-

tain technical services or advertising expenses in the home market in an antidumping investigation? How should the benefits from low-interest loans or investment grants be calculated or amortized under certain circumstances in a countervail case?

Decisions must be made quickly in the very midst of the investigation, otherwise statutory time limits cannot be met. If these issues must be referred to another agency, the decisionmaker would have to be readily available and fully conversant with the technical aspects of these procedures. He would inevitably also want his own staff, capable of evaluating these referrals so as not to be totally dependent on recommendations and analysis from another agency with perhaps a different perspective on the issues. If these decisions were made by the agency charged with operations, the policymaker could be largely excluded from meaningful participation in the process while still remaining ultimately responsible to the President and Congress. The difficulties which arise from such a division of responsibility are obvious, while the advantages are hard to identify.

The best argument for having the unfair trade remedies in Treasury has been that it is an agency without a constituency in international trade. Unlike State, Labor, Agriculture, or Commerce, its perspective is not influenced by close association with the interests of any particular group, whether foreign or domestic. Nor does its mission, the maintenance of a healthy U.S. economy, involve any inherent conflict with the administration of these laws.

Commerce, on the other hand, is the agency of the U.S. Government charged with promoting the interests of U.S. business, while STR might be viewed as suspect since its principal responsibility is to represent the United States in multilateral negotiations of broad application and is therefore dedicated to compromise, not confrontation. It is questionable whether those who have devised the administration plan on reorganization have fully considered the very difficult position decisionmakers in the Commerce Department and STR will find themselves in as they seek to balance their other, primary responsibilities against the requirements of the objective implementation of title I of the Trade Agreements Act of 1979. Of course, if STR is transformed by the addition of major new responsibilities and a large increase in staff, this criticism is less valid. Given the size and diverse activities of Commerce, however, its character will be largely unaffected by the OMB proposal.

In conclusion, there appears to be minor justification and less rationality for removing the administration of the antidumping and countervailing duty laws from the Treasury Department unless a Trade Agency is to be created.

An internal reorganization of Treasury and Customs is long overdue. With sufficient resources and the amalgamation of the investigatory, analytic, and decisionmaking functions, Treasury is probably the best agency in the executive branch, as now constituted, able to perform these tasks with the objectivity required by law and by traditional U.S. standards of due process and equity. It also has the expertise which another agency would take years to develop.

A far better course, if a Trade Agency cannot be established at this time, would be for this committee to call for a comprehensive

study by the GAO, based in part on the fine work they have already done on administration of the Antidumping Act, including all elements of U.S. Government trade activity. No legislative decisions should be made pending completion of that study.

If immediate removal of this activity from Treasury is inevitable, the function should not be divided among more than one separate agency, and most definitely should not be made subject to the interagency process now prevalent in the general trade policy field. Nor should it be relocated, even in part, to an agency whose principal constituency will continue to be domestic manufacturers.

The Office of the Special Trade Representative would be the best venue, even given STR's negotiating bias and despite the disadvantages of mixing an operational activity with the more traditional policy functions of the Executive Office of the President. All facets of the investigatory process, however, should be assumed by STR, including the overseas contact and verification functions now performed by Customs agents. This activity should be transferred to Washington-based personnel no matter who administers the law, if statutory time limits are to be consistently met. Perhaps it would be possible to create a semi-independent organization, outside the limits of the E.O.P. proper, headed by the STR, who would retain his White House identity.

International trade is too important to the national economy and our complex relationships around the world to continue as an orphan in the U.S. Government. A cabinet-level agency centralizing all U.S. Government activities in trade policy is vitally needed. However, the status quo is preferable to the kind of reorganization proposed by the administration, formulated for the most part by people unfamiliar with the subject area and based on misconception. With major new, complex legislation to be administered, and the volume of investigations likely to increase significantly due to statutory changes and economic conditions, this is not the time for a hastily conceived changing of the guard.

Mr. GIBBONS. Thank you, Mr. Suchman. Mr. Rashish is recognized.

STATEMENT OF MYER RASHISH, CONSULTING ECONOMIST, WASHINGTON, D.C.

Mr. RASHISH. Mr. Chairman and members of the subcommittee:

I appreciate your invitation to discuss the subject of government reorganization in the international trade area. My statement will consist of a number of points, put as briefly as I can, which will record my views on the subject; some of these points can be elaborated and other issues covered later, as the subcommittee wishes.

One, now that the Congress has reconvened, the practical question is how the various approaches to trade reorganization can best be reconciled—and there is clearly a gap between the administration proposal and the views of a number of Members of the Congress. Assuming that agreement can be arrived at between the executive and congressional branches, the submission of a reorganization plan is the preferred way to proceed since it would permit reorganization to take effect on or about the first of January 1980. I would like to see a plan along the lines of the proposal contained in H.R. 4995 introduced by Congressman Gillis Long of Louisiana.

The administration proposal has, to my mind, major flaws and inadequacies.

The various proposals for a new department are to my mind also flawed and, in any event, do not appear to be practical. The Long proposal can bridge the gap between the recommendations of the administration and the views of the principal congressional proponents of trade reorganization and I recommend it strongly.

Two, my support for the approach of Congressman Long's bill does not, by any means, rest solely on the basis that it offers a viable compromise. More importantly, the Long proposal recommends itself in objective terms, that is to say, in terms of the principles and criteria that I believe should guide the organization of trade functions in the executive branch.

To cite what I regard as the more important criteria:

(*a*) The organizational structure should provide for an entity with sufficient authority and responsibility for a broad range of trade matters and which can constitute a focal point and a locus of power for trade policy and administration in the executive branch.

(*b*) The entity must be perceived and have the prospect of being an aggressive and forceful administration of various provisions of trade law and of enforcing the MTN agreements and any future agreements to be negotiated.

(*c*) The entity should be primus inter pares within the executive branch and be seen to have special authority from and influence with the President.

(*d*) The entity should be perceived to be above partisan and sectoral interests although sensitive to them.

Three, these criteria and considerations are not new in the evolution of the U.S. foreign trade policy although the specific organizational form which has given expression to them has, of course, varied over time with changing circumstances and needs. Considerations of the sort I have outlined have, it is fair to say, prompted the provision for the post of Special Representative for Trade Negotiations in the Trade Expansion Act of 1962—an initiative, by the way, of the Committee on Ways and Means and not an administration proposal at that time—as well as the provision of the Trade Act of 1974 for an Office of the Special Representative for Trade Negotiations.

Since the STR and the STR office have proven to be successful, the normal evolutionary process would suggest that the STR office should continue to play the central role within the executive branch on matters relating to international trade and that appropriate adaptations should be made in the scope and size of that office to meet the new requirements that have arisen from the successful conclusion of the MTN and from our current perception of future needs.

Four, one of the requirements that I believe should guide trade reorganization after the MTN and in anticipation of future requirements is this: trade policy formulation, trade negotiations and the enforcement and administration of trade laws are now, as never before, inextricably intertwined. This is, to my mind, one reality that emerges from the MTN and one which will be reinforced as future negotiations are undertaken on improving the rules and arrangements for international trade. It follows that it would be

illogical and functionally unwise to structure a reorganization plan that divides up these responsibilities among departments or agencies as compared with a plan that consolidates these responsibilities and functions in one entity.

Five, in addition, it would seem desirable to have the trade entity also have responsibility for the formulation and oversight of export policy, while the actual administration of export promotion programs would be retained in the Department of Commerce. As an adjunct to the export policy function, the trade entity should have a cadre of competent people capable of undertaking negotiations that cut across a number of issues of trade and economic relations with other countries and which have a very substantial U.S. export component. This is clearly applicable in the case of state-trading countries such as the U.S.S.R. and the PRC, but may be useful in future negotiations with other countries. This cadre could be drawn on as well for representation in key capitals.

Six, it seems to me that the proposal submitted by the administration falls short of meeting these tests. One major deficiency can be noted here: the administration proposal assigns important enforcement-administration functions to the Department of Commerce whereas, as already stated, they belong in the new STR-based entity.

It does so, as I understand it, because of a reluctance to enlarge the size of the executive Office of the President in which the STR is presently situated, even though no net increase in the overall size of the executive branch is contemplated. Indeed, it is questionable that STR could perform the functions which even the administration proposal would assign to it without a significant increase in its size.

Seven, the approach of the Long bill, on the other hand, gives effect to considerations referred to earlier. That approach:

(*a*) builds on the STR office as the nucleus of the new Special Trade Agency;

(*b*) provides for the full spectrum of responsibilities in the trade area which is necessary;

(*c*) adds certain other related functions such as commodity negotiations and East-West trade, without significiantly reducing the role and functions of other departments of Government in the field of trade;

(d) resolves the important question of the size of STR by removing it from the Executive Office of the President—where it would labor under the size constraint mentioned above—and provides for an independent agency;

(*e*) provides for the establishment of a cabinet level Trade Council in the White House to be chaired by the Special Trade Representative which makes unambiguous the central role of the Special Trade Representative in all matters relating to international trade.

I might add that the Long bill gives effect to the recommendations of organizational reform contained in the report of the Advisory Committee for Trade Negotiations to the President and the Congress submitted on June 19, 1979.

Eight, the report of the Advisory Committee for Trade Negotiations—on which I am privileged to serve—also contains recommendations, at page 6, with regard to the role of the Department of

Commerce in international trade and related matters. I shall not repeat them here except to note that they cover three areas: (*a*) Analysis and reporting; (*b*) export promotion; and (*c*) industry sector policy. These recommendations reflect the view of the members of ACTN that the role of the Department of Commerce as a constituency agency in the executive branch could be improved and enhanced.

Nine, while it is clearly important to effect a sensible and constructive reorganization of the trade functions of the executive branch, reorganization by itself will neither assure good policy nor good administration of policy and laws. In the final analysis the quality of the people manning an organization is of primary importance and the authority which any organization and its leadership enjoys from the President is critical. But a good organizational structure can make it easier to do the substantive job and will tend to attract more competent people.

Mr. Chairman, you may wish to receive for the record the first 7 pages of the ACTN report which contain the recommendations alluded to above as well as a 15-page memorandum dated April 25, 1979 which I prepared on the subject of trade reorganization and which sets out my views on the subject more fully.

[The memorandum referred to follows:]

EXECUTIVE BRANCH REORGANIZATION IN INTERNATIONAL TRADE

Why

The various proposals, notably those emanating from the Congress, for governmental reorganization in the trade field reflect some or all of the following concerns:

1. Is the U.S. government effectively organized to take advantage of the agreements negotiated in the MTN?
2. Is the STR, as presently constituted, an adequate instrument to deal with trade matters post-MTN given that there will in the future be an integral relationship between trade management/administration on the one hand and trade negotiations on the other.
3. Who can the Congress and public look to for direction and authority in the trade area? There is no entity within the Executive Branch that enjoys a position of primacy with respect to the gamut of interrelated trade issues.
4. Who should the President look to to coordinate the various interests and responsibilities in the field of trade within the Executive Branch?
5. How can business interests, especially in the field of exports, be adequately dealt with? The balance of payments situation requires more effective governmental policy and programs directed at exports and the increasing interaction between the international trade and the domestic economy gives rise to problems and opportunities which need more and better attention within the U.S. government.

Requirements

Any organizational model, to meet the above objectives, would have to exhibit the following characteristics:

1. It must provide for an entity with sufficient "critical mass", that is, authority and responsibility for a broad range of trade matters, to constitute a focal point and locus of power in trade matters.
2. The entity must be perceived, and have the prospect of being, an aggressive and forceful administrator of various provisions of trade law and in enforcing the MTN agreements and any future agreements to be negotiated.
3. The entity should be a *primus inter pares* within the Executive Branch and be seen to have special authority from and influence with the President.
4. The organizational structure should provide for a point of coordination of trade policies that is proximate to the President and on which the President depends.
5. The entity should be clearly trade oriented, above partisan and sectoral interests although sensitive to them. In particular, the trade responsibilities should not be seen as a handmaiden of broader foreign policy.

6. The structure should make provision for an effective export policy that is supportive of U.S. export interests and oriented toward their promotion.

Functions

There is an array of functions in the trade area that have to be discharged effectively by virtue of any reorganization. The principal entity in the Executive Branch would have the bulk of the responsibilities, but some functions would remain in existing departments and new or broadened functions can be assigned to certain existing departments. The functions consist largely of: (1) Coordination of trade policy and administration; (2) delineation and development of trade policy; (3) trade negotiations and GATT management; (4) trade administration and enforcement; (5) export policy, including export controls; (6) administration of export promotion and financing programs; (7) trade intelligence, research and information; (8) industry sector analysis and policy; and (9) private sector advice.

Organizational options

Various organizational models have been proposed, some in the legislation that has been introduced by a number of Senators and others by various departments and agencies of the U.S. government as well as by private organizations and individuals. These proposals fall generally into the following categories:

1. Improve operations within the existing organizational structure by improving the functions and activities of existing departments and agencies
2. Consolidate the various departmental and agency responsibilities and functions in either: (*a*) An existing department—the Department of Commerce is most often mentioned; or (*b*) by establishing a new department within the Executive Branch (e.g., the Department of Trade as proposed by Senators Ribicoff, Roth and Byrd).
3. Establish an Executive Office agency or entity which would be above the existing departments and would have responsibility for coordination and, possibly, policy formulation.
4. Establish a sub-cabinet agency that would have a range of functions and responsibilities in the trade area; it is not clear what cabinet department it would be subordinate to.
5. Establish an independent agency with similar responsibilities as the sub-cabinet one under number 4.
6. Some conbination of the above as, for example, a combination of a new department plus the assignment of certain functions to an existing department, or a combination of these plus a coordinating entity.

Consolidation

The Roth-Ribicoff and Byrd bills provide for an extensive consolidation of trade functions of existing departments and agencies into their proposed Department of Trade with the Byrd bill the more comprehensive in this regard. For example, Roth-Ribicoff does not include the Foreign Agricultural Service of the U.S. Department of Agriculture in the proposed new department while Byrd does. How much consolidation is desireable and practical?

A practical rule of thumb: that amount of consolidation of functions is necessary as required to carry them out economically and efficiently. (Thus, for example, if the Treasury Department's present responsibilities for administering the countervailing duty and antidumping statutes should be transferred, there is clearly no purpose served in having the Treasury staff responsible for these functions retained in Treasury and it would be economical to have such people transferred).

In considering the benefits and disadvantages of consolidation it is worth noting that:

1. The fact that existing departments of government have staffs devoted to trade matters reflects the legitimate interests and involvements of these departments in trade. Trade matters intersect with foreign policy, with labor, with financial, etc., interests. If existing departments were completely divested of all trade functions and staff it would be reasonable to expect them to restore these functions and staff over time.
2. There is value, particularly from the point of view of the President, in having a diversity of opinions and views in the area of trade on which he bases those policy decisions which he must make. The President will seek out the views of various departments in any case and it is better that these diverse views and interests come to him through a structured system.
3. The economies involved in consolidation are relatively small since the numbers of people involved in trade in the various departments are relatively small.
4. Comprehensive consolidation would provoke the resistance of existing departments and prejudice the prospects for organizational reform in the trade area. It is

a better trade-off if departments retain certain functions and staff in exchange for a reorganization plan that provides for an entity that enjoys a position of primacy and authority in the trade area.

Constraints

To be realistic and practical, any reorganization model must take account of the views held by the principal actors. Clearly, some of these views or constraints are mutually contradictory and no reorganizational model can take account of all of them. Nonetheless, it is worth noting the major constraints:

1. The President is opposed to: (*a*) The creation of a new department; and (*b*) the enlargement of the Executive Office of the President. This has led the OMB staff to suggest that there are only two viable options: (*a*) Beef up an existing department; or (*b*) beef up the existing functions and responsibilities within the departments where they presently reside. If these options are not acceptable, the only alternatives are to establish an entity within the Executive Office or establish a new departmental entity both of which conflict with the President's constraints.

2. The President's constraints reflect a desire to avoid proliferation of agencies and increases in the size of government as well as, particularly, avoidance of enlargement of the Executive Office staff. Thus any proposal would at least have to have relatively modest effects on government budget and personnel.

3. Executive Branch approval of support for a reorganization scheme would have to take account of the views existing in departments and agencies. This was discussed above.

4. It would seem that the following options do not have great appeal either to the congressional advocates or to private groups: (*a*) Enlargement and consolidation under the Commerce Department. The Commerce Department is simply not seen as a winner. (*b*) A sub-cabinet agency. This would actually be a demotion of the present STR who has cabinet level rank at Executive Level I. (*c*) An independent agency. Trade policy involves presidential policy so that any agency subordinate to other departments and removed from the President would seem to be a non-starter.

Limitations

While governmental reorganization is important both as to substantive matters as well as to appearances and symbols, it is by no means the whole story:

1. Organization by itself does not guarantee good policy.

2. The quality of the people manning any organization is of primary importance.

3. All authority in the Executive Branch is derived from the President and the President is free to make his decisions in the light of whatever advice from whatever source he may choose.

4. Reorganization does not guarantee that specific programs will be well designed or successful in their application.

5. Trade policy, no matter how structured or administered, is bound to be responsive to other influences including those of foreign policy and domestic politics.

PROPOSAL

The following proposal is designed to meet the principal objectives which have been identified while avoiding those contentious and divisive issues which could prejudice effective organizational reform.

The proposal consists of 3 parts:

(1) The central component will be an entity ("Board of Trade") in the Executive Branch, at the departmental level, which by virtue of its authority, power, and status can effectively define a trade policy for the U.S. government, administer various programs and undertake negotiations to that end.

(2) Provision for a coordinating mechanism within the Executive Office of the President ("Trade Policy Council").

(3) Expansion and improvement of activities of the Department of Commerce in the areas of: (*a*) Export promotion; (*b*) Trade intelligence, analysis and reporting; and (*c*) industry sector policy.

Structure

1. The Office of the Special Representative for Trade Negotiations would be the nucleus for the Board of Trade in recognition of the fact that: (*a*) STR is perceived as the most effective agency of the U.S. Govenment in the trade area and thus represents a "winner"; (*b*) the STR is a creature of the Congress in which the Congress has a proprietary interest; (*c*) the STR has established itself within the councils of govenment as a forceful and authoritative agency. (*d*) It has a competent and experienced staff.

2. The STR, renamed Special Trade Representative instead of Special Representative for Trade Negotiations, will have cabinet rank. He will serve both as Secretary of the Board of Trade and Chairman of the Trade Policy Council.

3. The functions and responsibilities of the Board of Trade will be broader than those of the present STR. They will comprehend certain functions presently performed by other departments; those departments will retain most of their trade activities and staff. The Board of Trade will be responsible for coordination at the level.

4. The Trade Policy council will consist of the Secretaries of the several departments having trade responsibilities and interests. It will have an Executive Director and professional staff of 4-5. The TPC will cover a broader range of issues than the Board of Trade. It will serve to bring the views of the several departments to the President for his decision and provide a trade dimension to issues of a broader framework.

THE BOARD OF TRADE

The Board of Trade will be a cabinet-level department with a Secretary, 1 (2) undersecretary and 4-5 assistant secretaries. The total staff should not exceed 400. Calling it a "Board" instead of a department serves to distinguish it from the ordinary department in terms of its size while identifying it as a coordinating instrument directly responsible to the President.

The Board would have 3 principal divisions, each headed by an assistant secretary as follows:

Trade enforcement.—Countervail, dumping, national security, Sec. 337, export controls, embargoes, Sec. 301, Sec. 201.

Trade policy and negotiations.—GATT including codes, commodities, services, East-West trade, OECD and UNCTAD, GSP, agriculture, sectoral issues (textiles, steel).

Export development.—Coordinator, special senior staff, trade intelligence, etc.

The Trade Enforcement Division would assume certain functions presently performed in the Office of Tariff Affairs of Treasury, Bureau of Trade Regulation of Commerce, the International Trade Commission and others.

The Trade Policy and Negotiations Division would absorb functions of the Office of International Commodities of State, certain east-west functions of State and Treasury, the U.S. GATT representation in Geneva of State and others.

The Export Development Division would be a new unit. The special senior staff would be a cadre of senior experts assigned both to major posts, e.g., Geneva, Brussels, Tokyo, Ottowa, Peking, Moscow as representatives of the Board as well as in Washington to report and analyze, undertake major trade assignments cutting across a number of issues as, for example, with the USSR and PRC, and to be troubleshooters on specific trade problems.

THE TRADE POLICY COUNCIL

The Council mandate would embrace: (1) all matters falling within the area of responsibility of the Board of Trade; plus (2) all trade matters in the jurisdiction of other departments, including: export controls (COCOM; political embargoes), economic warfare, trade and investment related tax issues, foreign investment policy, antitrust, stockpiling, energy; (3) trade aspects of domestic macro-economic policies.

The Council can absorb certain trade functions now performed by the NSC and White House Domestic Policy Staff.

The STR as Chairman of the Council should be a member of the Economic Policy Group.

THE DEPARTMENT OF COMMERCE

The Commerce Department has been a department in search of a mission since the days of Herbert Hoover. It is currently a candidate for reorganization; it may be divested of certain functions (e.g., NOAA). A leaner, more mission-oriented department with specific and valuable functions and responsibilities is desirable. It should have a "business-industry-export-efficiency" orientation and should develop competencies which make it an effective spokesman in the councils of government and a respected factor in economic policy formulation.

Without prejudice to the other activities of the Department, there are 3 functions which should be improved and made central to Commerce's role in the trade area:

1. Export promotion.—The Commerce Department would be charged with administering export promotion programs under the overall guidance of the Board of Trade.

2. Trade intelligence, analysis, and reporting.—Statistical analysis and reporting, Commercial intelligence and reporting including information with regard to MTN code violations, Commercial attaches abroad.

3. Industry sector policy.—Adjustment assistance, Technology, science and innovation, Productivity, Sectoral problems-tax, environmental, and other impacts.

The International Trade Commission and the Export-Import Bank could come under the Commerce Department while remaining independent as to their statutory functions. In the case of the ITC this would bring the statistical reporting functions within the Commerce Department and make available to the ITC the sectoral analyses of Commerce. As to the Export-Import Bank, the Secretary of Commerce woud be designated Chairman of the Board; this would integrate EXIM into the export promotion activities.

Export promotion

The President issued a statement on September 26, 1978 on a National Export Program in which he assigned high priority to export promotion. An export policy cuts across a number of aspects of national policy (taxes, export credit financing, export controls, market access, R and D, etc.). Export policy is, therefore, a prime responsibility of the Board of Trade. The Department of Commerce's responsibilities will lie primarily in administering export programs. It has experience in this area under its Industry and Trade Administration. Much work remains to be done in defining the content of such programs and in determining what the U.S. government can properly and effectively do in this area.

Industry sector policy

This is a relatively new area although it would include the present science and technology and certain economic development activities of Commerce. The notion is that efficiency, productivity and enterprise are the fundamental determinants of competitiveness in export markets (to say nothing of growth in real income at home). Commerce should not only spread this gospel in the community, but also be an advocate for it within government by bringing its expertise to bear on issues of tax policy, business regulation, etc., as governmental policy is fashioned in these areas. Industry sector policy would not only be concerned with the weak sectors, but also the strong and promising ones. It would monitor industrial sector strategies of other countries and analyze their impact on U.S. industry and its international market position. It would provide information and analyses essential to trade and foreign investment policy formulation.

Mr. GIBBONS. We will go until the next bell and then I think we will recess for a while.

Mr. GATES. I hope, Mr. Chairman, I will not take but 3 or 4 minutes.

Mr. GIBBONS. With your experience we hope for you to take a couple of hours.

Mr. GATES. The last man on a panel like this should be sympathetic. With your permission, I would like to insert my written statement in the record and just summarize a few points.

Mr. GIBBONS. You can put it in before or after your statement.

STATEMENT OF THEODORE R. GATES, WASHINGTON, D.C.

Mr. GATES. I would like to come to the point immediately. I believe, for reasons that are detailed in my written statement and I will allude to in the summary here, that the committee should support the administration plan with certain modifications.

I say that with full awareness, even after this morning's testimony, that there are very significant and important details which are still not known.

I would like to make six brief points now. The first one is the urgency issue, or at least what I call the urgency issue. There was some evidence certainly in the committee's questions this morning of interest in whether or not this is the kind of a problem that should be tackled immediately, what route should be taken, and

whether or not more time should be taken to fully sort out this thing or what to do.

I thought about this at some length and I feel, above all, there is a great need for immediate restructuring of our trade policy system. It has already been mentioned in this testimony of the need for the MTN implementation, and the fact that the new statutes on dumping and countervailing duty go into effect January 1.

Nobody has mentioned this, but certainly we are all aware that there are some very major trade problems ahead in the world and that trends well visible and underway are only going to create more and more difficult problems in the immediate future.

There has been mentioned, of course, the need to find better solutions to the entire U.S. trade performance and its posture.

Mr. GIBBONS. We are going to have to interrupt you at this point. We have to go vote. We will try to be right back.

Mr. FRENZEL [presiding]. The subcommittee will come to order. Mr. Gates, do you want to start over again?

Mr. GATES. I can summarize what I have said, Mr. Chairman.

The first point I was making is what I called the urgency issue, and the urgency of the issue before the committee this morning. Members appear concerned and I am concerned whether or not actions will be taken on an emergency basis or whether more time should be given to the many issues in the organization.

I also mentioned some of the reasons for the urgency, and the bell rang when I was about to look at the other side of the coin.

The obvious problem in trade reorganization is reflected in all the testimony that has been given thus far. This is a very complicated, very difficult issue. There are many problems, many of which have not been solved. We certainly have the problem of scattered trade policy resources and functions, and diverse, although not necessarily complementary, statutory authorities and many, many different types of trade problems.

Hasty judgments on reorganization can even be counter-productive. However, I would, on balance, urge the need to act now on reorganization and trade functions which are vital and urgent.

The modifications which I mentioned earlier that I would urge be made in the administration's plan are five in number. I strongly feel, for the reasons that are amplified in my written statement and I will not repeat here, that the Office of Special Trade Representative must remain in the White House. I differ with Mr. Walker and Gillis Long for the reasons that I have stated in my prepared statement.

Second, the administration's plan, I think, is ambiguous and perhaps defective in that it does not refer specifically to the function for STR of developing policy. Too much reference has been made to the need for coordination, in my judgment. There is a definite need to assign and make clear who is responsible for developing policy.

Also on that second point, I believe that the mandate as described in very general terms in the administration's submissions and testimony this morning for the Trade Policy Committee, the Cabinet-level committee, is too loose and too vague. I believe it should be clarified and strengthened very carefully, very precisely.

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Some of the obvious points that I think have to be made in the mandate are the integration point, No. 1, the integration of domestic and foreign economic policies. There were some references to it in Mr. McIntyre's testimony this morning, but I feel that the committee should take very careful heed of this problem and make sure that the integration of domestic and foreign economic policies—which we have done very poorly in the past, if at all—are now a major responsibility of the TPC. The corollary of that, of course, is the need—again not very well done and hardly done at all in many cases—both in the executive branch, and if I might be permitted the further comment, occasionally in the Congress, of assessing the impact of the domestic policies, domestic legislation, upon our foreign economic performance and our foreign economic problems.

Third, and many witnesses have made the same point so I will not go into detail, I believe that the trade policy committee mandate was not clearly defined in scope. Its responsibility should clearly be all trade-related U.S. policy. Export policy is just one example of it.

No. 3, the sectoral analysis and the industrial analysis issue has been discussed in very general terms. I think everybody agrees it is an issue whose time has come. Again, the reorganization plan should very specifically state what this new function is, the function that really has not been performed.

Alan Wolff mentioned some of the difficulties he had in the more recent negotiations. Those of us who have had previous experiences had similar difficulties in developing and obtaining the best information on a sector-by-sector basis. And I would include—there is no reference of any of the material I have seen from the administration—that this should include analysis of the foreign sectors. We seldom are prepared in our trade matters with sufficient information on the foreign competition, the foreign practices, that we are dealing with.

The other half of the sectoral mandate very clearly should mandate developing expertise on the impact of our domestic policies upon foreign trade. When we legislate and administer our various domestic economic policies, we seldom take into account their effects on our foreign performance.

Point No. 4 has been mentioned this morning. I would only add my support to it. The administration's apparent estimate of the required staffing in STR, I feel, is grossly inadequate. In my prepared statement I think I say it would be folly to proceed on this basis.

Point No. 5 is the very difficult issue that Peter Suchman and others have talked about and Representative Downey raised this morning, very pertinently, of the proposed division between the Department of Commerce and the STR office for our unfair trade practices.

I believe that the administration's plan would create major dilemmas. I will cite just a few of them. We can understand, and I think it is right, the need to try and insulate the administration of these unfair trade practices from the political process. On the other hand, the price of that is inevitably to weaken the hand, possibly undermine the hand, of the single foreign trade expert and spokes-

man that practically every witness and every plan has urged us to have.

Another possible dilemma problem will occur between the tight criterion, the tight timetables, that the Congress has now enacted in the recently revised unfair trade practice legislation for the administering of these domestic statutes against the need which is also provided for, although circumscribed, for negotiated solutions.

These negotiations, I would presume, although it has not been made clear in the administration's plan, would be conducted by the U.S. Trade Representative.

Concluding, I feel that these kinds of problems involved in the administration's plan will become very difficult in actual application. There are going to be major cases under both the countervailing duty and the dumping statutes. There are going to be very complex cases generally.

Mr. Walker referred to, of course, the automobile case. Mexican tomatoes have also been referred to. These kinds of cases have to be negotiated. Cases in unfair trade practices in the future will be far more complex because the world is going to be more complex. Competition is going to be more severe. Government intervention is going to be more subtle, more pervasive.

The cases that are going to have to be processed under these statutes are all going to be much more complicated than they have in the past. The division of responsibility in functions that is proposed in the administration's plan can be very difficult and unbalanced.

Considering the issues on both sides, I would urge that the functions be consolidated. I believe the only place to consolidate them would be in the Trade Representative's Office. Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF THEODORE R. GATES, WASHINGTON, D.C.

Mr. Chairman, I appreciate the opportunity to comment on the complex and timely issue of reorganization of the international trade and trade-related functions of the Executive Branch.[1] This statement will be brief, summarizing only a few of the aspects I believe the Subcommittee should particularly address. It can be brief because the public record is already extensive, and because I believe the Plan outlined by the Administration in July is, by and large, based on sound principles. My primary concerns with that Plan involve details not then revealed or explained. Since this statement must be prepared in advance of today's Hearings, by now Administration witnesses may have supplied some of these details to the Subcommittee.

My first comment is that I believe this issue poses a serious dilemma for the Congress—a dilemma which I hope it will and must resolve during its present Session. There are very compelling needs, for the reasons other witnesses have stated, to restructure the system we now have for formulating, coordinating, and implementing U.S. trade and related policies. Action here is long overdue. Moreover, looking ahead, the trade problems of our increasingly competitive world are bound to grow, and grow more complex and more closely interrelated. We must improve our capability to deal with them.

Set against these urgent needs for action on a fairly comprehensive scale is the equally obvious fact that there are no simple answers and no easy or obvious choices. It is not a matter for summary judgments. Our diverse national interests are varied and seldom compatible. Our present resources for evolving and pursuing trade policies are scattered and often inadequate. They never before have been effectively marshalled on a broad scale for either unified policy determination or

[1] The views presented here are mine and do not necessarily reflect those held by any organization or clients represented by or advised by my firm.

implementation. Any hasty, ill-advised schemes for change, finally, may well risk creating even less satisfactory results than the status quo.

While our organization for conducting the MTN worked very well, it focussed only on a limited segment of our trade concerns. For the many other critical aspects of U.S. trade and related activities, present or future, we have little, if any, formal, let alone effective, organization. Our present system, if it can be so described, does not, rather obviously, adequately address the problems or the causes of our weak trade position, our need to expand exports, or provide answers to the many other foreign economic problems clearly lying ahead of us.

Further, although the MTN negotiations were essentially concluded more than six months ago, there is little public evidence as yet that we will be able to move as swiftly and as aggressively as we must to deal with the opportunities and obligations we sought in five years of negotiations. Within but a few months much of the Free World will, hopefully, be competing under new trading rules, largely of our design and intent. There will be major issues in dispute, major precedents to establish, strategic plans to be made and trade-offs to be weighed, and new case law to be developed. Yet we appear, once again, to be losing both time and experienced personnel. We risk entering the next decade with a trade-policy mechanism weaker than that with which we conducted the MTN unless we act in the immediate days ahead.

There is, therefore, an urgent need for a strong organization, for a unified trade-policy coordinating and administering system, and for the United States to be able to speak in trade and trade-related matters with a single voice, based on full consideration of all diverse elements of its national interests. I urge the Subcommittee to take the most carefully considered of the alternatives before it—that offered in general terms by the Administration in July—and with certain modifications to support its early adoption by the Congress under the expedited procedures of the Reorganization Act. The modifications should include the following:

1. The U.S. Trade Representative and his Office should remain in the White House. U.S. trade policies intrinsically, if not invariably and often almost inevitably, involve a balancing between competing interests and priorities, economically and politically, domestically and abroad. They require an "honest broker" or impartial mediator. They require special authority from and relationships with the President. They must be a White House function.

The Congress recognized this special status in the Trade Act of 1962 when it created the Special Trade Representative. Experience since then has confirmed the wisdom of its decision to place this function in the Executive Office of the President. Experience has shown that no line agency or Department can reasonably fill this function, adjudicating vital issues amongst co-equals, nor be perceived to have the necessary closer relationship with the President, his authority and his policies.

2. The functions of the U.S. Trade Representative must be more clearly specified than they were in July. In particular, they must include policy development, as well as coordination and negotiation.

3. The Cabinet-level Trade Policy Council (TPC) must not only be established, but it must have a clearer definition of its functions than in the July Plan. One major weakness of that Plan was the absence of any reference to the need or any proposed mechanism for integrating domestic and foreign economic policies. The Plan contained little, if any, explicit recognition of the critical need to consider the implications of domestic legislation or policies upon U.S. foreign trade and investment performance. Little was also proposed for the increasingly critical relationships between monetary and financial policies and other foreign economic affairs.

Our domestic and foreign concerns and performances are interacting and interrelated. Yet both sets of policies are coordinated by a variety of mechanisms, some entirely ad hoc, and some seemingly hardly coordinated at all. There must be an integrated mechanism, beginning at the lowest level of inter-agency policy development and peaking in the TPC, for bringing together the vast spectrum of public activities, and, hopefully, producing a comprehensive, consistent economic program.

The proposed TPC should become this mechanism. It should be a permanent mechanism, based in statute, and chaired by the President's principal foreign economic advisor and representative. Its responsibility and scope must specifically encompass domestic policies—antitrust and taxation, to name but two—as they affect our foreign economic performance.

The TPC should also have primary authority to coordinate and administer policies to expand U.S. exports, policies necessary for any control over exports, for promoting service-industry trade, for international commodity policy, and for both East-West and North-South trade. It should not be limited essentially to urgent issues in

U.S. commercial policy, as has too often been the case with predecessor coordinating bodies.

4. More explicit definitions and missions must also be given to the overdue strengthening of the sectoral analysis and expertize of the Department of Commerce. This diminished capability, which has long lacked budgetary or other support, must be revitalized, given new priority, and a dual function. One function should be to develop and provide expert support for programs improving our international competitive performance, the roots of which lie in domestic performance and in domestic policies. This, in turn, should also include more competent analysis of overseas markets and of our foreign competitors, by sector.

The other major function of a new sectoral emphasis should be to develop both expertize and sensitivities to the impact of major domestic policies, regulations, and administrative practices upon the basic competitiveness and growth of specific U.S. industries. This expertize should not be isolated in a corner of the Department, but made available to all other agencies and officials directly responsible for significant elements of U.S. domestic economic policy, whether directly trade-related or indirectly.

5. The staffing proposals for the U.S. Trade Representative outlined in July appear to underestimate even the most modest of estimated future requirements. The MTN results, alone, will require augmentation above present staffing. The new or transferred functions, including GATT representation, will clearly require substantially more personnel than presently authorized. It would be folly to create an improved structure for policy development and administration without the quality and strength of personnel minimally necessary. This, too, would be repeating a mistake made in previous efforts at trade reorganization.

6. Finally, the July proposal to divide certain trade functions and responsibilities between the White House and the Department of Trade and Commerce creates a series of unanswered questions and potential problems. Our trade policy and our trade posture critically include enforcement of our domestic statutes, particularly those involving import relief and unfair trade practice complaints.

The proposed division between policy and enforcement is likely to create major dilemmas. On the one hand, there are valid reasons for attempting to insulate the administration of these statutes from the political process as much as is reasonable. On the other hand, their delegation to another agency can weaken the resources available to the principal U.S. trade spokesman in his overseas functions, even undermine his efforts.

A second dilemma arises from the strict criteria and timetables set by statutes for the "administering authority," yet the statutes also provide for negotiated resolutions, presumably functions of the chief U.S. trade negotiator. Finally, in all realism there can be no hope that major import relief and unfair trade practice issues can ever by entirely divorced from the political process, either here or abroad.

The only solution to these dilemmas, while at the same time creating a strong, unified U.S. trade posture, is to consolidate final authority in the single U.S. trade spokesman's office. If the basic reason for the proposed division of authority—and it is not yet clear what the reasons were—is concern over enlargement of the Office of the President, I believe enlargement is preferrable to potential divisiveness. Personnel should not be the major issue.

Moreover, the additional staff involved in consolidation should not be excessive. As was effectively demonstrated in the MTN, the principal trade spokesman and negotiator can and should draw upon the varied expertize of line agencies for many functions and services. He has and should continue to rely upon their investigatory resources. In the future, enhanced expertize on domestic and foreign sectors should also be available to him. For the future, too, he must be able to draw upon new resources which must be developed if our trade laws and the new GATT Codes are to be properly and equitably enforced.

Disputes and claims involving dumping and subsidies, in particular, have too long been treated with outmoded or insufficient expertize. Today's realities of world competition, of price differentiation and of reasonable or unreasonable price adjustments, or of determining what are fair values or fair allocations are far too complex to be assayed by most generalists. Trained cost accountants, experienced marketing analysts, and price-policy experts are required for such determinations, along with experts thoroughly informed on the widely varying business practices in each of the industries concerned. They are needed but they need not be Executive Office staff.

The single trade and negotiating authority all proposals agree is necessary needs to exercise the discretionary authority provided by the Congress in import relief issues in order that the United States speak with a single voice abroad. It will speak

with a still stronger and more effective voice if the single trade policy authority also has a final role in the determinations made under our domestic trade statutes.

Mr. GIBBONS [presiding]. Thank you. I thank all the panel for your very constructive suggestions that have been made here.

One thing that worries me, you are going to have people that work on the docks, people that process all this paper and people that make the decisions in separate departments, are you not, under the President's proposal, or are you, for the collection of duties and the administration of the law?

As Peter pointed out, it is hard enough to get experts in this area anyway and with the bureaucratic problems of transferring from one agency to another, it looks like we have created problems rather than solved them. Am I mistaken in this?

Mr. SUCHMAN. You certainly are correct, Mr. Chairman. And I might also agree with Ted Gates on one point, and that is, that the new statute tightens up the administration of the law even further insofar as time limits are concerned. It is ludicrous to propose that you are going to be able to have one agency doing the implementation and actual investigation and then as soon as a policy issue comes up they would run to another agency, or an interagency committee, God forbid, to get a decision on that policy issue, then run back, and having suspended the investigation while that policy was being worked out, begin again and still meet time limits. It is just inconceivable to me that this is going to work.

And as I have said, if this policymaker does not participate in these decisions that are made in the very midst of the investigation, he has really lost control. I do not think there is a way to separate implementation and policy in the enforcement of the unfair trade practice remedies.

For instance, the question of whether a particular adjustment for differences in circumstances of sale in the home market and the U.S. market, if that adjustment will or will not be allowed, can determine whether or not there are dumping margins. The kinds of adjustments to be allowed is the critical policy aspect of antidumping.

But you cannot expect someone in another agency, who is presumably confined only to high policy issues, to be conversant enough with the intricacies of antidumping law to be able to make that kind of determination. And yet if he is not involved in the issue he really cannot be held responsible for the outcome of the case.

I would strongly urge that whoever is going to be held responsible by the President and by the Congress and by American industry for the outcome of these investigations be the one in charge of implementation. Otherwise he has the responsibility but he does not have the ability to control the outcome.

Mr. GIBBONS. What are the views of the rest of the panel on Peter's statement? What do you think about that?

Mr. WOLFF. Mr. Chairman, I find what Peter Suchman is saying very persuasive but I would draw a somewhat different conclusion, the reason being that we cannot have what I think would be the best organizational framework for the conduct of trade policy, including the implementation of these unfair trade statutes, and that

is, a Department of Trade or single trade agency. There is not going to be one now. We will not have everything in one agency.

There is going to be a split. I would be very dismayed to see, let us say, a Deputy Commissioner of Customs being the sole official responsible for the Countervailing Duty and Antidumping Acts. These statutes involve our entire trade policy. I think something like the trigger price mechanism in steel would never have evolved as an administrative matter at a relatively low level within the bureaucracy. A high level, political decision was required. If there is no reorganization we are not going to have a very happy prospect for our trade policy.

So there will be some split in functions. It is unavoidable in cases like the countervailing duty complaints against European Community on dairy, on the automobile cases and a number of other cases, steel cases in the future. There is going to have to be some high level input at a political level. I would suggest that will have to come from the STR.

It is not the cleanest way of doing things. It is not the neatest way on an organizational chart but I think it is unavoidable if you will not create a single trade department.

Mr. GATES. I would agree with most of what Peter says, Mr. Chairman, and stress one point that I alluded to. I think that the problem we are going to have in the administration of the new statute is going to be almost self-defeating. The timetables are very short. The difficulties of obtaining the right kind of data or making the right kind of adjustments that Peter has alluded to were never apparent to me when I was in the Government; only when I began to, misguidedly, occasionally get involved in an unfair trade practice case did I realize that the law is very simple—over simplistic, compared to reality.

The reality of commercial competition, or pricing, is far more complicated than our statutes provide for or our concepts, and yet the law also provides that under certain circumstances there will be negotiated solutions, there will be determinations and certain assurances and so on.

In my experience the information under the old timetable was seldom solid until the last minute, and then always debatable and dubious, and as Peter said, there are always policy decisions made daily in these kind of cases. They have to be by their very nature.

I think we are going to find, particularly with the division of authority here, that the timetables will have to be met under statute and there will be no opportunity to find negotiated solutions.

Mr. FRENZEL. Mr. Chairman, may I follow up on that point. I missed Alan's excellent testimony, which I have been trying to read. I still do not understand, Alan, the way you would like to see this particular point worked out.

Mr. WOLFF. My preference is to have a trade department or a single trade agency. I do not think the President will go along with that. I do not think that there is enough support in the Congress for a Department of Trade to be created at this time. Therefore, you cannot get the implementation of the unfair trade practice statutes in the same agency as negotiation and other trade functions.

That means either leave the countervail and antidumping where they are in Treasury or move them to the Department of Trade and Commerce. Wherever they are, I would say it is absolutely essential to have a Presidential appointee, appointed with the advice and consent of the Congress, responsible for the administration of the statues, not a Deputy Commissioner of Customs but an assistant secretary level official who can be brought up here and made accountable.

I do not know how best to avoid repetition of the television case, which is one of the things that motivated a lot of the desire for change in the beginning.

One way is adequate resources. Another way is congressional oversight of a very constant sort. And I would submit that in this imperfect world if you do have an assistant secretary for enforcement someplace, there is still going to have to be someone who pulls the antidumping and countervailing duty laws into our trade policy and I say that fellow has to be the STR, absent a Secretary of Trade, which we are not getting under any proposal that is likely to be adopted in the near future.

Mr. FRENZEL. I have to agree with you. That is where we would all like to be sometime. But assume that that is politically difficult. Therefore, we can leave those two troublesome areas, countervail and dumping, either with Treasury, we can move them to Commerce, or we can stick them in STR. There is quite a range of opinion among the witnesses here as to what we do with them. There is also quite a range of opinion in the panel up here as to what to do with them.

We would like to put them somewhere where they work. We have tried Treasury to, I think, disastrous results. Treasury did not ever give a damn if they solved any of those problems or not, so now we need to try something else.

Your statement indicates that you could live with Commerce if there is an assistant secretary for enforcement. Is that it?

Mr. WOLFF. I see no great reason, frankly, for moving antidumping and countervailing duties from the Treasury other than making this some form of retribution against Treasury. There is no great reason to move it out of Treasury into Commerce. I do not know why Congress would give these functions a higher priority or do the job better.

I do think that there should be an official who is answerable almost entirely just for these statutes. In other words, someone who does have a broad portfolio.

When there was an assistant secretary for enforcement of Treasury, things ran a little bit more smoothly and I think that is useful. Someone has to be graded almost solely on how those statutes are working.

Mr. FRENZEL. Of course the reason you want to take it out of Treasury, I think, is because you are trying to get Treasury out of that picture. What Treasury is left with in most of these bills is the Customs Department.

If you leave an undefined agency or institution or instrumentality drifting off the general counsel's office in Treasury, you cannot get any attention to the problem.

If you are going to consolidate some of the function in Commerce it seems to me then you can bring some weight to bear against the problem.

We would sure like some good counsel on the best way to do it. I would prefer not to encumber STR with it. But again, I guess if somebody made a great argument for that, I could be had.

Mr. RASHISH. I tried to make that argument, Mr. Frenzel, in my statement and I elaborated on it in the memorandum that I submitted for the record. I discern a certain convergence of views here on the panel on this subject with Alan William being slightly laggard, but I think he is coming our way, and that is, that the enforcement functions in dumping and countervail properly belong in STR for reasons which I think Peter Suchman identified most clearly.

I find very little merit myself in putting it in Commerce. I just do not understand the logic of it and the only explanation I have been able to come up with is that the administration's proposal, although I recognize that your proposal, Mr. Frenzel, does the same thing, was based essentially on the notion that they wanted to accommodate certain dissatisfaction in the Congress with the administration of the antidumping and countervailing statutes, did not want to put it in STR because they did not want to beef up STR, increase its size, so they put in the Commerce.

That would be the third of three options that I would prefer. I would prefer putting it in STR for reasons I would be glad to comment on further. My second preference is to keep it in Treasury where it presently resides. And I am afraid that the third option, putting it in Commerce, is one that I would not want to contemplate.

Mr. FRENZEL. Well, Treasury is sort of like continuing to bet on the Cubs, is it not?

Mr. RASHISH. I do not think so. I think what is missing here in the discussion on the Treasury's competence to administer the countervailing and antidumping statute is the fact that you gentlemen have enacted the Trade Agreement Act of 1979. You have amended the administration of the countervailing duty and antidumping statutes. There is some understanding, the precise nature of which I am not familiar with, that Treasury will increase the size of the personnel charged with this responsibility and I see no reason why, given those facts, Treasury could not administer those two provisions of law effectively.

My argument for putting it in STR goes to a different set of issues, essentially the ones that Peter Suchman mentioned, to which I would add one. And that is that under the countervailing duty law, with the countervailing duty code as we have it now as negotiated in the MTN, there is the second track procedure, which is a 301 or STR procedure.

It seems to me somewhat awkward and anamolous to have one track being administered by Treasury and the second track being administered by STR. And given the overriding, it seems to me, policy considerations that are involved—there is some policy latitude in the administration of the countervailing duty and antidumping acts—given that consideration, I think that on balance, the body English I would impart would be to put it in STR.

Mr. FRENZEL. I think I understood you the first time.

Mr. SUCHMAN. I was going to support what Mike just said. If the function is not to be incorporated in that agency which also controls ultimate trade policy decisionmaking, the whole concept that Alan was expounding, there really is no logical reason for moving it from Treasury.

The problems that have been developed there are largely organizational. They have to do with the resources devoted to these activities. Those problems could just as easily exist in the Commerce Department, and I would guess, would have existed if in the period following the radical change and evolution of these statutes, which really overtook the capacity of the department to deal with them, if administration had been in Commerce or Labor or anyplace else. The fact remains that the expertise is where it is, and that the Treasury is an agency without the kind of constituency that the Commerce Department has. If you are not going to put administration of these laws in a trade agency, to incorporate policy and implementation, you are better off leaving it where it is, because the new law will overtake the ability of a new department to deal with the statutes.

Mr. FRENZEL. Of course, when you say, "If you are not going to put it in a trade agency," means you do not believe that Commerce is going to be at least partially a trade agency.

Mr. SUCHMAN. Well, sir, as I understand the administration's proposal, policymaking functions in the trade area would remain with STR. Now if that is not the administration proposal, I think it has been misrepresented.

If the proposal is to put countervail and dumping in STR I think a strong argument can be made for it. I have some slight hesitation because, as I pointed out, STR is an agency which traditionally has had a negotiating objective. And where I part company with Alan is in believing that there is that much negotiating left in these areas after you gentlemen have gotten finished amending the bill, or amending the law.

The whole thrust of Congress, in this Trade Agreements Act, has been to take out much of the discretion that was left in. So when the rest of the panel says, "Well, the policy agency has to be able to manipulate the administration of the statute to achieve other ends," while I intellectually agree with that, as a lawyer I am not sure there will be much left to manipulate.

Mr. FRENZEL. I hope you are wrong. I guess that Alan thinks you might be wrong. I think we have lots of things to negotiate many of which we do not have the authority to negotiate, but they are still going to have to be negotiated.

Mr. SUCHMAN. For instance, the automobile case has been alluded to several times as a negotiated solution to a major trade problem. Under the law as it will exist after January 1, you could not have the same solution that you had then because the authority of the secretary to discontinue an investigation for "other reasons" has been removed.

So what is left is a much narrower span for negotiated solutions than existed prior to passage of the Trade Agreements Act of 1979.

Mr. WOLFF. I would assume that you would need the cooperation of the domestic industry in reaching some of the solutions that will

be required. I do not think there is a great deal of leeway, a great deal of discretion, but there are going to be some cases in which, when I say "a negotiated solution", it is going to be a broad negotiation, including some of the domestic folk as well, I would think.

Mr. FRENZEL. Well, I thank all of you.

Mr. GIBBONS. The only way you could negotiate one now is to get them to drop the case, is what you are talking about? You could not really dismiss it any more like you could for other reasons. If you have a determined litigant you are going to be pushed to the wall anyway and somebody is going to have to make a decision or else it goes into the other court system.

They can appeal the decision to the court of appeals and you are then really in a very tough due process binder and you are going to have judges making decisions that have nothing to do with the policy matters at all. I do not know what to do about the thing.

Let me ask you, how many people is it going to take to run this new enhanced STR Office? All of you have had some experience around here, Alan most recently, but the rest of you have been watching it. Obviously 53 or 54 are not going to be enough horses to pull that wagon.

Mr. WOLFF. I would think under the administration's proposal, without much of any responsibility for antidumping and countervail that it would take in the range of 130 to 150 people to handle east/west trade commodity policy, the increased coordinating responsibilities. The number 59, which was in the President's factsheet that was handed out, would be entirely inadequate.

A full complement of 59 would mean that functions have been given in name only because one cannot possibly handle those new areas without additional people. I believe and hope that OMB is taking a second look at that in coming up with some new estimates.

Mr. GIBBONS. Were you able to pay attention to Bill Walker's testimony, he preceded you, or were you engaged in other conversation at that time? He made the point that we are really in a different ball game now.

The STR was the king bee. He could make the decision. The other governments could not deal with anybody else. Do you feel that that is being undercut by what is now being proposed?

Mr. WOLFF. We are in a new period. I did listen to Bill Walker's testimony. It is not a single project. There are many projects.

The President's proposal disturbs me a bit in dividing up functions. As I say, I would like to pull them all together. The question is what could be done, building on the President's proposal, short of a Department of Trade, that insures a single trade spokesman.

I think one thing would be to indicate that the STR is not just the chief negotiator but also is in charge of the development of policy. Second, give him adequate resources. And I come back to that point, which is an important one, a 59-man office is not going to run U.S. trade policy, not all the aspects of it.

The argument that the Executive Office of the President cannot possibly accommodate an agency of any greater size is made primarily by the 600-man Office of Management and Budget, which is in the Executive Office of the President.

Mr. GIBBONS. And they do not have much influence in government at all.

Mr. SUCHMAN. Mr. Gibbons, if I could add one comment, I do not understand why you need to create an undersecretary of trade in the Commerce Department if he is not going to be a spokesman for the United States on trade policy. It seems to me a very high level job for someone who is simply going to have a bunch of clerks running around adding up figures and following import statistics.

I think that Bill Walker's comment is well taken and we are creating another voice in the U.S. Government at a very high level for trade.

Mr. GIBBONS. Does not Commerce also run the weather service too? That seems like a real good combination, trade and weather.

Mr. RASHISH. They will be able to tell "weather" we are going to have a trade deficit.

Mr. GIBBONS. All of you have contributed greatly to my understanding of this problem but unfortunately nobody has been able to show me the light at the end of the tunnel.

I kind of agree, though, and I go back to my experiences in the forties, we sort of won World War II and we celebrated it. All of us got out of the service and went home and disarmed and our friendly competitors around the world said, "Now is the time that the Amercans have all gone home to celebrate the victory so we will move out and have a new quiet war that we win without any bloodshed." And that is what happened.

I am so worried that we have done that in the STR Office. I am sorry you had to leave, Alan, but I can understand the necessity for it. But we all have celebrated a victory and I am afraid that other governments around the world are going to take advantage of the fact that we are in rather bad disarray right now.

So I think is is important for us to move very hurriedly and I realize that if we have the Long bill and the Frenzel bill and the Jones bill, and maybe by that time I will have one too, we are all competing for the center stage and we may end up with another victory lost or forfeited because we were not able to take advantage of it. That worries me. We have nobody in Geneva that I know of now and obviously some things need to be done over there. We really have no strong policy. People are leaving the Treasury, as someone pointed out here, and we have a whole new team apparently, by and large, coming into the STR Office.

If there was a time in our Government when we needed continuity it is certainly now. So I think it is imperative that we move, perhaps make some compromises.

Alan, you said you did not think it was possible to get a Department of Trade. Well, I do not know. I do not know how determined the Senate is on all of this and what action they will take. Perhaps we ought to consider that.

Mr. Chairman, I have taken up more time than I ought to have.

Mr. VANDER JAGT. I have no questions.

Mr. VANIK [presiding]. I just have one question of the panel that I would like to propound. I am sorry that I was not here. I was dealing with other problems of our committee.

I am worried a little bit about what is left of the ITC function. Is there any reason why we should not consider doing something

about that? The plan takes away some responsibilities. There is left a factfinding agency but can we justify that tremendous operation there for the facts that they have to rule on and find on? Is there any opinion on the panel as to how we might better and more effectively and efficiently use that talent?

Mr. RASHISH. I have no particular views on that subject, Mr. Vanik, but I do not share your impression that the ITC's functions are in any significant degree being reduced by the administration's proposal or would be by, say, the bill that Congressman Gillis Long has introduced, which I have supported here today. The only issue I think is that of shifting the administration of section 337 of the Tariff Act of 1930 to Commerce.

Mr. VANIK. It moves 337 and nomenclature out of ITC.

Mr. RASHISH. That's correct.

Mr. VANIK. That is a substantial function. Are there any other comments by members of the panel on that point?

Mr. GATES. I could think of one comment, Mr. Vanik. I share your uncertainty and I have reread the administration's material on why the transfer of 337 and I am not at all sure that I know the reasons yet. I am concerned and I defer to the lawyers on this panel as to whether or not an essentially adjudicatory proceeding such as 337 appears to be should be moved to a department. I do not understand that.

As a more positive response to your question, I think the committee ought to be concerned about the ITC in perhaps another direction. The ITC is now going to have some very important functions under the codes, under the new statutes.

Mr. VANIK. They get the countervail injury, and they have shorter deadlines.

Mr. GATES. You are still going to have the injury determinations, which has a much shorter time fuse, much shorter deadlines, and I think a great deal is going to depend on the quality of their work and ability to really investigate what are invariably products issues and specific industries, for which the information is difficult to come by, and they are not going to have much time to do it.

Mr. VANIK. Do you have any comment, Alan.

Mr. WOLFF. Yes. In the committee press release one of the questions that was to be addressed in these hearings was whether the injury element of the 337 case might not be kept in the USITC and I think that makes sense. I do not know that this particular element received a great deal of attention compared with a number of the other elements in the administration's proposal.

I would think that that division would be a useful one: injury in the USITC and the finding of an unfair trade practice in the Department of Commerce. Ultimately, it seems to me that many of the functions of the ITC could be incorporated in a Department of Trade but for the near term, again, one should strengthen the USITC rather than limiting it.

I think 337, outside of patent cases, caused a great deal of confusion in the past and that bringing that within the Executive Branch agencies does make sense, outside of the injury test.

Mr. VANIK. Is there any other further comment?

Mr. SUCHMAN. I agree with Alan. I think that it makes sense to have the factfinding part of 337 where the antidumping and coun-

tervail investigative authority is but there is no reason at all to move the injury portion to another agency.

Mr. VANIK. I want to thank the panel very much for your very extended time for questioning. I appreciate it very much. Thank you.

The next witness will be Robert B. Peabody, president of the American Iron and Steel Institute, accompanied by Richard Schubert of Bethlehem Steel. Gentlemen, we are very happy to have you.

You may proceed with your statement in any way you see fit. Your entire statement will be printed in the record as submitted. You may proceed in any manner that you see fit, after the disturbance clears.

That is one of our new CIA detectors that is reporting everything that is going on in this room.

Mr. PEABODY. It works very effectively.

Mr. VANIK. They bought this one in Bulgaria, I think.

STATEMENT OF ROBERT B. PEABODY, PRESIDENT, AMERICAN IRON & STEEL INSTITUTE, ACCOMPANIED BY RICHARD F. SCHUBERT

Mr. PEABODY. Mr. Chairman, I am Robert B. Peabody. I am accompanied by Richard F. Schubert. Our testimony today is on behalf of the American Iron and Steel Institute whose 63 domestic members represent 93 percent of American steel production. I am president of AISI. Mr. Schubert is chairman of the Institute's Committee on International Trade and president of Bethlehem Steel Corp.

We wish to speak today to one element of the trade reorganization proposals being considered by the committee—the enforcement of our trade policy.

The Congress, working with the administration, has in the new Trade Agreements Act demonstrated as clearly as possible the necessity for strong, nonpolitical enforcement of our trade laws. The dismal history of enforcement has been discarded as a model for the future. The procedures have been tightened, the time schedules for action improved and the rules clarified.

In brief, Congress has provided for a good enforcement system; the problem now is to make it work. And that is what we want to speak to today.

In our view, the location of the trade law enforcement functions should be dictated by the following considerations:

One, trade law enforcement should be depoliticized. That means to us that:

The entity having trade law enforcement jurisdiction should be headed by an official who is nominated by the President and confirmed by the Senate.

The trade law enforcement entity should have a separate budget; those who work for it should be professionals; and it should be of a status that it will—particularly if there are to be persons from existing organizations to be transferred to it—be recognized as an important, meaningful organization which can recognize good career officials. The model of the Internal Revenue Service is one to follow.

The head of the entity—perhaps called "Commissioner" or "Administrator"—should have a fixed term of office, for perhaps 4 years. That would clearly demonstrate the trade law enforcement function was intended to be shielded from day-to-day influence.

In short, trade law enforcement should be based upon criteria specified by law and not upon political considerations.

Two, trade functions should be organized so that trade law enforcement is not influenced by considerations relating to international trade negotiations or export promotion.

If enforcement is lodged in the same department with another function which presents a potential conflict of interest, the department should be structured in such a way as to insulate the enforcement function from the influence of the other.

Otherwise trade law enforcement will inevitably be the subject of pressures relating to other important, but unrelated, considerations. To be avoided in particular are those situations where a foreign interest attempts to affect the enforcement process by promises of actions in some unrelated area.

We are particularly concerned that under both the administration reorganization proposal of July 19 and draft Executive order relating to trade reorganization, the Trade Policy Committee, chaired by the Special Trade Representative, would have, to the extent permitted by law, responsibility for policy issues arising in connection with the administration of U.S. trade laws. The prospect of vesting the Trade Policy Committee with such broad and largely undefined responsibilities with respect to trade law enforcement is alarming and totally at odds with the Trade Agreements Act of 1979 which centralizes decisionmaking in the administering authority. The proposed committee's coordination activities with respect to trade law enforcement matters sounds like a euphemism for the perversion of the impartial enforcement required by our trade law. We believe that no interagency committee should have the authority to interfere in the adjudicatory enforcement of our trade laws.

It is important that any reorganization of trade function be completed well in advance of the first of next year, which is the effective date of the new law.

Mr. Chairman, we believe that Congress has as its goal fair trade and fair enforcement of our laws against violations of fair trade. To organize trade functions in a way which would expose enforcement to the conflicting influence of trade negotiations, export promotion or political considerations, would, in our judgment adversely affect adjudicatory enforcement and frustrate the congressional intent expressed in the careful wording of the fair trade laws.

In short, ineffective organization arrangements for trade responsibilities will thwart the will of Congress.

We respectfully submit that the best way to achieve the intent of Congress is to protect trade law enforcement from political pressures and functionally insulate it from international trade negotiations and export promotion.

That is the end of our written statement, Mr. Chairman. The essence of our point is, I think, this: We urge that there be depoliticized trade enforcement, that wherever it is located that it be headed by the highest possible ranking person, that that person be

confirmed by the Senate so as to focus authority and responsibility and attention upon them.

We would like to have a separate budget line item for enforcement. We would like to have it established as a career function, removing to the greatest extent practicable, the political influence on what is essentially an enforcement procees.

Mr. VANIK. Do you have any further statement you would like to make?

Mr. PEABODY. No, sir.

Mr. VANIK. I agree substantially with what you said today. How does the Institute feel on the transfer of the countervail and antidumping from Treasury to Commerce?

Mr. PEABODY. Our position, Mr. Chairman, is as follows: Congress has produced a very good statute. As was mentioned a few minutes ago by Mr. Gibbons and others, the problem is now enforcement of the statute.

We are concerned deeply with respect to that enforcement, irrespective of where it is located. We need to get away from the past with respect to enforcement and establish a depoliticized, professional, outstanding enforcement mechanism.

If it stayed in Treasury, for example, we would say these same things. If it was located in Commerce we would say these same things. Wherever it is located, we would say these same things. The administration's proposal, Mr. Frenzel's proposal, the other bills that are pending, all contemplate in one fashion or another either citing it in Commerce or locating it in someplace other than Treasury.

We have, for this purpose, gone along with the notion that it is going to be other than in Treasury and have spoken along that line. But even if it were to stay in Treasury, major changes of an organizational nature, in our judgment, are required in order to enhance and facilitate the enforcement process, to upgrade the quality of it, to improve the operation of that system.

Similarly we think in ITC, that the quality of the decisionmaking on such matters as injury are vitally important. The strength of the entire enforcement sytem is crucial.

Mr. SCHUBERT. Mr. Chairman, if I might add to that. We in the steel industry have not had a very satisfactory experience, as you know, with the Treasury Department enforcement in these areas. A reasonable bystander might immediately preceive that we should be in favor of transferring to anywhere, rather than retaining jurisdiction in Treasury.

But to use Congressman Frenzel's analogy, although we are reluctant to continue to bet on the Cubs we are also reluctant to bet on the Phillies and we want to see what Commerce will do, or STR or anyone else.

What we understand of the administration's proposal leads to very grave concerns about placing enforcement in Commerce without the degree of insulation, depoliticization that we think is necessary for the law enforcement process in the countervailing and antidumping areas. What we want is a law enforcement process.

Mr. PEABODY. I, unfortunately, was not here this morning to hear what Mr. McIntyre said but I have a copy of his statement. I would

like to direct your attention to what he says with respect to import remedies in relation to STR.

The net of his statement is that STR is going to set the policy in respect of import remedies. This, I suggest to you, is precisely the opposite of an enforcement process. This is precisely the concern that we have with respect to trade-offs of an economic or political nature relative to enforcement. They very boldly state that the STR, through the Trade Policy Committee will oversee general coordination of the application of import remedies.

In their proposal it is very clear that policy decisions in the trade enforcement area are going to be not as is required by the statute in the form of a decision made by the administering authority but are going to be determined by this Trade Policy Committee, chaired by STR. I suggest to you that that is precisely the opposite of what you worked for on the new bill, on the new act.

Mr. VANIK. Mr. Frenzel.

Mr. FRENZEL. No questions.

Mr. VANIK. Mr. Vander Jagt.

Mr. VANDER JAGT. No questions.

Mr. VANIK. I have one other thing I would like to ask. I have always hoped that our action on the trigger price system and on the amendments that we had in the Trade Act, would result in some increased investment in the domestic steel industry.

What are the prospects? Can you address yourself to that for a moment? I know it is unrelated, but I do not get a chance to put this question very often.

Mr. PEABODY. I think, Mr. Vanik, we are going to be attempting in the next several weeks to come to you and to other Members of Congress with some specific thoughts in that area.

Mr. VANIK. Is that the depreciation plan you want?

Mr. PEABODY. We will be talking to you, sir, more broadly even in respect to capital formation and its influence and effect on the domestic industry and its future. I believe we will have some definitive words for you in the very near future along that line. The net effect of it will be, I think, that certainly the domestic industry is very keenly interested in not only perpetuating itself but growing.

I think clearly our interests are to invest and reinvest funds in the industry. The piece that I am thinking of, that I am referring to, will go into some detail with respect to that.

Mr. VANIK. What is the dollar value of the new production facility that is onstream now?

Mr. PEABODY. If you wanted to put in a Greenfield plant, you are talking somewhere from $1,000 to $1,200 an annual ton of capacity. You are probably talking in an integrated plant of 1- to 4-million-ton increments. So you are talking of $1¼ billion to $4 billion by the time you integrate it and site it.

In short, as you know, these are monumental undertakings.

Mr. VANIK. Well, they are monumental undertakings and they have to have some assurance of market and productivity and profitability for a given period of time to warrant the construction.

I was hopeful, in this committee, that we would be able to talk about such things and to put on the table some concrete interchanges where there would be some commitment to spend money

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to a given extent. In other words, that there would be some clear-cut commitment as to the industry's plans so that we could eventually deal with the foreign competition on the basis of a superior facility rather than having to protect it.

Mr. SCHUBERT. Mr. Chairman, if I might respond on behalf of Bethlehem and not the Institute, because in respect to plans for the future that is something that has to be dealt with on a company basis.

We are in the process at Bethlehem of making some preliminary judgments in preparation for a presentation to our board of directors with regard to capital spending over the next 4 or 5 years. We have what we call a long laundry list of projects that would clearly enhance our competitive posture, particularly in respect of foreign steel, whether you are talking about continuous casting machines or blast furnaces, through the whole spectrum of the steel process. Most of those projects that we now have on our list provide excellent returns.

We simply will not be able to perform many of those projects because we do not have the profitability nor the capital recovery system in this country that would so provide. We are at a very distinct disadvantage with respect to industrial competitors around the world, whether you go to Canada or Japan or the best in Europe.

And we are most anxious, Mr. Chairman, to discuss that matter with you and the members of this committee.

Mr. PEABODY. I would like to say one other thing, Mr. Vanik, on that point only. The Trade Agreements Act of 1979 has taken a good firm step down the direction of permitting there to be proper enforcement of our trade laws. When that happens, there will be less of this subsidized product coming in, less of this dumped product coming in, which I think is the will of Congress.

Our interest is that the act be enforced. That will make a major contribution. That is not protection, that is just the enforcement of the law. Then these other elements of capital formation will come into play.

Mr. VANIK. Yes. The only thing I am suggesting is that when we talk about this that we get some solid, definite industry commitments because frankly, I hope I am wrong, but I have fears that the recession may be a little more extensive and more serious and we are going to be trying to stimulate the development of a better plant facility during this period so that we can catch up when things normalize. It would be a good time to do it.

Mr. PEABODY. Yes, sir, we share that thought.

Mr. VANIK. Except for the costs of borrowing money, which are just horrendous and running out of control. But it would seem to me that the market for buying things and for getting things done ought to be softer than it would normally be, and I think that this is a particularly appropriate time to put on the table the contingent plans that are based on some recognition by Government of your special problems in capital recovery.

I want to thank you very much. Mr. Gibbons, do you have anything?

Mr. GIBBONS. Yes. I want to make it clear that, first, I support fair trade, that you all should not be competed against unfairly and

I hope that these new countervailing duty and antidumping laws—I should say laws in both cases—will work and will work effectively and will eliminate every iota of unfair competition that you face.

I guess I am in a better position to say this than some other members of the committee. You all are never going to survive in world competition. Your labor costs are too high. You cannot compete. Your labor gets an unfair portion of the American pie and until you face up to that and until the labor people that you have to negotiate with face up to that, there is only one solution, and that is, the Government is going to have to keep on bailing you out and that will not work, that will not sell.

I hate to preach to you but you cannot take and your labor cannot take the large chunk out of the American pie that you do and expect to be able to compete. Your labor costs have gone up much more rapidly than any other labor cost of any other industry in the United States and until you face up to that, you are like a rebel soldier whistling Dixie.

Mr. SCHUBERT. Mr. Congressman, let me comment, if I may. We are concerned. I am sure the individual companies are very concerned about labor costs. We are shortly going to be entering into negotiations with the steelworkers union in respect to a contract next year and we obviously are sensitive to pricing ourselves out of the market.

We have in the past, along with the autoworkers, who immediately precede us generally and set the pattern to a significant extent for us and the coal workers union, we have provided very generous settlements for our employees. Nevertheless, I think it is important to note that we feel very strongly that we are clearly competitive in our market and we have taken a very strong position, Mr. Congressman, that if we cannot abide by the competiton for our own market we do not deserve to be in the business.

As far as Bethlemen is concerned, we do not want Government aid and assistance. We do want fair trade, however.

Mr. GIBBONS. There is nothing so mysterious about making steel that most other people do not know about by this time. In fact, I am afraid that some of them know as much about it as we do. Your labor costs have skyrocketed in proportion to the other costs in American industry, and to that extent American steel and American steel labor have committed aggression against the rest of American industry.

You have a premium now of about 68 or 70 percent above the rest of American labor for your labor. There is nothing in the world that we can do for you sitting here in Congress other than just say, "We are going to nationalize you in a kind sort of way. We are going to keep subsidizng you and subsidizing you until some future Congress gets mad and just takes you over."

Until you all face up to that, you are still whistling Dixie.

Mr. PEABODY. Mr. Gibbons, without attempting to alienate you, which is the last thing in the world I want to do.

Mr. GIBBONS. You do not need to worry about that. I am already alienated.

Mr. PEABODY. I hope and trust you are not.

Mr. GIBBONS. Just come head on at me. Go ahead.

Mr. PEABODY. Let me just mention one minor point—maybe it is not so minor—one point which is within the control of this committee. It runs this way: In Canada our steel competition depreciates its plant equipment over a period of 1 and 2 years. In this country, after a herculean effort, the steel depreciation rates became 15 years, under ADR. The same labor union is up in Canada. The effect of just the depreciation policy of the Canadian law is obvious. It is monumental.

That is something right within the scope of this committee and is right on the issue of productivity and on the effect that, without protectionism, without anything else, would make a monumental step in the effort of the domestic steel industry to get funds.

Now we are going to be speaking to that at some length. My point is, people speak to the Jones-Conable bill and its 10, 5, 3 years depreciation schedules and what a strange, amazing change that is going to make. Good heavens, our neighbor up north is 1 to 2 years. Our competition in the United Kingdom, in France, also benefit from 1 to 2 years on depreciation.

That is solely, completely, and totally aside from the question of labor cost. That is policy of the national government as far as taxes are concerned, and productivity.

Mr. VANIK. Would you like to us to take the rest of their tax code, too?

Mr. PEABODY. Well, sir, I am not expertized on that but I sure am on that 1 to 2 years.

Mr. GIBBONS. I think we do need to write our industrial plants off over a shorter period of time for tax purposes.

Mr. PEABODY. I might say, Mr. Gibbons, they deplete not to the pellet but to the hot metal. When they apply their depletion rules in Canada, the Canadian companies do not take the depletion merely to the pellet. They take it the whole way through hot metal.

Mr. GIBBONS. I will not argue with you that we do not have some troubles with the tax law.

Mr. PEABODY. But we are the ones that you are saying, with tongue in cheek, some future Congress is going nationalize us. That is the last thing in the world this domestic industry wants.

Mr. GIBBONS. I understand that. It would be terrible to do it, but some future Congress is going to get mad and say, "We have done everything we can for them."

Mr. PEABODY. We want the present Congress to change the capital recovery laws. We want the present Congress to change the administration mechanism for the enforcement of our existing trade laws. We do not want protection.

Mr. GIBBONS. I will make a deal with you. You get those labor costs down so you are not committing aggression against all other American laborers and I will go along with you.

Mr. PEABODY. Well, I might come around and call you on that.

Mr. GIBBONS. You have gotten your labor costs up so high that the rest of American labor cannot make any money out of working American steel. That is the problem we have. That is a dilemma we have in this country.

Mr. PEABODY. That is one of the dilemmas we have, Mr. Gibbons. The one that is within the control of this committee runs to the enforcement of the trade laws and the capital recovery system.

Mr. GIBBONS. I read your financial statements and I get as much out of them as I can, and a lot of your money goes into the fact that your labor costs are just exorbitant when compared to the rest of American labor.

Mr. VANIK. I think we can continue that in another forum. I want to thank you gentlemen very much for your testimony. We appreciate very much having you.

I would like to suspend for 10 minutes so that we can make this vote and then we will resume and conclude the hearing.

[Whereupon, there was a recess taken.]

Mr. VANIK. The committee will come to order. Our next witness will be Stanley Nehmer, president of the Economic Consulting Services, the Ad Hoc Subsidies Coalition, and Donald deKieffer. We would be very happy to hear from you at this time.

Your entire statement will be admitted in the record as submitted. You may read from it or excerpt from it, whichever way you want.

STATEMENT OF STANLEY NEHMER, ON BEHALF OF THE AD HOC SUBSIDIES COALITION, ACCOMPANIED BY DONALD deKIEFFER, COUNSEL

Mr. NEHMER. Thank you, Mr. Chairman. I will endeavor to summarize our brief six page statement for the committee.

My name is Stanley Nehmer, president of Economic Consulting Services, Inc., and with Mr. deKieffer, we are appearing on behalf of a coalition of 33 industrial and labor organizations—the list of these organizations is attached to our testimony—that has been working for almost 2 years for an effective implementing bill for the subsidies agreement negotiated in Geneva.

Mr. deKieffer is a partner in the Washington law firm of Collier, Shannon, Rill, Edwards & Scott, and both of us have had extensive experience with the trade statutes. We have represented a number of clients who have filed cases under the 1974 Trade Act and other statutes.

There are several major proposals before Congress on the subject of trade reorganization, including the proposal submitted by the White House. These proposals cover a wide range of matters. We are not in a position today to express a preference for one proposal over the others. Ours is a broad coalition, covering many interests, a coalition formed to work on the subsidy countervailing duty issue.

There is, however, agreement within our group on a few key points regarding the administration of the countervailing duty and antidumping statutes and I can make four of these points rather briefly.

First, we are gratified that so many Members of the Congress have taken a strong interest in the subject of trade reorganization and that they have pressed the administration vigorously on the subject. In our view, the administration of America's trade laws and policies is as important as the amendments to the trade statutes contained in the new Trade Agreements Act.

Delay in dealing with trade reorganization could jeopardize the effective implementation of the recently completed multilateral trade negotiations. We trust, therefore, that it is the intention of this committee and of the Congressional leadership to deal expeditiously with this subject and to send a bill to the President or approve a reorganization plan this fall.

We emphasize this point, Mr. Chairman, because we believe that there cannot be effective implementation of U.S. rights and obligations stemming from the MTN until there has been an effective restructing of the trade functions within the U.S. Government.

Second, we are most happy to see that none of the proposals call for the Treasury Department to continue its administration of the countervailing duty and antidumping duty statutes. The Treasury Department appears to regard effective administration of these statutes as protectionist, although subsidies and dumping are, in fact, forms of protectionism.

Our group was among the first and among the most outspoken in calling attention to Treasury's ineffective administration of the unfair trade statutes. We continue to believe that new and vigorous direction must be given to both statutes, and we hope that there will not be any changing of minds on Capitol Hill, or downtown either, on this fundamentally important point.

The subcommittee's press release of August 15 poses a basic question on the rationale for the transfer from Treasury to a new Department of Trade and Commerce of the responsibility for antidumping and countervailing duty functions. This question is quite relevant to our group's determination to publicize Treasury's actions in this area and to press for the removal of this function from the Treasury Department.

I placed in the record of this subcommittee's hearings last October and our group amplified on this question in a submission to the Senate Finance Committee's International Trade Subcommittee last March the detailed record of numerous instances of Treasury's mishandling of countervailing duty cases. We felt then, and still feel today, even with a change in the head of that Department, that Treasury is unwilling or unable to perform an effective job in administering these statutes as intended by Congress.

You ask, and so do we, why? The answer, we believe, is a philosophic antipathy to these statutes. Those companies, labor unions, or industries which file petitions to seek redress against unfair trade practices are considered by Treasury to be protectionist. The very redress they seek is considered by Treasury to be protectionist. And, indeed, so does the Treasury Department consider the statutes themselves. This attitude has prevailed in the Treasury Department from the Secretary down. We do not believe that either the Trade Agreements Act of 1979 or the appointment of a new Secretary of the Treasury will change the long-standing philosophic approach of that Department.

Third, we believe strongly that the administration of the countervailing duty and antidumping statutes should be certain, predictable, and effective. The Trade Agreements Act of 1979, which will amend both of these statutes and which has now passed both Houses of Congress, correctly limits the discretion of the administering authority in carrying out the statute's requirements.

In this regard, our group is not seeking a proctectionist bent in the administration of these statutes. We are seeking effective implementation. We are seeking objective implementation. We are seeking the end to unfair trade practices in accordance with commitments made in Geneva and still to be made by those governments which will sign the new codes of conduct and in accordance with the new trade legislation recently enacted.

In this connection, we assume that in the fact sheet prepared by the White House in July on trade reorganization, the reference to the Trade Policy Committee having coordinating responsibility for "import remedy policy: for example, antidumping and countervailing duties, to the extent legally permitted" means no more and no less than the words of the White House release. We note the concern expressed by the Director of OMB at the briefing that was held in July to the effect that the President wishes to guard against protectionist tendencies in the implementation of the statutes.

We are not aware of any evidence over the past few years to indicate that those Government departments whch have trade functions have practiced protectionism in any of their procedures. In fact, so far as countervailing duties are concerned, it would seem to use that proper enforcement of that statute is good business practice and certainly pro free trade.

I should add that it would be most unfortunate, and we are sure the administration would agree, if this oversight function permitted a repetition of the ineffective implementation of these statutes as has been the case since the Trade Act of 1974 was enacted.

Fourth, we believe that consideration should be given to augmenting the staff capabilities of both the administering authority and the International Trade Commission. We suggest this since it seems likely that these staffs will have more work to do in the future because more cases may be filed under the amended antidumping and countervailing duty statutes and because the new countervailing duty statute will now require an injury test in all cases. And it is essential that the staff work should be of high quality and that deadlines should be met.

What has been submitted to you by the administration may not be the most polished Government reorganization proposal to have come before this committee. But it represents a recognition of the need to do better—much better—in this vital area of international trade than has previously been the case. It is constructive. It is positive. Whatever restructuring comes out of the legislative process should not be allowed to drag on and on to the point of losing the gains represented by the Multilateral Trade Negotiations and the Trade Agreements Act.

That completes our statement, Mr. Chairman. We would be glad to answer any questions.

[The prepared statement follows:]

STATEMENT OF STANLEY NEHMER AND DONALD DEKIEFFER ON BEHALF OF THE AD HOC SUBSIDIES COALITION

Mr. Chairman, my name is Stanley Nehmer, President of Economic Consulting Services, based in this city. Today, I am appearing on behalf of an ad hoc coalition of 33 industrial and labor organizations (Attachment) that has been working for

almost two years for an effective implementing bill for the Subsidies Agreement negotiated in Geneva.

With me is Mr. Donald deKieffer of the Washington law firm of Collier, Shannon, Rill, Edwards and Scott. Both of us have had extensive experience with the trade statutes, and have represented a number of clients who have filed cases under the 1974 Trade Act and other statutes.

We appreciate the opportunity to testify on the extremely important issue of trade reorganization. There are several major proposals before the Congress on this subject, including the proposal submitted by the White House, and these proposals cover a wide range of matters.

While Congress will ultimately work its will with respect to trade organization, it is unclear to us whether, procedurally, the Administration will submit its proposal in the form of a bill or as a reorganization plan. We would hope that, if it is submitted as a reorganization plan, the Committee would express our views on this issue to the administration.

I am not in a position today to express a preference for one proposal over the others. Ours is a broad coalition, covering many interests, a coalition formed to work on the subsidy/countervailing duty issue.

There is, however, agreement within our coalition on a few key points regarding the administration of the countervailing duty and antidumping statutes. I can make these points rather briefly.

First, we are gratified that so many members of the Congress have taken a strong interest in the subject of trade reorganization and have pressed the Administration vigorously on the subject. In our view, the administration of America's trade laws and policies is as important as the amendments to the trade statutes contained in the new Trade Agreements Act.

Delay in dealing with trade reorganization could jeopardize the effective implementation of the recently completed Multilateral Trade Negotiations. We trust, therefore, that it is the intention of this Committee and of the Congressional leadership to deal expeditiously with this subject and to send a bill to the President or approve a reorganization plan this Fall. I emphasize this point, Mr. Chairman, because we believe that there cannot be effective implementation of U.S. rights and obligations stemming from the Multilateral Trade Negotiations until there has been effective restructuring of the trade functions within the U.S. Government.

Second, we are most happy to see that none of the proposals call for the Treasury Department to continue its administration of the countervailing and antidumping statutes. The Treasury Department appears to regard effective administration of these statutes as "protectionist," although subsidies and dumping are, in fact, forms of protectionism.

Our group was among the first and among the most outspoken in calling attention to Treasury's ineffective administration of the unfair trade statutes. We continue to believe that new and vigorous direction must be given to both statutes, and we hope that there will not be any changing of minds on Capitol Hill, or downtown either, on this fundamentally important point.

The Subcommittee's press release of August 15 poses a basic question on the rationale for the transfer from Treasury to a new Department of Trade and Commerce of responsibility for antidumping and countervailing duty functions. This question is quite relevant to our group's determination to publicize Treasury's actions in this area and to press for the removal of this function from the Treasury Department.

I placed in the record of this Subcommittee's hearings last October and our group amplified on this question in a submission to the Senate Finance Committee's International Trade Subcommittee last March the detailed record of numerous instances of Treasury's mishandling of countervailing duty cases. We felt then, and still feel today, even with a change in the head of that Department, that Treasury is unwilling or unable to perform an effective job in administering these statutes as intended by Congress.

You ask, and so do we, why? The answer lies, we believe, in a philosophic antipathy to these statutes. Those companies, labor unions, or industries which file petitions to seek redress against unfair trade practices are considered by Treasury to be protectionist. The very redress they seek is considered by Treasury to be protectionist. And, indeed, so does Treasury consider the statutes themselves. This attitude has prevailed in the Treasury Department from the Secretary down. We do not believe that either the Trade Agreements Act of 1979 or the appointment of a new Secretary of the Treasury will change the long-standing philosophic approach of that Department.

Third, we believe strongly that the administration of the countervailing duty and antidumping statutes should be certain, predictable and effective. The Trade Agreements Act of 1979, which will amend both and which has now passed both houses of Congress, correctly limits the discretion of the administering authority in carrying out the statutes' requirements.

In this regard, our group is not seeking a protectionist bent in the administration of these statutes. We are seeking effective implementation. We are seeking objective implementation. We are seeking the end to unfair trade practices in accordance with commitments made in Geneva and still to be made by those governments which will sign the new codes of conduct, and in accordance with the new trade legislation recently enacted.

In this connection, we assume that the reference in the White House Fact Sheet on trade reorganization to the Trade Policy Committee having coordinating responsibility for "import remedy policy: for example, antidumping and countervailing duties, to the extent legally permitted" means no more and no less than the words of the White House release. We note the concern expressed by the Director of OMB at the trade reorganization briefing to the effect that the President wishes to guard against "protectionist tendencies" in the implementation of the statutes.

We are not aware of any evidence over the past few years to indicate that those government departments which have trade functions have practiced "protectionism" in any of their procedures. In fact, so far as countervailing duties are concerned, it would seem to us that proper enforcement of that statute is good business practice—and pro free trade.

I should add that it would be most unfortunate, and we are sure the Administration would agree, if this oversight function permitted a repetition of the ineffective implementation of these statutes as has been the case since the Trade Act of 1974 was enacted.

Fourth, we believe that consideration should be given to augmenting the staff capabilities of both the administering authority and the International Trade Commission. We suggest this since it seems likely that these staffs will have more work to do in the future because more cases may be filed under the amended antidumping and countervailing duty statutes and because the new countervailing statute will now require an injury test in all cases. And it is essential that the staff work should be of high quality and that deadlines should be met.

We do not have any particular numbers in mind; we simply suggest that this Committee, if it has not already arranged to do so, examine the question of what needs to be done to staff the administering authority and the ITC adequately to assure effective implementation of the countervailing duty and antidumping duty statutes.

What has been submitted to you by the Administration may not be the most polished government reorganization proposal to have come before this Committee. But it represents a recognition of the need to do better—much better—in this vital area of international trade than has previously been the case. It is constructive. It is positive. Whatever restructuring comes out of the legislative process should not be allowed to drag on and on to the point of losing the gains represented by the Multilateral Trade Negotiations and the Trade Agreements Act.

Attachments.

ENDORSING ORGANIZATIONS

Amalgamated Clothing & Textile Workers Union, AFL-CIO.
American Apparel Manufacturers Association.
American Federation of Fishermen.
American Footwear Industries Association.
American Pipe Fittings Association.
American Textile Manufacturers Institute.
American Yarn Spinners Association.
Bicycle Manufacturers Association.
Cast Iron Soil Pipe Institute.
Clothing Manufacturers Association.
Copper and Brass Fabricators Council, Inc.
Industrial Union Department, AFL-CIO.
International Ladies Garment Workers Union, AFL-CIO.
International Leather Goods, Plastics & Novelty Workers Union, AFL-CIO.
Lead-Zinc Producers Committee.
Luggage & Leather Goods Manufacturers of America, Inc.
Man-Made Fiber Producers Association.
Metal Cookware Manufacturers Association.

National Association of Chain Manufacturers.
National Association of Hosiery Manufacturers.
National Cotton Council.
National Handbag Association.
National Knitted Outerwear Association.
National Knitwear Association.
National Outerwear & Sportswear Association.
Northern Textile Association.
Scale Manufacturers Association, Inc.
Synthetic Organic Chemical Manufacturers Association.
Tanners Council of America, Inc.
Textile Distributors Association.
United Food and Commercial Workers International Union, AFL-CIO.
Valve Manufacturers Association.
Work Glove Manufacturers Association.

Mr. VANIK. As I take it, you agree with the administration's proposal to shift antidumping and countervailing to Commerce?

Mr. NEHMER. Yes, sir.

Mr. VANIK. Are you at all concerned with the staffing problem? Are you concerned with the likelihood that foreign policy considerations may be given an even larger factor, if Commerce has the function and STR has the overall policy review of important cases?

Mr. NEHMER. We are very much concerned about the staffing problem. I think I said at one prior appearance before this committee that the Treasury Department's Office of Tariffs and Trade presently has four professionals. There is no way they can do an effective job with four professionals. It is necessary to augment the capabilities.

We are concerned about the possible impact of foreign relations considerations on determinations under the unfair trade statutes. This has been the case in the past. We certainly hope that at the very least that impact will be limited in the future.

I think we did say in our statement that if these statutes are to be effective then the remedies must be certain, must be sure and must be handled expeditiously.

Mr. deKieffer wants to add to this.

Mr. DEKIEFFER. Mr. Chairman, I have only two things to add to Mr. Nehmer's statement. One, I only today saw the entire flow sheet of exactly how the Commerce Department would be structured. We are, obviously, very concerned that the implementation of the antidumping and contervailing duty statutes not be blended with export promotion.

The second factor that I would like to draw to the committee's attention is that the President's proposal suggests that section 337 be sent to the Commerce Department as well. I would suggest to the committee that section 337 would be more appropriately left in the International Trade Commission for a wide number of reasons, primarily because it is not a bifurcated proceeding. It is one that is primarily an administrative proceeding that the ITC has demonstrated it is capable of handling.

A number of other reasons immediately occur, including one that was mentioned a moment ago, that currently the Commerce Department handles patents. Most 337 cases are patent cases and I think there might be an inherent conflict. I do not think that there is anybody in the trade field that advocates, particularly, 337 being

moved to Commerce and I was surprised frankly to see the recommendation that it be sent down there.

Mr. VANIK. Mr. Gibbons.

Mr. GIBBONS. Mr. Nehmer, would you object if the administration of the countervailing duty and the antidumping statutes were transferred to the STR?

Mr. NEHMER. No, I personally would not object to it being transferred to the STR. I think our basic premise here is that the Treasury Department is not capable, has not proven itself since 1897, I should say, to be capable of administering the statute. A new home for that function is certainly well justified, STR or Commerce.

Mr. VANIK. Thank you very much. We certainly appreciate your testimony.

The next witness is Mr. Kenneth W. Bleakley.

You may proceed. Your entire statement will be submitted for the record.

STATEMENT OF KENNETH W. BLEAKLEY, PRESIDENT, AMERICAN FOREIGN SERVICE ASSOCIATION (AFSA), ACCOMPANIED BY WILBUR P. CHASE, COUNSEL, JOHN PENFOLD, AND CARL CUNNINGHAM, FOREIGN SERVICE OFFICERS

Mr. BLEAKLEY. Thank you.

I have with me, on my left, Will Chase, who is the counselor to the American Foreign Service Association. I also have on either side of me two experienced, and I believe typical commercial, officers of the U.S. Foreign Service. Immediately to my left is John Penfold, who has been commercial attaché in Singapore, economic officer in Bogota, has a master's in public administration from Harvard specializing in economics and has been on the President's Commission on Executive Interchange, private sector finance and business development abroad, working with the Northwest Energy Corp.

On my right I have Carl Cunningham, who has an MBA from Harvard, who has been a commercial officer in Montreal, economic officer in Rangoon, major products officer in Jakarta and on detail to the Iowa Development Commission's Export Promotion Division and is now chief finance director of the American Republic Affairs Office of Regional Economic Policy.

I have done my own graduate economics work at the University of Oklahoma. While I am not a commercial officer, a political officer, I believe all three of us represent the new breed of foreign service professionals who are vitally interested in this function for the U.S. Government abroad.

I would point out that none of us is wearing pinstripe suit. We rarely do. We don't push cookies. We believe we have a pretty hard-nosed attitude towards what needs to be done in the complex international environment in which we operate abroad. We resent, quite frankly, some of the remarks made today and elsewhere that characterize us as soft air fairy policy people who don't have our feet on the ground. We would welcome good hard questions on what it is like to operate in the kind of international competitive environment which characterizes what our commercial officers have to do overseas today.

Turning to my statement, which I understand will be entered in the record, I will attempt to summarize what is really a brief statement of only two pages.

As a representative of the largest single group of foreign trade specialists in the Government, the American Foreign Service Association welcomes efforts to revitalize and strengthen trade policy and export promotion. The decline of the U.S. balance of payments and trade and of our share of the international market weakens our economy at home, costs us jobs and undermines our ability to conduct an effective foreign policy. For too long the United States has paid too little attention to competing in the international marketplace and to our trade promotion activities.

You have already heard from other witnesses as to the root causes of these problems. I don't propose to be an expert on them and won't dwell on them. We will dwell on the area we, the foreign service professionals, know best, which is competing in the international market abroad and what we believe is needed to do the job appropriately and effectively.

First of all we need resources. Over the past decade the numbers of foreign service personnel have actually declined as we have been asked to respond to a fragmented international political-order, terrorism, narcotics traffic, refugee surges, burgeoning travel by Americans and the administrative requirements of proliferating USG agencies abroad. If the United States is to wage a successful export promotion effort we must take a lesson from our competitors and devote the people and dollars to doing the job properly. And that, Mr. Chairman, has not been the case.

In terms of priorities, those of us who work for Uncle Sam overseas respond to the priorities established by the administration and the Congress. Other priorities—environmental and human rights factors, for example—have ranked high on your lists, trade promotion has long been near the bottom. You need to raise the priority.

Perhaps reflecting the above priorities, neither the State nor Commerce Departments have given sufficient support to our trade promotion efforts overseas. In State, support for the commercial function is buried in a subsection of the Economic and Business Bureau. The Foreign Service Association has made specific proposals to the Secretary of State to correct this situation. With regard to Commerce, the single greatest problem reported by our officers overseas is the failure of the Bureau of Domestic and Overseas Business Affairs to supply the vital connections between our officers abroad and U.S. exporters at home. We need to establish better links between our overseas posts and the U.S. business community.

But all three of these can only work as an effective set of requirements if we adopt an integrated approach to what needs to be done abroad. We and our international competitors are learning that effective trade promotion overseas requires the marshalling of all our resources, not just salesmanship. Knowledge of the local market and government, broad ranging contracts, political insight, language ability, knowledge of international finance and regional factors, and diplomatic clout employing the Ambassador and full country team are all essential to successful intervention on behalf

of businessmen. In many respects trade promotion is no different from any other diplomatic activity aimed at achieving something of interest to the United States. The people and organization to accomplish this are already in place. What is needed are the resources, priorities and support base outlined above to get the job done right.

In the light of these genuine and immediate requirements the American Foreign Service Association cannot help but view with dismay the administration's proposal to send yet another agency abroad—one whose overseas record is singularly unimpressive—to establish its own bureaucracy. Frankly, this appears to us to be a classis attempt to shuffle boxes in a reorganization plan rather than treating the underlying causes of an increasingly serious problem.

At this point I would digress from my prepared statement to note the increasing dismay we felt in hearing the testimony of the administration and other witnesses today that demonstrate how ill-thought out the proposal submitted by the administration is. The only reason we have heard for moving ahead rapidly with executive reoganization rather than the careful restructuring which has to be done is the sense of urgency for a January 1 deadline to implement MTN. I think it should be clear to any observer that on January 1 we are going to have to go with personnel resources we have in place now. We are going to have to train them. We are going to have to move ahead rapidly. But a reorganization plan at the very best will just be getting underway, which means that in addition to the problems of implementing the MTN, we will have the substantial problem of trying to implement this major shift of boxes inside our bureaucracy.

Mr. Chairman, as leader of the exclusive bargaining agent for the 12,000 members of the Foreign Service community, I can guarantee that this is not going to be an easy task. Commerce's establishing a new personnel structure for itself overseas is going to be complicated. Our efforts to protect our members, the career professonals in this field, are going to be equally complicated. It is not going to be simplified by a rush to judgment with another ill-conceived reorganization plan.

We are concerned about this plan because it addresses none of the requirements outlined above. It is a dangerous reshuffle. Our competitive position overseas is too weak to withstand experimentation with removing trained professionals in foreign trade and investment from an integrated team and substituting personnel from a domestic agency for occasional assignment abroad. Equally important, at a time when financial and resource issues increasingly dominate international relations, the Secretary of State must exercise control over the country's international commercial activities. We are concerned that the Office of Management and Budget in ramming through this plan failed to recognize that it diminishes the authority of the Secretary of State in dealing with other countries—be they economic powers such as Japan and Germany or parts of the disadvantaged third world.

In conclusion, Mr. Chairman, we urge the committee to resist the administration's efforts to alter fundamentally U.S. operations overseas through an ill-conceived Executive reorganization. The

United States cannot afford to jeopardize its position abroad through failure to exploit the full consultation embodied in the regular legislative process. Beyond that we encourage the administration and the Congress to develop a comprehensive plan to strengthen the U.S. competitive position abroad and pledge our support for such an effort.

We are delighted that the Congress has taken the initiative with several constructive proposals of its own in this field.

Thank you very much.

[The prepared statement follows:]

STATEMENT OF KENNETH W. BLEAKLEY, PRESIDENT, THE AMERICAN FOREIGN SERVICE ASSOCIATION

As representative of the largest single group of foreign trade specialists in the government, the American Foreign Service Association welcomes efforts to revitalize and strengthen trade policy and export promotion. The decline of the U.S. balance of payments and trade and of our share of the international market weakens our economy at home, costs us jobs and undermines our ability to conduct an effective foreign policy. For too long the U.S. has paid too little attention to competing in the international marketplace and to our trade promotion activities.

Other, more qualified witnesses, will undoubtedly address the underlying causes of the poor competitive position of U.S. business today—including declining productivity and, in many cases, lack of orientation toward an overseas market. We wish to concentrate on what can be done by the U.S. Government abroad to revitalize our support for U.S. business. The requirements are:

Resources.—Over the past decade the numbers of Foreign Service personnel have actually declined as we have been asked to respond to a fragmented international political order, terrorism, narcotics traffic, refugee surges, burgeoning travel by Americans and the administrative requirements of proliferating USG agencies abroad. If the U.S. is to wage a successful export promotion effort we must take a lesson from our competitors and devote the people and dollars to doing the job properly.

Priorities.—Those of us who work for Uncle Sam overseas respond to the priorities established by the Administration and the Congress. Other priorities (environmental and human rights factors, for example) have ranked high on your lists, trade promotion has long been near the bottom. You need to raise the priority.

Support base.—Perhaps reflecting the above priorities, neither the State nor Commerce Departments have given sufficient support to our trade promotion efforts overseas. In State, support for the Commercial function is buried in a subsection of the Economic and Business Bureau. The Foreign Service Association has made specific proposals to the Secretary of State to correct this situation. With regard to Commerce, the single greatest problem reported by our officers overseas is the failure of the Bureau of Domestic and Overseas Business Affairs to supply the vital connections to American business necessary to close business deals abroad. We need to establish better links between our overseas posts and the U.S. business community.

An integrated approach.—We and our competitors are learning that effective trade promotion overseas requires the marshalling of all our resources, not just salesmanship. Knowledge of the local market and government, broad ranging contacts, political insight, language ability, knowledge of international finance and regional factors, and diplomatic clout employing the Ambassador and full Country Team are all essential to successful intervention on behalf of businessmen. In many respects trade promotion is no different from any other diplomatic activity aimed at achieving something of interest to the U.S. The people and organization to accomplish this are already in place. What is needed are the resources, priorities and support base outlined above to get the job done right.

In light of the above, the American Foreign Service Association cannot help but view with dismay, the Administration's proposal to send yet another agency abroad (one whose overseas record is singularly unimpressive) to establish its own bureaucracy. Frankly, this appears to us to be a classic attempt to shuffle boxes in a reorganization plan rather than treating the underlying causes of an increasingly serious problem. It addresses none of the requirements outlined above. It is a dangerous reshuffle. Our competitive position overseas is too weak to withstand experimentation with removing trained professionals in foreign trade and invest-

ment from an integrated team and substituting personnel from a domestic agency for occasional assignment abroad. Equally important, at a time when financial and resource issues increasingly dominate international relations, the Secretary of State must exercise control over the country's international commercial activities. We are concerned that the Office of Management and Budget in ramming through this plan failed to recognize that it diminishes the authority of the Secretary of State in dealing with other countries—be they economic powers such as Japan and Germany or parts of the disadvantaged third world.

In conclusion, Mr. Chairman, we urge the Committee to resist the Administration's efforts to alter fundamentally U.S. operations overseas through an ill conceived Executive Reorganization. The U.S. cannot afford to jeopardize its position abroad through failure to exploit the full consultation embodied in the regular legislative process. Beyond that we encourage the Administration and the Congress to develop a comprehensive plan to strengthen the U.S. competitive position abroad and pledge our support for such an effort.

Mr. GIBBONS. Thank you, sir.

To paraphrase a term from Will Rogers, I don't think I ever met a person from your association that I didn't like. I want to say I not only always liked them but I always felt sorry for them, too, because they had more work to do than they could possibly do. They had not only to entertain the traveling members of the Trade Subcommittee of the Ways and Means Committee, but they had an inordinate amount of American businessmen leaning on them for help and assistance.

And I was always appalled that the Congress, or whoever it was that passed out the responsibilities, that they certainly didn't give you enough forces, or enough resources, or enough manpower to do the job. I don't know whether State didn't come in and ask for it or whether OMB killed the request, or whether the committees in Congress that control the appropriations for State played it all down, but it is obvious to any of us who have taken even a cursory look at what goes on overseas that there just was not the resources there, as you call it, to get the job done.

That does not mean what resources were there were not doing the best that they could. But you can spread people too thin. And you can also fail to support them.

And I think it is with that in view that the administration is saying that we ought to put this function over in a new agency.

As I say, I don't know where the blame begins or where it ends. I guess it always ends in Congress, so we will accept that responsibility but the job really hasn't been done because of failure to put the resources there.

A few years ago OMB studied this problem and came up with a proposal. Are you familiar with that?

Mr. BLEAKLEY. Yes, sir.

Mr. GIBBONS. Would you like to comment on what the findings were then?

Mr. BLEAKLEY. I will make one general comment, and then turn to some of my colleagues who have dealt with it in detail.

My one comment is, as I noted, it is not just resources that we lack but priorities. We have not put sufficient priority on this area. And because of it, the implementation has been less than complete.

John, would you like to add something to that?

Mr. PENFOLD. The OMB proposal, the last time that they studied it they did a very serious job. They spent about a year doing it. The man who was in charge traveled around the world. He interviewed

people in all the different bureaucracies; he visited the embassies and talked to businessmen and he came up with a very serious study, which obviously wasn't done this time

In that study he cited a great number of deficiencies primarily in the Department of Commerce. And in the Department of State, Mr. Chairman, he came down very hard, saying the State Department did not have sufficiently trained economic personnel; our people did not have the appropriate economic background. Since then, and indeed we perceived this problem in State even before that. In 1966 we began training people in economics. Since then we have trained every single economic officer we have except the very senior one who we can't break away, and junior ones who have just come in. We have taken every one of them, some 700 officers we now have, and trained them in economics, the equivalent of a bachelor's degree; 15 percent of whom have gone on to graduate school in a course which is considered the best economics training around. Five hundred twenty of them.

The deficiencies pointed out in Commerce, some have been dealth with, some have not been. At the time Commerce was not targeting major markets. It made no difference between what could sell and what couldn't, where it should place the resources and where it shouldn't. It has come to grips with that.

I would point out a number of us commercial attaches before that study were pointing out the same things, and were organizing our own commercial sections along those lines long before that was pointed out. But this was not policy at the time. And therefore it was not looked on favorably by the agency that was responsible for these things, which was the Department of Commerce.

Mr. GIBBONS. One of the concerns that some of us have had who have looked at the State Department's operation of economic functions overseas has been the political officer in the Embassy always seemed to have the biggest office and the most staff, and he received the greatest amount of attention. And, in fact, when you consider all of those things—the big office, the most staff, the greatest amount of attention and everything else—we always found that the economic officers frankly usually had a closet and no secretary and hardly even had a telephone. They just were not treated by the State Department, not treated with the same amount of importance that we would like to see them treated. And I think that that has also probably spilled over into OMB's look at the problem of where to put this function.

I would like to have you comment on that.

Mr. BLEAKLEY. Mr. Chairman, I think that is a very apt comment. As a professional association we are concerned with that. I think some progress is being made but not enough.

I introduced our group today by saying we are a new breed of foreign service officers. The world has changed greatly in the last decade. I think my own experience of having a strong economic background, even though I am a political officer, is typical of the new respect we have for the economic/commercial function. In terms of size of offices that shift takes place gradually and over time.

I know, for example, in Singapore where John Penfold served, they have moved to a combined political economic approach in

order more fully to utilize the economic, political, and commercial functions in terms of a dynamic and integrated approach so that innovative ways of utilizing our political resources in pursuit of our economic and commercial goals is now well under way.

I went through a similar experience in Bolivia where we have also combined the political and economic sections in order to take advantage of the new skills and training we are turning out in our officers.

Mr. PENFOLD. Just in case they keep promoting political officers, we have decided to train the political officers in the economics course, now that we have run out of economics officers to train.

Mr. CUNNINGHAM. I think maybe one other point that ought to be made, Mr. Chairman, is there has been a dramatic change, I think, in the way economic and commercial officers, and particularly the commercial officers, have been treated overseas. Career paths may not lead the commercial officer who is strictly a commercial officer to an ambassadorship quickly. But I was in a section in Jakarta that had about 17 employees and 2 of us shared a secretary—but that is not very uncommon for any foreign service officer. We had adequate American secretaries. We problably needed some more foreign service nationals staffed to support us.

But that section, because we were in a country that had got a very heavy oil interest, was vastly more important to the Ambassador and to everybody in the mission than was our political section. There was a time when there was very little going on politically in the country but an awful lot going on in both a business and an energy standpoint. And in that situation we did run a combined or integrated economic/commercial section, which meant that probably the most effective export promoter, let me say, in our section was not somebody who was labeled a commercial officer. He was in fact our petroleum officer. This was the man who knew the industry that was going to spend the most money on plant, equipment, construction services, and other imports. So that many, many, many businessmen came to him as the key individual in our section. Under no plan that I have heard yet would he be transferred to the commerce department. It highlights the fundamental problem that we have and that is that we do not view export promotion as the list of services that the commerce department provides.

We view it in much broader terms than that and we think it requires a much more sophisticated approach than the program approach the Commerce has traditionally followed.

Mr. VANIK. Mr. Frenzel.

Mr. FRENZEL. Thank you, Mr. Chairman.

I want to thank the witnesses for their excellent testimony. I does deviate somewhat from what we have heard. I notice that in every proposal that is before the committee there is no variation. Everybody wants to move these folks to Commerce. You are sort of like voices in the wilderness suggesting that they belong elsewhere. I am like Sam Gibbons, I never met such a person in any embassy—and I haven't traveled half as much as I would like to—that I didn't like or I didn't think was working very hard. I never saw any one encumbered by 40-hour weeks. They were always willing to put in whatever time was necessary.

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On the other hand, I think if we judge by progress, we've got to score them somewhat the way we score the Treasury in handling countervailing duty and antidumping. The Americans abroad or the Americans who would like to sell abroad who work with them by and large have not been satisfied with the results. Nor have we been satisfied that under the State Department this type of person is ever going to have sufficient status in an embassy, except perhaps occasionally, as you gentlemen have cited, in Indonesia where there was a good deal of action.

Some of us on the committee who have tried to look into this thing that commercial attachés are always going to play second fiddle. We have read cable after cable that said, hey, take it easy on our nice friends in this country; you are leaning on them too hard from a commercial aspect, or you are negotiating too hard with them.

We don't think that under State these kinds of folks have got anywhere near the clout to do the kind of job we think is absolutely necessary if we are going to move our export promotion program off dead center.

I think you raise an excellent point about the ability to convert, the time frame for conversion, the recruitment, selection, training, and possibilities for transfer. Obviously the time frame is insufficient. But I think if you are coming here and asking us to keep these folks in the State Department, you are beating on a dead horse, because if there is any change that has had almost unanimous ageement, it has been that commercial attachés should be removed from the State Department.

Mr. BLEAKLEY. Congressman, I would just make one observation and I think Mr. Cunningham would like to add something. My statement emphasized the need for higher commercial priorities. Admittedly, it has ranked low in State's priorities. I think because those were the priorities that were handed to State. We have proposed not the status quo but some rather important changes to the status quo in terms of resources, priorities, the integrated approach we would take to it and domestic support for it.

I have also mentioned we made some specific proposals to the Secretary of State which would call for dramatic upgrading of this function at least to the level of Assistant Secretary if not to Under Secretary in order to assure the commercial function would have the clout that it requires in order to do the job.

So we believe that the time is ripe for reorganization but we think that serious consideration should be given to utilizing the trained professionals that we now have on hand in order to do the job.

I mentioned the integrated approach. The real clout is not going to come from a commercial officer, a commercial counsellor, or even a commercial minister if you get it up to that. Time and time again it is the Ambassador who seals the deal that really matters to American industry. And we have got to recognize that State is going to have a critical role to play in this and a role that is really enforced best when it is done from within the resources that the Ambassador commands directly rather than indirectly.

Carl, did you want to add something to that?

Mr. CUNNINGHAM. Yes.

Mr. Frenzel, we have a problem and it is not terribly well understood and I was warned once by a fairly high ranking officer in our Department that we have a real education problem because very few people understand how this crazy thing works, as we do, from the inside. We have a strange organization indeed. We are a field operation with no headquarters. We have something in the vacinity of 10 people in the State Department who supposedly provide the coordination for the commercial function. Everything else, all the direction we get from Washington comes from the Department of Commerce.

Now, they traditionally have viewed their role as of providing, as one of providing a number of programs that I mentioned before. Those programs are very beneficial to the new exporter. They have been given priorities by OMB in the past to concentrate on the new exporter, to stimulate and educate the new guy. On the other hand, most of the exports we get come, in fact virtually all the exports if you look at the statistics, come from well established, sophisticated firms who are operating abroad and know how to market. Now, we are sitting abroad with virtually no direction from our own agency. And direction from the Department of Commerce says: Concentrate on trade missions, trade opportunities, preparing reports on firms overseas, providing agent distributor services and on and on goes the list. You are right that we don't have any clout. But I would argue that one of the reasons that we don't have the clout is not because the guy is overseas but it has something to do with the way we are managed from back here. And perhaps that is where the fundamental change needs to be made.

It seems to me not particularly well advised to transfer us to the agency which has conceived the programs, Mr. Chairman, backstopped us in the past, and coordinated the program, and yet the net results have been unsatisfactory to many business people and certainly to the Congress.

Now there are other proposals that are before the Congress. Some of these make an awful lot of sense. I think one of the key things that probably needs to be gotten control over is not the bodies overseas or even the bodies that the Department of Commerce has in its field offices around the United States, but some control over the budget and through that some control over the program by somebody who can devise an intelligent and effective export promotion program.

We see some of these proposals proposing a special trade agency. And that makes an awful lot of sense. The same proposals unfortunately often suggest again the same old thing: Moving us to the Commerce Department. And we cannot for the life of us imagine how that is going to improve anything. And quite frankly, there are very, very few of us who want to be sent over to work in the morass we perceive when we try to execute these programs abroad, emanating from the Commerce Department.

Mr. FRENZEL. How many of these so-called specialists are there?

Mr. CUNNINGHAM. I am sorry. Commercial specialists?

Mr. FRENZEL. Yes.

Mr. CUNNINGHAM. There are, I believe our figures are somewhere around 500 economic/commercial officers. It is virtually impossible today to differentiate between the economic officers and

the commercial officers because most of us are cross-trained and we temporarily fill a slot as a commercial officer or alternatively as an economic/commercial officer.

Mr. FRENZEL. I have great difficulty in trying to figure out what the difference is.

Mr. CUNNINGHAM. There shouldn't be any difference, is the major point.

Mr. FRENZEL. Well, it seems to me at some point in the game they promote you high enough to where you only keep statistics which no one reads. We then cease worrying about selling things. If I go to another country, I find an Ambassador from the EC who is making sales calls. I will never find any of our guys doing that kind of stuff.

Mr. CUNNINGHAM. I wish you would come to Jakarta. We would have taken you with the Ambassador to call on the ranking officials in the sugar industry with the team that I had put together to come out from the United States who were going to provide a full range of sugar equipment and bid on a $300 million package of sugar mills that were going to be constructed throughout Indonesia. And the Ambassador led that team in to make the presentation.

Mr. FRENZEL. Rightly or wrongly, I think the congressional perception is getting to be that the Foreign Service officer is a versatile person who proceeds through a number of specialties obtaining various kinds of training, some of which may be economics. I have the feeling that eventually everybody wants to be a neopolitician, sort of a senior grade Henry Kissinger, and the commercial phase is some sort of a temporary sojourn to be endured until one can get promoted to a nicer position that allows for quicker promotion. I presume that you would argue with that sort of description?

Mr. CUNNINGHAM. I don't know, I would have 3 months ago, but when we heard about the administration's proposal suddenly people started coming to me and saying, hey, this we don't want. And it turned out that most of those people were people who I thought were determined to be economic officers rather than commercial officers. And I can remember the economic/commercial counsellor from Chile coming in for a brief consultation period and burst into my office and said, Look, I don't want to be a counsellor in an Embassy if I only have the "E" and not the "C" part that goes with it. I believe in export promotion. I want to do it. And whatever you do, please, please try to stop this thing. We do not want to lose that function.

I am convinced now in a way that I wasn't before that there are an awful lot of economic/commercial officers who very badly want to do this and are preparing themselves to do it. I would not argue that the same is true of our management back in Washington.

Mr. BLEAKLEY. I would add just one thing to that. I think that largely we have seen the Foreign Service officers pretty much keeping pace, perhaps being a little bit ahead of the country as a whole in a recognition of the international economic and commercial factor in terms of our ability to do business abroad.

I stressed this in my statement deliberately because it is a realization that is growing. It is one which has built over the years and continues to grow and it is a reflection of the fact that our ambas-

sadors today, if they are going to rise to the top, have to take economic/commercial work not only as a specialty, which they developed back in their youth but as something that stays with them through the years in which they have a stake whether they become a political counsellor, deputy chief of mission or finally chief of mission himself. And I would argue strongly that from what I have seen more and more frequently we find major economic deals being closed by our ambassadors themselves because we are dealing on a level where they have no alternative. The Japanese and Germans are doing it and they sure have to be able to compete on those terms because that is what the name of the game is for them.

Mr. PENFOLD. If you will permit me, there is the perception that you hear again and again and again, that you just referred to, and there is truth in it, if you looked at commercial work a number of years ago as defined by the Department of Commerce people who were looking at these sorts of activities which support the particular programs which they have interest in.

Now, if a person spent a career just doing that and didn't get out in trade promotion more broadly defined, they might not do well and they might not go up. However, an economic officer who is reporting—and which is looked down on, this is the guy doing the statistics—if he is the minerals officer, if he is the petrolem officer, the minerals companies will come to him, and he will go out and do the major progress reporting and he will call on the Government and try to get them to consider the American company. If he is a commodity officer it is the same thing. If it is the financial officer, which is the more narrow thing, it is the bankers who want to talk to him and it is the major projects people who want to know can this country pay its bills, what does the balance of payments look like, what will happen to the exchange rate, what is my risk. So all these guys get involved in trade promotion. And we love it. We love to have businessmen come in and want what we are producing. That is what we are doing it for. We want to know they are end users and this stuff matters. That is what makes the job worthwhile is to know it matters.

Mr. CUNNINGHAM. The statistics job is a—I came with a political science degree and decided I did not want to be a political officer because I could never quite gain any satisfaction from knowing that the wonderful report I had written is likely to get filed away in a file cabinet back in Washington somewhere never to be seen again. The real satisfaction had to be a part of the real world is that you have the businessman sitting in front of you and you think—you don't know for sure until much later—but you think what you are working on really does matter and will produce a concrete measurable result. And for those of us who want to do this work that is why we have chosen this career.

Mr. FRENZEL. Thank you very much.

Mr. GIBBONS. Thank you for this very enlightening discussion.

Mr. BLEAKLEY. Thank you.

Mr. GIBBONS. Our next witness is Mr. Stephen Cohen, associate professor, school of international service.

STATEMENT OF STEPHEN D. COHEN, ASSOCIATE PROFESSOR, SCHOOL OF INTERNATIONAL SERVICE, AMERICAN UNIVERSITY, WASHINGTON, D.C.

Mr. COHEN. Thank you, Mr. Chairman.

It is late in the day, and therefore I will try to summarize my statement as quickly as possible.

Mr. GIBBONS. We will put your entire statement in the record either before or after your testimony.

Mr. COHEN. Let me prefix my summary by suggesting that I bring a somewhat different perspective to the subject than have the previous witnesses. I am not speaking on behalf of the Government. I am not speaking on behalf of any clients, and I am not speaking on behalf of the private sector. I am not even speaking as the result of having a senior high level policy position in the past. I came upon my interest in the international policy organization mainly as the result of serving on the Commission on the Organization of the Government for the Conduct of Foreign Policy, the so-called Murphy Commission, a joint White House-Congressional Commission in 1974-75.

Subsequently I published a book on foreign economic policymaking which, among other things, suggested the consolidation of trade affairs in a single ministry, an idea which pretty much became the basis of the so-called Roth-Ribicoff bill. So that is my basic vested interest in this subject.

Presumably I have some objectivity but, on the other hand, I don't bring the degree of familiarity that the previous witnesses have. In general I believe that the appropriate policy reorganization should be a consolidation to provide a central authority for the formulation of import and export policies, the negotiation of trade policy, the administration of trade programs, the enforcement of trade legislation, liaison with the Congress and the private sector, and research and analysis.

I believe also that responsibility for international investment policy should be included ultimately in such an authority. The needs for coherent, consistent, and responsible policy will become ever larger as foreign trade relations and international investment patterns inexorably become more complex.

As I said in my statement, I think the first-best solution would be a single Cabinet-level department. As a practical matter, I think it will be necessary to talk in the short run about a gradual reorganization.

In discussing reorganization, I would like to strongly emphasize the fact that institutional change should be kept in perspective. Reorganization is mainly the means to foster new avenues of substantive thinking about how this country is going to respond to the emerging trends in international trade and in international investment.

I think we need new priorities, new ideas, new programs and new means of response. Simply by going through the proverbial reshuffling of organizational charts, we will not meet the needs at hand.

Before talking about reorganization, let me briefly look at international trade relations as I see them in the 1980's. I believe the U.S. trade account will continue to face problems all during the

upcoming decade, mainly because of the need to pay for a large oil import bill and also because of the increasingly intense nature of foreign competition.

There are a number of avenues that I see as causing the increased competition from overseas. One was seen in the steel issue as unemployment became the paramount priority of foreign governments and not profitable exports. The so-called newly industrialized countries have dynamic export sectors and will continue to be a major source of competition for the United States in world markets.

No one needs to talk about the competition already represented by Japan and Western Europe.

Reorganization, as I said, can be a help. Hopefully it will be combined with new thinking. All of the reorganization proposals that are being talked about, including the new department, I believe, would be relatively inexpensive and would be relatively simple in terms of their implementation.

Let me briefly talk about the rationale for a centralized trade department. I think that the contemporary international trade and international investment policymaking procedures that we have in the United States represent mainly historical and personality factors rather than organizational precision, or common sense. The special trade representative has limited authority and limited staff and therefore simply cannot serve as a central trade authority.

On the international investment side, the governmental organization is all but undetectable. It is very difficult to see what departments are concerned with the various aspects of multinational corporations and the implications of international investment. I won't go into the details, but I do make the point in my statement that there is a growing conceptual and technical link between international investment patterns and international trade. And therefore, when we talk about the first-best solution of a department, I think that investment should go along with it.

In looking at other countries, I have come to the conclusion that we are the only one, at least among industrialized countries, that does not have a single department or agency with overall responsibility for trade policy. And, as I suggested, three explanations are possible. The first is that this country knows something or does something that no one else does. I do not believe that is true.

The second possibility is that the U.S. situation is really unique, so that we cannot have a centralized trade authority. Once again, I discount the possibility that that explanation is possible.

And the third and final explanation is that our trade and investment policy organization simply has grown piecemeal, influenced by historical circumstances and personalities.

The chief rationale for centralized trade policy responsibility in a single ministry is not the promise of quick, dramatic improvements in the quality of trade policy or in the arithmetic of our large trade deficit. The chief rationale is that the odds are improved, that better trade policy and performance will be forthcoming. The promise of marginal benefits at the very minimum still allows the organizational change that I support to be deemed cost-effective.

I believe that the creation of a Department of International Trade and Investment would be a relatively simple, inexpensive and administratively sound approach to organizational reform.

Looked at in macro terms, I believe that it makes administrative sense to integrate responsibility for, and analysis of the three major components of international commercial policy, namely, imports, exports, and foreign investment. To over-simplify, full-time, high-level attention improves the chances for formulating, negotiating and administering effective and consistent policy and program management. This would be the principal mission or bureaucratic essence of the Department of International Trade and Investment.

In addition, a centralized department should improve the four-tiered communications process inherent in the formulation and implementation of international commercial policy. By clearly designating principal authority, better communications would take place on these four levels: within the executive branch, between the executive and legislative branches, between the executive and the private sector, and between governments.

An interagency process of deliberation, albeit a sharply revised one, should continue no matter what organizational changes are made. Once again the goal should not be to stifle input from other departments; it should be to create a central focus of responsibility and expertise. One of the most efficient coordination groups in the foreign economic policy area, at least in my opinion, has been the International Monetary Group. Its major organizational strength is the ability to recognize and accept the domination of its chairman, the Treasury Department, in international monetary affairs. Other departments interested in these issues maintain small "watchdog" advisory units that can and do offer specialized viewpoints in the international monetary policy decisionmaking process. But everyone knows who has ultimate policymaking responsibility.

Briefly, if we do create a Department of International Trade and Investment, I believe we will need to require that existing organizations do not rejuvenate their lost bureaucratic limbs. There is indeed a danger—and I think it has been alluded to here—of creating a double layer of bureaucracy. But I believe that within the legislative process and by vigilance by OMB, specific actions could be taken to prevent this double layer of bureaucracy from developing.

Finally, let me come to the second-best approach.

Political reality suggests to me that the strong across-the-board support necessary to create such a department is lacking at the present time. The Carter administration has not endorsed its creation. Many congressional members and private analysts seem disenchanged with the results of policy consolidation in such newly created Departments as Energy and, to a lesser extent, Housing and Urban Development. Analogies in this case are only of limited relevance. For example, a new Department of Trade and Investment would be considerably smaller in terms of program management, personnel, and budget. Its personnel would be numbered in the hundreds and its budget in the millions of dollars, whereas the Energy Department has thousands of employees and a budget of several billion dollars.

Since I would not advocate an all or nothing approach to trade policy reorganization, let me discuss a compromse solution. It is very similar to the idea contained in H.R. 4995, introduced last July by Congressman Gillis W. Long of Louisiana.

The central focus of reorganization would be a rejuvenated STR to serve as the central fulcrum of trade policy management. In order to accommodate additional personnel and the inclusion of some operational functions, STR should be removed from the Executive Office of the President and be made a separate agency within the executive branch. For simplicity's sake, let us refer to this new agency as the Special Trade Agency—STA, as is done in Mr. Long's bill.

The STA would absorb the current STR operation. It would continue to conduct U.S. participation in new multilateral trade negotiations. It would be responsible for all followup efforts on issues not resolved in the Tokyo Round of multilateral trade negotiations—MTN's—for example, safeguards and export controls. It would monitor enforcement of the codes that were agreed to in the MTN's, and it would oversee U.S. representation in the GATT.

The STA should also take over coordination and direction of international commodity negotiations, East-West trade negotiations, and international investment issues not related to taxation—an issue that should remain in Treasury.

I would also urge that the new agency assume a fourth new responsibility: U.S. export policy strategy. In addition to the planning function, the STA should also provide the small nucleus of senior negotiators to explore new levels of bilateral commercial relations.

As an example of what I am talking about is Mexico, where possibly we may want to negotiate agreements involving energy, technology cooperation, and the import to this country of vegetables. In the future I think that new bilateral trade relationships may become an important issue. And having the authority within the new agency to explore new levels of bilateral commercial relations is in order.

I am going to skip over discussion of the export promotion side. Given the fact we are creating only a specialized agency and not a department, it would probably make sense to keep the manpower-intensive and capital-intensive program of export promotion within neither the State Department or the Commerce Department.

I personally suggest and would prefer that it be moved to the Commerce Department, to at least keep it temporarily in line with export promotion activities within the United States. In the long run, I think it would be advisable to transfer additional responsibilities in the international commercial policy field to the STA. These would include the international services sectors such as shipping, aviation, insurance, et cetera.

On the import policy side, I would recommend the immediate inclusion in the new agency of STR's policymaking responsibilities under sections 202, 301, and 406 of the Trade Act of 1974.

In addition, I would include all enforcement responsibilities under the countervailing duty and antidumping laws, as well as unfair trade practices comprising Section 337 of the 1934 Tariff

Act. In my opinion, there is no merit in decentralizing responsibilities for import relief measures.

Finally, the STA should be designated at the outset as chairman of the main interagency coordinating vehicle for international trade policy: The Cabinet-level Trade Policy Committee and its two subordinate committees. As indicated above, the model for the coordination process should be the International Monetary Group, an interagency forum for providing advice and data to the indisputable "leader" of U.S. international monetary policy—the Treasury Department.

I don't think the STA should be isolated, nor do I think an eventual department should be isolated. Rather, it should be the dominant force in the major aspects of trade policy: Import and export policy formulation, negotiations, and enforcement of trade legislation and agreements.

The STA should be designated and recognized a chief trade spokesman for the executive branch in its dealings with foreign governments, the Congress, and the American public. Within the executive branch it should serve as the hub of the coordination process. Its voice on policy and programs should be accepted as representing the President's wishes.

The agency that I have outlined represents a modest organization change. However, if combined with a revitalization of thinking and consideration of new priorities, it could make a substantial, positive contribution to U.S. international trade and investment policies. It can serve as a transition base from today's unacceptably decentralized organization to the centralized ministry that I believe to be the optimal reorganization vehicle in the long run.

In the short run, it may be advisable to move one step at a time. As new policy and operational responsibilities are digested, existing trade policy authority can be transferred gradually to the new trade agency.

By implication, I am unimpressed with the administration's trade reorganization proposals. They constitute a marginal shuffling of people and responsibilities whose impact on the decision-making process at best would be negligible. Negative effects are a real possibility. The administration's reorganization package seems designed mainly to placate congressional pressures to do something.

The centralized approach to trade policy reorganization outlined above will increase the probability that the United States has more innovative, coherent, consistent, and responsive foreign trade and investment policies in the upcoming decade and beyond.

A number of arguments have been raised against my belief that a centralized administration of trade policy is optimal. Most of these I personally dismiss. I don't think an ideological coup d'etat is going to take place on behalf of one trade policy or another if we centralize trade-making responsibilities.

The most articulate criticism of the centralization approach, at least of those that I have heard, argues that an efficient, fine tuned trade policy apparatus will be more difficult to argue with in the event of policy disagreement. Under this approach, it is better to have a fragmented system in which there are lots of ends to play off against various middles. The virtues of a system open to the

divide-and-conquer technique pales before the need to come to grips with an increasingly complex world economy. The relative power and strength of the United States in the international economy has declined and probably will continue to do so. It is not in the interests of this country to have an obsolete or second-rate trade policy organization in an era of rapid structural and competitive change in the world economy.

There are many advantages at little cost to creating a sound organizational structure that integrates responsibilities for trade policy formulation, negotiations, legislative enforcement, program management, congressional and private sector relations, and research. Thank you.

[The prepared statement follows:]

STATEMENT OF DR. STEPHEN D. COHEN

SUMMARY

Mr. Chairman and members of the Subcommittee, I appreciate this opportunity to discuss my views on the appropriate reorganization of the process by which the United States Government conducts foreign trade policy. In view of the broadening consensus that some change is needed, my statement will emphaisize my views on the kinds of change that would be most effective, not my rationale for finding the organizational status quo to be unacceptable.

I believe that a consolidation is necessary to provide a central authority for the formulation of import and export policies, the negotiation of trade policy, the administration of trade programs, the enforcement of trade legislation, liaison with the Congress and the private sector, and for research and analysis. Responsibilities for international investment policy should also be included in such an authority. The needs for coherent, consistent, and responsive policies will become ever larger as the complexity of foreign trade relations and international investment patterns inexorably become more complex. The American economy would best be served by an organizational streamlining.

The creation of a single cabinet-level department with all-inclusive responsibility for foreign trade and international investment policies represents the optimal organizational means of coping with the growing challenges and opportunities of the international marketplace.

As a practical matter, it may be necessary (and desirable) to take this ultimate reorganizational step on a gradual basis. The reluctance of the Carter Administration to support such a major move and the disappointment expressed by many Washington voices on the results of recent experiences with departmental consolidation suggest to me the utility of pursuing an interim compromise between the idea of a new department and the nominal Administration reorganization proposal that surfaced earlier this summer.

A proposal which is both organizationally sound and politically palatable is the transformation of the current Office of the Special Representative for Trade Negotiations into an independent agency with broadened policy formulation and program management functions. The resulting trade agency could serve as the locus for an evolutionary consolidation of additional international trade and investment policy responsibilities.

As the debate on trade policy reorganization continues, I would strongly urge that institutional change be kept in perspective. Reorganization is merely the means to foster new avenues of substantive thinking about how this country is going to respond to the emerging trends in international trade and in international investment. New ideas, new priorities, new programs and new means of response are needed now. The obsolescence of existing organization cannot be remedied solely by reshuffling organizational charts. A revitalization of thinking and increased data are needed on such critical international commercial issues as export expansion, domestic adjustment to foreign competition, the conduct of multinational corporations, and means of settling international investment disputes.

I. INTERNATIONAL ECONOMIC TRENDS AND U.S. FOREIGN TRADE IN THE 1980'S

The greatest single problem currently facing U.S. trade policy and the U.S. balance of payments position is the need to finance a growing oil import bill that

already is of staggering proportions. By next year, this country will import close to $70 billion worth of oil. The end of the import bill spiral is not in sight. Unless one wishes to assume a miraculous short-term breakthrough in alternative energy supplies and conservation techniques, continued escalations in energy prices—and in the U.S. oil import bill—can be expected at least through the mid-1980's.

The optimal means to finance our gluttonous appetite for foreign oil is to increase our exports. I do not believe the best interests of this country, or the world economy, would be served by the simpler policies of restricting imports or allowing a steady depreciation in the dollar's exchange rate to compensate for a current account deficit.

Furthermore, I can take little comfort, as some analysts apparently can, in the fact that improved trade prospects in non-oil goods will prevent an increase in this year's overall U.S. trade deficit and perhaps allow a small reduction in the aggregate deficit next year. Such improvements, in my view, are cyclical in nature. The slow-down of the American economy relative to our major trading partners is temporary. We will not be able to finance an increased oil import bill via the effects of a domestic recession on a permanent basis.

The recent depreciation of the dollar cannot be expected to be sufficient to prevent another escalation in the U.S. trade deficit after positive real economic growth rates resume, perhaps as soon as the second half of 1980.

Economic trends continue to suggest the existence of a secular U.S. trade problem. Relative declines in R. & D. expenditures, capital formation, and new product innovation have been cited in some scholarly studies to substantiate the conclusion that the United States is suffering a structural decline in its comparative advantage position.[1]

The second major factor that will be confronting United States trade policy in 1980's will be the increasingly vigorous nature of foreign competition. The recent experience in the international trade of steel is one indicator that other industrialized countries may prefer economic policies that maintain employment and cover fixed costs rather than earn profits from the exportation of certain goods.

The secular slow-down in world economic growth will not disappear in the face of continuing energy supply constraints. The link between the commerical and government sectors in other countries is unlikely to dissipate, at least where trade policy is concerned. Competition for overseas sales opportunities will become ever more vigorous, in part because of foreign involvements.

The increasing challenge and opportunity posed by the so-called advanced developing countries, or newly industrialized countries (NIC's) present yet another manifestation of what I see as the increasing foreign competition syndrome. U.S. trade data reveal dramatic U.S. import increases from these countries. U.S. exports to them have fared less well, however. A recent O.E.C.D. study presented data demonstrating that, although the NIC's have increased rapidly their imports of sophisticated manufactured goods, the U.S. generally was losing its market shares to other industrialized countries.

Doomsday scenarios from the U.S. trade account in the 1980's cannot be supported with unequivocal data. But a clear and present need for a more dynamic export policy can be demonstrated. The need for effective-management of import policy (injury and unfair foreign practices) is no less urgent. In the upcoming decade, we will look back on 1979 as the good old days. International trade issues will not only be more important and complex, they will be more numerous. The recently concluded codes of conduct negotiated at the Tokyo Round will be but one aspect of the ever-growing agenda of international trade and investment issues to be faced in the upcoming decade.

Existing U.S. policymaking organization is not ideally suited for this broadened and deepened workload. Relatively inexpensive and simple reorganization efforts would improve the chances for better and more responsive policy. No organization can guarantee "good" policy. This is a subjective concept. Furthermore, without the right people, no organization can live up to its full potential.

The reorganization measures which I advocate today cannot be guaranteed to produce specific results. However, I believe there is evidence to conclude that they would be fully cost-effective. At a nominal cost in money and effort, a potential improvement in the policymaking process is within easy reach.

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[1] See for example, "Export Policy," part 2 of hearings before the Senate Committee on Banking, Housing, and Urban Affairs, February 23, 1978, pp. 123-164, and "The U.S. Trade Deficit: A Hard Look at Bad News," by L. Fox and W. Averyt in "Business Economics," March 1979, pp. 1-17.

II. THE RATIONALE FOR A CENTRALIZED TRADE DEPARTMENT

Annual international trade and investment flows (in both directions) represents a third-of-a-trillion-dollar business in the United States. Existing government organization is, however, more befitting a cottage industry. Its illogical, overlapping nature is confusing to all but the shrewdest bureaucrats and lobbyists.

Contemporary international trade and international investment policy organization represent historical and personality factors more than organizational precision or common sense. The presumed center of trade policy, the Office of the Special Representative for Trade Negotiations (STR), embodies several organizational anomalies. It is one of the very few operational units within the Executive Office of the President. Its activities and influence ebb and flow according to whether multilateral trade negotiations are in progress and to the nature of the relationship between the President and the Representative himself. A number of key trade policy activities still reside in the Agriculture, Commerce, State, and Treasury Department.

Whereas foreign trade organization consists of a noisy, active string of narrowly defined fiefdoms—which may or may not work together harmoniously—the international investment policymaking process is all but undetectable. The increasing complexity of the issues associated with inward and outward foreign direct investment and with the separate, but related issues of international business practices (e.g. bribery and boycotts) deserve a more sophisticated policymaking focus.

U.S. trade policy is linked closely with foreign investment policy. At the bottom, there is the conceptual link of their being the two principal market-oriented phenomena with the common business objective of increasing sales to foregin consumers. A technical link results from the fact that a very significant proportion of U.S. exports of manufactured goods presently consist of intracorporated transfers; in short, arms-length sales directly to foreign buyers are not involved. On the import side, the mounting tide of foreign direct investment in this country inevitably will alter the composition and level of U.S. imports, just as export patterns have been affected by U.S. corporate foreign direct investment. The increasing reliance by the major Japanese television companies on manufacturing and assembly operations in their newly established plants within the United States is a prime example of impending changes in our import composition. Demands by LDCs for increased transfers of technology, as well as the outlook for tighter host-country control over the production and trade patterns of multinational corporations, suggest additional longer-term effects of overseas investment on the U.S. export sector.

The United States is unique among industrialized countries in not having a single ministry or agency charged with the overall direction of trade policy. Three explanations are possible. The first is that this country knows something (or does something) that nobody else does. If so, it is a well-hidden secret. The advantages of a single designated spokesman for trade policy when dealing with foreign governments in obvious. Dismissing this answer, we come secondly to the possibility that the U.S. internal situation is so extraordinary that a trade ministry is wholly inconsistent with reality. While one can argue that the more powerful models of such a ministry (for example, the MITI in Japan) are inappropriate to the tenor of U.S. government-domestic business relations, the abstract notion of a trade ministry is not at odds with the U.S. experience.

This leaves a third explanation: U.S. international trade and investment policy organization has grown piecemeal, influenced by historical circumstances and the chance presence of strong personalities in the Executive Branch and Congress. Existing organization is accepted and tolerated because "that's the way we've always done it." After passage of the Trade Expansion Act in 1962, no one publicly took a long, critical examination of U.S. trade policy organization shortcomings until the Senate Government Affairs Committee initiated hearings in February, 1978 on S 1990, the Roth-Ribicoff Bill to create a Department of International Trade and Investment (DITI). The procedural comfort of letting sleeping organizational dogs lie is becoming prohibitively expensive in real and potential economic terms.

The chief rationale for centralizing trade policy responsibility in a single ministry is not the promise of quick or dramatic improvements in the quality of trade policy or in the arithmetic of our large trade deficit. The chief rationale is that the odds are improved that better trade policy and performance will be forthcoming. The promise of marginal benefits at the very minimum still allows this organizational change to be deemed cost-effective.

Creation of DITI as outlined in the legislation introduced by Senators Roth and Ribicoff and by Congressman Neal (H.R. 3859) is a relatively simple, inexpensive, and organizationally sound approach to organizational reform. In the interest of

complete candor, I should note a personal interest in this legislation: it is based on one of my proposals in my 1977 book entitled "The Making of United States International Economic Policy—Principles, Problems, and Proposals for Reform." In fiscal terms, DITI would not require the expense or bureaucratic enlargement commonly associated with the birth of a new department. All of the requisite parts for the department already exist and currently are funded in the federal budget. All that is being suggested is the unification of fragmented bureaucratic units. Not even the salary of the new Secretary would need to be added to the buget. Since the Special Trade Representative is already a Cabinet-level position, it is a matter of revising this job description.

Looked at in "macro" terms, it makes administrative sense to integrate responsibility for, an analysis of, the three major components of international commercial policy: imports, exports, and foreign investment. To oversimplify, full-time, high-level attention improves the chances for formulating, negotiating and administering effective, consistent policy and program management. This would be the principal mission, or bureaucratic essence, of DITI.

In addition, a centralized department should improve the four-tiered communications process inherent in the formulation and implementation of international commercial policy. By clearly designating principal responsibility, better communications would take place on these levels: intra-Executive Branch, Executive-Legislative Branch, Executive-private sector, and U.S. government-foreign government. Within the Executive Branch, the priority should be creation of a trade policy leader, not a dictator, who is universally known to have primary jurisdiction in international commercial affairs. Stature, not autonomy, would be the hallmark of an effective U.S. trade ministry.

An interagency process of deliberation, albeit a sharply revised one, should continue no matter what organizational changes are made. Once again, the goal should not be to stifle input from other departments; it should be to create a central locus of responsibility and expertise. One of the more efficient coordination groups in the foreign economic policy area has been the International Monetary Group. Its major organizational strength is the clearly recognized—and accepted—domination of its chairman, the Treasury Department, in international monetary affairs. Other departments interested in these issues maintain small "watchdog" advisory units that can and do offer specialized viewpoints in the international monetary policy decision-making process. But everyone knows who has ultimate policymaking responsibility.

There is a danger that those bureaucracies losing trade functions to a centralized department (or agency) would attempt to rejuvenate their lost limbs through a new hiring of professional analysts. I would therefore advocate that the legislation or executive order creating the new department should contain restrictive ceilings on trade policy personnel in the existing organizations affected by the reorganization. Specifically, only a small trade policy office is necessary to assure input into the interagency deliberative process by departments and agencies whose mandate (foreign policy, labor, balance of payments, etc.) are affected by the course of U.S. trade relations. Vigilence by the Congress and the Office of Management and Budget can preclude the eventual emergency of a double layer of bureaucracy in the trade policymaking process.

III. THE SECOND-BEST APPROACH: AN INDEPENDENT TRADE AGENCY

Political reality suggests to me that the strong across-the-board support necessary to create such a department is lacking at the present time. The Carter Administration has not endorsed its creation. Many Congressional members and private analysts seem disenchanted with the results of policy consolidation in such newly created Departments as Energy and, to a lesser extent, Housing and Urban Development. Analogies in this case are only of limited relevance. For example, a new Department of Trade and Investment would be considerably smaller in terms of program management, personnel, and budget. Its personnel would be numbered in the hundreds and its budget in the millions of dollars, whereas the Energy Department has thousands of employees and a budget of several billion dollars.

Since I would not advocate an all or nothing approach to trade policy reorganization, let me discuss a compromise solution. It is very similar to the idea contained in H.R. 4995, introduced last July by Congressman Gillis W. Long of Louisiana.

The central focus of reorganization would be a rejuvenated STR to serve as the central fulcrum of trade policy management. In order to accommodate additional personnel and the inclusion of some operational functions, STR should be removed from the Executive Office of the President and made a separate agency within

the Executive Branch. For simplicity's sake, let us refer to this new agency as the Special Trade Agency (STA), as is done in Mr. Long's bill.

The STA would absorb the current STR operation. It would continue to conduct U.S. participation in new multilateral trade negotiations, and it would be responsible for all follow-up efforts on issues not resolved in the Tokyo Round of multilateral trade negotiations (MTN's), e.g. Safeguards and export controls. It would monitor enforcement of the codes that were agreed to in the MTN's, and it would oversee U.S. representation in the GATT.

The STA should also take over coordination and direction of international commodity negotiations, East-West trade negotiations, and international investment issues not related to taxation (an issue that should remain in Treasury).

I would also urge that the new agency assume a fourth new responsibility: U.S. export policy strategy. In addition to the planning function, the STA should also provide the small nucleus of senior negotiators to explore new levels of bilateral commercial relations. They would have the authority to negotiate across a number of issue areas that involve various trade-offs. Negotiations with Mexico involving energy, technology cooperation, and vegetables would be an example of the prototype bilateral trade relationship enhancement which needs to be explored and pursued in the 1980's. Such a policy goal could best be pursued by a high-level Executive Branch entity with broad international trade and investment policy responsibilities, as well as a broader conceptual vision.

Given the fact that the STA is not designed to be the equivalent of a new Department, I would not suggest that the tactical side of export policy—export promotion—be brought under the immediate aegis of a newly created STA. Temporarily, it should remain in the Commerce Department. The only immediate organizational change affecting export promotion programs that I would endorse is the transfer of responsibility for overseas commerical representation from the State to the Commerce Department. Such a move not only would integrate the export promotion effort, it would terminate the longstanding bureaucratic jealousies between these two departments that have drained vigor and efficiency from overseas operations.[2] On the economic side, the State Department should continue its emphasis on overseas forecasting and policy analysis and on representation of American interests to foreign governments. The purely commercial function seems destined for continued low priority attention, and rightly so, by our foreign ministry whose forte is diplomacy.

Relatively speaking, export promotion programs probably involve the largest outlay of funds and involve more personnel than any other single aspect to U.S. trade policy. But not absorbing this function at the outset, the STA would be spared a major managerial undertaking. Administrative priorities could be directed elsewhere.

However, the status quo in export promotion should not be encouraged permanently. A long, hard look at current governmental efforts is needed. I do not believe that any sound evidence on the cost-effectiveness of these efforts currently exists. No matter what institutional changes are implemented, the government should evaluate the whole program for weaknesses and expendable operations. The option of spinning off export promotion programs into a quasi-governmental corporation (possible involving some private sector funding) should be explored thoroughly. This idea could allow maximum operational flexibility and program responsiveness to business needs.

At some future time, consideration should be given to transferring control of the overseas commercial representation service, the domestically-based export promotion function, and the Export-Import Bank to the STA.

In the long-run, it would also be advisable to transfer additional responsibilities in the international commercial policy field to the STA. These would include the international services sectors, such as shipping, aviation, insurance, construction contracts, and international data flows. Once again, there is an organizational virtue in linking these issues with foreign trade; consistency would be encouraged and the ability to make trade-offs facilitates.

Similarly, decisions on the transfer of responsibilities for agricultural trade policy and the administration of export controls should be considered after the initial performance of the new agency is evaluated and improved as necessary.

On the import policy side, I would recommend the immediate inclusion in the new agency of STR's exisiting policymaking responsibilities under sections 202, 301, and 406 of the Trade Act of 1974. In addition, I would include all enforcement responsi-

[2] See, for example, the August, 1977 Report by the House Government Operations Committee entitled "Effectiveness of the Export Promotion Policies and Programs of the Departments of Commerce and State."

bilities under the countervailing duty and anti-dumping laws, as well as unfair trade practices comprising Section 337 of the 1930 Tariff Act. There is no merit in decentralizing responsibility for import relief measures.

Finally, the STA should be designated at the outset as Chairman of the main interagency coordinating vehicle for international trade policy: the Cabinet-level Trade Policy Committee and its two subordinate committees. As indicated above, the model for the Coordination process should be the International Monetary Group, and interagency forum for providing advice and data to the indisputable leader, the Treasury Department.

The STA will not be isolated, but it should be the dominant force in the major aspects of trade policy: import and export policy formulation, negotiations, and enforcement of trade legislation and of agreements. The STA should be designated and recognized as chief trade spokesman for the Executive Branch in its dealings with foreign governments, the Congress, and the American public. Within the Executive Branch, it should serve as the hub of the coordination process. Its voice on policy and programs should be accepted as representing the President's wishes.

The caliber of personnel running any new trade organization will be critical to its success. Also important will be the continuing relationship between the President and the head of the new agency. Retention of cabinet rank is vital for him or her. STR's symbolic power of being located within the Executive Office of the President could be preserved by designating the head of the STA as Special Advisor to the President for International Commercial Policy. The head of the STA as well as his top two or three assistants should continue to be given Ambassadorial rank.

I would not support the provision in the Long bill which would create a new Trade Coordination Council in the White House, with the STA head as chairman and a small staff of its own. I believe that STA personnel should serve as the secretariat for the currently operational Trade Policy Committee. If a White House coordination council is to be created, it should have oversight in all areas of international economic policy, i.e., including financial, developmental, energy, and scientific issues. A successor to the new defunct Council on International Economic Policy is, I believe, an attractive idea. But it is beyond the scope of this hearing.

The agency that I have outline represents a modest organizational change. But if combined with a revitalization of thinking and consideration of new priorities, it could make a substantial, positive contribution to U.S. International trade and investment policies. It can serve as a transition base from today's unacceptably decentralized organization to the centralized ministry that I believe to be the optimal reorganization vehicle in the long-run. In the short-run, it may be advisable to move one step at a time. As new policy and operational responsibilities are digested, existing trade policy authority can be transferred gradually to the new trade agency.

By implication, I am unimpressed with the Administration's trade reorganization proposals. They constitute a marginal shuffling of people and responsibilities whose impact on the decision-making process at best would be negligible. Negative effects are a real possibility. The Administration's reorganzation package seems designed mainly to placate congressional pressures to do something. The transfer of responsibility for administering dumping and countervailing duty cases to the Commerce Department is, at best, useless. Why would such a transfer lead to improved progam administration? Is the Commerce Department the better managed organization? The creation of an Under Secretary for Trade in the newly renamed Department of Trade and Commerce is as unnecessary as the new Departmental name for Commerce would be redundant.

CONCLUSION

The centralized approach to trade policy reorganization outlined above will increase the probability that the United States has more innovative, coherent, consistent, and responsive foreign trade and investment policies in the upcoming decade and beyond.

Neither a new trade department nor a new agency need be an isolated, dictatorial, or a duplicative layer of bureaucracy. An effective coordination process, an inter-agency personnel exchange program, and a virorous Congress will prevent such negative developments. An ideological coup d'etat on behalf of one trade philosophy is improbable. The most articulate criticism of the centralization approach, that I have heard, argues that an efficient, fine-tuned trade policy apparatus will be more difficult to argue with in the event of policy disagreement. Under this approach, it is preferable to retain the existant fragmented system inasmuch as there are more players to play off against one another. In other words, an ally for any given viewpoint can usually be found within the Executive Branch's existing apparatus.

The virtues of a system open to the divide and conquer technique pales before the need to come to grips with an increasingly complex world economy. The *relative* power and strength of the United States in the international economy has declined and problably will continue to do so. It is not in the interests of this country to have an obsolete or second-rate trade policy organization in an era of rapid structural and competitive change in the world economy.

There are many advantages at little cost to creating a sound organizational structure that integrates responsibilities for trade policy formulation, negotiations, legislative enforcement, program management, Congressional and private sector relations, and research.

Mr. GIBBONS. Thank you, Mr. Cohen.

It occurred to me, and I still see some of the people from our earlier panel in the back of the room, and I wonder, under the President's proposal I would imagine that people would physically move out of the embassy, and I wonder whether they would lose their diplomatic immunity. And I wonder whether diplomatic immunity means anything to people in this particular area of work. Do you have any views on that?

Mr. COHEN. I would guess that they would retain diplomatic immunity as the result of being an employee of the U.S. Embassy. I am not an expert, but I would think diplomatic immunity applies to more than Foreign Service people assigned to an Embassy, that it wold include labor attachés and trade and agricultural attachés. My guess is they would not lose their diplomatic immunity.

Mr. GIBBONS. I would imagine they could stay in the Embassy, but I would imagine they are going to get smaller telephone booths to operate out of. When the administrative officer looks around for places to put people, he is going to say:

These are not my State Department people; these are people from Commerce, so, let's see, what about that old janitor's closet we have over there? We can remodel that.

All of these Embassies are too small. I can see some real problems beginning to happen there. I imagine they are going to eventually be housed someplace else. If they are ever going to get enough resources to do the job, they are going to be housed someplace else. I wonder then what is going to happen.

Mr. COHEN. I think my response would be the same as the Foreign Service Association's response, that the real need here is for a change of attitude back home. If the executive branch and the Congress do not follow up on this reorganization, do not take heed of the possibility that commercial officials will be put in the administrative basement, then all of this reorganization is not going to change very much.

As I said before, I would hope that the reorganization is merely one part of the equation, the other part of the equation being a higher priority and a greater, more serious attitude taken toward the need for improving our export posture. This new attitude should be assumed by the Congress, the private sector, and the executive branch. Merely by reorganizing, merely by creating this department, even by putting everything in it, is simply not going to be sufficient if boxes are shuffled around, and the mentality of Washington and the rest of the United States is not more attuned to what I believe is a more competitive international situation.

So I would hope if they are moved out of their existing facilities it would be into larger facilities, with better communications to

transmit data back home. But if there is not a more serious attitude taken back in Washington, then any kind of field reorganization, I think, will find itself dissipated in terms of effective change.

Mr. GIBBONS. It is your belief though, as long as they are part of the mission they still maintain their diplomatic immunity and freedom from taxation and all of those other things?

Mr. COHEN. I believe so. I assume that professionals attached to our Embassy receive diplomatic immunity

Mr. GIBBONS. It seems to me like the Long proposal, which is what you support because you can't have a separate Department of Trade, is in effect a Department of Trade, but just without a Cabinet title?

Mr. COHEN. No, I disagree. There are many responsibilities that would not immediately be transferred. For example, export controls. The Commerce Department now has a rather large export control operation. It reviews applications for export licensing. Responsibility for the so-called international services, such as civil aviation and the maritime affairs, would not be immediately transferred. The export promotion effort, which in terms of budget and manpower is one of the larger operations in international trade, would not be included. International investment policies, which I would hope ultimately would go into a department, would not be in the STA. The Export-Import Bank, which possibly might be absorbed by a new department, would not initially be a part of the STA. The major changes between an STA and an STR would be the inclusion of the import measures, the unfair trade practices, as well as the formal designation as being the central trade policy coordinator.

So I view it really as just simply one step, a transition step. There are many responsibilities which would not be immediately transferred to an STA.

Mr. GIBBONS. I frankly really don't know enough about the pecking order around the White House, and I don't know whether moving the STR function further away from the President is going to diminish the STR's power. That worries me. What is your response to that?

Mr. COHEN. I share your concern. In talking this specific issue over with people, I have found that almost all of them felt that the preception would be there, that by removing the STR from the Executive Office of the President there would be a diminution in his or her prestige.

Buried in my testimony, which I did not refer to, is one possible compromise. As I said, I believe that to allow more operational responsibilities and more personnel to go to this new STA, it is necessary to move it out of the Executive Office. So one possible compromise would be to have the head of the STA wear two hats. Here the analogy is somewhat akin to the intelligence community, where the head of the Central Intelligence Agency is also the Director of Central Intelligence and adviser to the President.

So one possibility would be to have the head of the STA wear a second hat, namely, the Special Assistant to the President for International Commercial Affairs. I think that the prestige factor in this manner would be taken care of. I believe it is a real

problem, but by having this two-hat concept, you would overcome the difficulties.

Mr. GIBBONS. Well, that is an interesting concept. I think it has some merit to it.

Mr. Chairman, that is all the questions I have.

Mr. VANIK. Thank you very much for your testimony.

Our next witness will be Mr. David Steinberg.

You are well known to us. We are happy to have you here.

STATEMENT OF DAVID J. STEINBERG, PRESIDENT, U.S. COUNCIL FOR AN OPEN WORLD ECONOMY, INC.

Mr. STEINBERG. Thank you. I am somewhat cold and hungry, but I think alert, and I will try to be very, very brief.

I am not convinced that the idea of a separate new International Trade Department, although sounding clinically neat, is a feasible concept. I also am not very much impressed by a lot of the proposed shuffling of functions from one department to another in the expectation, at times a simplistic expectation, that this kind of reshuffling is going to achieve new priorities and new effectiveness, increased effectiveness, in this policy area.

I think, Mr. Chairman, that the most important thing that needs doing in this policy area is the upgrading of trade policy, as part of the upgrading of foreign economic policy, in the Nation's priorities; and I think this can be done by creating a new interagency entity, which might be called the Foreign Economic Policy Planning Board, or the Foreign Economic Policy Council, in the Executive Office of the President, chaired by the President of the United States, and whose chief operations officer might be, let's say, the executive vice chairman.

This Foreign Economic Policy Council ought to be coordinated with the National Security Council. In this way, trade policy and foreign economic policy would very conspicuously be upgraded.

The STR function ought to be given to this executive vice chairman. And what we now know as the STR staff would become a trade policy planning staff and a trade policy coordinating staff.

One of the main functions of this Foreign Economic Policy Council would be the devising of a genuinely free-trade and genuinely fair-trade strategy. I don't believe this country today has a genuinely free-trade strategy. This kind of strategy would make unmistakably clear to the American business community that the market that needs to be developed, as Congressman Gibbons said earlier today, is not just a domestic market but a world market. Nothing is better calculated to spur this kind of planning in the American business community than the clear impression that the United States is really committed to genuinely free trade and genuinely fair trade.

Now, the other point I wanted to make is that the Department of Commerce ought to be given a new mission in this policy area. It ought to be given the resources and the responsibility for an effective export expansion program, and the resources and responsibility for an effective program of economic adjustment and increased productivity.

These two missions, which are interrelated, would be assigned, respectively, to an Under Secretary of Commerce for Export Ex-

pansion and an Under Secretary of Commerce for Economic Development and Productivity.

I am not in favor of naming the new department the Department of Trade and Commerce. In fact, I oppose that name. It is linguistically unacceptable; it is a tautology which would lessen the stature of whatever reform we achieve in this policy area.

Reflecting the proposal I just made, the Department of Commerce might well be renamed the Department of Trade and Economic Development. In this way the country would be told, the world would be told, that the United States really means business in its determination to expand exports and to devise a domestic policy in adjustment and productivity to effectively backstop a truly free-trade policy.

I would conclude, Mr. Chairman, with this thought: I think you ought to give very careful attention to the views presented just a moment ago by the group from the Foreign Service Association. I haven't had a chance to read their testimony, but I do believe that that testimony is worth very careful consideration, because I am bothered by what seems to me to be a simplistic idea that just by shifting from the State Department to the Commerce Department the commercial officers of the Foreign Service, something wonderful is going to be achieved. That is too simplistic. I think we ought to be concerning ourselves with the development of a new commercial service in the U.S. Foreign Service. Members of that Service would have no less stature than officers in any other sector of the Foreign Service. Commercial officers would be given the clear impression that they might indeed rise to the highest echelons of the Foreign Service, including ambassadorial rank.

I heard no discussion today of the role that I thought the Commerce Department had been playing in the selection of commercial officers. One of my best friends, when he was a senior officer of the Far East Division of the Department of Commerce, was chosen as the American Commercial Attaché in Tokyo, and I am told did a first-class job. So I think we ought to learn more about what role Commerce is now playing in attempting to mold a new Commercial Foreign Service.

But certainly I would hope you will give a very careful reading to what these gentlemen very seriously and conscientiously tried to present to you this evening.

Thank you very much.

[The prepared statement follows:]

STATEMENT OF THE U.S. COUNCIL FOR AN OPEN WORLD ECONOMY, INC.

The views expressed here are those of the witness and not necessarily in every detail those of the U.S. Council for an Open World Economy or its Board of Trustees. Neither the Council nor the witness speaks for any private, commerical interest. Their only standard is what they see as the national interest. This testimony advocates a strengthened Department of Commerce in the fields of trade promotion and economic development, and an inter-agency foreign-economic-policy planning board in the Executive Office of the President. The board's executive vice-chairman would also be the chief trade negotiator.

U.S. government reform in the administration of trade policy is widely proposed but in most instances too narrowly perceived. Most proposals appear to overlook closely related areas of foreign and domestic economic policy, and seem to concentrate on shifting administrative functions from one department to another (some proposals urge creation of a new department) as if such administrative realignments were the stuff from which adequate policy priority and performance derive.

The administrative surgery involved in creating a proposed Department of International Trade and Investment would separate the international from the domestic functions of various departments and thus be impractical and counterproductive, violating the interdependence of the domestic and foreign aspects of these government functions. Leaving the Department of Agriculture's current responsibilities outside the proposed reforms would be a serious exception from the intention of forming a consolidated trade entity. Transferring anti-dumping and anti-subsidy proceedings to the new department, or to a reconstituted Department of Commerce, would involve an industry-oriented department in agricultural cases which are the product responsibility of the agriculture-oriented agency. The purpose of the proposed transfer is also questionable.

There is a regrettable scent of mercantilism in many of the reform proposals. Better performance in export promotion is a worthy objective, but this is often coupled with proposals to shift anti-dumping and anti-subsidy responsibilities out of Treasury to secure more import-restrictive handling of such proceedings. (The handling of these cases by executive agencies, and of others such as trade-related national-security proceedings, can be whatever the President wants it to be, regardless of whether the duties are performed by Commerce, Treasury or any other executive agency. So shifting these duties from one department to another will ensure no policy change.) And nowhere in these reform proposals is there advocacy of greatly needed reform in the handling of import-relief cases—the need (as our Council has often argued) for coherent industry-adjustment strategies as the framework for whatever additional import restrictions may be necessary. This would end the practice of pig-in-a-poke import restraints—controls without assurance that these subsidies at public expense are being used for industry-adjustment plans that deserve public support and fully serve the public interest.

DEPARTMENT OF COMMERCE

Moving the Export-Import Bank and the Overseas Private Investment Corporation into closer association with the Department of Commerce may be desirable for better-coordinated strategies in these policy areas. Giving Commerce more authority over the commercial sector of the Foreign Service has merit, although just making the commercial attachés Commerce's responsibility seems simplistic. What is needed is a career commerical service no less important than any other sector of the Foreign Service, with prospects for individual advancement to the highest echelons of the Foreign Service, including ambassadorial rank. The whole issue of the role and development of the commerical foreign-service requires more sophisticated treatment than it seems to be receiving.

The Department of Commerce needs to be given the resources and responsibility for an effective strategy not only in export promotion (including the monitoring of foreign compliance with trade agreements to which the United States is a party) but also in addressing the real problems and needs of U.S. industries that require and deserve adjustment assistance in a rapidly changing and increasingly competitive world. These major areas of responsibility should be highlighted by designation of an Undersecretary of Commerce for Export Expansion and an Undersecretary of Commerce for Economic Development and Productivity. Also stressing these related areas of responsibility, the Department of Commerce should be renamed the Department of Trade and Economic Development. (The proposal to rename the Department the Department of Trade and Commerce should be rejected. Both "trade" and "commerce" in the Department's name would be a tautology which, linguistically unacceptable, would lessen the stature of reform efforts in this policy areas.)

The inadequacy of government preparedness in the handling of import-related industry problems is illustrated by the fact that, when the Administration in 1977 concerned itself with the problems of the steel industry, it felt it had to turn to an ad hoc inter-agency task force chaired by the Undersecretary of the Treasury for International Monetary Affairs. There is still no coherent steel policy. The long use of oil import controls without a coherent oil policy is the most serious example of this basic fault in the nation's recourse to import controls.

OVERALL FOREIGN-ECONOMIC STRATEGY

In addition to giving a reconstituted Department of Commerce suitable resources and responsibility in trade promotion and economic adjustment, the President should immediately upgrade foreign economic policy to a priority coordinate with national security in policy planning, and establish an inter-agency foreign-economic-policy planning board on a level with the National Security Council. Reorganization along these lines should be given a statutory base as soon as possible.

With the President serving as chairman, the board's chief operations officer should be an executive vice-chairman (subject to Senate confirmation) who is not also the head of any regular Department. The executive vice-chairman should also have the post now occupied by the Special Representative for Trade Negotiations (STR), expanded to encompass all areas of trade negotiation. The board should be much more than a coordinating body. It should be a foreign-economic-policy planning board in the fullest sense, addressing (inter alia) the need for an authentic "free and fair trade" strategy including: the freest, most equitable access of foreign goods to the U.S. market (with an accelerated timetable for the least-developed countries), an effective adjustment policy to backstop such an import policy, and an adequate "foreign aid" program aimed at raising living standards and purchasing power in the world's poorest countries (an export market of tremendous potential and in many cases already substantial). All these policy ingredients are essential but greatly neglected components of an effective export-expansion policy. In fact, there is nothing better calculated to spur export promotion by American business than realization that free trade is government's unmistakable commitment, and that development of a world market, not just a domestic market, is consequently unavoidable.

The inter-agency board should submit an annual report to Congress on problems as well as progress in this policy area. This report should be the subject of incisive Congressional hearings. There has never been such a periodic, comprehensive accounting to Congress and the country in this field. Congress itself needs reorganizing to deal with foreign economic policy, and trade policy itself, in a more responsible manner. The failure of Congressional critics of trade-policy administration to look at Congress' own failings in this policy area is regrettable.

Mr. VANIK. Thank you.

Mr. Gibbons?

Mr. GIBBONS. You have a good point. We should not ignore their export advice. I read their testimony, as well as listened to it, too. They have some very good points. Thank you.

Mr. VANIK. Well, I want to thank you very much. I think you heard me say earlier that I had some problems, and I hope that I have some of the concerns that you have expressed. My mind is still open on many of these issues, and I certainly appreciate your constructive suggestions.

The subcommittee will stand in adjournment until 9:30 tomorrow, when we will resume the testimony on reorganization.

[Whereupon, at 5:20 p.m., the hearing was adjourned, to reconvene at 9:30 a.m., Friday, September 7, 1979.]

FEDERAL GOVERNMENT INTERNATIONAL TRADE FUNCTION REORGANIZATION

FRIDAY, SEPTEMBER 7, 1979

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

The subcommittee met at 9:40 a.m., pursuant to notice, in room 1100, Longworth House Office Building, Hon. Charles A. Vanik (chairman of the subcommittee) presiding.

Mr. VANIK. The subcommittee will be in order. Our first witness today is Mr. Joseph Parker, Chairman of the Trade Commission. Mr. Parker, we are very happy to have you.

Mr. PARKER. Thank you, Mr. Chairman.

Mr. VANIK. I might say, at the outset, your statement will be admitted in its entirety, and you may read excerpts if you desire.

STATEMENT OF JOSEPH O. PARKER, CHAIRMAN, U.S. INTERNATIONAL TRADE COMMISSION

Mr. PARKER. Thank you, Mr. Chairman. With your permission, I will read a portion of my statement and summarize the rest of it.

Mr. Chairman and members of the Subcommittee on Trade, I appreciate the opportunity to appear before this distinguished subcommittee concerning proposals for the reorganization of the international trade function of the Federal Government. I am accompanied by members of our professional staff who will be available to respond to questions from the subcommittee.

At the outset, I wish to commend this subcommittee for its efforts in this regard. Questions regarding foreign trade policy, how it is made, and how it is carried out, have recurred over the years, particularly when new trade agreements are coming into being.

This is not surprising because our foreign trade policy affects every American as well as our national well-being. The economic prosperity and the security of our Nation, as well as the peace of the world, are directly affected by this policy and its successful implementation. It is also greatly affected by the foreign economic policies of other nations.

With our current large balance of trade deficit, there is a greater awareness than ever before among all segments of our economy of the vital importance of foreign trade policy. Great economic changes have taken place in the last 25 years, and shifts have taken place in the relative economic strengths of our trading partners. The same is true of political strengths. The developing countries are now an important trade factor. As a Government, we may

have been slow in recognizing these changes and in making the adjustments necessary to the maintenance of a strong trade posture.

I will summarize the next page, Mr. Chairman, and merely point out a fact that is well known. Prior to 1934, the Congress directly involved itself in the development and execution of trade policy primarily through tariffs. With the enactment of the Reciprocal Trade Agreements Act of 1934, the Congress delegated broadpowers to the Executive to negotiate matters pertaining to tariffs and trade.

This authority was almost entirely redelegated by the President, largely to the State Department, although there was an interdepartmental committee established. But from 1954 until 1962, the basic decisionmaking power was largely in a single agency, namely, the Department of State.

Between that period of time, 1934 and 1962, a considerable dissatisfaction developed, and as a part of the Trade Expansion Act of 1962, the Office of the Special Representative for Trade Negotiations—STR—was established. That office, of course, handled the negotiations under the 1962 act. After those negotiations were completed, although STR continued to exist, it was weak and with little power.

I think there is broad agreement today on the need for the establishment of a more effective means of dealing with trade policy, including an organizational means to carry it out. It should be recognized, we believe, that reorganization, by itself, does not assure good policy. Neither is it likely that all matters affecting trade policy of the United States can be handled or addressed by a single agency. For example, some problems stem from proper governmental decisions which may be made without apparent consideration of international trade implications.

Our policy of relying more heavily on income taxes than on consumption taxes to finance the Federal Government may tend to place our industries at a competitive disadvantage with other nations, since consumption taxes on exported goods can be rebated, thereby reducing their price and making them more competitive.

Also, in the United States, costs of capital formation and investment in industries for the production of goods, both for domestic or export purposes, are determined by general economic factors. This is not always the case with the goods of other countries with which our goods must compete.

While a reorganized trade bureaucracy is unlikely to have much control over many of these factors, at least the problems can be identified. The need for new policy or new authorities then could be matters for the Congress and the President.

Trade policy decisions almost always involve competing interests. In addition, foreign policy and national security objectives are frequently key factors which must be considered. Since these objectives often conflict, a balancing of these interests is required. Our present governmental trade structure through a special trade representative is designed to enable all competing interests to be heard, and a decision, if necessary, to be made by the President.

The Congress, in initially establishing the framework for this procedure in the Trade Expansion Act of 1962, at that time discard-

ed a proposal to put the Special Trade Representative in the Department of Commerce and placed the STR in the Executive Office of the President, apparently determining that the interagency coordination was the best answer.

As we understand the administration's proposal as it relates to the functioning of the Special Trade Representative, it would strengthen that office by giving it increased authority and responsibility and the lead role in trade matters, including trade policy development and implementation. Increased use would be made of the Trade Policy Committee under which the views and positions of all segments of our Government would be considered in a decision-making process. In this manner, trade policy would be jointly developed and coordinated.

In addition, coordination of trade policy with domestic policy and foreign policy could be achieved. In our judgment, such an organizational approach for trade policy development and implementation would seem to have the best chance of success since every relevant segment, both public and private, would have a role in it.

Mr. Chairman, the several different bills and reorganization proposals which have come to our attention and are before this committee would have varying impacts on the U.S. International Trade Commission—ITC, ranging from no impact to what we believe would be a severe impact by the transfer of important unctional components and, in at least one bill, a proposed transfer of the Commission, to the Department of Commerce as an independent unit.

The U.S. International Trade Commission, as this subcommittee well knows, is an independent agency with a number of statutory duties and responsibilities, including certain quasi legislative and quasi judicial functions. The Commission does not make trade policy. Rather, it provides to those charged with that responsibility—the Congress and the President—factfinding, technical, economic, and legal assistance, and, within prescribed standards or criteria, findings, or recommendations.

Both in the original statute and in several subsequent legislative actions, the Congress has gone to considerable length to establish and insure the maintenance of the independence of the Commission from control by political branches of the Government.

Because of this independence and insulation from political influence, the Commission has been able to perform functions which permit resolution without delegation to the Executive. In serving this role, the Commission has been accountable to the Congress.

The Commission takes considerable pride in its ability to analyze trade matters and to respond to requests from the Congress and the President. The committee is familiar with our recent extensive analysis of the multilateral trade negotiations agreements. While the Commission's workload under the antidumping and countervailing duty laws will be greater as a result of amendments, our basic functions in that regard were not changed. There has been no charge of politicized administration of these statutes leveled at the Commission in any of the testimony I am familiar with.

Three units of the ITC which would be transferred under some of the proposals from the Commission to the Department of Commerce are the Office of Industries, the Office of Nomenclature,

Valuation and Related Activities, and the administration of subsection (b) of section 337 of the Tariff Act of 1930. Let me briefly describe the functions of these units and the role each plays in Commission activities.

The commodity/industry expertise which is basic to the satisfactory execution of virtually all Commission work is contained in the Office of Industries. The professional analysts in that office are required in the conduct of all Commission investigations and related work done under the various import relief statutes, for special economic studies or probable effects advice as requested by Congress or the President, and in the area of nomenclature formulation and modification.

For example, in import-injury-related investigations, the analyst must have the requisite commodity/industry expertise to perform a major role in defining the scope and direction of the investigation, formulating industry surveys and questionnaires, analyzing economic data and expert testimony, and preparing investigation reports and recommendations for the Commission. All of that work must be done under tight statutory deadlines.

The heavy reliance of other Commission components on the Office of Industries illustrates the absolute necessity that commodity/industry expertise be maintained within the Commission. If the office were moved to another Government agency, the Commission's ability to fulfill its statutory responsibility would be severely limited, and eventually the lost commodity/industry expertise would have to be reestablished in the remaining Commission components.

We note with concern the proposals which would transfer the Office of Nomenclature from the Commission. The transfer of the functions of this office would severely limit the Commission's ability to carry out its functions.

Throughout the years, the Commission has developed a professional staff suited to perform its various functions, almost all of which are an integral part of the expertise required. Thus, nomenclature expertise is required in the Commission, whether we are defining the product scope of an industry investigation under section 201 of the Trade Act of 1974 or in preparing statistical subdivisions for the import schedules.

The Commission exercises a fundamental authority to investigate the administration and effects on industries of the customs laws of this country, including questions relative to the arrangement of the tariff schedules, the classification of articles, and the operation of the customs laws.

This authority is often used with respect to various studies as requested by the Congress or the President, such as the Commission's participation in the development of the Harmonized Code and reports on the probable economic effect of U.S. adoption of new rules of customs valuation and the economic effects of the multilateral trade negotiations agreements recently concluded.

The Commission's comprehensive experience in dealing with questions of nomenclature and in performing economic analysis and our knowledge of the operations of the Customs Service have placed this agency in a unique position with respect to the development and improvement of product nomenclature systems.

In carrying out our responsibilities under section 484(e) of the Tariff Act of 1930 in conjunction with the Departments of Commerce and Treasury on the numerous petitions from industry and government for modification of the import and export schedules, the commodity and nomenclature expertise of the Commission is heavily relied upon, particularly in developing sound product definitions and descriptions and in assessing the merits of their adoption.

If it is the will of Congress to have an independent, objective, fact-finding agency capable of performing the responsibilities entrusted to it, then we would urge that these functions not be transferred.

The third unit proposed for transfer under some of the bills is jurisdiction over section 337 of the Tariff Act of 1930. That section relates to unfair trade practices in connection with the importation of goods into the United States which may be injuring a domestic industry which is efficiently and economically operated.

By virtue of an amendment adopted in the Trade Act of 1974, proceedings under this provision are required to conform to the Administrative Procedures Act, which requires due-process-type procedures.

We are not aware of the reason behind the proposed transfer of this function. First, let me point out that most of the proceedings conducted under this section are the result of complaints filed by the domestic industry. The Commission takes great care in reviewing each complaint filed under section 337 in order to assure that the complaint meets statutory requirements, and we frequently give assistance to the industries in that regard.

A great number of investigations conducted in the past under section 337 have involved questions of infringement of the patents. An infringement of a patent is considered an unfair act. The question of the validity of the patent involved is frequently an issue, and for the purposes of section 337, there must be a determination made as to the validity of the patent.

If this jurisdiction were to be transferred to the Department of Commerce, the Department would have to create a new adjudicative body, which would be capable of carrying out a proceeding under the Administrative Procedures Act. A curious anomaly would also arise. Since the Patent Office, which issues patents, is in the Department of Commerce, the Department would be issuing patents with one hand and perhaps declaring them invalid with the other. This would not be a condition that would be conducive to the establishment of public confidence in the system.

With the few reservations I have indicated, we certainly support the efforts being made by this committee to improve our international trade posture. I would add, Mr. Chairman, that basic to any trade policy and its execution is the policy set down by the Congress and the necessary attention and action given to that policy by the President to see that it is carried out. Therefore, I would strongly urge continued oversight of any authority in this area given by the Congress.

Mr. Chairman, I thank you for this opportunity to present our views on this very important subject.

[The prepared statement follows:]

STATEMENT OF JOSEPH O. PARKER, CHAIRMAN, U.S. INTERNATIONAL TRADE COMMISSION

I appreciate the opportunity to appear before this distinguished Subcommittee concerning proposals for the reorganization of the international trade functions of the Federal Government. I am accompanied by members of our professional staff, who will be available to respond to Committee questions.

At the outset, I wish to commend this Subcommittee for its efforts in this regard. Questions concerning foreign trade policy, how it is made, and how it is carried out have recurred over the years, particularly when new trade agreements are coming into being. This is not surprising because our foreign trade policy affects every American as well as our national well-being. The economic prosperity and security of our nation, as well as the peace of the world, are directly affected by this policy and its successful implementation. It is also greatly affected by the foreign economic policies of other nations.

With our current large balance-of-trade deficit, there is a greater awareness than ever before among all segments of our economy of the vital importance of foreign trade policy. Great economic changes have taken place in the last 25 years and shifts have taken place in the relative economic strengths of our trading partners The same is true of political strengths. The developing countries are now an important trade factor. As a government, we may have been slow in recognizing these changes and in making the adjustments necessary to the maintenance of a strong trade posture.

A brief look at the methods for handling foreign trade policy in the past may be helpful in determining what should be done in the future. Prior to 1934, the Congress directly involved itself in the development and execution of trade policy, primarily through tariffs. History is replete with the political battles which ensued. In 1934, with the enactment of the Reciprocal Trade Agreements Act, the Congress delegated broad powers to the Executive to negotiate tariffs and trade matters through trade agreements. This authority was redelegated by the President to the Interdepartmental Committee on Trade Agreements chaired by the Secretary of State. Thus, from 1934 until 1962, decisionmaking power was largely in a single agency—the Department of State—and generally there was less opportunity than now exists for input from other parts of the Government or from the private sector.

Considerable dissatisfaction developed with the manner in which trade policy was being formulated and executed and, as a result, the Office of the Special Representative for Trade Negotiations was established by the Trade Expansion Act of 1962 and strengthened by the Trade Act of 1974. This new office was given the primary responsibility for trade negotiations and provision was made for agency input from other government agencies and from the private sector. From the time negotiations under the 1962 act were completed and until 1974, the Office of the Special Trade Representative was not organized to pursue trade policy matters vigorously. Now that the trade negotiations under the 1974 act have been concluded, the question logically arises—who will be in charge of trade policy?

There is, therefore, broad agreement on the need for the establishment of an effective means of dealing with trade policy, including an organizational means to carry it out.

It should be recognized, we believe, that reorganization does not, by itself, assu good policy. Neither is it likely that all matters affecting trade policy of the Unite States can be handled or addressed by a single agency. For example, some problems stem from national governmental decisions which may be made without apparent consideration of international trade implications. Our policy of relying more heavily on income taxes than on consumption taxes to finance the Federal Government may tend to place our industries at a competitive disadvantage with other nations, since consumption taxes on exported goods can be rebated, thereby reducing their price. Generally, taxes based on income do not permit such flexibility. Also, in the United States, costs of capital formation and investment in industries for the production of goods for domestic or export purposes are determined by general economic factors. This is not always the case with the goods of other countries, with which our goods must compete. While a reorganized trade bureaucracy is unlikely to have much control over these factors, the problems can be identified. The need for new policy or authorities would then be matters for the Congress and the President.

Trade policy decisions almost always involve competing interests. In addition, foreign policy and national security objectives are frequently key factors which must be considered. Since these objectives often conflict, a balancing of the various interests is required. Our present governmental trade structure through a Special Trade Representative is designed to enable all competing interests to be heard, and a decision, if necessary, to be made by the President. The Congress, in establishing

the framework for this procedure in the Trade Expansion Act of 1962, discarded a proposal to put the Special Trade Representative in the Department of Commerce and placed the STR in the Executive Office of the President, apparently, by this action, determining that interagency coordination was the best answer.

As we understand the Administration's proposal as it relates to the functioning of the Special Trade Representative, it would strengthen that Office by giving it increased authority and responsibility and the lead role in trade policy matters, including trade policy development and implementation. Increased use would be made of the Trade Policy Committee, under which the views and positions of all segments of our Government would be considered in the decision-making process.

In this manner, trade policy would be jointly developed and coordinated. In addition, coordination of trade policy with domestic policy and foreign policy could be achieved. In our judgment, such an organizational approach for trade policy development and implementation would seem to have the best chance of success since every relevant segment, both public and private, would have a role in it.

The several reorganization proposals before you would have varying impacts on the U.S. International Trade Commission, ranging from no impact to a severe impact by the transfer of important functional components and a proposed transfer of the Commission to the Department of Commerce as an independent unit.

The U.S. International Trade Commission, as this Committee well knows, is an independent agency with a number of statutory duties and responsibilities including quasi-legislative and quasi-judicial functions. The Commission does not make trade policy. Rather, it provides to those charged with that responsibility—the Congress and the President—factfinding, technical, economic, and legal assistance and, within prescribed standards or criteria, findings or recommendations. Both in the original statute and in several subsequent legislative actions, the Congress has gone to considerable lengths to establish and insure the maintenance of the independence of the Commission from control by political branches of the Government. Because of this independence and insulation from political influence, the Commission has been able to perform functions which permit resolution without delegation to the Executive. In serving this role, the Commission has been accountable to the Congress.

The Commission takes considerable pride in its ability to analyze complex trade matters and to respond to requests from the Congress and the President. You are familiar with our recent extensive analysis of the Multilateral Trade Negotiations (MTN) agreements. While the Commission's workload under the antidumping and countervailing duty laws will be greater as a result of amendments, our basic functions were not changed. Charges of politicized administration of these statutes have not been leveled at the Commission.

Three units of the ITC which would be transferred under some of the proposals from the Commission to the Department of Commerce are the Office of Industries, the Office of Nomenclature, Valuation and Related Activities, and the administration of subsection (b) of section 337 of the Tariff Act of 1930. Let me briefly describe the functions of these units and the role each plays in Commission activities.

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The heavy reliance of other Commission components on the Office of Industries illustrates the absolute necessity that commodity/industry expertise be maintained within the Commission. If the Office were moved to another Government agency, the Commission's ability to fulfill its statutory responsibility would be severely limited, and eventually the lost commodity/industry expertise would have to be reestablished in the remaining Commission components.

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are defining the product scope of an industry investigation under section 201 of the Trade Act of 1974 or in preparing statistical subdivisions for the import schedules.

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This authority is often used with respect to various studies as requested by the Congress or the President, such as the Commission's participation in the development of the Harmonized Code and reports on the probable economic effect of U.S. adoption of new rules of customs valuation and the economic effects of the MTN agreements recently concluded.

The commission's comprehensive experience in dealing with questions of nomenclature and in performing economic analysis and our knowledge of the operations of the Customs Service have placed this agency in a unique position with respect to the development and improvement of product nomenclature systems.

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By virtue of an amendment adopted in the Trade Act of 1974, proceedings under this provision are required to conform to the Administrative Procedure Act, which requires due-process-type procedures.

We are not aware of the reason behind the proposed transfer of this function. First, let me point out that most of the proceedings conducted under this section are the result of complaints filed by the domestic industry. The Commission takes great care in reviewing each complaint filed under section 337 in order to assure that the complaint meets statutory requirements.

A great number of the investigations involve alleged infringement of patents. An infringement of a patent is considered an unfair act. The question of the validity of the patent involved is frequently an issue, and for the purposes of section 337, there must be a determination made as to the validity of the patent.

If this jurisdiction were to be transferred to the Department of Commerce, that Department would have to create a new adjudicative body, which would be capable of carrying out a proceeding under the Administrative Procedure Act. A curious anomaly would also arise. Since the Patent Office, which issues patents, is in the Department of Commerce, the Department would be issuing patents with one hand and perhaps declaring them invalid with the other. This would not be a condition that would be conducive to the establishment of public confidence in the system.

Thank you Mr. Chairman for the opportunity to present our views on this vital subject.

Mr. VANIK. Mr. Chairman, can you indicate in more detail the activities of the Commission on 337 investigations? We have had statements here that primarily it involved only patent infringement cases. Are there other unfair practices that are involved?

Mr. PARKER. Yes, Mr. Chairman, as you know, this provision has been in the statute for a long time. The Commission's authority under this provision was enlarged and strengthened in the Trade Act of 1974, but essentially it is an unfair trade practice authority. The law, in effect, provides remedies——

Mr. VANIK. What kind of cases other than patent cases can you enumerate?

Mr. PARKER. Well, there are instances of monopoly violations, any type of an unfair act involving trade. It is the same general kind of authority that is given to the Federal Trade Commission

under domestic law. In other words, it is left to the Commission for a case to be processed, to develop and outline what kind of practice may be unfair. Even though this particular provision has not been used extensively in the past, except primarily in the patent cases, it is the type of authority that I would strongly urge that we retain, because if there is one thing that should be stressed in any new policy, it seems to me——

Mr. VANIK. What is the case, the steel case?

Mr. PARKER. Yes, we had a case involving stainless pipe and tube. Discriminatory pricing and selling below cost of production with an intent to monopolize or restrain trade were the allegations. That proceeding was filed before the Commission, and if my memory is correct, shortly thereafter a dumping case was also filed with the Department of the Treasury.

Mr. VANIK. Now, in the administration proposal, we have tariff nomenclature and classification transferred to Commerce. How important is this function to the Commission?

Mr. PARKER. I tried to indicate that in my statement.

Mr. VANIK. You mentioned it is one of the changes.

Mr. PARKER. I tried to indicate the importance of it and why it is necessary. It permeates practically every operation of the Commission. In any investigation it is necessary to make certain that you have a good product identification because the remedies all apply through our tariff structure. The nomenclature provisions or knowledge of them, are used by every segment of our organization. I tried to give an illustration, I believe, at the top of page 8, of my statement.

Mr. VANIK. How important is it to the statistical function?

Mr. PARKER. It is absolutely necessary to the statistical function, because it is really the basis on which you undergird your statistics and recordkeeping, and it is absolutely necessary to our work in specifying what the tariff schedule shall consist of and what modifications need to be made of the tariff schedules.

Mr. VANIK. Mr. Schulze?

Mr. SCHULZE. Thank you, Mr. Chairman.

Chairman Parker, just one brief question: Your testimony related mainly to change as it would affect ITC functions. Do you have any personal thoughts on the advantages or disadvantages of a separate department?

Mr. PARKER. Yes, Mr. Schulze. I tried to allude briefly to that in the part of my statement that I summarized. I think that foreign economic policy is so important that I doubt whether the body politic would ever stand still for decisions by one man on the type of issues that come up because they are pervasive. An issue in trade policy cuts across almost every segment of our economy, and those segments are related when it comes to negotiations and things of that character. Therefore, if a broad segment of our economy was unhappy with a decision, even if it were one by a Cabinet Secretary, I don't believe that decision would go without challenge. I think you would find it would be challenged in the Congress, and it would be challenged with the President, because in our democracy that is the way it functions.

That is the reason I believe that an approach of strengthening the Special Trade Representative and a clearcut policy directive as

to what he is supposed to do will enable most policy decisions to be made without having to go to the President. But the procedure would be there so the President could determine if there was an absolute conflict between the two strong segments of our economy.

To make it successful, though, and this is a difficult thing, you are going to have to have a very strong man serve in the post as Special Trade Representative. Furthermore, he would have to have what I would call a swinging-door relationship with the President to give him the clout, so that when he spoke, people would recognize that he was either speaking for the President or the President would probably back him up. I think that is one of the reasons for the recent success achieved by Mr. Strauss.

Mr. SCHULZE. There are not many Bob Strausses around, are there?

Mr. PARKER. I hope to think there are, but we may have to look a little harder to find them.

Mr. SCHULZE. Thank you, Mr. Chairman.

Mr. VANIK. Mr. Frenzel?

Mr. FRENZEL. Thank you for your testimony, Chairman Parker. The ITC, of course, is an important element in what we are working on, and I think all the members of this subcommittee expect that it will continue to be. Yesterday, we had a discussion about the transfer of section 337 functions, and a number of witnesses suggested that while it might be a good idea to keep section 337 injury cases in the ITC, it would also be a good idea to transfer the rest of them out, you are suggesting today that you thought the ITC should have complete jurisdiction over 337, which is contrary to some of the previous testimony. Would you care to comment on that?

Mr. PARKER. Yes, I would like to comment. I am not sure I understand the statement, because all of our 337 cases, by statute, require that there be an injury determination.

Mr. FRENZEL. So you think you should have all of them?

Mr. PARKER. Yes.

Mr. FRENZEL. With respect to tariff nomenclature, and so forth, as I recall, you don't really get involved in that very much, do you?

Mr. PARKER. We are heavily involved in it and have been since the enactment of the Tariff Act of 1930. Under section——

Mr. FRENZEL. Your involvement, however, is it fair to say, is indirect. As you know, we have been thrashing around in Brussels for some time. We had great difficulty in getting the Department of Commerce, the Department of Treasury, and the Department of State to figure out which one of them should be the representative there. By the time they decided, all the major decisions had been made without benefit of a great deal of input from you or from any of them. At least I haven't been aware of a very heavy effort on your part in that area, and I appreciate that you have some experience and some expertise there, but I am not sure it is irreplaceable or is something that couldn't possibly be moved elsewhere.

Mr. PARKER. Mr. Frenzel, section 608 of the Trade Act of 1974—the Congress and probably this committee were responsible for the provision—directs that there be involvement by the Commission in connection with the nomenclature activities in Brussels, including the work on the Harmonized Code and coordination of statistics.

This authority is a joint authority which was given to the Commission and to the Department of Commerce and the Department of the Treasury, and I know that we have made a tremendous input in that area. I would be surprised if the other agencies didn't readily admit to that.

Mr. FRENZEL. I guess it is my feeling, Mr. Chairman, that you have a lot of other important jobs to do, and I would rather see your resources concentrated in those other areas.

Mr. Chairman, I thank you.

Mr. VANIK. Mr. Chairman, in considering all of the various proposals to reorganize the trade functions, could you further address the need for continuing an independent body to advise both the Congress and the President on trade matters?

Mr. PARKER. Yes, Mr. Chairman, I should have added a provision in my statement on that.

I think the concept utilized by the Congress when it established the Commission was that it be unique, specifically that it maintain an expertise in trade matters and have a primary responsibility to assist the Congress and the President with independent, objective and impartial advice. It is a means of maintaining an adequate check and balance.

I think that is something that the Congress needs, and it will be needed even more in the future as we move into more and more international regulation through the use of international codes. I think an agency that works closely with the Congress will enable you to have a type of service and analysis on trade matters that would not likely be available to the Congress from Executive sources.

Mr. VANIK. I certainly appreciate your statement, Mr. Chairman. I have been concerned, and I indicated at the outset of these hearings that I had some reservations on the plan that is being discussed. I am hoping we can put our input into it before it finally comes down here, but I am very much concerned about plans for the full utilization and capacity for the Commission. I have a feeling that some of these responsibilities are being shifted off. I am not sure they should be carried off so extensively as it is suggested. You get some other powers under the proposal, but I don't know whether they balance off or and give me the assurance that the industrial sector and the consumer sector, the working and labor groups will be heard with sensitivity. I certainly appreciate your statement.

Mr. PARKER. I would just make one final comment, if I may, and that is with regard to our section 337, and, I believe, our 201-type authorities. People haven't always been happy with our decisions, I am sure, but I believe most of them have been happy with the process and have confidence in it, and I think that is something that is quite valuable.

Thank you.

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

The subcommittee will stand in recess for about 8 minutes so that we can vote.

[Brief recess for the Members to vote.]

[The following was subsequently received:]

54-396 O - 80 - 14

Supplementary Statement to the Testimony of the U.S. International Trade Commission on Trade Reorganization

INTRODUCTION

This memorandum supplements testimony commenting on certain legislative proposals pending before the Subcommittee on Trade of the Committee on Ways and Means in regard to Federal Government International Trade Function Reorganization. Certain of the reorganization proposals would, if enacted, transfer important substantive units of the Commission, or indeed the Commission as a whole, to a reorganized and renamed Department of Commerce (hereinafter the "Department"). The proposed new Department, which would be responsible for U.S. foreign trade policy, would draw its foreign trade functions from existing Executive agencies, including (as has already been stated) the Commission.

This memorandum is especially concerned with the effect that the enactment of these legislative reorganization proposals would have on the Commission and its historic role as advisor to the Congress and the president with respect to the formulation and execution of the foreign trade policy of the United States.

As has been indicated, one type of legislative proposal would transfer the Commission to the Department of Commerce ostensibly as an "independent" unit. Other proposals would transfer the following—

(1) The Office of Industries,

(2) The Office of Nomenclature, Valuation, and Related Activities, and

(3) The administration of subsection (b) of section 337 of the Tariff Act of 1930.

In providing comment upon the aforementioned reorganization proposals, this memorandum has two principal purposes: First, it will show that the historic advisory role of the Commission is an important continuing [illegible] which the Commission is philosophically and by experience uniquely qualified to perform. Secondly, it will show that the enactment of the reorganization proposals in question would seriously impair, if not destroy, the Commission's capability of continuing to serve effectively in its historic role as advisor to the Congress [illegible] the President.

In the following pages of this memorandum, the his[illegible] mission and function of the Commission and its organizational structure are discussed.

THE HISTORIC COMMISSION

The Commission was established in 1917 under the authority of title VII of the Revenue Act of September 8, 1916. The Act and its legislative history provide the key to a comprehension of the mission and function of the historic Commission.

MISSION AND FUNCTION

The basic investigative authority of the Commission is set forth in sections 702 and 704 of the 1916 Act. Section 702 provided that—it shall be the duty of the commission to investigate:

(1) the administration and fiscal and industrial effects of the custom laws of this country,

(2) the relation between the rates of duty on raw materials and finished or partly finished products,

(3) the effects of ad valorem and specific duties and of compound specific and ad valorem duties,

(4) all questions relative to the arrangement of schedules and classification of articles in the several schedules of the customs laws, and, in general, to investigate, and

(5) the operation of customs laws, including their relation to the Federal revenue, their effect upon the industries and labor of the country, and to submit reports of its investigations as hereafter provided.

Section 704 provided that the commission shall have power to investigate:

(1) the tariff relations between the United States and foreign countries,

(2) commercial treaties,

(3) preferential provisions,

(4) economic alliances,

(5) the effect of export bounties and preferential transportation rates,

(6) the volume of importations compared with domestic production and consumption, and

(7) conditions, causes, and effects relating to competition of foreign industries with those of the United States, including dumping and cost of production.

The basic reporting requirements to the President and the Congress were set forth in section 703 of the 1916 Act. This section provided that the commission shall put at the disposal of:

(1) the President of the United States,

(2) the Committee on Ways and Means of the House of Representatives, and

(3) the Committee on Finance of the Senate, whenever requested, all information at its command, and shall make such investigations and reports as may be requested

(4) by the President or

(5) by either of said committees or

(6) by either branch of the Congress. . . .

The substance of the Commission's broad general investigatory powers conferred by sections 702 and 704 has remained unchanged throughout the Commission's existence and is found in subsections (a) and (b), respectively, of existing section 332 of the Tariff Act of 1930. Likewise, the advisory role of the Commission as embodies in section 703 of the 1916 Act has not changed and is currently found in subsection (g) of section 332 of the Tariff Act of 1930.

From the foregoing, it can be seen that the Commission is primarily an advisory body established to assist the President and the Congress in formulating and carrying out U.S. foreign trade policy. Justice Cardozo, writing in the landmark case, *Norwegian Nitrogen Company* v. *United States*,[1] referred to such assistance of the Commission as its "historic function . . . as the advisor to the President or Congress in the business of legislation." Thus, the Commission does not make trade policy but rather provides to those charged with this responsibility—namely, the President and the Congress—factfinding, technical, and legal assistance and, within prescribed standards or criteria, findings or recommendations. The functions of the Commission have been described as being *quasi* legislative and *quasi* judicial.[2] One of its advisory-recommendatory functions with regard to unfair practices in the import trade was made an adjudicatory function in 1975 subject to the requirements of the Administrative Procedure Act.[3] Another practical function sometimes referred to is the Commission's serving as an outlet or escape valve for the release of political pressures generated in connection with matters placed before it for investigation.

The Commission occupies a unique place in the Federal hierarchy. In response to almost universal pleas to take import tariffs out of the partisan politics, President Woodrow Wilson in February 1916 proposed the establishment of a Commission—

. . . as much as possible free from any strong prepossession in favor of any political policy and capable of looking at the whole economic situation of the country with a dispassionate and disinterested scrutiny.[4]

This launched the creation of a legislative framework to assure that the Commission would be independent, objective, and nonpartisan in matters of foreign trade policy. It is in this area that the Congress, fearful of undue Executive branch pressures being exerted on the Commission, has legislated most often concerning the Commission and its responsibilities.[5]

Prominent among the statutory requirements currently applicable are (a) that the Commission shall be composed of six commissioners who are appointed by the President, by and with the advice and consent of the Senate; (b) not more than three commissioners may be from the same political party; (c) each commissioner is eligible for one 9-year term; (d) the Chairman and Vice Chairman are designated by the President for terms of two years and must be from different political parties and from term to term each must be succeeded by persons from different parties; and (e) no commissioner may actively engage in any business, vocation, or employment other than that of serving as a commissioner. In addition, the Trade Act of 1974 authorized the Commission to be represented to all judicial proceedings by attorneys who are employees of the Commission (sec. 174), and provided for the Commission to have an independent budget (sec. 175).

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[1] 288 U.S. 294, 321 (1933).

[2] *Id.* at 318.

[3] Sec. 337, Tariff Act of 1930, as amended by sec. 341 of the Trade Act of 1974, Public Law 93-618, approved Jan. 3, 1975, 88 Stat. 2053.

[4] 53 Cong. Rec. 10529, 64th Cong., 1916.

[5] Sec. 700, Public Law 271, 64 Cong., approved Sept. 8, 1916, 39 Stat. 795. S. Res. 162 and S. Rept. No. 1325, 69th Cong., 1928. Sec. 330, Tariff Act of 1930, as amended, 19 U.S.C. 1330; sec. 201, Public Law 215, approved Aug. 7, 1953, H. Rept. No. 521, 83d Cong., S. Rept. 472, 83d Cong., S. Rept. No. 226 of Committee on Govt. Operations (to accompany S. Res. 114), 90th Cong. 1967, pp. 6-7. S. Rept. No. 91-1431 of Committee on Finance (to accompany H.R. 17550), 91st Cong., 1970, p. 281. Secs. 171-175, Trade Act of 1974, S. Rept. No. 93-1298, 92rd Cong., 1974, pp. 115-118. Sec. 1801, Public Law 94-455, 94th Cong., 1976. Secs. 2 and 3 of Public Law 95-106, approved Aug. 17, 1977, 95th Cong.

In its more than 60-year existence, the Commission has given extensive assistance to the Congress and the President primarily in connection with the substantive, procedural, and statistical aspects of the foreign trade of the United States.

Through the years, the Commission has participated fully in providing factual and analytical assistance with respect to (A) the enactment and implementation of substantive provisions of U.S. trade and customs laws—especially with regard to the tariff classification schedules, customs valuation, and unfair import practices—and (B) the various delegation laws—such as the flexible-tariff law and the laws establishing the trade-agreement program—which have clothed the President with authority to modify U.S. duties and other import restrictions.

The Commission has conducted large numbers of investigations under authority of the statutory provisions where the criteria for findings and recommendations have been provided for either by statute, by the President or the Congress in special requests, or by the Commission itself in self-initiated investigations. For the accomplishment of these tasks in almost all formal investigations, public hearings are held and interested parties are accorded opportunity to be heard. Indicative of the cooperative effort of the Commission with all parties was its action as the first agency to implement the Sunshine Act and thereby open its meetings to the public and to disclose public information.

Likewise, the Commission has substantially participated in the development of the provisions of the customs administrative laws. The Commission, acting on its own initiative, prepared and submitted to the Congress, prior to the enactment of the Tariff Act of 1922, a consolidated and revised set of administrative provisions which were drawn from a mass of widely-scattered provisions that had been accruing since the early days of the Republic. Although the customs administrative provisions have been further amended from time to time, they still are in their original mold or framework established by the 1922 act. More recently, during congressional consideration of the Customs Procedural Reform and Simplification Act of 1978, the Commission submitted reports and provided extensive assistance to the Ways and Means Committee and the Committee on Finance.

In accordance with the provisions of section 484(e) of the Tariff Act, which confers joint statistical responsibility on the Departments of Treasury and Commerce and the Commission with respect to U.S. imports, exports, and production, a new edition of Schedule B (the export schedule) was prepared and published. In accordance with section 608(c) of the Trade Act of 1974, the Commission also participates extensively in the U.S. contribution to the technical work of the Harmonized System Committee.

ORGANIZATION OF THE COMMISSION

Although the organizational structure of the Commission has varied from time to time since 1916, the basic purpose has been to develop and maintain efficient and effective utilization of the Commission's professional disciplines to the end that they may provide the requisite expertise for gathering and analyzing trade data in relevant product detail. The substantive organizational units of the Commission are interdependent and complementary, whatever professional discipline or disciplines may be assigned to a given unit. Investigations conducted by the Commission invariably involve participation by several organizational units and, often times, by all the units.

With respect to the proposed transfer to the new Department of two of the Commission's organizational units and the administration of section 337 of the Tariff Act, it should be realized that commodity specialists are an essential and integral part of the Commission. They are assigned to the Office of Industries, one of the organizational units proposed to be transferred. A few commodity specialists are assigned to the Office of Nomenclature, Valuation and Related Activities, another unit proposed for transfer to the new Department. Attorneys are assigned to the Office of General Counsel, the Office of Legal Services, the Administrative Law Judges, and the Office of Nomenclature. All of these offices participate and are coordinated in the administration of section 337 of the Tariff Act of 1930, relating to unfair practices in the import trade. These matters are further discussed below.

PRODUCT NOMENCLATURE

Since its creation in 1916 as a Federal Agency and particularly since the enactment of the Tariff Act of 1930 the Commission has assumed significant responsibilities in product nomenclature activities. These activities include not only the drafting of legal product classes for inclusion in tariff schedules, but also statistical classes administratively derived therefrom to permit the collection of more refined or detailed product trade data for analyzing trade flows. The statutory basis for

these activities and the work the Commission has performed in this area are discussed below.

Section 702 of the Revenue Act of 1916, the Act which established the Commission, provided, in pertinent part, that the Commission shall investigate—all questions relative to the arrangement of schedules and classification of articles in the several schedules of the customs law, and, in general, to investigate the operation of the customs law. . . .

That section was carried forward without change to section 332(a) of the Tariff Act of 1930. Section 484(e) of the Tariff Act of 1930 provided for the creation of statistical import product classes and modifications thereof by the joint participation of the Departments of Commerce and Treasury and the then Tariff Commission.

As a result of the Commission's tariff and product expertise, its knowledge of the customs laws and operations of the Customs Service and its posture as an independent nonpartisan agency, the Commission was directed pursuant to the Tariff Simplification Act of 1954 to undertake a comprehensive study of the U.S. tariff classification laws and to prepare revised and consolidated tariff schedules. That study culminated with the enactment of the Tariff Classification Act of 1962 which provided for the adoption of the Tariff Schedules of the United States (TSUS). The TSUS became effective in 1963. Subsequent to the adoption of the TSUS, the Commission's staff continued to work closely with congressional staffs in providing nomenclature expertise in the preparation of legislation, including the preparation of the Tariff Schedules Technical Amendments Act of 1965.[6]

The Commission has provided to the Executive similar nomenclature expertise in connection with the U.S. schedules of concessions annexed to the various bilateral and multilateral trade agreements negotiated since 1934. Most recently, the Commission prepared U.S. Schedule XX of the Geneva (1979) Protocol to the GATT and all tariff amendments included in the Trade Agreements Act of 1979. Further, the Commission staff routinely prepares draft Presidential Proclamations and Executive Orders which affect the TSUS.

The TSUS provided a systematic tabular arrangement of legal product classes identified by 5-digit number which were readily susceptible to subdivision into subordinate statistical classes identified by adding a 2-digit suffix to the 5-digit number. With the adoption of the TSUS in August 1963, a statistical annotated version thereof known as the Tariff Schedules of the United States Annotated (TSUSA) was prepared and published by the Commission. In accordance with section 201 of the Tariff Classification Act of 1962 the Commission regularly publishes new editions of and supplements to the annotated tariff schedules to reflect changes arising from legislation, Presidential Proclamations and Executive Orders and modifications in statistical reporting requirements.

In 1963, at the initiation of the Commission, a staff level Committee for Statistical Annotation of Tariff Schedules was established by joint action of the Departments of Commerce and Treasury and the Commission under authority of section 484(e) of the Tariff Act of 1930. This committee is chaired by the Commission representative.

In order to ensure the achievement of product comparability in the import, export and domestic production statistical systems, section 484(e) was amended in 1975[7] and again, in 1977.[8] As a result of the first amendment, the joint responsibility of the three agencies has been extended to the maintenance of the U.S. export schedule and to seeking to make the statistical programs for domestic production comparable with the import and export schedules. Under the last amendment, the three agencies are required to seek, in connection with statistical programs for achieving international harmonization of trade statistics, the comparability thereof with U.S. import and export schedules. Beginning in 1975, the three agencies, acting under the new requirements, undertook a comprehensive study of the three statistical systems. In 1978, as a result of this study, an entirely revised export schedule and over 3,500 modifications of the statistical classes in the Tariff Schedules of the United States Annotated were published.

The passage of the Trade Act of 1974 brought even further responsibilities to the Commission including, under section 608, the directive to undertake an investigation under section 332(g) of the Tariff Act of 1930, which would provide the basis for the full and immediate participation by the Commission in the United States contribution to the technical work of the Harmonized System Committee under the Customs Cooperations Council. Since 1975 the Commission has been instrumental in involving the U.S. trade community in the development of this international prod-

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[6] Pub. L[illegible] 89-241, approved Oct. 7, 1965.
[7] Sec. 6[illegible], Trade Act of 1974, Pub. Law 93-618, approved Jan. 3, 1975.
[8] Sec. [illegible] Pub. Law 95-106, approved Aug. 17, 1977.

uct classification system, and, working with other interested agencies and the trade community, has prepared virtually every technical proposal submitted by the United States to the Harmonized System Committee. In addition, since 1975 Commission has taken an active role as member of the U.S. delegation to meetings of the Harmonized System Committee.

THE ADMINISTRATION OF SECTION 337

The Commission has had since its establishment in 1917 a jurisdiction to investigate and report on unfair foreign trade practices. This jurisdiction fits squarely within the very broad power granted to the Commission under section 704 of the Revenue Act of September 8, 1916, which provided—

That the commission shall have power to investigate the tariff relations between the United States and foreign countries, commercial treaties, preferential provisions, economic alliances, the effect of export bounties and preferential transportation rates, the volume of importations compared with domestic production and consumption, and *conditions, causes, and effects relating to competition of foreign industries with those of the United States, including dumping* and cost of production (Emphasis added).

The Commission, under authority of the underscored language in section 704, instituted in 1918 an investigation relating to dumping and unfair foreign competition in the United States. The investigation also covered the operation of Canada's antidumping law. The Commission, at the request of the Chairman of the Ways and Means Committee, submitted its report to the Committee on October 4, 1919.[9] This report was before the Congress when it enacted the Antidumping Act, 1921, as title II of the Emergency Tariff Act of that year [10] and section 316 of the Tariff Act of 1922,[11] relating to unfair methods of competition and unfair acts in the import trade of the United States. It is believed to be significant that the substantive scope of the Commission's general investigative authority with respect to unfair import practices under section 704 of the 1916 Act and specific investigative authority with regard to such practices under section 316 of the 1922 Act have been reenacted without change in section 332(b) and section 337, respectively, of the Tariff Act of 1930, which provisions are the existing law on the subject.

The scope of the Commission's unfair practices jurisdiction under section 316 of the 1922 Act and, hence, under existing section 337 of the 1930 Act, is very broad. The Committee on Finance—in its report No. 595 of April 10, 1922 on the bill, H.R. 7456, which became the Tariff Act of 1922, commented at page 3 that—The provision (section 316) relating to unfair methods of competition in the importation of goods is broad enough to prevent every type and form of unfair practice and is, therefore, a more adequate protection to American industry than any antidumping statute the country has ever had.

Subsequently, on the floor of the Senate, it was stated by Senator Smoot [12] that the section was designed to prohibit not only . . . dumping in the ordinary accepted meaning of that word; that is, the sale of merchandise in the United States for less than its foreign market value or cost of production; but also bribery, espionage, misrepresentation of goods, full time forcing, and other similar practices frequently more injurious to trade than price cutting.

Until section 337 was amended by section 341 of the Trade Act of 1974, the Commission's determinations under the statute were advisory only and only the President could issue the orders excluding offending articles from entry into the United States. The 1974 Act, however, amended section 337 to make the Commission's function adjudicatory in nature subject to the requirements for adjudication under the Administrative Procedure Act (APA). At that time, the Commission was authorized to remedy unfair practices by ordering the exclusion of the offending article or by issuing a cease and desist order to be served on persons violating the statute. In either event, the President is authorized, before the close of 60-days after his receipt of the Commission's determination, to disapprove such determination for policy reasons. If he does not so disapprove, the Commission order remains in effect.

The adjudicatory function conferred upon the Commission by section 337 distinguishes it from all investigatory functions of the Commission. The antidumping and countervailing duty functions are somewhat in the nature of adjudication but they are not subject to the APA requirements therefor. All other investigative functions are advisory in nature.

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[9] Report of the U.S. Tariff Commission, *Information concerning Dumping and Unfair Foreign Competition in the United States and Canada's Antidumping Law, 1919.*

[10] Pub. Law 10, 67th Cong., approved May 27, 1921, 42 Stat. 9.

[11] Pub. Law 318, 67th Cong., approved Sept. 21, 1922, 42 Stat. 858.

[12] 62 Cong. Rec. 5879 (1922).

The jurisdiction of the Commission under section 337 is invoked upon complaint, properly filed, or upon the Commission's own motion. This was also true when the Commission's role was advisory to the President rather than adjudicatory as it now is. The Commission's jurisdiction extends to any article imported into the United States or sold in violation of section 337(a). With the expansion of trade and the development of new codes of conduct the unfair trade practice statutes are likely to be more important to U.S. industry than at any previous time and therefore should not be weakened

CONCLUSION

Many factors, including our current large balance of trade deficit, shifts in the relative economic strength of our trading partners, increase in state or partly state controlled trading enterprises, the rise of LDC's, and the implementation of the new codes have made the formulation and execution of the foreign trade policy of the United States more complex and have engendered many political controversies and pressures. In this context, whatever may be the merits of strengthening the Office of the Special Trade Representative or establishing in the Executive Branch a new Department dedicated to foreign trade functions, the Commission or some agency similar in terms of its independence, objectivity, and nonpartisanship, is essential as an advisory body to the Congress which has the responsibility to legislate and formulate foreign trade policy. The Commission was created for the very purpose of assisting the Congress and the President with an independent and objective capability. It has been the role which has been carried out by the Commission since its inception.

As previously stated herein, when President Wilson advocated the establishment of the Commission in 1916, he proposed to the Congress that it should be created as an agency . . . as much as possible free from any strong prepossession in favor of any political policy and capable of looking at the whole economic situation of the country with dispassionate and disinterested scrutiny.

Succeeding Congresses, including this Congress, have taken steps to preserve and strengthen the independence of the Commission. It is unlikely that the objective, independent advice and analysis provided by the Commission to the Congress would be available from an Executive agency.

Mr. FISHER. The hearing will be resumed. Chairman Vanik will be back in the room in just a few minutes.

I would like to call on Mr. John E. Carlson, representing the Associated General Contractors of America.

Mr. Carlson, we would be happy to have you proceed in any way you wish. Your testimony is here and it will be in the record.

STATEMENT OF JOHN E. CARLSON, MEMBER, INTERNATIONAL CONSTRUCTION COMMITTEE, ASSOCIATED GENERAL CONTRACTORS OF AMERICA, ACCOMPANIED BY GEORGE E. STOCKTON, DIRECTOR, INTERNATIONAL CONSTRUCTION DIVISION, AND BARBRO A. OWENS, ASSISTANT DIRECTOR, INTERNATIONAL CONSTRUCTION DIVISION

Mr. CARLSON. Fine. I would prefer to read it, Mr. Chairman.

Mr. Chairman and members of the subcommittee, ladies and gentlemen: I am John E. Carlson, vice president of the M. M. Sundt Construction Co., and a member of the International Construction Committee of the Associated General Contractors of America. My firm has been active in the overseas construction market for over 4 years, and we are presently performing construction in Saudi Arabia.

I am accompanied today by Mr. George E. Stockton, director of AGC's International Construction Division, and Ms. Barbro A. Owens, the assistant director of that division.

Mr. Chairman, AGC is here today to present the position of our international contractors on the reorganization of the Federal Government's international trade functions. In doing so, it is necessary

to examine not only the functional organization of U.S. trade policy but the substantive content as well.

In the course of only 3 years, U.S. contractors have dropped from first to fifth place in terms of new contracts awarded in the international construction market. From a market share of 15 percent in 1976, U.S. contractors fell to an estimated 7.9 percent in 1978.

The loss of construction business abroad translates directly into reduced benefits for the U.S. domestic economy. Construction contracts typically result in the expenditure of 40 to 60 percent of the total contract volume on U.S. goods and services, or what we count as direct exports.

The job-generating effects of construction exports are substantial. The $50 billion of overseas construction awarded to U.S. contractors in the period 1975 to 1977 equals between 800,000 and 1.2 million Americans employed, applying the formula that every additional $1 billion of U.S. exports creates 40,000 jobs. This does not include the many Americans employed overseas by the U.S. construction industry.

Exports of U.S. construction services create overseas sales of U.S. merchandise and insure a spare parts market for years to come. The initial design and construction of industrial facilities and civil works by the U.S. engineering and construction industry increases the likelihood that future plant expansion and development will also be procured in the United States. It is in the interest of the Nation as a whole that the U.S. construction industry be capable of successfully competing in world markets in the future.

U.S. trade policy can be divided into two categories of Government involvement affecting the export industries: Export disincentives and export promotion.

By export disincentives we mean such impediments to trade as the noncompetitive taxation of U.S. citizens abroad, antiboycott, antitrust and antibribery legislation, environmental reviews and human rights policies.

Trade has become a tool for foreign policy purposes, and no accurate figures are available on the lost export business associated with each new trade regulation. There is a myriad of unrelated laws and regulations creating a series of stumbling blocks and an aura of uncertainty that, in turn, produces a chilling effect on anyone's plans for doing business overseas.

AGC believes that the trade reorganization should be accompanied by a statutory requirement which would direct the designated lead agency on international trade to prepare trade impact assessments (TIA's) identifying the trade costs of all major existing and proposed legislative and regulatory measures affecting U.S. exports.

We have developed a fact sheet on the TIA mechanism, which we would ask to be entered into the hearing record.

[The information follows:]

TRADE IMPACT ASSESSMENTS

ISSUE

To attach to the reorganization of the Federal Government's international trade functions a statutory requirement which would direct the designated lead agency on international trade to prepare Trade Impact Assessments (TIA's) identifying the

trade costs (i.e., lost export business) of all major existing and proposed legislative or regulatory measures with an unfavorable impact on U.S. exports.

The TIA mechanism would function in approximately the following way:

1. The Secretary of Trade and Commerce (assuming that the Administration's reorganization plan is approved), together with Congress, will identify existing and proposed legislative or regulatory measures considered to be "major" in terms of their impact on U.S. exports (currently, perhaps a package of no more than 20 export disincentives).

2. Consultations with Commerce Department officials indicate that TIA's can be performed within existing capabilities and require only minor reorganization in the Department of Trade and Commerce. Perhaps the TIA function is most appropriately placed in the Bureau of International Economic Policy and Research. No additional costs of any consequence would thus be incurred.

3. A TIA on any given legislation and regulation would consist of a short (approximately 1-5 pages) report, identifying the trade costs and findings in the form of empirical data. The report would be made available during Congressional hearings on proposed measures for inclusion in the Committee report, and on an annual basis for existing measures.

4. As a general rule, all TIA reports would be made public, except in those rare instances where compelling national security considerations would dictate otherwise.

ADVANTAGES OF A TIA MECHANISM

(a) Public disclosure of trade cost data will significantly contribute to a general strengthening of the trade argument. A strong trading posture for the U.S. is becoming both a national security and foreign policy necessity.

(b) A TIA mechanism may have a deterrent effect by making policy makers and legislators aware that their proposals will undergo a trade cost evaluation and thus discourage policy initiatives which would achieve limited political gains but result in substantial losses of trade.

(c) The TIA mechanism, if adopted by Congress, would signify to the public and the business community that there is a genuine willingness on the part of Congress and the Administration to take action designed to facilitate and promote the exports of U.S. goods and services and to reduce our trade deficit to assure that the benefits derived from a strong trading posture (i.e., more jobs for Americans, lower inflation and a stronger dollar) continue to accrue to the U.S. economy.

ARGUMENTS AGAINST A TIA MECHANISM

(a) A TIA would simply be one more costly "Impact Statement."

Rebuttal: TIA's do not require additional budgetary allocations, as evidenced by the fact that the government, using existing resources, is currently engaged in comprehesive trade cost studies in compliance with the President's Export Policy Statement of September 26, 1978. (The results of the studies have not been disclosed to the public, as disclosure of this material is not required by law.)

If introduced, TIA's would be the only "Impact Statements" to date clearly designed to help this nation's exporting interests. Considering the numerous burdensome and export-impairing measures that, in the past, have easily won Congressional approval, it would indeed be ironical if the TIA proposal would be opposed because of a general antipathy against additional "Impact Statements," and its merit as an indirect export promoting devise not be fully understood and appreciated.

(b) Trade costs cannot be accurately measured, and, therefore, TIA's have little value.

Rebuttal: Some trade cost data may be difficult to obtain, and some TIA's, therefore, would not be complete or fully reliable. However, these problems do not constitute sufficient cause for rejecting the system itself. In time, and with additional experience, methods to assess trade costs can be developed and perfected.

Mr. CARLSON. National security and foreign policy considerations are today receiving disproportionate attention relative to our trading interests. Rutherford Poats of the National Security Council has estimated that between $5 and $8 billion of potential export business is lost each year due to U.S. Government regulations. This means that export regulations and disincentives imposed by our own government could be responsible for as much as 15 to 23 percent of our trade deficit.

One can question whether national security and foreign policy considerations should automatically justify losing such enormous amounts of overseas business.

Poats is basing his figures on the results of a major trade cost study which the Government has undertaken in compliance with the President's export policy statement of September 26, 1978.

This interagency project, coordinated by the so-called export disincentives task force, covers 16 disincentives, but does not include a trade cost analysis of the single most costly and export-impairing disincentive—section 911 of the Foreign Earned Income Act of 1978. We believe that an assessment of lost exports due to this noncompetitive tax legislation must be performed.

The Government's export disincentives study is presently classified, and the full particulars are not available. However, we believe that if this trade cost study is to have any significant export promoting effect, the trade cost data associated with the various disincentives must be disclosed to the Congress and the public.

We recognize that national security and foreign policy considerations in certain situations must receive first priority, even if a loss in trade is apparent and inevitable.

However, we must insure that the trade argument is coherently presented and empirically supported through regularly performed assessments of the lost export business resulting from major export disincentives. A strong trading posture for the United States is becoming both a national security and foreign policy necessity.

The costs of foregone export business, which ultimately are borne by the American consumer, must be clearly understood and considered when foreign policy initiatives are contemplated. The trade impact assessments are necessary for this purpose.

Mr. Chairman, we have presented a constructive proposal to deal with export disincentives and we can now turn to the export promotion efforts of the U.S. Government. There are two forms of export promotion: Indirect or general trade promotion and direct or specific trade promotion.

The indirect or general trade promotion consists of the traditional work done by the Commerce Department and the commerical officers at our embassies abroad. This is an important part of the overall effort by the U.S. Government to promote trade, even though the results are difficult to quantify.

The direct or specific type of trade promotion operates at the level of actually getting the business, signing the contract, and completing the job. This direct form of Government promotion is the more important for U.S. contractors competing overseas.

Competitive project financing, competitive taxation, loan guarantees, performance bonds, political risk insurance, feasibility finance, these are the services that we need from our Government to be competitive abroad.

We predict that no matter how much the Government reorganizes its general trade functions, we will experience very little export expansion unless these specific tools of trade are identified and substantially improved.

The U.S. construction industry has traditionally been opposed to the principle of Government subsidies to private industry, but we must concede that in order to be competitive in the overseas mar-

kets, we need U.S. Government policies and programs which improve our competitive posture.

The Export-Import Bank is doing an effective job given its limitations, but it should have substantially increased lending authority. We need adequate project finance at competitive rates equal to what other governments offer their construction exporters.

With insufficient bank funds, higher risk construction projects in developing nations must today compete for finance against lower risk commodity sales or manufactured goods, with the construction projects receiving lower priority.

We believe that such competition for bank funding should be eliminated, perhaps by earmarking adequate percentages of bank funds solely for project finance.

The amazing fact is that instead of experiencing a steady increase in funds to respond to the growing needs, Eximbank's direct credit authorization dropped from $3.8 billion in 1974, corresponding to an export value of $8 billion, to a low of only $700 million in 1977 direct credits, supporting $1.4 billion in export value. The bank is not expected to exceed its 1974 lending authority until 1980.

Expansion of Eximbank funds and the maintenance of its present independence is one of the most cost-effective methods of securing new export business, and, in our opinion, this requires tripling or quadrupling the proposed funding level of $4.1 billion for fiscal year 1980. Competitive project financing is quickly becoming the most important aspect of a successful bid.

Mr. Chairman, we have talked about the need for direct and specific trade promotion, of which the programs of Eximbank are one example. Rather than take the committee's time to discuss additional programs, we would ask that the attached appendices outlining these suggestions be entered into the hearing record.

The ultimate purpose of any reorganization of trade functions must be to first elevate trade policy to a more appropriate level in the decisionmaking process; and, second, to initiate both general and specific trade promotional programs designed solely to improve our export performance; and, finally, to insure cross-agency, cross-legislative coordination and point responsibility so that one action is not negating or inhibiting another trade promotion action.

These objectives clearly require the consolidation of trade responsibilities under the auspices of a single lead agency and one cabinet-level spokesman. However, we have interpreted the current mood in the administration and on the Hill to suggest that something less than a new department is a more realistic aspiration at this point.

Given this situation, and the fact that we ultimately support the notion of one Government agency combining both trade policy and its implementation, we have examined the various reorganization proposals in an attempt to find a compromise solution which would provide maximum consolidation without creating a new department.

In our opinion, the administration's proposal does not go far enough in consolidating trade functions. We are particularly concerned about the separation of policymaking from the operational trade functions, considering that this very separation and fragmen-

tation of policy and implementation is in large part responsible for our current trade dilemma.

The Gillis-Long bill suffers from this same problem. However, by creating an independent special trade agency outside of the executive branch, and by substantially expanding the authority of this agency beyond the current responsibilities of the STR, the Gillis-Long bill, in our opinion, creates the nucleus for a future single department of international trade with policy and operations under the same roof.

Short of a new department incorporating existing fragmented trade functions, we therefore favor the Gillis-Long bill as the most satisfactory solution at this point.

In this context, we want to emphasize once more that no consolidation of trade functions will adequately serve the interests of trade expansion unless accompanied by the statutory requirement of trade impact assessments as outlined earlier.

Finally, Mr. Chairman, it must be clearly understood that the U.S. construction industry wants the reorganization to generate a flexible trade policy approach designed to meet specific industry needs, making it possible for us to expand our exports in the 1980's.

Thank you very much.

[Appendixes to prepared statement follow:]

APPENDIX 1

PROPOSAL TO DEVELOP GOVERNMENT FACILITY FOR GRANT-IN-AID FUNDING OF FEASIBILITY STUDIES FOR MAJOR CAPITAL PROJECTS OVERSEAS

In response to the increased use of mixed credits on the part of the industrialized nations of Europe and Asia in the financing of major capital projects in the developing world, and recognizing Eximbank's limited ability to effectively counteract these practices on behalf of U.S. exporters, the following proposal suggests one possible means of improving the competitive position of U.S. companies pursuing such projects.

NATURE OF PROJECT FEASIBILITY STUDIES

The key element in the successful development of large industrial and civil infrastructure projects in both industrialized and developing nations is the preparation of the project feasibility study. The feasibility study identifies for the project's promoters, owners and financial backers the economic and social benefits which can be expected to accrue from a given project, as well as the costs associated with the financing of the work and operating the completed facilities. The feasibility study is, in fact, the primary evaluative tool for proposed projects and is the basis upon which implementation decisions are made. The costs of feasibility studies vary from project to project; however, a standard approximation of their costs falls in the range of between 1 and 3 percent of the total project costs. In many cases, these costs prohibit a developing country owner from proceeding with many categories of low priority, yet financially viable, development projects.

International contractors interested in carrying out these projects must then assist such owners in sourcing competitive financing for the required feasibility studies. This assistance takes several forms, ranging from government-backed credits with low rates of interest, to outright grants from the bilateral lending agencies of a contractor's country of origin.

The willingness of these government agencies to concessionally finance the feasibility study stems from the increased likelihood that the project itself will be awarded to a contractor from the same country which prepared the project feasibility study. This correlation is due to the high degree of compatibility between the conceptual framework of the project as identified in the feasibility study and the follow-on engineering design. If standard U.S. technological applications are specified in the feasibility study, the design and construction can be carried out more efficiently by a U.S. contractor familiar with the applications. Some countries reportedly will grant the feasibility study if the client agrees to contract the follow-on design and construction with a contractor from the country. The export credit

age.·ies of these nations will also arrange project financing for the project itself, pro· ed that a majority of the procurement for the project is tied.

In the area of integrated, multi-phase industrial development, particularly in chemical process, it is the initial feasibility study which sets the design standards for the entire complex. In such work, the feasibility study is the key to the follow-on business, and the merchandise trade which accompanies such projects is a leading source for new orders of capital and manufactured goods.

While Eximbank is empowered to respond to such mixed credit competition, budgetary limitations prohibit them from effectively counteracting these practices (total lending authority; $3.6 billion for fiscal year 1979). In short, the Bank has limited funding available for grant or concessional financing operations, and is also directed by statute to be self-sustaining and thereby cannot afford to engage in concessional financing to any major extent.

With the exception of the loans and grants made under the Security Supporting Assistance program (SSA), the Agency for International Development (AID) has dramatically reduced the level of AID financing for capital projects. AID's decision to get out of the construction business is consistent with the New Directions program emphasizing basic human needs (BHN) rather than the "trickle-down" theory of capital-intensive development. The office of Reimbursable Services (RS) in AID has funding available for feasibility studies, but the level (approximatly $3 million) is not large enough to meet the competitive needs of the industry.

Consequently, U.S. contractors competing for major capital projects in developing nations are at a decided disadvantage due to the lack of an effective export credit/foreign assistance facility. Due to the substantial trade benefits associated with these projects, both in terms of initial procurement as well as the follow-on spare parts market they create, the following proposal is offered for consideration.

EXIMBANK/AID COFINANCING FACILITY FOR FEASIBILITY STUDIES

A U.S. contractor pursuing a project in a developing country would approach the Ministry of Planning and map out the basis of the project and reach an agreement on the preparation of a feasibility study. The contractor and the client would then apply for financing under the proposed facility, which would involve a short-term Eximbank credit at the official rate, to be repaid by a grant-in-aid funding from AID. The Bank would, in effect, be extending fully guaranteed short-term credit to the client for the feasibility study and thereby experience limited budgetary impact; AID would be supporting the foreign entity with a grant to repay the foreign exchange costs of the feasibility study. The feasibility preparation would involve, to the greatest extent possible, the participation and training of the client country nationals and would, therefore, be consistent with AID's BHN criteria. The likelihood that AID's participation in the feasibility would eventually lead to a major capital project with probable U.S. participation might necessitate the channeling of the AID funding through the Security Supporting Assistance program, due to its aforementioned construction emphasis. The SSA monies would be drawn from a ready fund approximating an appropriate percentage of the SSA annual budget (1 to 2 percent; SSA authorizations for fiscal year 1980 are approximately $2 billion). During the preparation of the feasibility study, alternative sources for project finance would be identified, making possible use of existing Bank programs, the private capital markets, or, if the project warranted, future SSA authorizations.

The project would then be put out to competitive bidding or negotiations and would be tied to U.S. procurement to ensure the desired trade effect.

APPENDIX 2

POLITICAL RISK INSURANCE FOR OVERSEAS CONSTRUCTION CONTRACTS

The volume of work performed abroad by the U.S. construction industry, which very materially improves our presently unfavorable balance of trade, could not be obtained if it were not for the political risk insurance which, in the past, has been provided by the Overseas Private Investment Corporation. Futhermore, this volume could be increased if the political risk insurance program is improved.

AGC does not favor one agency over another to provide political risk insurance for overseas construction contractors, even though our five year experience with the program under the Overseas Private Investment Corporation was viewed favorably by the industry. However, the country per capita income and company sales volume policy limitations adopted by the OPIC Board of Directors in September, 1977 drastically reduced the availability of the program in several key construction markets, and thus materially reduced its value. Recognizing the incompatibility of

OPIC's developmental objectives with the export assistance requirements of international contractors, AGC recommended to the Congress on March 16, 1978, during the consideration of the U.S. Export-Import Bank legislation, that the program be transferred to the Export-Import Bank.

Following AGC's testimony, the report of the Committee on Banking, Finance and Urban Affairs included a recommendation for the development of a Construction Services Insurance Program at the Bank. During the process which led up to the actual transfer of the program on July 1, 1978, AGC contractors participated in a series of meetings with Eximbank staff concerning the program and its composition. On April 25th, AGC provided the members of the National Advisory Council, (NAC) with a memorandum outlining the nature of construction exports and the specific areas of exposure in a typical construction contract.

On June 9th, the Board of Directors of the Export-Import Bank were presented with a final program proposal, and it was unanimously adopted.

Since the adoption of the program by the Export-Import Bank, approximately 30 project registrations have been filed. However, due to the low awards ratio for U.S. contractors overseas, only a small number of policies have been issued to date. The low award ratios reflect the overall noncompetitiveness of the U.S. construction industry in the international markets, and do not relate to the program or to the Bank's administration of it. However, there are several features of the program as presently administered which do not further the export promotional intent of the Congress, nor adequately address the needs of the U.S. construction industry.

The requirement by the Bank for an investment guarantee bilateral agreement between the U.S. government and the foreign government in advance of issuing coverage for a project has limited the availability of the program in several major markets. The program proposal approved by the Board of the Export-Import Bank called for the following policy with respect to the bilateral agreement eligibility requirement:

1. Eximbank should utilize the OPIC bilaterals to the extent that they are available.

2. Otherwise, Eximbank should obtain satisfactory evidence that the host government has approved the project and that Eximbank would be recognized as succeeding to the rights of the guaranteed U.S. firm in the event of the payment of a claim by Eximbank.

From everything we can gather about the Bank's administration of the program to date, the emphasis has been placed on the first recommendation, and they have effectively adopted the OPIC country list. Consequently, the country expansion of the program of the Bank has not occurred The Bank's counterparts in the countries of Europe are offering similar coverages to their respective construction industries on an unlimited country basis, and they are doing so without the benefit of rights of subrogation or arbitration agreements.

Therefore, we recommend that the Bank be directed to expand the availability of the coverage in a manner more responsive to the competitive needs of the U.S. construction industry.

APPENDIX 3

[Memorandum]

JUNE 20, 1979.

To: Members of the Bilateral Subcommittee of the Development Coordination Committee.

From: George E. Stockton, Director of International Construction.

Subject: Code 941 Competition in the U.S. AID Program.

The Associated General Contractors of America and its 113 chapters nationwide is comprised of approximately 30,000 firms, including more than 8,000 of the nation's leading general contracting companies that perform more than $100 billion of construction annually. AGC members also perform approximately 50 percent of the contract construction by American firms in more than 100 other countries.

AGC members have long recognized and actively supported the vital role carried out by the Agency for International Development (AID) in assisting the poorer nations of the world in their respective development programs. Over the last several years, AID-financed construction projects have contributed substantially to the demand for U.S. construction services abroad, and U.S. contractors have accomplished a highly satisfactory performance record within the AID program.

It is our belief that such direct bilateral assistance is a far more effective means of implementing U.S. foreign assistance policy than is the multilateral alternative. Bilateral assistance ensures a greater degree of control over the end use of foreign

assistance appropriations and tends to minimize the negative impact on our trade accounts from the outflow of capital through the tying of procurement to U.S. source and origin. The economic returns accruing from the U.S. AID program should not be discounted, particularly in light of the present environment of budgetary austerity.

On the issue of non-U.S. bidding eligibility on U.S. Government financed construction projects abroad, AGC has adopted the following policy:

"AGC believes that all construction and engineering projects in foreign countries, financed in whole or in part by any agency of the U.S. Government, be limited to bona fide host country construction and engineering firms or bona fide U.S. construction or engineering firms or a combination thereof."

With respect to Code 941 procurement policy, we recognize and acknowledge the greater developmental considerations supporting the principle of untying; however, we object to the policy for the following reasons:

1. Inequitable distribution of benefits among Code 941 nations;
2. Unfair nature of Code 941 ADC competition; and
3. Discriminatory impact on U.S. small business.

In the following consideration of Code 941 procurement, we have confined our comments to the effects of the policy on the U.S. construction industry. We have done so because competition in the construction program differs materially from that in the AID programs devoted to the procurement of commodities or food. Unlike the international commodity and food markets, which are relatively open, competition in increasing sectors of the global construction market is becoming closed due to the introduction of export subsidies and non-tariff barriers by principal trading nations, including several Code 941 advanced developing countries (ADC's). Therefore, as we intend to illustrate, Code 941 procurement policy creates competitive distortions which uniquely and disproportionatley impact the U.S. construction industry.

I. INEQUITABLE DISTRIBUTION OF BENEFITS AMONG CODE 941 NATIONS

We understand that Code 941 procurement policy was developed during the early 1970's, and reflected the Nixon Administration's belief that the untying of AID procurement to qualified Code 941 countries would accomplish a more equitable distribution of benefits of U.S. foreign assistance. There is evidence that the various benefits intended to accrue to the Code 941 nations through the untying of AID-financed construction projects, such as training, capital formation and eventual self-sufficiency, are not being shared equally among eligible nations. In fact, an analysis of Code 941 participation in the AID construction program indicates that the policy has accomplished little more than a skewing of the benefits to a very small number of ADC nations. Since 1973, five major contract awards totaling $66.3 million have gone to Korean contractors; and Korea, India and Taiwan have also been major suppliers of equipment and material—current estimates of these sales are put at $25 million per year (for breakdown, see Appendix A).

While the success of the Koreans in the AID program might appear substantial, it is insignificant when compared to their overall accomplishments in the global development markets, particularly in the OPEC nations. In 1978, Korean overseas contract volume topped $6 billion, and projections for 1979 are in excess of $10 billion. Several other Asian ADC nations, including Taiwan, the Philippines and Thailand, are also following the Korean overseas construction model (see Appendix B). The $10 billion projection for Korea, which is almost three times the total AID outlays for fiscal year 1980, suggests that they are no longer in need of the U.S. tax-supported AID construction program.

It has been suggested that continued Korean participation in the AID program is necessary due to a waning interest on the part of the U.S. and other Code 941 contractors. We submit that this waning interest comes about as a direct result of Korean bidding eligibility. For many of the reasons identified in section 2 of this paper, both the U.S. and Code 941 contractors have learned that competing against a Korean firm is not worth the cost of bid preparation. This dominance of the AID program by the Koreans reflects a level of capability which dramatically exceeds the Code 941 norm. The guaranteed effect of continued Korean eligibility will be the denial of opportunity to a more deserving category of nations.

This widening gulf of opportunity between the ADC and LDC nations was a recurring theme during the fifth meeting of the United Nations' Conference on Trade and Development (UNCTAD V) which recently concluded in Manila. The division and frustration which characterized the proceedings prompted a member of the U.S. delegation to comment: "The advanced developing nations sooner or later

must recognize that less preferential treatment for them would mean more benefits could be passed on to the least developed countries." (See Appendix C).

Recommendation.—We submit that a reevaluation of the eligibility of certain ADC Code 941 nations is tantamount to the meaningful implementation of the AID program, not only from the standpoint of U.S. participation, but also for truly qualified Code 941 countries as well.

II. UNFAIR NATURE OF CODE 941 ADC COMPETITION

The aforementioned success of the Koreans and other developing Asian nations has not come about without vigorous levels of support from their respective governments. These supports vary from country to country, but typically take the form of lenient tax treatments, outright financial subsidies, government control of competition, recruitment and training of labor, and restriction of labor supply (see Appendix B). The Korean example is the most visible and by far the most effective of the subsidy programs, and we will therefore confine our comments in this section to Korea.

In the aftermath of the 1973 oil embargo, the Korean government became committed to a program of export expansion to meet the rising cost of energy. The most efficient formula was soon identified to be the export of construction and engineering services to the OPEC development markets. While serving a brief apprenticeship as labor and trade subcontractors to U.S. and European contractors in the region, the Koreans proved to be a quick study in the categories of building construction and civil works. Subsequent joint ventures with Western contractors eventually led the way to prime and turnkey contracts for several emerging companies. It was at this point that evidence of government support and outright control emerged. During this period, the Korean construction industry was undercapitalized and under traditional competitive procedures would have found it impossible to post the large bank guarantees (on-demand letters of credit) required for bid, performance and advance payment bonds on jumbo Mideast contracts tendered during 1975 to 1978. However, the Korean exchange bank interceded on their behalf and posted unconditional counterguarantees to Western bank-led syndicates providing bank guarantees for Korean contractors. (A list of these major syndicated guarantees is attached, as well as a telex from Citibank, Seoul confirming the counterguarantee mechanism on one of the syndicates—see Appendix D).

Further evidence of government control over its contractors became increasingly apparent, particularly in the area of export permits. As a particular project would near the tender stage, contractors in the region would often enter into joint venture relationships with foreign counterparts in order to minimize the risks associated with the project. In several documented cases, U.S. contractors had entered into joint venture agreements with Korean contractors. However, they soon found that their partner was no longer interested in pursuing the work after another Korean contractor became prequalified to bid the same project as a single entity. When pressed on the issue, the former partners revealed that their government had denied them a permit needed to secure the necessary bank guarantees required to bid the particular job.

In a meeting between a Korean construction delegation and the AGC, held in Washington on October 23, 1978, the AGC officially protested this practice on the grounds that it was anti-competitive. Mr. Park Sung Bak, Director of the Overseas Cooperation Bureau of the Korean Ministry of Construction, responded to the protest by stating that the Government of Korea felt that such restrictive procedures were necessary in order to avoid "ruinous competition between Korean firms." (See Appendix E). During the same meeting, AGC questioned Mr. Park about the government's restriction of the use of Korean labor to Korean firms. This practice was also confirmed and defended as being necessary to avoid labor shortages at home. This involvement on the part of the government is augmented with several other programs designed to improve a Korean contractor's export competitiveness, such as a 50 percent corporate tax exemption, a total income exclusion for expatriate workers, and a five-year tax holiday on exported construction materials. The government is also involved in the recruitment and training of overseas construction labor, and has reportedly converted several military bases into training centers. Korean Army regulars are also offered early discharges if they sign up for overseas construction projects (see Appendix F).

There is also evidence that the Korean government supports bid collusion among certain segments of its construction industry. Under what is reported to be direct government supervision, approximately 30 Korean contractors have formed the Korean Overseas Construction Corporation (KOCC). KOCC's formula for, success (present contract volume in excess of $1 billion) involves the collective pursuit of

work, including a central bidding office which farms out various portions of a project to individual members of the association upon receiving an award. KOCC in turn charges a fee of 1 percent of the net profits for its services.

The effect of these procedures has been the dramatic ascension of the Korean construction industry from obscurity to global leadership in the short span of six years. Competing against the Koreans on certain categories of work has become futile; and on many recent projects, the competitive field has been comprised entirely of Koreans (as was the case on the AID-financed Jordan Valley Projects). There are also reports from the field that the Koreans are now raising their prices after gaining large segments of the market, suggesting that earlier projects may have been dumped. We are presently gathering data on project awards spanning the 1975-78 period to determine if there exists hard evidence of dumping trends or patterns.

Recommendation.—We submit that the subsidization of Code 941 source contractors by their governments is inconsistent with free and fair competition in the AID construction program, and we recommend that AID terminate the procurement eligibility of any nation found to be engaging in such practices.

III. DISCRIMINATORY IMPACT ON U.S. SMALL BUSINESS

As the Administration continues to examine ways to improve our trade performance, considerable discussion has centered on the necessity of increasing the involvement of U.S. small business in the export markets. Procurement under the AID program constitutes an ideal entry vehicle for smaller firms in that the tied nature of the program serves to insulate these companies from the highly competitive field of international bidders. Upon penetrating a given market through AID-financed work, U.S. exporters may then, at a much lower operating cost, explore additional regional opportunities. However, if the presence of government-subsidized competition in the AID program persists, there will be limited or no opportunity afforded U.S. small business.

This commercial perspective of the AID program would recognizably lack support in the purely developmental context; however, the consistent and increasing use of mixed credits on the part of the principal trading nations of the world lends credence to this argument. U.S. exporters are facing bidding situations where foreign counterparts are providing export financing which includes varying percentages of grant-in-aid or highly concessional interest rates. Eximbank is not empowered, in any effective sense, to respond to such mixed credit competition, and therefore, measures should be taken to ensure a substantial U.S. trade effect in our existing foreign assistance programs.

Recommendation.—To better serve the interests of the U.S. small business community, AID should reevaluate the eligibility of subsized ADC nations and endeavor to substantially increase its efforts in publicizing upcoming tenders, working in closer liaison with the export promotional offices of the U.S. Department of Commerce and the Small Business Administration.

Attachments.

APPENDIX A

Near East Bureau—Contracts by Code 941 firms (Korean only)

[In millions of dollars]

Firm and *project*	*Loan*
Jordan:	
1. Shin Seung (Korean), Jordan Valley Village Development (buildings)	14.0
2. Cho Suk (Korean), East Ghor Canal	10.0
3. Cho Suk (Korean), Zarqa Triangle Irrigation	4.5

Asian Bureau—Contracts by Code 941 firms (Korean only)

[In millions of dollars]

	Contract amount
Indonesia: 1. Hun Dai (Korean), Djakarta-Bogar Road	33.2
Bangladesh: 1. KDC (Korean), Ashuganj Fertilizer	4.6

NOTE.—Vinnell (U.S.) bid against KDC on this contract and lost.

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Korea, Taiwan and India have been major suppliers of equipment and materials on AID funded work through Code 941 eligibility. Current estimates of annual Code 941 sales are put at $25 million per year.

APPENDIX B

[From Engineering News-Record, Nov. 23, 1978]

INVASION OF THE MIDDLE EAST

COMPETITIONS FROM DEVELOPING COUNTRIES—COMPANIES WITH GOVERNMENT SUPPORT

A formidable new competitive force has put a whole new look on international construction in the past few years.

International construction has become a significant source of income, a balance-of-payments factor, for oil-buying countries around the world. For some developing countries the use of construction to recapture petro-dollars has become a matter of national policy.

American, European and Canadian companies, which once dominated third-world construction, have had Japan to compete with since its first forays into foreign reparations projects following World War II.

Now, the United States, Europe and Japan have to compete with Mideast companies working beyond their national borders, with occasional Russian, Yugoslavian and other eastern bloc venturers abroad, and most recently with the entry of Brazilians into big-league overseas contracting.

But the toughest new contenders in the fight for construction contracts in the Mideast, where most of the new business concentrates, are from Asian countries—developing Asian countries.

Their impact on international construction is strikingly apparent but difficult to quantify, fc it is constantly changing, and it varies, country to country. In an effort to size up the situation as it appears today, ENR visited the Asian countries from which the large and growing competition comes.

Japan—Population 113 million, gross domestic product $555 billion, per capita income $4,960

It is useful to look first at Japan. Asia's most highly industrialized nation, it has been building abroad 25 years.

A decade ago, Japan's giant firms—its Big Five—were variously involved abroad and ready for a bigger push (ENR 12/11/69 p. 36).

Their work then concentrated in Southeast Asia. Taisei Construction Co. alone among the Big Five had a Mideast office—in Lebanon.

Today there are 60 members of the Overseas Construction Association of Japan, Inc. (OCAJI). A list published this year of their overseas contracts totals 46 major jobs—almost half of them in Southeast Asia, with large concentrations in Malaysia and Singapore. But there is a shift—certainly in the dollar volume of work—toward the Mideast.

Takeo Atsumi, president of OCAJI (and chairman of Kajima Corp.), says association members' pre-1974 foreign volume doubled in worth by 1975 with the oil price rise. Growth has been constant ever since. By 1976, the dollar volume of Japanese contracts in the Mideast outstripped the volume in Southeast Asia.

According to Atsumi, by 1977 Japanese contractors were doing about $3.9 billion overseas, 49% of it in the Mideast, 36% in Southeast Asia.

In the Mideast, Iran accounted for 34 Japanese contracts valued at a total $235.9 million; Iraq, 20 contracts totaling $202.3 million; Kuwait, six jobs worth $56.5 million; Qatar, 11 worth $26.3 million; the United Arab Emirates, five worth $51.3 million; Egypt, nine worth $127.8 million; and Saudi Arabia, 16 worth $189.6 million.

LIMITS ON GROWTH

The Japanese, with their $1.9-billion total of work in the Mideast were not highest among the world's leading competitors there in 1977. In fact, they are running a poor second to their neighbors across the Sea of Japan, the Koreans. "The Mideast is a difficult market for the Japanese," says Atsumi.

They suffer language problems overseas; relatively few of them use a second language well. They also suffer the same high labor costs that impact Americans and Europeans, making it uneconomic to take many workers abroad.

Unable to compete with the cheaper labor contractors, they've seen their steady early growth of Mideast business slowed. They look to future high-technology proj-

ects as their best place to compete. Atsumi cites as an example Japan's great strength in seismic design—and Iran's earthquake problems.

Taisei Corp., long a leader among Japanese builders abroad, has 10% of its current backlog in overseas work, almost $500 million worth. But according to Taisei president Hideo Sugasawa, their work has concentrated in such relatively high-technology projects as a powerplant in Iraq and a steel mill in Qatar for Japan's Kobe Steel. (On the steel mill Taisei subcontracted to Koreans.)

Construction, recently as much as 20% of Japan's GNP, has suffered domestically along with the rest of the economy. Big construction companies, seeing their profits squeezed by a low rate of capital investment, look to the government to trigger the economy with its 1978 boost of 30 percent in public works spending.

They also keep looking abroad—and at "the remarkable progress" of the Koreans. For a while, when Korean labor rates were 40 percent of theirs, they looked for Koreans as subcontractors. But now, says Taisei's Sugasawa, Korea's rates are up to 70 percent of Japan's; and the Koreans are precluded by their government from subcontracting where they can compete as prime contractors instead.

Next April 21-22 (tentatively) OCAJI will host in Tokyo a third annual meeting with the Overseas Contractors Association of Korea. OCAJI president Atsumi says the two groups have been close and have enjoyed "a great deal of cooperation."

But the pronouncement out of last year's meeting that Japan's high technology would be joined with Korea's skilled manpower apparently hasn't amounted to much. The Koreans will meet again with the Japanese, but they also traveled abroad last month to meet with Canadians and Americans, whose management skills as well as technology they appear to prefer as more marketable.

For the purpose of this survey of international construction's Asian competition, therefore, it is logical to look first at Japan, as the oldest in the field, the most highly industrialized. But Japan is not the leader. Korea is.

Korea—Population 35.9 million, gross domestic product $25.3 billion, per capita income $496

The Koreans pictured on ENR's cover this week are learning to be welders. They are paid by Hyundai Construction Co., Ltd., to learn welding and another related trade by going to school six hours a day for three months. It's only six hours a day because the school runs two shifts.

After three months of schooling, these workers learn on the job in Korea for three more months. Then, they are ready to be sent to the Mideast, where many observers rate the quality of Korean construction as the best.

Hyundai training schools presently have over 1,500 students enrolled and will turn out about 5,000 in a year. And Hyundai, Korea's largest constructor, is but one of dozens of companies working overseas required by government decree to train at least some of the manpower needed to staff their overseas work.

By the end of this year there will be 70,000 to 80,000 Korean workers abroad—all but about 5,000 of them in the Mideast and almost all of them in construction. (See "The Koreans are Coming!" ENR 3/31/77 p. 16).

With skilled, hardworking manpower its stock in trade, Korea's construction industry captured $3.5 billion in overseas contracts in 1977, set $4 billion as its target for '78, and passed the $6-billion mark at midyear. The 1979 goal is $10 billion.

This means that in five fast and furious years of competing abroad Korea is now well ahead of Japan. And its $3.5 billion in foreign contracts in 1977—virtually all Mideast—compared impressively with $6.1 billion worth won by U.S. contractors in the Mideast that year.

Korea may be the only nation in history to have a construction industry with 70 percent of its volume overseas—this despite a domestic construction boom that's keeping pace with an economy with growth estimated at 14 percent this year.

GOVERNMENT SUPPORT

A Ministry of Construction watches over it all, policing and promoting. Construction exports have become an integral part of Korea's economic development, its balance of payments and therefore its foreign policy. Mideast construction alone more than covers the cost of oil imports. And, increasingly, constructors are venturing into lands where Korea lacks but wants diplomatic relations.

Korea's exports next year will total about $20 billion and half of that will be construction.

Apart from their work in South Vietnam in the '60s, it all started abroad for Koreans in 1973 when Sam Whan Corp. won a $24-million piece of road work

between Jeddah and Khamis Mushayt, a job that wound up costing $30 million and probably cost the Koreans money.

In those days, according to one Saudi hand, "the Koreans bailed out the Corps of Engineers" by bidding near if not under its estimates, when Americans and others were bidding well above.

Trying to get Americans into the picture, the Corps at the time encouraged joint ventures, and Sam Whan found De Matteis Construction Co., New York City, for the $206-million National Guard headquarters buildings at Riyadh.

Koreans have been taking hundred-million-dollar jobs ever since—most of them lately as prime contractors.

Sensing now that much of Saudi's civil works program is done and seeing much more architectural and sophisticated industrial work ahead, Koreans are now actively seeking American joint ventures in the Mideast (while being wooed to joint venture with Canadians anywhere in the world).

ORGANIZED EFFORT

Korean Overseas Contractors Association (KOCA) executive vice president J. D. Chung lists 122 companies licensed by the government to work overseas under an Overseas Construction Promotion Law. Eighty-five are construction contractors and 80 of those actually have work abroad; six are consulting engineers; eight are in electrical-telecommunications areas.

KOCA recommends contractors for overseas licenses and then the Ministry of Construction has a hand in deciding who qualifies for a specific project abroad. All who are licensed are capitalized to at least $20 million. KOCA categorizes them as to their financial capability, then, just as contractors anywhere, they must qualify for and buy bid and performance bonds.

The big difference is that it's a government bank whose guarantee is needed. The government therefore can control who bids any given job, can prevent more than one Korean firm from competing from a given job, and can prevent subcontracting or joint venturing where it would rather see a Korean as prime contractor. Bank guarantees, once granted, are as good as the credit of the government.

With this kind of backing, Hyundai, the giant conglomerate of which construction is the largest part, when from No. 278 to No. 98 last year with the biggest growth of any on Fortune magazine's ranking of non-U.S. corporations.

Miryung Construction Co. has boomed from its beginnings as a bus company with a small construction arm.

Samsung Co., another huge manufacturing conglomerate, is only now building and flexing its construction muscle, having acquired Shinwon Construction and Development Co. Ltd., last July.

The biggest, in order, after Hyundai include Dong Ah Construction Co., DaeLim Industrial Co., Sam Whan, and Chin Hung International.

GANGING UP

And when no one of these companies is big enough to take the risk, Korean Overseas Construction Corp. (KOCC) can move in. This is a private corporation formed by 36 top Korean contractors. When KOCC bids and wins a contract (it has won over $1 billion worth since 1975), it assigns or subcontracts the work to one of its member companies and takes 1 percent of the proceeds from the job. This money covers costs of bidding other jobs and prospecting for work in more risky areas, such as Iraq or Nigeria.

The only apparent brake on Korean construction juggernaut is its ultimate limit on manpower—particularly engineers and managers. Construction labor is already approaching short supply, and the government restricts its use abroad to Koreans companies.

One industry source in Seoul told ENR that Korea can't possibly double its overseas work, as projected, without spreading its managers to thin. Thus the interest in joint venturing with Americans or others who will help them develop managers.

Over 30 colleges in Korea teach engineering and they are now jammed with students (42 students per professor, compared to 10 to 1 in the U.S.), all looking to earn big money abroad. By one estimate there are 40,000 graduate engineers, but too many of them are too new and inexperienced for overseas duty.

To help fill the need for managers and highly trained executives, Chung-Ang University in Seoul has already put 680 men from 60 companies through an overseas construction managers program—a 200-hour after-work course (CPM, specifica-

tions, legal shipping, Arabic)—flunking out another 150. Top executives get a 30-hour course, concentrated into one Friday-to-Monday weekend.

As KOCA's Chung says, summing it up: "We have entrepreneurial spirit, good labor, high productivity and government support."

Still in a state of war, South Koreans are a serious people. They smile a lot, but they mean business.

Taiwan—Population 16.1 million, gross domestic product $17.3 billion, per capita income $800

Stephen D. Bechtel, Sr., in Seoul on his company's business earlier this fall told ENR: "These people [the Koreans] and the Taiwanese are the hardest working people in the world." He was referring principally to domestic construction in the two countries, but the description applies as well to their work abroad.

Americans in the Mideast rate Taiwanese close to the Koreans in productivity and quality of work; Koreans rate the Taiwanese as major competitors.

The principal Taiwanese competitor company is Ret-Ser Engineering Agency (RSEA). Ret-Ser means Retired Servicemen; and RSEA, formed 22 years ago by the government to provide training and jobs for veterans, still has over 7,000 armed forces veterans among its 12,400 employees. About 1,600 are engineers.

Half of RSEA's work currently is overseas, and most of that is in Saudi Arabia. Starting there with feeder roads and moving into highways, airports and onshore and offshore naval facilities, the company has contracted for $620 million worth of projects over the past three years, the largest of them in the $200-million range.

The company has an office and two highway projects in Jordan, and its president, H. C. Yen, looks toward working in more places, including the United Arab Emirates.

Second in size among Taiwan's constructors abroad is BES Engineering Corp., which won its first Saudi Arabian job—Jeddah sewers—in late 1975. By 1976 it was bidding and winning jobs in the $40-million to $50-million range.

BES has succeeded in contracting to build industrial parks designed for Saudi cities by Sinotech Engineering Consultants, also of Taiwan.

Taiwan Power Co. has the $153-million contract on a regional electrification project—a job on which the Saudis rejected high European and Japanese bids.

New Asia Construction & Development Corp., among the leaders in domestic construction in Taiwan, has a Jeddah office and a job to build an office building there for the Saudi contractor REDEC. Earlier it set up a prestressed concrete plant in Jeddah for RSEA.

Taiwan is a relatively high technology Asian country with engineers and constructors experienced in industrial plants, nuclear facilities and refineries, as well as heavy, civil works construction.

As a nation, however, Taiwan is limited in the number of countries with which it has diplomatic relations.

Philippines—Population 43.8 million, gross domestic product $17.5 billion, per capita income $325

Filipino contractors are running to catch up with the Koreans. But by their own estimate they are at least two years behind. They lack the organizational unity and government support one sees in Seoul.

There are a few large Filipino contractors and some smaller ones now in the Mideast, but they are still at the stage of working as subcontractors. Construction & Development Corp. of the Philippines (CDCP) is Southeast Asia's biggest contractor and is into Saudi Arabia on two projects for more than $200 million. But on one it is subcontractor to REDEC and on the other to Bin Ladin, both big Saudi contractors.

The Philippine government has taken steps to position its contractors more competitively. In moves apparently patterned on Korean success, President Ferdinand E. Marcos in June, 1977, set forth regulations to stimulate an "aggressive" overseas effort, to fix tax credits and incentives, to control which contractors work abroad, and to "avoid ruinous competition between [Filipino] contractors engaged in overseas construction." An Overseas Construction Board (OCB) was established in the President's office.

But contractors say their government's help stops short. A Philippine Foreign Loan Guarantee Corp. backs commercial bank guarantees up to 70% in a form of reinsurance. "Why not 100%?" says a Manila contractor. "That 30% could break your back."

Two years ago, 23 companies joined into the Filipino Contractors International Corp. (FCIC) in an effort to emulate Korea's KOCC. FCIC is supposed to designate which among its members will undertake a given job. It was to restrain competition, but it doesn't, according to sources in Manila.

Of 37 contractors certified by the Philippine Contractors Association to work abroad and registered with OCB, 11 have jobs overseas, mostly subcontracts.

EXPORT STRATEGY

A government that long had an aggressive "people export" policy tries now to push a "corporate export strategy," looking to add overhead and materials exports to the receipts of foreign exchange from workers' remittances. The goal for this year is over one-half-billion dollars.

An Overseas Employment Development Board (OEDB) formed in 1974 promotes the "people export" program—people are the Philippines' fifth largest export. There are 1.3 million Filipinos working in 102 countries today from stevedores and domestic workers to nurses and doctors.

In the Mideast alone there are about 60,000. Over half of those are in Saudi Arabia, where they are mostly doing construction or stevedoring.

Against a vigorous past program of encouraging the foreign hire of individual workers, it has been difficult for Filipino contractors to hold onto their good workers. They have been reluctant to run programs to train new workers, as one contractor put it, "for Jones, Sundt, Brown & Root, Bechtel or some Korean."

Now, only contractors registered with the Bureau of Employment Services may deploy construction workers overseas, and the Ministry of Labor can keep passports from workers not employed by registered Filipino firms. So, the happy hunting grounds foreigners had for skilled, English-speaking workers (and even Moslems from Mindanao to work in Mecca) is closing down. Americans and others needing workers in the Mideast had better come to Manila now looking for a partner, joint-venturer or subcontractor. (So far, the recruiting restrictions apply only to the Mideast.)

FCIC executive vice president Gregorio R. Vigilar says, "We can't compete with the Americans [for our own workers] unless we ourselves go overseas." He looks long range at all the operation and maintenance work to be contracted in the Mideast as construction tapers off.

Vigilar says that on a scale of 10, giving Koreans 10 and Taiwanese nine points as the top two Asian contractors in the Mideast, Filipinos rate seven points and can improve to eight points because of their knowledge of English.

Somewhere lower on his scale are the contractors from India and Pakistan.

India—Population 629 million, gross domestic product $87.8 billion, per capita income $143

Harcharan Singh Dugal, four-term president of the Builders Association of India (BIA) and second generation leader of his private contracting company in New Delhi, speaks articulately of the strengths and weaknesses of Indian contractors in the Mideast:

"India enjoys good will in the Gulf, partly for supporting displaced Palestinians. . . . The Gulf States were once administered from Bombay. India has traditional, historical and proximity ties. . . . India can export 1.5 million trained technicians without hurting its home economy. Engineers come at one-quarter to one-third the cost of U.S. or European engineers. . . . India can supply hardware, steel, plywood, tiles, plumbing."

On the minus side, Dugal says Indian construction "still has no successful foreign competitors, except for special items. . . . Emphasis is still on labor intensive construction. . . . Time is limited if we are to cash in on the Mideast market."

Almost three years ago Dugal's BIA (India's version of the Associated General Contractors) organized an Overseas Construction Council (OCC), headquartered in Bombay. OCC lists general contractors and subcontractors approved for contacts abroad. About 30 of them have contracts, according to Dugal. The total value of work they do in the Mideast currently is reported at $125 million. Much of it is in Iraq. (Beyond the Mideast, Indians do an interesting amount of work in Libya.)

STATE-RUN COMPANIES

Contracting—as other industries in India—has public companies as well as private. The state-run companies have a definite edge in competition, for as a spokesman for one organization told ENR: "We can bid 0.1% for profit."

Large contracts won by public companies are sometimes divided and subcontracted to private companies.

A given public company, such as Engineering Projects (India) Ltd., may be a combine of manufacturing and construction units.

Industrialized as it is, India has constructors experienced in steel plants, atomic facilities, refineries, chemical and fertilizer plants and waterfront work. Those companies, such as Products & Equipment Corp. and National Projects Construction Corp., lay heavy stress on their ability to do turnkey work on industrial plants. They stress their technology and want to supply their manufactured products more than their manpower.

Still, other companies continue to seek jobs that are labor intensive to which they can bring relatively cheap labor.

A recent government enforcement of a year-old decree increasing what Indian workers must earn abroad is being contested by Indian contractors as diminishing their main competitive edge. Doubling past rates, the new wages would put Indians' pay above Koreans', according to the contractors protesting the move.

Indian manpower goes abroad in huge numbers whether or not Indian construction contractors succeed. Remittances from 3 million Indians abroad are a big factor in improved balance of payments.

Contractor Dugal in New Delhi sums it up for India's contractors: "The opportunity is large; we have the skills; but the competition is tough."

Pakistan—Population 72.4 million, gross domestic product $11.5 billion, per capita income $149

For construction in Pakistan, overseas means the Mideast, but it is still mostly individual workers, and not so much construction contractors, that go abroad.

One five-year-old public company, National Construction Co. (Pakistan) Ltd. (NC), leads its overseas operations in Abu Dhabi, where it has done major work. Its biggest claim to fame is its $166.7-million joint venture contract with George A. Fuller Co., New York City, on the Peace Hawk project of the Royal Saudi Air Force.

Another public company, Mechanized Construction of Pakistan, has had projects including about $100 million in irrigation projects in Iraq.

Two other Pakistani companies working abroad—Gammon Pakistan Ltd. and Conforce Ltd.—round out the list. In total, Pakistanis claim over $500 million in contracts.

So, Pakistan, with a large population that includes skilled construction workers as well as engineers, is trying with some success to compete for construction business. It is, more significantly, a big source of West Asian workers for the Mideast, Moslems eager to visit their holy cities in Saudi Arabia, and to earn that big overseas pay.

Thailand—Population 43 million, gross domestic product $15.9 billion, per capita income $318

This Asian country is supplying good construction workers, but has not yet won any construction contracts. However, it shouldn't be long before it does.

The planes heading west out of Bangkok can be as full of uniformed construction workers as those from Manila, Taipei or Seoul. The Thai government estimates there are already 40,000 Thais in the Mideast, and they are mostly in construction. Industry sources say over 1,000 workers fly westward each month, many who have been recruited by U.S. companies.

Last month, following many months of discussion, members of the Thai Contractors Association incorporated a $5-million combine organized to undertake $50 million worth of work and sent a delegation to the Mideast to look for jobs to bid.

Thailand has the same strength in construction as the Philippines and Korea, thanks to the presence of the American military in years past.

To a significant extent, therefore, out of Asia to compete in the Mideast come a number of construction organizations, as well as individual workers, that were given their starts by Americans.

They're a new power to be reckoned with in international construction.

APPENDIX C

[From Time, June 18, 1979]

LESS DEVELOPED, MORE DIVIDED

THE LDC'S LOWER THEIR EXPECTATIONS FOR A NEW ECONOMIC ORDER

(United by poverty, Third World nations have long called for a "new international economic order"—a grand transfer of wealth, resources and economic decisionmaking power from the industrial countries to the poorer lands. But lately, changes among Third World members have divided the once harmonious group into a

company of often competing soloists. The divisions were apparent in Manila at the fifth meeting of the United Nations Conference on Trade and Development (UNCTAD V), the forum where the developing countries present their complaints to the wealthier nations. After a month of sometimes heated dialogue, the conference ended last week in division, indecision and frustration. Time's Hong Kong Correspondent Ross H. Munro reports.)

The past quarter-century of uneven growth and the recent meteoric rise in oil prices have made the Third World a more disparate group of nations than ever. For many of them, the catchall appellation of less-developed countries (LDCs) has become outdated or at least incomplete. New subclassifications have become necessary: advances-developing countries and east-developed countries; socialist LDCs and neocapitalist LDCs; non-oil LDCs and OPEC LDCs.

Such rapidly industrializing, fairly affluent and capitalistic countries as Singapore, Taiwan, South Korea and Malaysia have totally different problems and priorities from many dirt poor and authoritarian African nations. Although the LDCs presented a facade of commonality on the floor of the conference, their changing interests were obvious. Calls for a new economic order were often ignored by the advanced-developing countries.

Also the growing rift between oil haves and have-nots widened further at the conference. Recent oil price increases will swell the collective current-accounts deficit of the non-OPEC LDCs this year by $5 billion, to a total $57 billion, and additional raises will grossly enlarge the gap. The Costa Rican delegation mustered some support from other oil-deficient Latin American countries for its proposal that OPEC consult with the importing LDCs before it raises prices again. But African and Asian delegations sqelched the resolution partly out of fear that the OPEC nations might reduce their aid to any country daring to challenge them.

Since UNCTAD last met in Kenya three years ago, several Latin American governments as well as Sri Lanka, India and others have moved toward more reliance on free market economics. A resolution calling for the industrialized nations to cancel or suspend debts of the LDCs was quietly suppressed by some of the capitalistic advanced-developing countries. Although the U.S. had already written off $500 million in debts owed by 15 of the poorest nations, ADCs like South Korea, Singapore and Brazil have feared that any further write-off would make them appear to be poor credit risks and that international lenders might push up interest rates or hold back on future loans.

There have also been second thoughts about a world commodity fund to stabilize prices by buying when prices fell and selling when they rose. Delegates of many commodity-producing LDCs argued that such a resolution would help the developed countries more than the undeveloped because some 60% of all commodities and raw materials orginate in five developed countries: the U.S., Canada, the Soviet Union, Australia and South Africa.

Many Third World nations discovered common ground on the subject of protectionism. One speak after another attacked the West's "new protectionism" of quotas, marketing agreements and restrictions against the developing countries' textiles, television sets and other products. An additional resolution called for the Soviet bloc to lower its more rigid protectionist barriers. Delegates from many of the LDCs said they were tiring of the Eastern Europeans' illogical claims that they cannot be accused of protectionism because their centrally directed socialist governments simply ban unwanted goods.

The poorest nations, including Chad and Afghanistan, called for more help from the richest countries. But delegates for those industrial nations felt the advanced-developing countries must also be willing to help. Their argument was that as the ADCs prospered they should not only lower their own tariffs against the least-developing nations but should also give up some of the special tariff preferences they receive from industrial countries. Said one U.S. delegate about the conference: "The advanced-developing nations sooner or later must recognize that less preferential treatment for them would mean more benefits could be passed on to the least-developed countries."

The overall mood of the conference was disappointment. Fortunately, most nations backed a resolution calling for substantially increased aid to the 30 poorest countries; two-thirds of them are in Africa and others include Haiti, Bangladesh, Laos and Yemen. Sometimes described as Fourth World or "basket cases," they constitute still a further division among the developing nations—and a growing problem that the rest of the world will have to address.

APPENDIX D

FINANCING THE BIG PROJECTS--MAJOR PUBLICIZED SYNDICATED GUARANTEES

Contractor	Project	Amount (million)	Lead managers	Date
Korean Construction Industry	Various Middle Eastern [illegible] (stand-by facility)	$100 (saudi riyal equivalent.).	Citicorp International Group, Bank of America NT & SA, Manufacturers Hanover Trust, Bankers Trust, Chemical Bank, DG Bank, First International Bancshares.	March 1976.
Continental Electronics, Edok, Eter	Northern stations radio transmitting project for Saudi Arabian Ministry of Information.	SR129.1	First Chicago Ltd.	August 1976.
Hyundai Construction Co (Korea)	Jubail Harbour Industrial Port Project, Saudi Arabia	SR750	National Commercial Bank, Bank of America NT & SA.	December 1976.
Hyundai Construction Co (Korea)	New port at Ras Al Ghar (Saudi Arabia)	SR 233.5	Citicorp International Group, National Commercial Bank, Westdeutsche Landesbank Girozentrale.	March 1977.
Consolidated Contractors (Lebanon)	Extensions to University of Petroleum and Minerals. Dhahram, and construction of water storage and distribution systems at Medina, Saudi Arabia.	SR206.7	Arab Bank, First Boston AG, National Commercial Bank, National Bank of Kuwait.	September 1977.
Ballast Nedam Groep (Holland)	RSAF domestic accommodation, Saudi Arabia	SR1,675	Amsterdam-Rotterdam Bank, Algemene Bank Nederland, Citibank NA, Bank of America NT & SA.	October 1977.
Lockheed Corp. (United States)	Various projects in Saudi Arabia (standby facility)	$50 (Saudi riyal equivalent)	Kredietbank, Luxembourg	December 1977.
Sogey Int Ltd	Four desalination plants & power plant. Saline Water Conversion Corp, in Jeddah.	SR376.8	Bank America International Group, BCCI.	Do.
Telefonaktiebolaget L.M. Ericsson (Sweden)	Automatic telephone project, Saudi Arabia	SR946.8	Citicorp International Group, Skandinaviska Enskilda Banken, Svenska Handelsbanken.	January 1978.
N.V. Philips	Automatic telephone project, Saudi Arabia	SR908.9	Amsterdam-Rotterdam Bank, Algemene Bank Nederland.	Do.
Hyundai Construction Co (Korea)	Various projects in Saudi Arabia	SR347.8	Citicorp International Group, Manufacturers Hanover Asia, Morgan Guaranty Trust, Westdeutsche Landesbank Girozentrale.	Do.
Lockheed Corp. (United States)	Activities in Saudi Arabia	$100	BAII, Algemene Bank Nederland, Banque Nationale de Paris.	May 1978.
Hyundai Construction Co (Korea)	Projects undertaken for government ministries and government-related agencies.	$300	Citicorp International Group, BA Asia, Chase Manhattan Asia, Manufacturers Hanover Asia, Morgan Guaranty Trust, National Commercial Bank.	June 1978.

[Telegram]

ASSOCIATED GENERAL CONTRACTORS OF AMERICA,
INTERNATIONAL CONSTRUCTION,
Washington, D.C., June 7, 1979.

K. S. LEE,
Citibank,
Seoul, Korea.

DEAR SIR: Citibank New York advises that you might be able to confirm Korean Government guarantee of June 1978 letter of credit syndication for Hyundai, Inc. (amount: 300 million U.S. dollars).

Please advise as soon as possible.

Regards,

GEORGE E. STOCKTON,
Director.

[Telegram]

CITIBANK,
Seoul, Korea, June 8, 1979.

Mr. GEORGE E. STOCKTON,
Director, International Construction,
Associated General Contractors of America, Washington, D.C.

DEAR SIR: Citicorp International Group (Citibank and APCO) organized and made a USD300 million (equal in Saudi Riyal)--syndicated bond guaranty facilities for Hyundai Construction Co., Ltd. around June 1978. Korea Exchange Bank Counter Guaranteed.

Regards,

K. S. LEE.

APPENDIX E

[From Engineering News-Record, Nov. 2, 1978]

KOREAN-AMERICAN CONFRONTATION

Traveling Korean contractors, visiting at the Associated General Contractors of America (AGC) in Washington, D.C., last week, expressed interest in joint venturing with Americans abroad. They don't see themselves operating in the U.S. as previously reported (ENR 10/12 p. 3), but they wouldn't turn down any good deal. A good deal in their view is a joint venture that helps them qualify to bid a job or adds to their management and technology capability in doing the work. AGC members expressed concern about loss of a Korean joint venture partner precluded by his government from joining in competition against a Korean company bidding alone.

APPENDIX F (from The Wall Street Journal)

South Korea Has Become Major Builder In Mideast by Use of Skilled Manpower

By LINDA MATHEWS
Special to THE WALL STREET JOURNAL

SEOUL—South Korea, a country once so isolated that it was known as the "Hermit Kingdom," has moved aggressively into the Middle East and established itself as the major builder for the region's newly rich sheiks and shahs.

Capitalizing on the desire of Middle East nations for overnight modernization, South Korean construction companies this year already have secured building contracts valued at the equivalent of $2.2 billion, often beating out U.S. concerns for the jobs.

The total could approach $3 billion by year-end when, according to Deputy Prime Minister Nam Duck Woo, about 20,000 South Koreans will be employed in the Middle East, building an industrial harbor and a naval base in Saudi Arabia, a shipyard in Bahrain, public housing in Iran and several dozen other projects throughout the area.

South Korean construction companies are at work in 20 other countries around the world, too, but they are concentrating on Saudi Arabia and other Persian Gulf states. The reasons aren't hard to figure out.

"No one else in the world has as much money to spend on industrialization as the Gulf states," says one South Korean construction executive. "And no one else is burdened with such a lazy labor force," he adds. "If those countries had to depend on their own workers, they'd never get anything done."

South Korea has taken advantage of the opening Middle East opportunities by exploiting the one natural resource it has in abundance, skilled manpower. Its growing labor exports have played a major role in the country's recovery from the shock of increased oil prices in 1973-1974, which hit South Korea hard. The construction boom has helped South Korea replenish its badly depleted foreign reserves, finance its own ambitious internal development and pay its ever-increasing oil bills.

The construction companies that landed the first few Middle East contracts tried to cut costs by relying completely on local labor. But they quickly discovered, the companies say, that the locals were hard to train and often didn't put in a full day's work. Currently, the 20 South Korean companies doing business in the Middle East import all their workers from Korea, even though it means erecting housing compounds for them and keeping them supplied with hard-to-get items such as kimchi, a fiery pickled cabbage that is a staple of the South Korean diet.

"Our workers are our best selling point," boasts Park Moon Young, director for overseas cooperation in the ministry of construction. "They're tough, they work hard and they never complain." Adds another construction ministry official: "South Koreans work as hard as the Americans used to."

That isn't surprising, because South Korean companies learned U.S. construction techniques 20 years ago when, with U.S. aid, they were rebuilding their country after the devastation of the Korean war.

The host countries of the Middle East are equally enthusiastic about South Korean labor. "They're the best workers we've ever had here," says Yousuf A. Shirawi, Bahrain's minister of development and industry. "They know how to do a job and they're doing it."

In fact, South Korean diligence is almost legendary throughout the Mideast. An Iranian official once reported, in disbelief, that South Koreans hired to unclog the busy port at Khorramshahr arrived at the job site at 11 a.m. and were at work by midafternoon.

Shortly before his death, King Faisal also became a devotee of Korean labor. The king was returning late at night to Jidda and saw a crew from the Samwhan Construction Co. finishing a road beautification project under floodlights. He suggested that the next contract, too, go to South Koreans, and it did.

Key W. Kim, an official at the Korean Foundation for Middle East Studies, attributes South Korea's success in the Arab world to the "complementarity of resources between our country and the Middle East. To be frank, all they have is an investment fund from their oil sales. We're resource poor, but we do have the skilled manpower and the technology they lack. It was a happy coincidence."

Despite Mr. Kim's diffidence, the South Korean penetration of the Middle East market is hardly an accident. It is the result of a well-coordinated nationwide drive, fully supported and generously financed by the government of President Park Chung Hee, to transform South Korea into a major overseas builder.

Under government supervision, 28 South Korean companies have joined Korean Overseas Construction Corp., which dispenses tips on new projects in the Middle East and advice about bidding techniques.

All companies that land overseas contracts become eligible for low-interest loans, a 50% corporate tax exemption and a five-year tax holiday on exported construction materials. And if a construction company runs into problems abroad, such as difficulty in getting its equipment through the Middle East's perpetually congested ports, it can appeal to a special government task force, headed by President Park, that will intervene at high diplomatic levels to find a solution.

The government also has turned several military bases into training centers for construction workers. It has even done much of the recruiting, offering South Korean soldiers an early discharge if they sign up for the Middle East.

At the management level, orientation classes are handled by the Korean Foundation for Middle East Studies, a think tank set up 11 months ago by President Park, with 13 professional staff members of its own and 15 economists drafted under government orders from Seoul's leading banks.

The South Korean government has ample motives for promoting the construction industry. The country desperately needs the foreign exchange to pay for its development plans and for its whopping oil bill, which soared from $377 million in 1973 to about $1.8 billion this year. Because most of the construction contracts are paid in U.S. dollars or other hard currency, even unprofitable contracts—there have been some—can add substantially to the foreign-exchange reserves.

BEST COPY AVAILABLE

Mr. FISHER. We are going to have to recess the meeting for a few minutes and ask you just to stand by.

[A brief recess was taken.]

Mr. GUARINI. Mr. Carlson, we thank you for your testimony. I understand the chairman will have no further questions to ask of you. Your statement will be noted by the rest of the committee members.

The Chair wants to thank you for having given your testimony. Is there anything you would like to add to the record other than what you have said?

Mr. CARLSON. Probably just a philosophical summary.

A lot of us are trying to increase American exports to return a few of the dollars floating around abroad. We really have a fragmented Government process. It doesn't give us any help. It hinders us greatly.

There is a lot of promotion to encourage us to go overseas. But when you get out there in a boat trying to do what you think is right, all of a sudden you realize that you are left all alone. The Government is not there to help you. It has passed all these measures to hinder you.

Our industry values its independence. The array of help that the other governments give to their exporters is really overwhelming. The figures speak for themselves. We have been practically kicked out of Saudi Arabia in the last 4 years. The Saudis like us but we are not competitive any more. It gets back to Government programs.

Personally, rather than the Government preaching to us that we have to go overseas, I would like to see them ask a few questions of how it really is out there and what they can do to help the situation.

Thank you, Mr. Chairman.

Mr. GUARINI. Mr. Carlson, besides cutting redtape and giving them all the help they need, is it a matter of financing as well that the other governments do that creates a better atmosphere for trade?

Mr. CARLSON. Yes. You see, the average foreign construction company is owned by the banking system of the country, whether it is Germany or Japan. We are independently owned. Our employees own our company. You compete against a German or Japanese company and you are really competing against the German banking system and the German Government or the Japanese Government.

The same way with the Korean system. The sad fact is that we have to have what we call performance guaranties which is a banking system device. The last large Korean performance bond of some $300 million was guaranteed by an American bank with the bank guaranty from the Korean National Bank.

I am not saying that we all of a sudden should belong to the Government and go over there as a unified force. But we have to have some kind of mechanism to get us in the area of competitiveness.

The overseas taxation of Americans—and this committee handled it—was unbelievable. The initial law that came out, actually made it possible for an American to pay more tax than he was

given in cash by his employer. We got that straightened out. We got great understanding from this committee and the Congress. Now it is held up over at Treasury.

In their view of regulations, they are trying to maximize a disappearing pie over there instead of putting us in the ball park of competitiveness. We still think we should be taxed over there.

The German or Japanese working overseas is not taxed at all. We think with our approach and the spirit of enterprise and how we go about things we can be competitive if you will get us within striking distance.

We do get a hearing from Congress. I am very encouraged by that. But when you get to the jungle at the other end of the street, we don't have a chance. That is why we are asking for one single lead organization for international trade with the responsibility to look at what each action will do to all the policies.

That is basically my personal philosophy. The antibribery is another thing. It is just unbelievable.

Mr. GUARINI. Thank you, Mr. Carlson. You make your point well. We thank you for being here.

The Chamber of Commerce of the United States, Ronald Danielian, Chairman of the Government Organization Subcommittee of the International Service Industry Committee.

Would you please come forward?

Mr. Danielian, do you want to introduce the people you have with you? Anytime you are ready we would appreciate it if you would start making your presentation.

STATEMENT OF RONALD DANIELIAN, CHAIRMAN, GOVERNMENT ORGANIZATION SUBCOMMITTEE OF THE INTERNATIONAL SERVICE INDUSTRY COMMITTEE, CHAMBER OF COMMERCE OF THE UNITED STATES, ACCOMPANIED BY HOWARD WEISSBERG, DIRECTOR, INTERNATIONAL TRADE POLICY COMMITTEE, AND GORDON CLONEY, DIRECTOR FOR SPECIAL POLICY DEVELOPMENT

Mr. DANIELIAN. Thank you.

On my right is Howard Weissberg, director of the International Trade Policy Committee, and on my left is Gordon Cloney, director for Special Policy Development of the U.S. Chamber of Commerce.

I am Ronald Danielian, executive vice president and treasurer of the International Economic Policy Association. I serve as chairman of the Government Organization Subcommittee of the Chamber's International Service Industry Committee.

I have an oral statement here which I will read. It is an abbreviated version of the full statement which I hope can be included in the record.

I also have a list of the members of the International Service Industry Committee.

Mr. GUARINI. All right. That will be included in the record.

Mr. DANIELIAN. The committee has heard the national chamber recommendations relating to reorganizing the international trade and investment function of the Federal Government.

I will comment on considerations specifically related to service industries which deal in what are commonly called invisibles—that is, intangible products such as advertising, accounting, banking,

insurance, air transport, lodging, licensing, leasing, franchising, finance, construction, computer services, engineering, consulting, communications, data transmission, shipping, motion pictures, and others. These service industries together have provided us with a surplus of $23 billion in our balance of payments accounts in 1978. They account for over half of our GNP and employ 7 out of 10 working Americans.

One of the fastest growing sectors in our international trade is services and we must maintain its momentum. The U.S. Government must concentrate its efforts on helping U.S. service exporters to overcome Government hindrances, including nontariff barriers limiting our markets abroad. We should take a positive approach in helping the United States earn foreign exchange through the sale of services with programs which will give U.S. business and labor a fighting chance over foreign competition in world markets.

From the perspective of the service sector, congressional efforts to bring order and direction to our Government's numerous agencies and programs that related to international trade and investment are commendable. Policy concern over service industries was a stepchild in international trade until 1974 when the Congress first recognized the importance of service industries by including them in a number of specific provisions in the Trade Act of 1974. However, with the exception of that legislation for coherently dealing with U.S. participation in the Multilateral Trade Agreements, the executive branch has no central focal point to deal with the myriad of external economic issues affecting the well being of service industries.

Over the past 30 years, as the service component within our foreign trade grew, an unbroken string of services account surpluses was generated. At the same time, U.S. service industries have invested abroad. Five years ago the last available U.S. Government estimate put the value of overseas sales by the foreign branches and subsidiaries of U.S. service industries at about $50 billion, and since then the figure has probably doubled. But our industries are meeting increasing competition abroad and are receiving minimal or no support from the U.S. Government. For the moment we are No. 1 in invisibles, but our position is not without challenge. Between 1969 and 1976 our share of world invisibles trade receipts fell by one-fifth, from 25 percent to 20 percent. We face strong competition from industrialized countries such as Japan, Germany, and France and advanced developing countries such as Brazil and Korea. Our competitor nations do a better job of recognizing, promoting and defending their international service industries. These governments have recognized what we have tended to take for granted: the major and growing role services can play in their international economic activities. In the United Kingdom and France, for example, service industries enjoy encouragement and support equivalent to that given to the manufacturing sector.

Furthermore, U.S. service industries in world markets face discriminatory treatment and unfair trade practices, including the subsidization of other countries' service industries entry into foreign markets, including the U.S. market. But in the face of this, there is no U.S. Government focal point and only minimal involvement in pursuing international agreements on procedures for han-

dling service trade problems and a general lack of progress in agreeing on international standards for the treatment of service-related foreign investment. This lack of an institutionalized focal point makes dealing with other governments on such service issues a difficult proposition.

We are also up against our own disincentives to the export of services which run the gambit from the problems encountered with the revisions in section 911 of the Internal Revenue Code to the problems surrounding the Foreign Corrupt Practices Act and U.S. antiboycott legislation. It is interesting to note in this regard that World Business Weekly, published by the Financial Times of London, reported in its August 6–12, 1979, issue that the U.S. share of construction contracts in Saudi Arabia has fallen from 9 percent of the $10 billion awarded in 1975 to only 3 percent of the $23 billion awarded in 1978. And it was further reported that in the past year U.S. contractors' share of the $20 billion in infrastructural projects supervised by the U.S. Army Corps of Engineers has dropped by 35 percent to only 5 percent. With these kinds of figures in mind, it is no wonder that we are losing our market share in the growing international service industry pie.

With this as a backdrop, and with your committee's responsibility for reviewing and approving any major changes that may be made in the U.S. Government structure for dealing with international trade and economic issues, I would like to offer some specific suggestions based upon discussions that our committee has had with the U.S. Department of Commerce, the Office of Management and Budget, and among ourselves on what is really needed in this service area.

One, the legislative history must make it clear that services are included in any reorganization and that terms such as trade, commerce, and industry include in their definitions service industry considerations unless specifically excluded.

At the present time, except for title IX of the Trade Agreements Act of 1979, the word trade or commerce has not been defined in U.S. laws to include service industries. It is always assumed it covers goods industries.

Two, the record should establish that the inclusion of service industries and their recognition is, in principle, to be pervasive in practice. Additionally, the Congress should stipulate that attention should be given to services at the highest Executive policymaking levels, an Assistant or Deputy Assistant Secretary level. Services must be recognized in all components of international trade and investment. This would include promotional and incentive programs designed to expand our foreign commerce and those programs which defend the existing position of the U.S. economy against unfair trade and discriminatory practices, including multilateral and bilateral trade negotiations, the dispute settlement process, international investment decisions, et cetera.

I might add here that the schematic diagram that I believe this committee has of the proposed trade component of the Department of Trade and Commerce does have a small service sector but it is relegated somewhere down in the bowels of one of the sections of this Department of Trade and Commerce. It does not have a suffi-

cient critical mass to give it any influence in making and guiding policy.

Three, the Congress must require annual reports on overall progress relative to international problems with U.S. service industries so that continuing oversight on the executive's diligence in this area can be exercised by the appropriate committees.

Four, for oversight and policy development purposes, including coordination, monitoring, data and research development, there must be a specialized and highly visible group within the governmental structure, in the Commerce Department or its successor agency, which has the needed manpower and financial resources to stay on top of international service industry issues. This group, as mentioned before, could be headed by an Assistant or Deputy Assistant Secretary.

This last is a most important point, Mr. Chairman, because we cannot afford to continue to have service industry problems and issues subjugated to the more traditional concepts of trade in goods. The last large sector in our international accounts to be so subjugated to traditional trade interests was agriculture. If you will recall, back in the sixties at a time when agriculture was an important but not an enormous part of U.S. foreign exchange earnings, the problems surrounding that commodity in international trade were subjugated in reaching a Kennedy round trade agreement in the export of nonagricultural products. Over the last 12 years we have suffered for that oversight.

My point is that services, which in balance of payments terms constitute one-third of our trade, must not suffer the same oversight. However the reorganization is finally structured, we hope the Congress will insure that services are at the forefront of executive attention.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF THE CHAMBER OF COMMERCE OF THE UNITED STATES

I am Ronald Danielian, executive vice president of the International Economic Policy Association and chairman of the Government Organization Subcommittee of the National Chamber's International Service Industry Committee. Accompanying me is Mr. Gordon J. Cloney, director for special policy development of the National Chamber.

The Committee has heard the National Chamber recommendations relating to reorganizing the international trade and investment function of the Federal Government.[1] I will comment on considerations specifically relating to service industries. These industries deal in what are often called "invisibles"; that is intangible products such as advertising, accounting, banking, insurance, air transport, lodging, licensing, leasing, franchising, finance, construction, computer services, engineering, consulting, communications, data transmission, shipping, motion pictures and others.

From the perspective of the service sector Congressional efforts to bring order and direction to our government's numerous agencies and programs that relate to international trade and investment are commendable.

In contrast to some other nations our present structure might be construed as having substituted confusion for cohesion. The conflict and at times collision of bureaucratic baronies suggest a lack of national direction in our international commercial relations. These circumstances deny U.S. business and U.S. labor the full benefit of the income and employment which international commerce might bring.

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[1] Statement on Government Reorganization for Trade before the Subcommittee on Trade of the House Ways and Means Committee for the Chamber of Commerce of the United States by Irene W. Meister; Sept. 6, 1979.

As you deal with the need for improved organization it is important that the needs of the service sector be fully recognized and addressed in whatever structure you finally design. This is not the case at present. The emergence of a U.S. economy dominated by services has escaped policymakers' perceptions.

It is common to call ours a service-oriented economy. The American people produce and consume both goods and services. Seven out of every 10 working Americans are employed in the service sector. About 65 percent of the GNP is service-derived. Since World War II the most intensive growth within the American economy has been in the services sector. This has also been reflected in the growing role of the invisibles in U.S. foreign commerce.

Last year U.S. services account trade, which includes U.S. exports and imports of service industry products as well as direct investment flows, fees and royalties, totaled about $129 billion or 30 percent of all U.S. trade. Moreover, the services account produced a $23 billion surplus, an important offset to the $34 billion deficit suffered in merchandise trade. Viewed in another way, were it not for the services account surplus, last year's balance of payment deficit would have been several times larger than it was.

Over the past 30 years, as the services component within our foreign trade grew, an unbroken string of services account surplus was generated. At the same time, U.S. service industries have invested abroad. Five years ago, the last available U.S. government estimate put the value of overseas sales by the foreign branches and subsidiaries of U.S. service industries at about $50 billion. Since then the figure has probably doubled.

In sum, the U.S.: (1) has the largest domestic service economy, (2) has the largest service labor force, (3) is the largest importer and exporter of services, and (4) is the largest foreign investor in services.

For the moment we are number one in invisibles. However, our position is not without challenge. Between 1969 and 1976, our share of world invisibles trade receipts fell by one-fifth, from 25 percent to 20 percent. Our service industries face strong competition from industrialized countries such as Japan, Germany and France; and advanced developing countries such as Brazil and Korea are also making inroads into international service markets. Domestic sectors are strengthening almost everywhere overseas. One of the challenges faced by U.S. service industries abroad is simply growing competition.

A second part of this challenge comes from service industries in competitor nations whose governments, using internationally acceptable practices, do a better job of recognizing, promoting and defending their international service industries than we do. In other words, these governments have recognized what we have tended to take for granted: the major and growing role services can play in their international economic activities. In the U.K. and France, for example, service industries enjoy encouragement and support equivalent to that given the manufacturing sector. In Japan, the service sector has already experienced such phenomenal growth that today Japan is the second largest service economy. It is simply a matter of time until Japanese service industries penetrate international markets with the same determination they have used in capturing merchandise markets. An impact upon some of our international service industries equal to that which the Japanese had upon the electronics industry is not inconceivable. Japanese efforts already are underway to strengthen strategically important services and to form a national strategy for increasing international trade in services such as communications, engineering and construction.

A third part of the international challenge faced by U.S. service industries in world markets comes from industries in competitior nations that employ unfair trade practices and discriminatory treatment of foreign investment. In some countries law or discretionary administrative procedures "slow" the entry or impede the operating efficiency, and hence competitiveness, or the foreign service firm in their market. In other cases, particularly in less developed countries, it may simply be made impossible to export a service to the country or to produce it locally via an affiliate or subsidiary. Some countries subsidize their service industry's entry into other markets including the U.S. market.

The total absence of international agreement on procedures for handling service trade problems and the general lack of progress in agreeing on international standards for the treatment of foreign investment makes dealing with other governments on such service issues a difficult proposition. This is particularly so when one recognizes that the U.S. government itself has only just begun to recognize the importance of the services to our foreign commerce.

In approaching the question of how to reorganize the federal agencies that deal with international trade and investment, it is crucial that service industries be "in"

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whatever new structure emerges. The Administration's proposals for reorganization do not address this concern in specific terms. In contrast, much to Congress' credit, the major legislative proposals for reorganization do provide such recognition in clear terms.

It is important to bear in mind that service industries share the concern common to U.S. business over the state of our trade and investment structures. It is also important to realize, however, that the perspective is different than that of manufacturing and agricultural industries.

Manufacturing and agriculture have at least been the recognized focal points for attention within the existing disjointed system. And they seem to feel that it has serious weaknesses. In contrast, service industries have never been of primary concern, and most have not been of secondary or tertiary concern, within the present system.

There is at best a vestigial executive branch "constituency" for service industries. Traditionally our policymakers show no customary disposition to think in terms of service industry interests or problems, or whether these differ from those of manufacturers or the agricultural community.

The absurd fact that a sector the size and international importance of the services should have been an orphan in Washington is not limited to the structure of departments which are now involved with our foreign commercial policy. It is also evidenced in theoretic studies of governmental international organization. For example, both the Murphy Commission Report and the Williams Commission Report overlooked the entry of the U.S. service sector in our foreign commerce and thus never considered the fact that it was commonly ignored by policy processes.

Permit me to offer but a few concrete illustrations from among many I could cite:

Though U.S. services may suffer from import competition, the trade adjustment assistance provisions of trade legislation are not available to service producers.

The Webb-Pomerene export promotion provisions do not apply to services.

D.I.S.C. legislation is applicable to only two service industries.

The export promotion programs of the Commerce Department ignore most services.

The data collection mechanism of the U.S. government is not organized to concentrate on service flows.

Other government programs to facilitate exports, such as the Export-Import Bank, refuse to assure that certain U.S. services have a competitive chance to bid on services business related to Exim transactions.

The first formal recognition of "services" in Washington did not come until the 1974 Trade Act, and this was clearly and without question a Congressional initiative. You created the authority to negotiate reductions in barriers to services trade and gave the President an arsenal of legislation to deal with service problems. We in the U.S. international service sector commend your initiative.

Little was accomplished with these authorities in the MTN which is but one more example of services failing to capture policymaker attention. In attempting to define this mandate and determine negotiating parameters, it was necessary to refer the matter to a White House interagency task force chaired by the Secretary of Commerce. This group proceeded to review in some detail the position of U.S. service industries in foreign commerce and the inadequacy of the present governmental structure for dealing with them.

In a massive 1976 Report[2] the task force concluded that:

Services are now of major importance in U.S. foreign commerce and their increased future importance to U.S. economic health and growth is an "inescapable fact."

Governmental abilities to adapt and respond to this fact have lagged as international economic policy formation and related programs "have been almost exclusively focused on goods, not services."

A few governmental programs deal with certain service industries while others receive virtually "no specialized analysis or policy attention."

There is a need to create a coordination point in government for dealing with international trade and investment matters relating to services.

Government agencies involved with trade and investment should increase the resources allocated to "the now under-represented analytic and policy resources applied to service trade and investment."

The 1976 Report thus confirmed the international importance of services and proposed policy response, coordination, and generally improved effort to deal with service industry trade barriers and with distortions to service trade and investment.

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[2] *U.S. Service Industries in World Markets—Current Problems and Future Policy Development*, U.S. Commerce Department, Washington, D.C., December 1976.

The report did not examine the place of services in U.S. trade promotion. This is, however, deficient as well. In a 1978 report the House Committee on Government Operations released a follow-up to its *Twentieth Report on the Effectiveness of the Export Promotion Policies of the Departments of Commerce and State.*[3] One of the conclusions was that: "Commerce has not devoted sufficient resources to the promotion of U.S. services, such as construction projects and architectural and engineering design and feasibility studies, which have an important multiplier impact on export expansion" (page 2).

And the recommendation was made that: "Commerce should give greater priority to the promotion of U.S. services, in particular those services which have a multiplier effect on export activities, such as construction projects, architectural and engineering design work and feasibility studies" (page 3).

This report also contains an interesting example of this problem which is appendixed.[4]

Thus, as these references suggest: (1) service industries and the invisibles in general should be given the kind of policy attention by our foreign economic policymakers that is given manufacturing and agricultural sectors, (2) the expansion of U.S. service industries into foreign markets should be given a priority within government promotional programs and incentive systems that is equivalent to that now given to the other sectors and finally (3) service industries also should have equivalent government attention in dealing with problems such as subsidized competition, unfair trade practices, non-tariff barriers, investment barriers and procedural discrimination which manifest themselves in many foreign markets.

In conclusion I would like to offer six suggestions for any legislation or executive reorganization which this committee may approve to streamline, coordinate and make our government's foreign commerce related functions responsible and efficient.

1. The legislative history must make it clear that services are included and that terms such as trade, commerce and industry include service industry considerations unless specifically excluded.

2. The record should establish that the inclusion of service industries and their recognition in principal is to be pervasive in practice. The record should establish the intent of Congress to be (a) that attention is given to the sector at the highest executive policymaking levels and (b) that services be recognized and taken into consideration in all component international trade and investment functions at the operating level. This would (a) include promotional and incentive programs, designed to expand our foreign commerce and (b) would include those programs which defend the existing position of the United States economy against unfair trade and discriminatory practices including multilateral and bilateral trade negotiations, dispute settlement processes, international investment discussions, etc. This latter must be stressed. As a major portion of service industry income comes from overseas investment, a reorganized foreign economic policy establishment must deal with our international investment activities no less than our trade activities.

3. Annual reports on overall progress relative to dealing with U.S. service industries in international commerce might also be required to assure that concerted and continuing efforts are made by the executive to achieve the stated objectives.

4. While the thrust of these recommendations is to encourage the full integration of service issues throughout our government's international economic structure, there is also the need for some specialized overall sectoral analysis and policy coordination. Thus, the record might recognize the need for a service industry bureau or division at the assistant secretary level with sufficient resources to carry out a monitoring, policy coordinating, data and research development function. The Commerce Department has begun to develop such a capability. However, it needs to be strengthened in terms of manpower and other resources. It also must have subcabinet level access for purposes of input into policy.

As the program of work for such a service division would be a function of how the system is reorganized, it is not possible to offer specific recommendations now. However, as a reference material, I append an April, 1979 memorandum sent by Mr. Cloney to Assistant Secretary of Commerce Weil.[5] This suggests work parameters for the inter-agency coordinating committee for international services recommended in the 1976 Inter-Agency Study. It is possible to infer from it areas of concern to such a services division or bureau.

5. The idea of establishing an inter-agency coordinating committee on services, as suggested by the 1975 Commerce Department study, mentioned earlier, should be

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[3] Committee on Government Operation, *Effectiveness of the Export Promotion Policies and Programs of the Departments of Commerce and State: Follow Up Report*, March 14, 1978.

[4] See Appendix A.

[5] See Appendix B.

considered. The merit of this, however, obviously depends on the final shape the reorganization of government takes.

6. The Congress must continue to provide firm leadership in addressing service industry needs in reorganization, just as you did in 1974 when you provided such recognition for services in the trade negotiating authorities in the Trade Act of 1974.

As stated at the onset of these comments, the question of reorganization of our government agencies dealing with foreign trade and investment is an essential step in streamlining and increasing effectiveness in this part of our federal government. We have learned the hard way that simply creating new government agencies is an easy, but not necessarily meaningful, way of improving matters. What counts from the perspective of U.S. service industries is the most efficient, responsive and effective mechanism, and, that the service sector is formally in the picture. However you proceed to structure this reorganization it is important that the growing role of the service sector be recognized and that provisions be made to incorporate its interests and needs in a manner commensurate with the sector's major importance to our country's overall international position. The country can no longer afford the luxury of neglecting what many would term its most promising activity. Other governments recognize the importance of services. So must we.

[Excerpt from Effectiveness of the Export Promotion Policies and Programs of the Departments of Commerce and State. Followup Report]

TWENTIETH REPORT BY THE COMMITTEE ON GOVERNMENT OPERATIONS

In Singapore, for example, the Government is planning to build a major new international airport. The local official responsible for construction is seeking feasibility studies and development plans. He has no travel budget but has been flown by host governments to Japan and numerous European capitals to view their facilities. He expressed a desire to examine United States facilities and the Embassy sent a cable to Washington discussing the problem. As of August 1977, the Embassy had not received a response and the personnel we spoke to indicated that because of planned trade center activities they would not have the time or resources to follow up on this matter. Not only will U.S. developers and architects be at a disadvantage in bidding on this multimillion-dollar project, but if a foreign developer is used. U.S. subcontractors and suppliers who U.S. developers and architects normally would turn to will also lose extensive export opportunities.

In general, it was felt that because trade centers were primarily geared for promoting products, not enough effort was made to promote services. Although there is a demand for innovative insurance, advertising, legal and financial services which U.S. firms could provide in the Far East, there were almost no export promotion efforts in these areas. While some efforts have been made to promote U.S. architectural and engineering services, they have been oriented toward larger development firms and ignored small firms and smaller projects.

An architectural or development design and study contract is more important for U.S. export expansion than can be measured by the amount of that contract itself. Because architects and engineers, when writing feasibility and design studies, often specify those products and services they are familiar with, U.S. manufacturers can gain tremendous advantage if U.S. firms prepare these studies. Commerce should aid these firms in their efforts to receive awards for such studies, explore the possibility of providing loans or other financial assistance from the Small Business Administration and encourage Export-Import Bank cooperation in efforts to assist U.S. firms seeking to provide feasibility and design study services abroad. . . .

CHAMBER OF COMMERCE OF THE UNITED STATES,
INTERNATIONAL DIVISION,
Washington, D.C., April 17, 1979.

To: The Honorable Frank A. Weil, Assistant Secretary, Industry and Trade Administration, Department of Commerce, Washington, D.C.
From: Gordon J. Cloney, Director, Special Policy Development.
Subject: Inter-Agency Committee on International Services—Notes on Work Program.

A. BACKGROUND

Total U.S. services account trade reached 129 billion dollars in 1978, a little less than one third of all U.S. imports and exports, and produced a 23 billion dollar surplus. Moreover, most service industris have a ripple effect stimulating U.S. merchandise exports.

Notwithstanding the strategic importance of the service sector, overall invisible trade receives fragmented attention within the federal trade and investment policy structure. Some agencies are not aware of the sector as they carry out general foreign commerce and investment responsibilities. Others have a limited "industry sector" responsibility. Some are not aware of current efforts by others that deal with, or impact on, services trade.

In December of 1976, the Commerce Department released a White House Inter-Agency Task Force report on services and the multilateral trade negotiations. Entitled "U.S. Service Industries in World Markets: Current Problems and Future Policy Developments," the report was "the first comprehensive analysis of the participation and problems of U.S. service industries in international commerce," and its purpose was "to develop recommendations for improving the government's ability to address them."

The principal conclusions of the task force were set forth in 27 recommendations. Recommendation number twelve called for the establishment of an inter-agency committee on international services chaired by the Department of Commerce with membership including the State, Treasury and Labor Departments, the Office of the Special Trade Representatives and other agencies "as appropriate." The committee should involve individuals 'at least at the Deputy Assistant Secretary level."

This memorandum outlines considerations relative to the purpose and operation of such an inter-agency committee as seen by the International Service Industry Committee of the U.S. Chamber of Commerce.

B. Committee Objectives

An inter-agency committee on international services should have as its principal objectives enhancing international performance of the service sector, and, insuring that the sector and its component industries receive adequate attention from policy-makers and those within the federal government who administer foreign trade and foreign investment policy. Citing the economic importance of the international services sector, the introduction to the 1976 Commerce Department report capsuled the general problem as follows:

"Nonetheless, it seems fair to observe that the importance of the services sector has escaped the appreciation and systematic attention it merits. This is particularly the case with regard to the subject of this report: services in the world economy. Definitional, conceptual, theoretical and empirical work have all lagged behind the evolution of what some have termed "post-industrial" economic realities. So, too, have governmental capacities to adapt and respond creatively to this evolution. International economic policy formation, and the associated data gathering and organization, have been almost exclusively focused on goods, not services. Indeed, the extent an characteristics of international commerce in services have been virtually unknown to policy-makers."

While the 1976 report contributed to the conceptual framework, response by government is, thus far, modest. Hence, the inter-agency committee, the logical next step, should have as principal objectives:

1. Enhance the performance of the U.S. service sector in foreign markets.
2. Increase consciousness of the importance of international service trade and investment within the federal government.
3. Enhance the government's capacity to identify and respond to service industry problems.
4. Coordinate present government policy activities and operations which affect services.
5. *Stimulate new initiatives,* both as proposed in the 1976 study and others which may be identified for committee attention and action.
6. *Increase the analytic and policy resources* within government that are directed toward international services trade and investment.

C. Committee Functions

It seems reasonable the committee operate as policy working group which implies a leadership role in coordinating and orienting specific action programs affecting services carried out by the individual member agencies. In the case of new issues, e.g., issues not being under the present aegis of a particular agency, the committee would designate the action agency—in the words of the 1976 report: "employ the existing structure but infuse within it an awareness of the need for analytic and policy consideration of service industries."

Specific functions of the committee would thus include:

1. Inventory and then give periodic general review to ongoing agency programs that impact on international service industries both directly and indirectly.

2. Periodic review of specific action programs dealing with current service industry issues and the progress being made.

Insure that, as appropriate, the action agency is receiving and considering the comments of other agencies.

Resolve inter-agency differences if present.

Resolve policy problems, e.g., relating specific current issues to overall long-term policy objectives.

3. *Consider suitable new policy initiatives* including: those proposed in the 1976 report, other issues suggested by industry, and issues suggested by the member agencies.

Define and assign priority to such issues and designate the action agency.

Insure that comments and needed information are provided the action agency by other agencies (and through them by industry as appropriate).

Follow up, resolve inter-agency differences and policy conflicts.

4. Review and expand the manpower and other resources being applied to international service trade and investment by the participating agencies.

In general committee functions should seek to enhance line operations in the member agencies by coordinating action programs, by resolving differences, by providing a general policy umbrella under which individual action programs are carried forward, and by initiating new action programs as appropriate.

The committee will require skillful, confident, creative leadership by Commerce in light of anticipated bureaucratic inertia, lack of awareness, and possible agency hesitation in the presence of what is by definition a non-traditional policy subject. The quality of staff work which Commerce will have to provide is thus apparent.

D. Work Program

Areas to which the committee should direct attention are: (1) trade; (2) data and research; (3) investment; (4) technology transfer and (5) taxation.

Listed below in outline form are those issues in each category which would appear to be suitable for committee attention in the short and medium-term.

Short-term issues are in Caps. Section E of this memorandum examines some key short-term issues in greater detail.

Issues found in the 1976 task force report are indicated by "R" followed by the number of the specific recommendation as cited in the report itself, pages 57–76.

1. TRADE

A. *Post MTN Developments within GATT*

1. Analyze post-MTN climate for service consideration under GATT.

2. Analyze Government procurement code implications.

3. Consider extension of service industry considerations into other codes: Subsidies code (R No. 3(a)), others.

4. Consider future GATT discussion on service trade (R No. 3(c)).

B. *OECD—Introduce Service Trade Issue (R No. 13).*

1. Evaluate potential for/progress in OECD committees in dealing with service industry matters (committee on trade, investment, invisibles, insurance, transportation, tourism).

2. Catalogue service trade barriers and set priorities (R No. 5).

3. Examine lack of international standards, guidelines and procedures for dealing with service trade barriers including dispute resolution aspects.

4. Pursue means to harmonize international practices on individual sector basis or on service sector basis.

5. Analyze developments in trans-border data transmission discussions for trade and investment implications and policy response.

6. Analyze developments re service barriers in LDCs as base for Group B positions in UNCTAD and the U.N.

C. *Bilateral Trade Relations.*

1. Determine best way to pursue bilateral services requests tabled in MTN by the U.S. but not acceded to by the respective trading partners (R No. 3(b)).

2. Catalogue service trade barriers by country and sector (R No. 5).

3. Seek further bilateral action on service trade barriers on ongoing basis.

4. Respond ad hoc to negative developments as required by future circumstances.

D. *Determine Feasibility of Extending Domestic Laws and Recourse Actions Now Available to Manufacturers to Service Industries.*

1. Trade adjustment assistance (R No. 10).

2. Anti-dumping recourse actions.
3. Countervailing duties.
4. Extension of Webb Pomerene provisions to service industries.

E. *Enhance Response of U.S. Export Promotion Mechanisms and Programs to U.S. Service Industry Export Development.*

2. DATA AND RESEARCH

A. Consider establishment of working group on international services data (R No. 24).

B. Consider establishment of office of service industry research to guide

1. Research leading to improved data collection (R No. 26 & 27).
2. Market research.
3. Economic impact data.
4. Service investment impact on LDCs (R No. 18).

C. Review analytic resource application to services trade and investment with a view to increasing coverage (R No. 14).

3. INVESTMENT

A. Enhance response of existing multilateral investment discussions and related U.S. policy to service industry concerns (R No. 15).

1. Catalogue issues and investment obstacles of greatest importance to service industries.
2. Follow up in U.S. policy formulation processes.

B. Pursue service industry investment problems in bilateral investment discussions (R No. 16).

C. Develop State/Commerce early warning system for identifying and responding to service industry investment obstacles (R No. 17).

D. Analyze procurement practices of the international financial institutions with regard to utilization of U.S. service industries especially in project design and engineering.

4. TECHNOLOGY TRANSFER

A. Enhance response of existing multilateral technology transfer discussions and related U.S. Government policy to service industry needs.

B. Seek means to deal with problems in bilateral discussions.

5. TAXATION

A. Monitor legislative proposals and regulatory decisions with regard to impact on service industries.

1. Seek comments from other agencies on pending foreign tax credit regulations as these relate to services.

B. Pursue equitable and realistic U.S. tax treatment of U.S. nationals resident abroad and employed by service industries.

E. Key Current Priorities—Discussion

Based upon events in the MTN, and other international dialogues involving trade and investment matters, the following areas would appear to be particularly suited for current priority examination by the committee.

GATT related initiatives.—The MTN included a reference to services in the government procurement code. Little else seems to have occurred relative to services (although it is rumored that the subsidies code might be susceptible to service industry considerations). This process did establish the principle of dealing with service trade barriers as a number of other countries tabled service barriers for bilateral discussion. The post-MTN era must see U.S. initiatives to expand upon this modest beginning and the following objectives come to mind:

Climate.—Analyze the nature and tone of response to U.S. attempts to introduce services at Geneva as a basis for future strategy. What are the dispositions of trading partners for future GATT discussions in the area? Absent another "round," how might additional progress be brought about? What special work has to be done with trading partners and with the GATT Secretariat by the U.S. government? Establishing a plan of action for future efforts, how might industry cooperate?

Government procurement code.—Determine what actually has been accomplished in the reference to service "incidental" to the trading transaction in the GP code. Pursuing a plan of action relative to this provision based on the objective of enhancing U.S. service industry trade raises questions such as:

What services are included in the U.S. view? Is the definition firm?

What does "incidental" mean and is this a common or shared definition within GATT or at least among the principal parties?

How will the code be administered and what preparation and support will be required of government? How will follow up with U.S. service industry be handled?

What will be the anticipated impact upon U.S. government procurement and related U.S. services? What sectors stand to be hurt?

What preparatory work is needed for the opening of the code to cover all services at the end of three years as the code text provides?

Other codes.—Prepare a strategy for dealing with services in the context of other GATT codes, in particular the subsidies code. Questions include:

Suitability of the particular code for expansion to services.

U.S. Government views as to relevance of subsidies to U.S. services.

Possible opposition from (U.S. industry/foreign industry or foreign government).

The OECD.—The 1976 task force report proposed and the U.S. government has proceeded to introduce the matter of service trade barriers in the OECD Trade Committee. The first item for attention appears to be compiling a generic list of service trade non-tariff barriers as the basis for considering how to deal with them through the OECD, the GATT or elsewhere.

Thus, the inter-agency committee should pursue the development of a U.S. list that catalogues and prioritizes those that are trade barriers while referring those that are more properly investment barriers to other OECD committees.

Various references now exist which might be used including: (1) the 1976 task force report and its 18 sectoral appendices; (2) the 1976 study by Wolf and Company prepared for Commerce as a background reference to the 1976 study; (3) the 1975 benchmark study, Invisible Barriers to Invisible Trade, MacMillan Press Ltd. (London); and (4) industry studies which have been presented to the STR.

The Chamber's Service Industry Committee can provide assistance to this analysis.

Bilateral trade issues.—During the course of the MTN, various U.S. service industries provided the STR with information concerning service trade barriers for bilateral negotiation.

In some cases individual barriers in a single foreign market were cited while others provided more comprehensive studies involving various types of practices in numerous markets. From these the STR subsequently tabled those it believed suitable for bilateral negotiation with the appropriate trading partner. Apparently very few requests were acceded to.

Thus a serious effort should be made to pursue through other bilateral channels the remaining bilateral service trade issues not resolved through the MTN. Consultations might be undertaken with the firm or industry group citing the barrier to consider options and strategy.

Domestic trade law.—Many elements of U.S. trade law will receive Congressional attention in the near future. It would be appropriate to examine those dealing with adjustment assistance and recourse actions to determine if service industries, in general or upon a selected basis, might be covered by such provisions.

Priority areas would include determining whether: trade adjustment assistance might be extended to service industries impacted by foreign competition; whether the sale of foreign services (for example air transport) at prices under cost might be considered dumping; whether subsidies to foreign service industries (for example in construction) might be susceptible to countervailing duty actions, and, whether the Webb Pomerene antitrust exemption might be extended to service industries.

Data.—There is a clear need for more comprehensive, definitive data and there are shortcomings in the present government collection of service industry data. Certain sectors are covered in some detail with aggregate figures broken down by region and country. But in others there is no systematic or complete compilation It may be that some needed data is presently found in other government surveys, the extent of this data is presently unknown. Another basic issue is that for statistical purposes there is not an agreed upon definition of a service industry, nor what activities should be considered as services.

A government study could be undertaken, under the inter-agency committee's aegis, to evaluate the type of information that should be collected to properly understand the impact of service industries on foreign trade and the balance of payments as a basis for policy actions.

This study might: determine the extent and quality of data presently being collected by all relevant government agencies; re-define service industry classifications to better highlight them; determine information requirements from government and industry; evaluate changes to existing reporting and collection procedures;

and advise on the general design of improved reporting techniques for data from major service industry sectors.

INTERNATIONAL SERVICE INDUSTRY COMMITTEE, JULY 1979

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Mr. GUARINI. Mr. Danielian, you know this subcommittee during the MTN hearings had recognized the importance of services in the international trade. We certainly tried to expand the protection into that section 301 unfair practices.

You have given us several suggestions. You mentioned something about the Assistant Secretary, the Deputy Secretary, relating to this particular area of activity.

Are you suggesting that such a person solely be empowered to deal with this particular area, that is, that you have an Assistant Secretary dealing in services only?

Mr. DANIELIAN. Yes, an Assistant or a Deputy Assistant Secretary dealing only with services because it covers a myriad of industries all the way from the commercial interests of aviation to the tourism side, to construction and engineering problems.

In gross terms you are talking about businesses which contribute in the neighborhood of $55 billion worth of U.S. transactions on the export side. It is a very important and major component that needs specific attention.

Mr. GUARINI. You don't feel that we define our trade adequately enough in our statutes to include services when we talk about trade and commerce?

Mr. DANIELIAN. That is correct, Mr. Chairman. In the Trade Act of 1974 this committee was responsible for placing in its report on the Trade Act provisions several sentences delineating exactly

what they meant by the problem in service industries—that attention should be paid to overcoming the barriers to service industry trade.

But throughout the Trade Act itself, service industries were defined as associated with international trade. As such it has been narrowly interpreted as meaning that those services associated with the goods trade only, so that services in and of themselves are not covered. Under the Trade Agreements Act of 1979, section 301 of the Trade Act of 1974 was amended to broaden the services definition of "commerce." However in all other sections of U.S. trade legislation, services are not covered.

I think a specific definition must be given.

Mr. GUARINI. I am informed that that has been amended by the trade agreements earlier. But could I ask you if the area that you had addressed yourself to was procedural suggestions, that is the definition, the duties of the Assistant Secretary, promotional activities, et cetera?

Is there anything other than those areas that you may want to make substantive, specific suggestions as to how our nation can protect its interest in service industries?

Mr. DANIELIAN. Well, Mr. Chairman, there are a number of suggestions that are made in a very detailed memorandum attached to the end of my full statement. I don't know whether I should take the committee's time to go through that right now.

Mr. GUARINI. Could I ask you to outline any specific, substantive suggestions you have, whether in the area of financing or other particular areas, how you feel that we as a committee could be helpful in structuring laws that would protect and perhaps expand the services market?

Mr. DANIELIAN. Yes.

First of all, in those laws on the books already which protect U.S. goods industries from such things as subsidies and dumping, there is no mention or reference to services. You only have section 301 on unfair trade practices which brings in service industries per se. There is no remedy under our antidumping or countervailing duty laws for service industries that are harmed. Similarly, there is no redress for business or labor under adjustment assistance laws.

Mr. GUARINI. Is there a dumping of services for foreign countries on our markets?

Mr. DANIELIAN. Well, it is a matter of interpretation and definition. Take an airline example. You have a situation right now where certain airlines, foreign airlines, are heavily subsidizing seats to the United States. They might not run the service if their governments were not subsidizing those seats to the United States. Therefore, U.S. carriers would have a bigger share of the market to at least try and attract. Conceptually, it is a little different than goods subsidies, but you have essentially the same kinds of problems and effects.

U.S. labor and business cannot avail themselves of the remedies existent in the Labor Department and the Commerce Department for assistance when service industries or their workers are hurt. There are no adjustment assistance provisions for service industries.

I believe there was a case dealing with airline workers where they applied for adjustment assistance. It was denied because a determination was made that the problem was not directly related to trade in goods at the time. It was purely services and thus not covered under U.S. law.

Relating to your earlier question about expanding service markets, I think the next U.S. negotiating issues that will come up internationally for the STR are going to deal with service industry problems. This means that the Government is going to have to pay particular attention in future negotiations to service industry interests in all multilateral forums. We need a lot of research and carefully drawn up position papers with which a new Commerce emphasis on services can help.

The OECD is starting to discuss services right now. That is what I meant in my written statement by saying it had to be pervasive. In all Government policy areas you have to have a cognizance of service industries. I shall amplify on this in a letter to you, Mr. Guarini.

[The letter follows:]

INTERNATIONAL ECONOMIC POLICY ASSOCIATION,
Washington, D.C., September 14, 1979.

Hon. FRANK J. GUARINI,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. GUARINI: I appreciated having the opportunity to testify on the service industry aspects of governmental reorganization before the Subcommittee on Trade of the House Ways and Means Committee which you chaired on September 7, 1979. I would like to expand here with regard to two areas of particular importance.

On the question of the definition of "trade" and "commerce", I commented that during most of the history of U.S. trade legislation these terms have not been defined. Hence, the assumption has existed that reference to "trade" or "commerce" meant reference to goods trade and this has relegated services to second-class status in U.S. trade matters. This problem was partially addressed in the Trade Act of 1974 when the Congress (and specifically your Committee) correctly recognized the international importance of services and provided negotiating authority and a limited remedy against unfair trade practices for them. However, there still remained some ambiguity regarding whether the intent of Congress was to deal with all services or just those services related to goods trade. As you pointed out, this ambiguity under Section 301 has been corrected by the Trade Agreements Act of 1979 with a clarifying definition of "commerce." However, this applies only to Section 301 and nowhere else in trade legislation is the term "commerce" or "trade" defined to include services in and of themselves. Because of this, the normal avenues of redress available to the goods industry (and labor) in antidumping, subsidy and adjustment assistance cases are closed to service industries. Thus, it is important that in general definitions, both the term "trade" and "commerce" be defined to specifically include services, per se.

My purpose in raising this consideration is to suggest that the Committee must be concerned that any legislation dealing with government reorganization define terms such as "commerce" and "trade" so that it is clear all services are included in the meaning of these terms and hence are to be given full attention by those who administer the new system. Otherwise, it is quite possible for the executive branch or others to assume that services are, at best, marginally included and the historic lack of attention to service industry needs will continue.

A second area upon which I would like to elaborate is the need for a bureau within the Department of Commerce or its successor agency that is concerned exclusively with the question of service industries. The "Department of Trade and Commerce" as described in the "organigram" provided recently by the Administration (a copy of which is enclosed with this letter for your ready reference) relegates service industries to a very minor division within a unit on "Finance and Investment" which is one of several under an "Assistant Secretary for Trade Policy and Programs." This is no different than the present arrangement in Commerce where a small international service industry division is buried in the Office of International

Finance and Investment having a staff of six professionals. Even with the best of intentions, there is no way that office can have a significant policy impact on all of the problems facing the 14 major service industries outlined in the Commerce Department's 1976 study, U.S. Service Industries in World Markets.

Our committee urges, therefore, that in any Department of Trade and Commerce, at a minimum, services must be moved to a separate bureau directed at the highest level possible by an Assistant or Deputy Assistant Secretary.

The bureau would provide a point of reference for government relations with key service industry sectors ranging from banking to construction to insurance to transportation. Many of these industries have no contact point in government to which they can turn that is responsible for being concerned about their international business problems. Others, such as air transport, have a point of reference in the State Department, but this deals legitimately with negotiations, per se, and not necessarily with commercial operating problems—a need that a new bureau would meet. The constitutent parts would cover several functional areas.

There is a serious problem within government in the area of policy analysis, research, and the collection of data pertaining to services. This information is essential as the underpinning for any international effort to deal with service industry problems and designing a government program which can respond adequately to the many challenges in this area. In fact, the Commerce Department is in the midst of eliminating the analysis and research capability with regard to the tourism service industry just at a time when they profess to be concerned about service industries. This data information gap is a problem to which the bureau would respond.

The question of the defense and promotion of services trade is an area to which the bureau would direct considerable attention. It should be concerned about studying in detail and developing proposals concerning the question of providing U.S. service industries with more effective defense against unfair trade practices, including provisions to deal with foreign subsidies and dumping practices as well as the matter of adjustment assistance for U.S. service industry firms and related labor. Also involved would be the servicing of the negotiations relative to services which are to be carried out presumably through a revised STR. This includes expanding existing GATT codes to include services and also the important ongoing discussions in the OECD on services trade.

The bureau would address the entire question of trade export promotion, including assurance that the foreign commercial service offices located throughout the world as well as the U.S. commercial offices located in the United States are sensitive to their responsibilities to the service sector.

Another important function would be to study the question of disincentives which impact upon the service industries. These include boycott questions, taxation questions, and other areas cited in my oral testimony. The fact, for instance, that U.S. contractors have dropped to supplying only five percent of the $20 billion in infrastructural projects supervised by the U.S Army Corps of Engineers in Saudi Arabia is alarming since the industry claims our own disincentives are at fault.

The question of service industry investments and the transfer of service industry technology are areas which, while dealt with in part through other offices of government, should be monitored from the service industry perspective within the bureau we are proposing.

I hope, Mr. Guarini, these ideas will be useful to you, and we are prepared to answer any further questions. As I mentioned orally, my printed statement contained an even more detailed memorandum on the needs to be covered. The International Service Industry Committee of the U.S. Chamber feels most strongly that any reorganization, be it legislated or by executive action, must include a clear commitment to, and make provisions for the manpower and bureaucratic structure necessary to deal with service industries. As the Administration has not done this to date we are, of course, very deeply concerned about it and hope that the Congress can correct this situation.

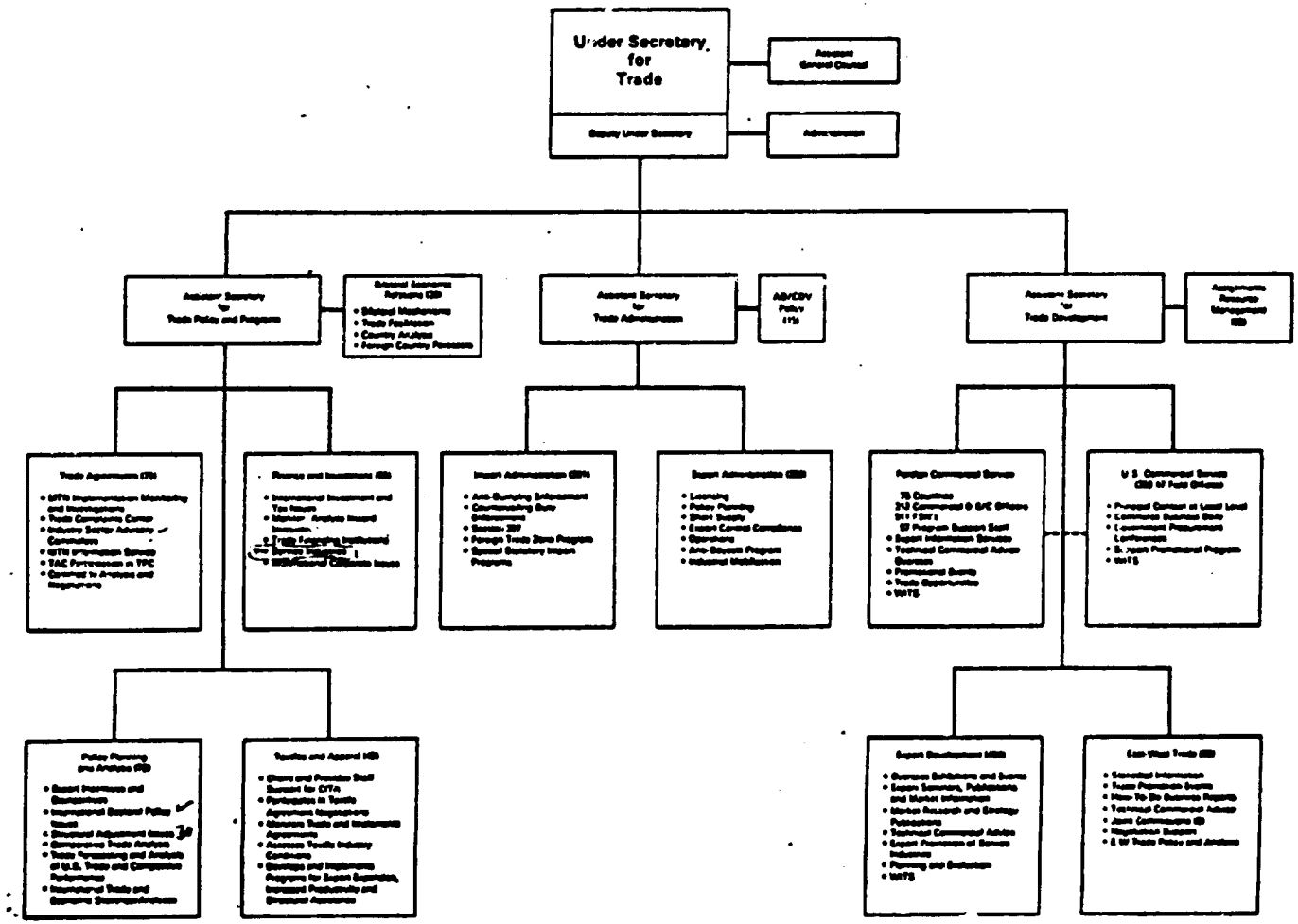
Your interest in this entire matter is sincerely appreciated.

Sincerely,

RONALD L. DANIELIAN.

Enclosure.

Proposed Trade Component of the Department of Trade and Commerce



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Mr. GUARINI. Thank you, Mr. Chairman.
Mr. Frenzel, any questions?
Mr. FRENZEL. No questions.
Mr. GUARINI. Mr. Fisher?
Mr. FISHER. No questions.
Mr. GUARINI. Thank you.
Your very clear presentation has been very helpful to us.
Mr. DANIELIAN. Thank you, Mr. Chairman.
Mr. GUARINI. Mr. Philip H. Trezise, a member of the Board of Consumers for World Trade.
Mr. Trezise, I understand you have been a former Assistant Secretary of State?
Mr. TREZISE. Yes.
Mr. GUARINI. We are happy to have you here and appreciate any remarks you want to make for the record.

STATEMENT OF PHILIP H. TREZISE, MEMBER OF THE BOARD, CONSUMERS FOR WORLD TRADE, ACCOMPANIED BY DOREEN BROWN, PRESIDENT

Mr. TREZISE. I have with me Doreen Brown who is the President of Consumers for World Trade. Since I am a senior fellow at Brookings Institution, I want to make it clear that I am not speaking in any way for Brookings or its trustees or officers.

Mr. Chairman, I would like to direct my comments mainly to the administration's proposed reorganization plan as outlined in a White House fact sheet a few weeks ago and elaborated by an OMB statement to the Government Operations Committee on August 1.

The most favorable thing to be said of the administration's proposal is that it does not adopt the idea of a new Department of Trade or Trade and Investment. I think that it is wrong to believe that our trade problems, however they are defined, would be solved or even made less pressing by an attempt to centralize policy and operations in one agency.

The idea that other industrial countries have such an institution is to my knowledge unfounded. They divide and disperse trade functions and responsibilities, too. A Department of Trade in our system would be duplicative and disruptive. Worse, it would almost surely tend to be protectionist in its outlook and policies. It is a bad idea.

Having rejected the concept of a centralized trade agency, the administration proposes a redistribution of certain functions pertaining to trade and a strengthening of the role of the Special Trade Representative.

We consider that the redistribution part of the proposal is largely undesirable. Strengthening of the STR role is desirable, but we would point out that this does not require that new operating functions be assigned to the STR office.

From the consumers' point of view, the worst feature of the reorganization is the proposed transfer to a renamed Department of Commerce from the Treasury of responsibility for investigation and enforcement in the fields of antidumping, countervailing duty, national security import restrictions, and embargoes.

Parenthetically, it would be interesting to learn what "embargoes" are expected for Commerce to administer.

The reason is that Commerce traditionally has leaned more toward protectionism than has the Treasury. This, we believe, reflects the differing constituencies of the two departments. It has nothing to do with the qualities of the personnel of the two departments or of their leadership, past, present or future.

Treasury's tradition and its constituency has led it—on the whole—to manage its trade responsibilities impartially, with emphasis on careful investigation of matters that seldom are clearcut. Commerce is more exposed to specific protectionist pressures and is more likely to be swayed by them.

If the statutes involved were absolutely self-enforcing and if the facts on which decisions are based were always utterly clear, then, of course, the locus of the investigation/enforcement function would be of no matter.

In the real world there will always be room for interpretation of law and evidence. We believe that the Commerce tilt will be toward the restrictionist interpretation.

Our concerns on this score are not diminished by the administration's explanation that Treasury has been criticized for delays and that the new location of the functions will afford "high priority to faster, efficient enforcement."

Whether the criticisms are considered to be justified is not stated. And we fear that "faster, more efficient" enforcement can mean less care for sifting out facts from allegations and more stress on keeping imports out.

Mr. Chairman, as for other aspects of the proposed redistribution of function or responsibility, our comments are as follows:

1. The transfer of commercial attachés and officers from the Foreign Service to Commerce is bound up with the question of what is possible in the way of official export promotion.

Consumers have an interest in a healthy export sector in the American economy. But it hardly seems likely that a redesignation of commercial officers in our embassies can make much differrence to our exports which, incidentally, have been doing rather well over the past five quarters.

If official promotion measures, short of outright subsidies, are considered to have great promise for expanding exports, then perhaps a more venturesome experiment should be tried. For example, we might examine the quasi-private Japan Export Trade Organization, or JETRO, as a possible model for an export promotion corporation in which private business would have a part.

2. We think that the administration is right to ask that section 337 (unfair import practice) cases be transferred from the International Trade Commission, but we believe that the responsibility should be lodged in the Treasury along with antidumping and like matters.

3. There appears to be no strong argument for placing commodity and East-West trade negotiating responsibility with the STR. The State Department must still have a large role in both these fields, considering their foreign policy content, so that a shift of the negotiating function is likely only to require more people without compensating benefits. Coordination of negotiating positions by STR makes good sense, however.

Our doubts about the merits of moving to STR duties that now are peformed adequately elsewhere are reinforced by the consideration that the new STR will have to lead the executive branch in seeing to it that the new MTN agreements are carried out fully by all parties, including the United States.

Much of this is likely to be new ground in trade policy formulation and application. It does not make sense to clutter Governor Askew's day with functions that will not contribute to the exercise of his crucial leadership/coordination role.

Finally, Mr. Chairman, we believe that coordination of policies in the trade field does matter. A number of executive branch departments always have had legitimate interests in various aspects of trade policy, interests that will not go away simply because somebody writes a reorganization plan.

So a central point to resolve differences is obviously necessary. In practice, that has always been the White House. Less than 20 years ago it was done in the White House by one senior counselor, but those, I suppose, were simpler times. At present, and in particular, it is the Special Trade Representative.

Citizens, as consumers and as taxpayers, have a stake in the STR's effective functioning. It is up to him to represent to the President and to the Congress the country's abiding interest in an open, expanding world trading system. An organization or reorganization that helps him do this is good for us all. Reorganization for the sake of moving functions around will only do us harm.

Mr. GUARINI. Thank you, sir.

You didn't make any comment with regard to the Eximbank. Would you leave it where it is or would you put it into international trade?

Mr. TREZISE. I believe I would leave the Eximbank where it is. It seems to be doing its mandated job effectively and I don't really see the benefits of combining it with anybody else.

If we were to have a new export promotion organization of a brand new, all-encompassing kind, conceivably the bank might be one wing of such an organization. But I don't suppose that is in the cards.

In any event, I am not sure it would make a great deal of difference.

Mr. GUARINI. All right.

Do I gather from your experience as Assistant Secretary of State for Economic Affairs that you would be against the creation of a separate commercial corps in Commerce, not take it from the State Department but to leave it in the State Department where it belongs presently?

Mr. TREZISE. Well, Mr. Chairman, I think the conversion of the present commercial officers who, after all, are now selected in coordination with the Commerce Department, would lead to a good deal of disruption and inefficiency for some time.

In the longer run, I am not sure it would make a great deal of difference. The officers in the embassy would report to ambassadors under the statute, under law. And I don't really believe that what would be done would be any different than what is done now.

I think some losses would be incurred in the short run and in the longer run I think we would be about where we are now.

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Mr. GUARINI. In regard to our East-West trade agreements which are presently in the State Department, would it be accordingly in line with your philosophy not to move it into STR but to leave it in the State Department, also?

Mr. TREZISE. That is my feeling. That proposition strikes me as representing sort of a passion for reorganization for the sake of reorganizing. It really doesn't make any sense.

East-West trade negotiations are not an every day occurrence involving enormous amounts of activity. If they are really important, if we ever get around to a negotiation with the Soviet Union, then this is going to be coordinated out of the White House no matter what, and everybody and his brother will have a finger in it.

Putting the day-to-day stuff with Romania and Hungary and so in STR, will reflect the view that moving boxes around makes things better.

Well, it really doesn't. It makes things worse. This is a foreign policy problem as well as a trade problem. The Secretary of State has to have a hand in it. It is being done satisfactorily there now, as far as I know. The administration doesn't say it is being done badly there. So moving it strikes me, as I say, just as somebody in OMB felt that he had to move the boxes.

Mr. GUARINI. So what your testimony does is point out the age old conflict between the Secretary of State making foreign policy and perhaps international trade dictating or infringing upon what would be foreign policy.

From what I understand, then, there are many items in the administration's proposal that you would be objecting to because it is a dismemberment of the traditional role of the Secretary of State's office?

Mr. TREZISE. I would have to disagree with your characterization of my views because I am no longer a member or in any way connected with the Department of State. I am speaking as a representative of a consumer organization and as a citizen. I think these are bad ideas and they would be costly to me as a taxpayer and lead to results that are of no benefit to any of us.

In fact, of course, the Department of State will continue to have a large role in these matters unless we get a Secretary of State who wants to abdicate his job.

Mr. GUARINI. Thank you very much for your testimony. I have the same impression as the chairman of your testimony. It is interesting that in defense, the retention of State Department turf where the State Department had done what I think the committee thinks is not a very good job over the past year in promotion.

I do notice, however, that contrary to previous witnesses, you indicate that the section 337, the unfair practices cases, could be transferred from the ITC and that it would be a good idea. You probably were in the room and heard the chairman of the ITC say that that could not possibly happen without the Republic falling asunder.

I wonder if you would elaborate on that?

Mr. TREZISE. Mr. Parker's remarks didn't come out quite that clearly to me, but I gather he was against the idea. There, again, Mr. Frenzel, it seems to me it is a curious kind of government,

almost an anarchic kind of government, in which an independent agency enters into agreements with industries and business firms abroad at the same time as the executive branch is negotiating, at a governmental level, so-called restraint arrangements or orderly marketing agreements.

I can't imagine that this is good government. If that is what is happening under 337, then it seems to me you better put 337 where the President will have some authority over what is done. We can't go on with a government which operates in every direction.

Mr. FRENZEL. That is a little like the framers decided a couple hundred years ago when they created three branches of government.

The reason for the ITC is, as I understand it at least, that in 1974 the Congress was nervous about the decisions that were being made in the executive branch and, as restructured, it was supposed to be some kind of a check or balance against these other decisions.

I agree with you that we are going to have the ITC around for a long time, I am afraid, no matter what. I notice that you are nervous about moving some things to Commerce because it would be restrictionist.

Those of us who have been working in this field for a while have run into that. In fact, we ran into it very early. Retailing groups have great interest in retailing without restriction. Their feeling was that Commerce, being the agency of American business, would tend to be more protectionist than expansionist.

However, when we told the Treasury we wanted to move CVD and antidumping cases over to Commerce, they came up with an opposite logic. They said that the agency being given all the trade jurisdiction will behave too aggressively in favor of trade.

Frankly, I think you are both nuts. I think you could put those functions anywhere and have them done pretty well. We ought to find the most logical place to put them and not be so worried about prejudices until the prejudices appear.

Do you think you would stand by your position, and am I wrong in thinking that you see it that way?

Mr. TREZISE. Well, I stand by my position, Mr. Frenzel, primarily because I had a good many years of experience in the executive branch and formed views which I think are justified that Commerce, by reason of its rather broad constituency, which includes an enormous variety of forces and institutions, does lean toward more restrictionist interpretation of policy and law.

Nobody knows, of course, what will happen if you move this to—I do hope the committee will reject the notion of a Department of Commerce named Trade and Commerce. You should have more respect for the language than that. But if it is to go to a Department of Commerce, then I suppose it will be done in some fashion, anyway. It could go almost anywhere, as you say. You will have to recognize, of course, that there is going to be a period of considerable disruption, as you reconstitute the investigating activities, and so on, under the Department of Commerce.

But I do believe quite firmly that the upshot of this is that more people will find it desirable to initiate antidumping complaints and subsidy complaints, and they will expect the Department of Commerce to give a more sympathetic hearing with a greater readiness

to interpret the allegations favorably to the complaints than would be true in the Treasury, and I am afraid that is a fact of life.

Mr. FRENZEL. You know, like yourself, I seem to be categorized as a trade expansionist, a free trader, and I get nervous about these things, too. However, when you wait 15 years for an antidumping case, you just have to say that the Treasury has not performed, and that American industry has a legitimate and justified complaint about the way those cases have been handled. As far as I know, we may all be dead and buried before we ever finish that color television case, and the steel people have had similar complaints.

I think many of the complaints have been without justification, but we have to finish them sometime. The Treasury's track record is absolutely abysmal in that regard.

Mr. TREZISE. You have written into the law now, as I understand it, some rather stringent time limits on these cases.

Mr. FRENZEL. We had some time limits in the old law, too, which were ignored. We can't make somebody obey the law if they don't want to, or if they say, as they usually do, we have not given them sufficient resources to carry out their duties.

Anyway, these are difficult questions, and your insights are very helpful to us, particularly in light of your long experience, and I do appreciate them.

Thank you, Mr. Chairman.

Mr. GUARINI. Mr. Fisher?

Mr. FISHER. No questions, Mr. Chairman.

Mr. GUARINI. Mr. Moore?

Mr. MOORE. No questions, Mr. Chairman.

Mr. GUARINI. Thank you very much for appearing before us.

Mr. TREZISE. Thank you very much.

Mr. GUARINI. Mr. Richard Maxwell, president of the American Importers Association and also an official of the Associated Dry Goods Corp., and Mr. Barry Nemmers, staff attorney.

STATEMENT OF RICHARD MAXWELL, PRESIDENT, AMERICAN IMPORTERS ASSOCIATION, AS PRESENTED BY BARRY NEMMERS, STAFF ATTORNEY

Mr. NEMMERS. Mr. Chairman, Mr. Maxwell was unavoidably detained in New York and is not able to appear today, and sends his regrets that he is not able to attend these important hearings. I will present his statement, which is an excerpt from our written testimony which you have.

The American Importers Association, AIA, is a nonprofit organization formed in 1921 to foster and protect the importing business in the United States. As the only association of national scope representing the American companies engaged in import trade, AIA is the recognized spokesman for importers throughout the Nation. AIA welcomes this opportunity to present its views on the question of reorganizing the Federal Government's international trade functions.

The issue of trade functions reorganization can best be considered in the context of the problems future trade policy will have to address and the role envisioned for that trade policy as it relates to other national policies. A long U.S. tradition of liberal trade poli-

cies has been a foundation for healthy international and U.S. economies. However, in recent years the trade-restricting behavior of trading nations has become more sophisticated, and the stakes have risen dramatically. These factors, together with the negotiation of comprehensive, but still experimental, agreements restricting the use of nontariff barriers, pose new problems to the United States as the leader on liberal trade. Will the United States be able to encourage adherence to the new agreements on the part of our trading partners? Will we be able to discipline our own tendencies toward protectionism in accordance with the terms of the MTN? AIA is more concerned that both questions be answered affirmatively by future U.S. trade policies than with who develops those policies, although we recognize that these points are inextricably intertwined. We are also concerned that future policymakers take active cognizance of the increasing relationship between international trade policy and national economic, defense, agricultural, consumer, and foreign policies. Finally, we believe that future trade policymakers will have to make some hard choices that are necessary to establish an effective and comprehensive export program.

The efforts of this Congress to reorganize Federal trade functions are a necessary first step in elevating the priority of trade policymaking and thus addressing these concerns.

We have concluded that only a new entity in the Executive Office of the President will have the political power and the authority to elevate this priority and to insure the implementation of the policy that it sets.

AIA believes that the missing element in our present international trade activities is a publicly enunciated, thoughtful, long-term trade policy to which the President is fully and firmly committed. No entity in the Government today is charged with the task of developing and coordinating U.S. trade and investment policy with attention to its present and future relationship to other national policy issues.

AIA believes a strong policymaking office in the White House offers the best opportunity to fill this void and create strong trade programs with appropriate interfacing of major national policies. We feel that the following are necessary characteristics for structuring such an entity.

It should be located in the Executive Office of the President so as to hold a position of primacy and authority on international trade issues. The officer directly responsible for developing policy should be a member of the President's cabinet. The entity should have policy coordination and analysis staffs which are professional, permanent and large enough so as to command the respect of other departments and agencies.

The entity should have trade negotiation authority. It should have sufficient power to see that negotiated agreements are implemented in the United States and to insure foreign adherence to the agreements. The entity should not be part of or associated with any existing department which has a long-standing constituency.

Finally, the appointment of the head of this entity should be subject to congressional confirmation, and the entity should be mandated by legislation.

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Beyond these characteristics we believe little or no change need be made in the present assignment of trade program administration among the departments.

We do want to emphasize one of these points that has not been discussed here today, and that is our conviction that this policy office must have a highly professional analysis staff. One shortcoming of the STR is that it is not large enough to do the statistical and policy research and analysis necessary for the development of trade policy, even without the additional tasks of coordinating trade policy with other national policies. I should add, however, that in the past several years the STR staff has begun to develop this sort of capability, and it has done some excellent work in this area. Its efforts should be encouraged with the authorization of additional staff. Adequate analytical capability is a clear prerequisite to any policymaker. The National Security Council provides an excellent example, both for professionalism and size. Failure to increase the STR analytical, if not statistical, capability may be the most serious defect in the President's reorganization proposal.

Concerning the reassignment of unfair trade statutes administration, bureaucratic perception that the President has developed a coherent trade policy to which he is committed will lessen much of the independence exhibited in the past by trade program administrators. Therefore, we see little need to shift responsibility for antidumping, countervailing duty and section 337 enforcement if our recommendations for a strong trade policy office are implemented.

We recognize the political pressure to remove antidumping and countervailing duty enforcement from Treasury, but we believe all parties will be better served by leaving that responsibility in Treasury with oversight by the new trade entity or by the existing Trade Policy Committee.

Pressures for this change arose out of Treasury's delay in several prominent cases and from a perception of bias in the Department against strict application of these statutes. The Department has made significant changes in its practice in the past 2 years which have more than adequately answered the criticism regarding delay. Continued oversight by the President, the Trade Policy Committee, and the Congress will insure that these new practices continue. Further, the Trade Agreements Act has circumscribed the administering authority's discretion so drastically that the criticism regarding a free trade bias, if ever true, is no longer valid.

On the other hand, transfer of this highly complex area to Commerce, which has no experience in the area, and which has a clearly recognized protectionist bias—a bias not as severely circumscribed by the Trade Agreements Act—will only exacerbate the problem.

We also see no compelling reason to transfer the administration of section 337, even if the Treasury Department's responsibilities under the antidumping and countervailing duty laws were to be removed to Commerce. We perceive no shortcomings in the ITC's action under this section that would be cured by such a transfer. We also believe that the ITC should retain its jurisdiction over antidumping and countervailing duty injury determinations.

AIA believes that development of overall U.S. export policy should be part of the trade office's role. Specifics of that policy, for example, the details of its application in specific industries, license requests and industrial analysis, should remain with Commerce.

Responsibility for maintaining and improving product nomenclature systems, including domestic and international comparability and harmonization, now rests with the Committee for Statistical Annotation of Tariff Schedules, the so-called 484(e) Committee, and the ITC. Together, they have labored at these complex and thankless tasks with professionalism and dedication. If these functions were to be moved, and we do not necessarily recommend that they do, the new locus would more properly be the President's trade policy analysis staff and not the Department of Commerce.

AIA would also like to take this opportunity to suggest that this committee consider that a new commission be established to study the outlook and alternatives for U.S. international trade for the coming decade and report to the Nation on how best we can meet the challenges which lie ahead. Such commissions in the past have performed a valuable educative function, but even the report of the Williams Commission in 1971 has been outdated by the overwhelming changes in world trade since its publication.

The areas to be investigated by a new commission should include but go beyond the subjects studied by the Williams Commission. They include international competition in research and development, structural and sectoral employment in the United States, energy as it relates to trade, international protection of confidential business information submitted by nonresident corporations for U.S. governmental regulatory purposes, U.S. tax policies, and dispute prevention as well as dispute settlement mechanisms.

A restructuring of our national policymaking function may bring improvements, but the root problem is a lack of guidance as to the direction of that policy. We feel a commission could provide the basis for that leadership and get a new trade policy office off to a running start.

This exercise in reorganization is a timely and necessary one insofar as it is directed toward creating a strong international trade policymaking entity. Reorganization of the operational bureaucracy for trade strikes us as much less important. The ability to create a strong trade policy is of utmost importance. With such a policy firmly endorsed by the President, a strong trade policy office will be able to provide direction to administering agencies whatever their location. Lack of such direction and oversight has permitted conflicting applications of trade laws by the various agencies. We believe a Presidential trade office will go far toward obviating the need for extensive reassignment of administrative tasks.

Thank you. We welcome any questions you may have.

[Mr. Maxwell's prepared statement follows:]

TESTIMONY OF RICHARD MAXWELL, VICE PRESIDENT, ASSOCIATED DRY GOODS CORP., PRESIDENT, AMERICAN IMPORTERS ASSOCIATION

SUMMARY

There should be established in the Executive Office of the President an office to develop a long term trade policy coordinated with other major domestic and foreign policies. The head of this office should be a member of the President's cabinet. The

office should have an expanded policy coordination and analysis staff. The office should have all trade negotiating authority and sufficient power implementation of negotiated agreements. It should not be part of or associated with an existing constituency-based department. The office should be created legislatively and its head should be appointed subject to Congressional confirmation.

A trade office such as we describe with oversight authority over the administration of trade programs in other agencies will lessen the perceived need to alter existing administrative assignments. Antidumping and countervailing duty enforcement, including injury determinations, and section 337 administration, should remain with the Treasury Department and the International Trade Commission.

AIA recommends that the Congress take this opportunity to establish a commission, in the nature of the 1971 Williams Commission, to develop advice regarding the directions future U.S. trade policy ought to take in light of the significant developments in the world marketplace, domestic industry, and the changes in the GATT.

Mr. Chairman and members of the committee, my name is Richard Maxwell. I am Vice President of Associated Dry Goods Corporation of New York City. My company operates sixteen quality department store divisions throughout the country, as well as the Sycamore Specialty Stores in the Midwest. Included in the Associated family of stores are the nationally known Lord & Taylor, Robinson's in California, and Goldsmith's in Phoenix. I appear here in my capacity as President of the American Importer's Association (AIA), 420 Lexington Avenue, New York City. I am accompanied by Barry Nemmers, Staff Attorney for AIA.

The American Importers Association is a non-profit organization formed in 1921 to foster and protect the importing business in the United States. As the only association of national scope representing American companies engaged in the import trade, AIA is a recognized spokesman for importers throughout the nation.

We welcome this opportunity to present our views on the question of reorganizing the federal government's international trade functions.

I. INTRODUCTION

The issue of trade function reorganization can best be considered in the context of the problems future trade policy will have to address and the role envisioned for that trade policy as it relates to other national policies. The United States has maintained a long tradition of liberal trade policies; this tradition has been a foundation for healthy international and U.S. economy. However, in the recent years the trade restricting behavior of trading nations has become more sophisticated, and the stakes have risen dramatically. These factors together with the negotiation of comprehensive, but experimental, agreements restricting the use of non-tariff barriers pose new problems to the U.S. as the leader on liberal trade. Will the United States be able to encourage adherence to the new agreements on the part of our trading partners? Will we be able to discipline our own tendencies toward protectionism in accordance with the terms of the MTN? AIA is more concerned that both questions be answered affirmatively by future U.S. trade policies than with who develops those policies. We also are concerned that future policymakers take active cognizance of the increasing interrelationship between international trade policy and national economic, defense, agricultural, consumer, and foreign policies. Finally, we believe that future trade policymakers must make the hard choices necessary to establish an effective and comprehensive export program.

The efforts of this Congress to reorganize federal trade functions are a necessary first step in elevating the priority of trade policymaking, and, thus, addressing these concerns. We have concluded that only a new entity in the Executive Office of the President will have the political power and authority to elevate this priority and ensure the implementation of the policy that it sets.

Contributing to the effectiveness of past U.S. trade policies, however, has been the healthy interagency debate over the specifics of those policies. We hope that any new policy making framework will continue to encourage this exchange of diverse views between departments as well as between diverse national interests rather than stifle it.

Future policymaking also will require input from the highest quality policy analysis and research staffing. The objective of thoughtful, comprehensive planning requires an aggressive, creative and professional in-house staff. Such a staff of adequate size and with a comparable mission does not now exist in any department or agency, and should be authorized as part of any reorganization action by this Congress.

We are not confident that a new department can competently play all these roles. The consolidation of existing agencies into the two new Departments of Transporta-

tion and Energy have failed to meet the goal envisioned for a trade and investment department: the development of effective national policies in their respective areas. We question whether a new department devoted in international trade would be any more successful.

II. BASIC ORGANIZATION STRUCTURE

This Subcommittee's Release No. 33 suggests three approaches to reorganization. Many other variations have been offered by others. AIA believes that the missing element in our present international trade activities is a publicly-enunciated, thoughtful, long term trade policy to which the President is firmly committed. No entity in the government today is charged with the task of developing and coordinating U.S. trade and investment policy with attention to its present and future relationships with other national policy issues. Nor is there a primary mandate in any office to coordinate these policies with the need to expand U.S. international trade or to maximize consumer benefits from international trade.

AIA believes that a strong policymaking office in the Executive Office offers the best opportunity to fill this void and create strong trade programs with appropriate interfacing with major national policies. Only an office close to the President can coordinate these diverse interests.

We feel that the following are necessary characteristics for structuring such an entity:

It should be located in the Executive Office of the President so as to hold a position of primacy and authority on international trade issues.

The officer directly responsible for developing policy should be a member of the President's Cabinet.

The entity should have policy coordination and analysis staffs which are professional, permanent and large enough so as to command the respect of other departments and agencies.

The entity should have trade negotiation authority.

The entity should have sufficient power to see that negotiated agreements are implemented in the U.S. and to ensure foreign adherence to the agreements.

The entity should not be part of or associated with any existing department which has a long-standing constituency.

The appointment of the head of the entity should be subject to Congressional confirmation.

The new entity should be mandated by legislation.

Beyond these characteristics, we believe that little or no change need be made in the present assignment of trade program administration among the departments.

The following paragraphs express some of the reasons why we believe each of the characteristics is essential.

(A) The entity should be placed in the Executive Office of the President.

The development of trade policy can never be isolated as an independent subject. Even if trade functions are removed from existing departments to a new, consolidated department, the old departments will continue to have valid interests in trade. New offices will soon regenerate within the departments, and interagency jurisdictional conflicts will reappear.

Rather than discouraging the espousal of valid interests, these views should be channeled into a focal entity with the authority and independence to choose between and balance competing views and then enforce the policy ultimately selected. Only the Office of the President is in such a position.

One of the forces behind the rising interest in reorganization is the recognition that international trade policy is no longer to be treated as an offshoot of domestic economic policy or foreign and defense policies, but that it must be considered on an equal footing and that other policies may at times need to accede to its demands. Such a readjustment of attitude requires that the President bring his presence fully to bear on all policy determinations as a whole. He can best do that by designating international trade policy making as important enough to warrant a place beside the National Security Council, the Council of Economic Advisors, and the Ambassador to the United Nations. Consolidation into a few or existing department would move the subject away from the President

(B) The head of a new entity should be a member of the President's Cabinet.

In a new department, the Secretary would be a member of the Cabinet but only as one among equals without special authority to decide interdepartmental disputes. His or her voice could not be expected to carry the special kind of authority that we are suggesting is necessary. The present STR has had that authority but only for trade negotiation purposes. An officer with the even broader mandate of setting trade policy for the government will need even a stronger hand.

As a corollary, it is important, as the Congress considers strengthening the Trade Policy Committee or creating a similar "trade council", to ensure that the head of any new entity not be made subordinate to such a committee or council but only be advised by it. Efforts by previous administrations to establish interagency committees as the primary policymaker have been recognized as ineffective. International trade policy must be the only responsibility of the primary policymaker.

If trade policy were to be consolidated with existing Department of Commerce functions, it would be forced to compete for the attention of the Secretary with the department's domestic commercial and non-commercial missions including even such agencies as the Bureau of the Census, the National Oceanic & Atmospheric Administration, and the U.S. Fire Administration. Trade policy clearly would become lost in Commerce's bureaucratic morass, and the person responsible solely for international trade would not sit as a member of the Cabinet.

(C) The entity must have a professional analysis staff.

One shortcoming of the STR is that it is not large enough to do the statistical and policy research and analysis necessary for the development of trade policy even without the additional tasks of coordinating trade policy with other national policies. It presently receives much of its support from the International Trade Commission. The addition of overall policy development and oversight, however, requires that an additional analytical capability be given to the new entity. The National Security Council provides an excellent example both for professionalism and size. Failure to increase the STR's analytic, if not its statistical, capabilities may be the most serious defect in the President's reorganization proposal.

The staff's size must be restrained, however. The Department of Commerce is an example of analysis growing beyond demonstrated need—where analysis becomes more a function of competition for attention than of support for decision-making. In a department, all too often, the numbers of personnel become equated with power and effectiveness. This tendency is more restrained in the Executive Office.

(D) The entity should have trade negotiation authority; and

(E) The entity must have the power to ensure that trade agreements are implemented.

This entity should be empowered to conduct all U.S. trade negotiations. It must have the authority and personnel to ensure that policy resulting from negotiated agreements is carried out by the responsible administering agency. It should also be able to bring pressure on other signatories to adhere to the provisions of the agreement. The entity should be authorized personnel levels adequate to allow it to maintain active and visible U.S. representation at the GATT and in UNCTAD.

(F) Trade policy should not be assigned to a consistituency-based department.

An entity with authority to develop international trade policy must not be "captured" by any single constituency. It must be accessible and sensitive to the needs of all partisan and sectoral interests, but it must hold itself in a position to be able to say no to any demands not in the overall national interests. A new department would be more easily "captured" than an office in the White House.

The entity must also be in a position to give serious consideration to interests which do not wield strong, organized political influence such as the consumer, the poor, and those persons living on fixed incomes. These citizens through lack of an interested forum are forced to bear the related costs of inflation and the costs of import restrictions.

(G) The appointments of the chief policy officers should be confirmed by the Congress; and

(H) The new entity should be established by an Act of Congress.

The new entity must have the authority of a statutory mandate. In its operations, the entity must be perceived by our trading partners not merely as an arm of the President but as an entity backed by the authority of both the President and the Congress.

III. UNFAIR TRADE STATUTES

Bureaucratic perception that the President has developed a coherent trade policy to which he is committed will lessen much of the independence exhibited in the past by trade programs administrators. Therefore, we see little need to shift responsibility for antidumping, countervailing duty, and steel trigger price mechanism enforcement if our recommendations are implemented.

We largely agree with the President's proposals for strengthening the STR to empower it to develop and coordinate trade policy, although we believe the STR should have its own analysis staff. We disagree with the President's recommendation that the administration of the antidumping and countervailing duty laws and related functions should be assigned to the Department of Commerce.

While we recongnize the political pressure to remove antidumping and countervailing duty enforcement from the Treasury Department, we believe that all parties will be better served by leaving that responsibility in Treasury with certain modifications and with oversight by the new trade entity of the Trade Policy Committee. Pressure for this change arose out of Treasury's delay in several prominent cases and from a perception of bias in the Department against strict application of these statutes. The Department has made significant changes in its practices in the past two years which have more than adequately answered the criticism regarding delay. Continued oversight by the President, the TPC, and the Congress will ensure that these new practices continue. The Trade Agreements Act has circumscribed the administering authority's discretion so drastically that the criticism regarding a free trade bias, if ever true, is no longer valid.

On the other hand, transfer of this highly complex area to Commerce, which has no experience in the area and which has a clearly recognized protectionist bias—a bias which was not as severely circumscribed by the Act—will only exacerbate the problem. Delays and improper judgments engendered by inexperience will result in continuing criticism.

Responsibility for enforcing the antidumping and countervailing duty laws should belong wholly to one agency or department. An unworkable approach would be to leave investigations with the Customs Service while assigning the task of making determinations to a department or agency other than Treasury. Similarly, the responsibility for accepting undertakings by foreign governments or exporters should belong to the same department.

We see no compelling reason to transfer the administration of section 337 of the Tariff Act of 1930 even if the Treasury Department's responsibilities under the antidumping and countervailing duty laws were removed to Commerce. We can perceive no shortcomings in the ITC's section 337 administration that would be cured by such a transfer. We also believe that the ITC should retain its jurisdiction over antidumping and countervailing duty injury determinations.

IV. INDUSTRIAL ANALYSIS; EXPORT PROMOTION

While the President's trade policy office we envision should be charged with developing a realistic export policy and overall export programs, it must maintain a "commercial neutrality." This office would be compromised as an objective policymaker if it were to become identified with specific domestic (or international) interests. Industrial analysis should remain with the Department of Commerce which might propose policy alternatives based on its analysis for selection by the trade office.

Responsibility for maintaining and improving product nonmenclature systems, including domestic and international comparability and harmonization now rests with the Committee for Statistical Annotation of Tariff Schedules (the "484(e) Committee) and the International Trade Commission. Together they have labored at these complex and thankless tasks with professionalism and dedication. If these functions were to be moved, the new locus would more properly be the President's trade office and not the Department of Commerce.

AIA believes that the development of a comprehensive U.S. export policy would be an integral part of the trade office's role. Specifics of that policy—the details of its application in specific industries or license requests, for example—should remain with Commerce. Other departments would also have certain administrative responsibilities—Treasury for any tax-related programs, for example.

V. A NATIONAL COMMISSION

An assumption implicit in our statement today is that a new trade office will have as a first order of business an analysis of current U.S. trade posture and proposals for the direction of future policy. AIA would like to take this opportunity to suggest that a new Commission be established to study the outlook and alternatives for U.S. international trade for the coming decade and to report to the nation on how best we can meet the challenges which lie ahead.

Such commissions in the past have performed a valuable educative function, but even the report of the Williams Commission in 1971 has been outdated by the overwhelming changes in world trade since its publication. U.S. trade policy today all too often is crisis-oriented and lacks a long-term focus. The nation's export efforts are ineffective because we still lack any real agreement about what form export promotion should take. Every trade issue provokes heated debate but, all too often, very little light. The world's economies have entered a new era; our trade policies do not address these changed circumstances except in reaction.

A new Commission should address as a whole our domestic and international economic policies, the direction our vital industries are moving, the needs of the citizenry as consumers and the problems of inflation. Its report should advise the government, industry, and the public concerning what can be accomplished, why it must be done, and how it can best be attempted.

The areas to be investigated include but go beyond the subjects studied by the Williams Commission. They include international competition in research and development, structural and sectoral employment, energy as it relates to trade, agriculture, international protection of confidential business information submitted by non-resident corporations for governmental regulatory purposes, taxation, and dispute prevention as well as dispute settlement mechanisms to work toward an internationally-accepted rule of law in international trade and commerce.

The commission should establish a pattern for future policymaking in the President's trade office by addressing policy issues outside of trade but which will have a significant impact on our trade programs. For example, the U.S. Department of Labor has decided to allow the use of Comprehensive Employment and Training Act (CETA) funds to train sewing machine operators for the domestic apparel industry. For the apparel industry—the same companies and unions which have pressured Congress and the Administration to protect the jobs of workers now employed! The Department of Labor now finds there is a shortage of 1,000 workers in New Jersey's apparel industry alone! At the same time, however, this nation has extensive restraints on the importation of apparel items for the purpose of protecting an industry which claims to be unable to compete with lower-wage foreign competition. Why then is the government preparing to train young people for careers in a noncompetitive industry? Has the Administration made a decision to protect this industry for the life of these new workers regardless of the costs to the consumer? More likely, these policies were developed independently without consideration of their interrelationship. As a consequence, we are seeing the beginning of a cycle that will end with these CETA trained workers applying for adjustment assistance years hence. A trade policy office must consider conflicting decisions such as these, and a national commission ought to consider thoughtfully the direction that office should take. It would seem more logical, for example, for CETA funds to be used to encourage training in industries which are competitive in the international marketplace. These decisions are difficult, but as a nation we must begin to predict where events are leading us.

A restructuring of our national trade policymaking function may bring improvements, but our root problem is a lack of guidance as to what directions that policy should take. We feel that a Commission could provide the basis for that leadership.

VI. CONCLUSION

This exercise in reorganization is a timely and necessary one insofar as it is directed toward creating a strong international trade policymaking entity. Reorganization of the operational bureaucracy for trade strikes us as much less important.

The ability to create a strong trade policy is the heart of the problem. With such a policy, firmly endorsed by the President, a strong trade policy office will be able to provide direction to administering agencies whatever their location. Lack of such direction and oversight has permitted conflicting applications of trade laws by the various agencies. We believe that a Presidential trade office will go far toward obviating the need for extensive reassignment of administrative tasks.

As this Committee considers the alternatives for trade reorganization, we urge you to give serious thought to the realities of a bureaucracy. What will happen in departments with a natural interest in trade which are stripped of existing trade responsbilitity? Are they not likely to regenerate similar offices in the near future? On the other hand, can the injection of new responsibilities revitalize an overgrown, lethargic Department of Commerce? Will the mere transfer of administrative responsibilities significantly alter the present policy orientation of those offices?

In our experience, we are pessimistic that administrative reorganization will cause fundamental improvement. We greatly fear that the primary result of operational reorganization will be more bureaucracy, more diffused responsibility, and ultimately less vitality in the agencies involved with international trade.

Mr. GUARINI. Thank you, Mr. Nemmers.

From what you state, I assume that you would be against a separate department of international trade; is that correct?

Mr. NEMMERS. I don't think we would be strongly opposed to it. However, we feel it has numerous disadvantages which concern us.

Immediately comes to mind the creation of the two new Departments of Transportation and Energy in the last 10 years, which were assigned similar mandates and similar roles; that is, to create a strong national policy in their appropriate areas. Both have come under severe criticism for failing to do that, and I really wonder whether a department of trade would be able to do any better.

We are also concerned that a department of trade would stand as one among equals, among the other departments, all of whom must necessarily retain an interest in trade, as the preceding witness stated, and whether that new department would have the authority to both develop and then see to the enforcement of that policy among all the other agencies and departments is a question that we wonder about.

Mr. GUARINI. You have called for creation of a new policy department which would be an additional agency with the new structure. We had formerly the Council of International Economic Policy Commission, which was disbanded. Are you suggesting now that we resurrect and revive this old policymaking commission that was disbanded?

Mr. NEMMERS. This is not directed toward our suggestion of a national commission, which would be totally independent, a blue ribbon panel, in effect. But your question is appropriate. Several of the points that we make about a new trade policy office go towards this.

We are talking more in terms of expanding the STR. Instead of making it a special trade representative for negotiations, making it a trade policy office in the Office of the President.

Mr. GUARINI. Why can't we then expand the STR to include broader policy making questions than it presently has instead of creating an extra agency which would only be duplication and overlapping of jurisdiction?

Mr. NEMMERS. Essentially yes, as long as there is a clear delineation made between the old STR and the new office, so we are not just sliding into an extension of the STR with perhaps a few extra duties. I am concerned, and AIA is concerned, about the suggestion of a new CIEP. CIEP and several other preceding committees in the White House did not serve a purpose, and one of the main reasons is that the people who served on those committees did not have trade as their primary responsibility and did not devote full time to trade. If such a committee were to be reestablished, and I think a better suggestion would be to use the existing Trade Policy Committee, the STR or the new trade policy officer should have primacy over that committee. That committee would work in conjunction with the STR, but a single person must necessarily be in charge of developing trade policy.

Mr. GUARINI. Fundamentally, you are not actually suggesting an additional agency?

Mr. NEMMERS. No, we are not.

Mr. GUARINI. Thank you very much.

Mr. Fisher?

Mr. FISHER. No questions.

Mr. GUARINI. Thank you, Mr. Nemmers.

The committee welcomes the International Association of Machinists & Aerospace Workers, represented by Helen M. Kramer,

assistant to the director for international affairs, presenting a statement of William W. Winpisinger, the international president. We welcome you and appreciate any remarks you may want to make for the record.

STATEMENT OF WILLIAM W. WINPISINGER, INTERNATIONAL PRESIDENT, INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, AS PRESENTED BY HELEN M. KRAMER, ASSISTANT TO THE DIRECTOR FOR INTERNATIONAL AFFAIRS

Ms. KRAMER. Thank you, Mr. Chairman. With your permission, I will not read the entire statement into the record, but will try to summarize.

In judging various reorganization proposals we seek a plan that best satisfies three criteria:

First, creation of unified direction and responsibility in the formulation of trade policy covering the areas of negotiations, export promotion and enforcement.

Second, maintaining the interagency consultative process, with a central role for the U.S. Department of Labor in all interagency committees concerned with international trade policy;

Third, maintaining an effective private sector advisory role.

We believe it is vital to our national interests that the Congress and administration act quickly to reorganize international trade functions before the new trade agreements go into effect. Already we are witnessing a slackening of effort and policy direction, while the Office of the Special Trade Representative drifts without leadership. Experienced and talented personnel cannot be retained nor attracted to government service while organizational questions are unresolved, and in this vacuum some of our most able trade negotiators have already gone into private law practice.

It was with these concerns that we examined the administration's reorganization proposal, as presented by James T. McIntyre, Jr., Director of the Office of Management and Budget, to the House Government Operations Committee.

In the area of basic organizational structure, the administration's proposal is seriously deficient. It does not achieve the goal of unified trade policy direction. Instead, it creates divided responsibilities between the Executive Office of the President and a renamed Department of Commerce. Three officials would speak for the administration in trade policy matters: The U.S. Trade Representative, the Secretary of Trade and Commerce, and a newly created Under Secretary for Trade. Nothing in the proposal as presented by OMB indicates which of these officers would have the final word in the event of a disagreement. Deadlocks would end up being resolved by someone on the White House staff who is unlikely to be an expert on trade.

We do not believe that the Department of Commerce as presently organized is capable of carrying out the role assigned to it in the OMB proposal. Until the department is streamlined by a major pruning effort, it will be unable to attract the top quality, high-level personnel required by the task. We agree that the Commerce Department should administer the export promotion program, and should have an under secretary for export promotion, but do not

consider the department capable of formulating export policy. The department will have more than enough to do in developing its capability to conduct industrial sector analysis, in which it is presently woefully deficient.

Of the available options for organizational structure, the proposal to create a new department of trade fails to satisfy our second criterion, which is intended to insure that labor concerns are adequately represented in the formulation and implementation of trade policy. We therefore support the proposal in H.R. 4995 to create an independent special trade agency, whose director would have the primary authority within the executive branch for all trade policy functions. This agency should assume trade responsibilities now carried out or directed by the Department of State.

Under the administration's reorganization proposal, the policy coordination role played by the Interagency Trade Policy Committee would be continued, but with substantive modifications by Executive order that are totally unacceptable.

The proposed Executive order would, on the surface, expand the jurisdiction of the Trade Policy Committee, TPC, but would reduce its direct input into trade matters. The requirement in section 3(b) of Executive Order 11846 that STR submit the TPC's advice and recommendations to the President would be eliminated, thus increasing STR's discretionary power. OMB also proposes to eliminate the requirement in section 3(c) that TPC recommendations on basic policy issues shall guide the administration of the trade agreements program.

The most important and objectionable change proposed by OMB is the creation of a new trade negotiating committee, TNC, with direct responsibility for managing negotiations, from which the Department of Labor would be excluded. Although the TNC is described as a subcommittee of the Trade Policy Committee, there is no description of actual interaction between them and no reporting requirement in the OMB proposal. OMB would eliminate the requirement in the current executive order that the TPC be kept informed of the status and conduct of negotiations and be consulted on the basic policy issues arising during negotiations. Instead, the TNC would oversee negotiations, and STR would have only to consult the TPC on policy questions. This means that there would be no representation in trade negotiations of the Government agency whose responsibilities include assessment of the domestic employment impact of any trade agreement. The labor movement cannot accept this. It would cripple the unions' role in the private sector advisory process.

We welcome, however, the administration's recognition of the importance of foreign investment policy to trade concerns by expanding the TPC's coordinating role to this area. With respect to the effective enforcement of the unfair trade laws, in our view effective enforcement of our laws against unfair trade practices requires three elements: first, that enforcement be given priority; second, that it be the sole responsibility of an official at the assistant secretary level; and, third, that it be administered by a separate unit with adequate staffing in numbers and qualifications. This means that the top investigative personnel of the Customs Service must be based in the administering agency.

These three elements would insure clear responsibility and accountability. Policy direction, however, must come from the special trade agency.

The administration proposes to place enforcement of the antidumping and countervailing duty statutes in the Commerce Department. Other trade enforcement matters would be located in STR.

It is our view that the Commerce Department lacks the expertise to administer the antidumping and countervailing duty statutes, and that enforcement cannot be left to Customs Service personnel whose primary concerns and experience have lain in enforcement of the drug laws. New investigators should be hired and based in Washington.

On the question of a commercial service to improve U.S. export promotion activities, the administration proposes to create a foreign commercial service based in the Commerce Department. While we agree that the Foreign Service commercial attaches cannot do an adequate job of assisting American businesses to gain export markets, we do not regard the creation of a large commercial service as a top priority at this stage. Rather, we believe it is much more important to place highly qualified personnel with business backgrounds, by either education or experience, in key posts overseas. Small U.S. Government offices should be established in Brussels, Paris, London, and Tokyo to monitor foreign compliance with the nontariff barrier codes, in particular the Government Procurement Code, and to assist U.S. businesses in establishing export markets. Legislation should bar U.S. commercial service personnel from assisting U.S. businesses to make foreign investments.

We oppose the creation of a foreign commercial service that would base personnel permanently overseas. Such personnel lose touch with realities back home, and tend to subordinate domestic interests to the niceties of international diplomacy. We therefore support the idea of rotating these personnel among Washington, domestic field offices and foreign posts.

To conclude, of the various trade proposals submitted, the one that comes closest to addressing our concerns is H.R. 4995, submitted by Representative Gillis Long.

I will respond to any questions you may have.

[Mr. Winpisinger's prepared statement follows:]

STATEMENT OF WILLIAM W. WINPISINGER, INTERNATIONAL PRESIDENT, INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS, AFL-CIO

SUMMARY OF COMMENTS

Basic organizational structure

1. OMB's proposal fails to create clear leadership responsibility in trade policy and enforcement.
2. Trade policy leadership should be placed in a separate Cabinet level Special Trade Agency.
3. The Department of Commerce must be reorganized to make it capable of carrying out an export promotion program.
4. Jurisdiction of the interagency Trade Policy Committee should be expanded, as proposed by OMB.
5. Membership of the proposed Trade Negotiating Committee should include the U.S. Department of Labor.

Enforcement of the unfair trade laws

1. Enforcement of the antidumping and countervailing duty statutes must be the sole responsibility of an official at the Assistant Secretary level.
2. Enforcement must be administered by a separate unit and given sufficient staffing.
3. The Commerce Department lacks the expertise to administer these statutes
4. The investigatory personnel of the U.S. Customs Service must be based in the administering agency.
5. Enforcement cannt be separated from trade policy formulation.

Commercial service

1. First priority should be establishment of offices in Brussels, Paris, London and Tokyo to monitor implementation of the trade agreements.
2. U.S. commercial service personnel should rotate among Washington, domestic field offices and foreign posts.
3. Legislation should bar commercial service personnel from assisting U.S. businesses to make foreign investments.

Mr. Chairman and members of the subcommittee, we welcome this opportunity the Committee on Ways and Means has afforded us to express the labor movement's concerns in reorganization of the Federal Government's international trade functions.

In judging various reorganization proposals, we seek a plan that best satisfies three criteria:

1. creation of unified direction and responsibility in the formulation of trade policy, covering the areas of negotiations, export promotion and enforcement;
2. maintaining the interagency consultative process, with a central role for the U.S. Department of Labor in all interagency committees concerned with international trade policy;
3. maintaining an effective private sector advisory role.

Everyone concerned with trade issues is well aware of the labor movement's longstanding criticisms of the executive branch's performance in the trade area. A particular sore point has been the failure of the Treasury Department to enforce U.S. trade laws, to the detriment of the nation's balance of trade, negotiating strength with other nations, and domestic employment and investment. A more fundamental criticism, one that goes to the conceptual core of trade policy, is the failure until now to recognize that in a world of mobile capital and technology, effective trade policy cannot be formulated in isolation from foreign investment policy.

We believe it is vital to our national interests that the Congress and Administration act quickly to reorganize international trade functions before the new trade agreements go into effect. Already we are witnessing a slackening of effort and policy direction, while the Office of the Special Trade Representative drifts without leadership. Experienced and talented personnel cannot be retained nor attracted to government service while organizational questions are unresolved, and in this vacuum some of our most able trade negotiators have already gone into private law practice.

It was with these concerns that we examined the Administration's reorganization proposal, as presented by James T. McIntyre, Jr., Director of the Office of Management and Budget, to the House Government Operations Committee.

Basic organizational structure

In the area of basic organizational structure, the Administration's proposal is seriously deficient. It does not achieve the goal of unified trade policy direction. Instead, it creates divided responsibilities between the Executive Office of the President and a renamed Department of Commerce. Three officials would speak for the Administration in trade policy matters: the United States Trade Representative, the Secretary of Trade and Commerce, and a newly created Under Secretary for Trade. Nothing in the proposal indicates which of these officers would have the final word in the event of a disagreement. Deadlocks would end up being resolved by someone on the White House staff who is unlikely to be an expert on trade.

We do not believe that the Department of Commerce as presently organized is capable of carrying out the role assigned to it in the OMB proposal. Until the Department is streamlined by a major pruning effort, it will be unable to attract the top quality high level personnel required by the task. We agree that the Commerce Department should administer the export promotion program, and should have an Under Secretary for Export Promotion, but do not consider the Department capable of formulating export *policy*. The Department will have more than enough to do in developing its capability to conduct industrial sector analysis,

in which it is presently woefully deficient. We have much to learn from other industrialized nations in this respect.

Of the available options for organizational structure, the proposal to create a new Department of trade fails to satisfy our second criterion, which is intended to ensure that labor concerns are adequately represented in the formulation and implementation of trade policy. We therefore support the proposal in H.R. 4995 to create an independent Special Trade Agency, whose director would have the primary authority within the executive branch for all trade policy functions. This agency should assume trade responsibilities now carried out or directed by the Department of State, including representation at the General Agreement on Tarriffs and Trade, the Organization for Economic Cooperation and Development, the United Nations Conference on Trade and Development, all bilaterial trade negotiations, international commodity negotiations and trade relations with non-market economies.

Under the Administration's reorganization proposal, the policy coordination role played by the interagency Trade Policy Committee would be continued, but with substantive modifications by executive order that are totally unacceptable.

The proposed executive order would on the surface expand the jurisdiction of the Trade Policy Committee (TPC), but would reduce its direct input into trade matters. The requirement in Section 3(b) of Executive Order 11846 that STR submit the TPC's advice and recommendations to the President would be eliminated, thus increasing STR's discretionary power. OMB also proposes to eliminate the requirement in Section 3(c) that TPC recommendations on basic policy issues "shall guide" the administration of the trade agreements program.

The most important and objectionable change proposed by OMB is the creation of a new Trade Negotiating Committee (TNC) with direct responsibility for managing negotiations, from which the Department of Labor would be omitted. Although the TNC is described as a subcommittee of the Trade Policy Committee, there is no description of actual interaction between them and no reporting requirement in the OMB proposal. OMB would eliminate the requirement in Section 3(b) of the current Executive Order that the TPC be kept informed of the status and conduct of negotiations and be consulted on the basic policy issues arising during negotiations. Instead, the TNC would oversee negotiations, and STR would have only to consult the TPC on policy questions. This means that there would be no representation in trade negotiations of the government agency whose responsibilities include assessment of the domestic employment impact of any trade agreement. The labor movement cannot accept this. It would cripple the unions' role in the private sector advisory process.

We welcome, however, the Administration's recognition of the importance of foreign investment policy to trade concerns by expanding the TPC's coordinating role to this area.

Enforcement of the unfair trade laws

Effective enforcement of our laws against unfair trade practices requires three elements: first, that enforcement be given priority; second, that it be the sole responsibility of an official at the Assistant Secretary level; and third, that it be administered by a separate unit with adequate staffing in numbers and qualifications. This means that the top investigative personnel of the Customs Service must be based in the administering agency.

These three elements would ensure clear responsibility and accountability. Policy direction, however, must come from the Special Trade Agency.

The Administration proposes to place enforcement of the antidumping and countervailing duty statutes in the Commerce Department. Other trade enforcement matters would be located in STR.

It is our view that the Commerce Department lacks the expertise to administer the antidumping and countervailing duty statutes, and that enforcement cannot be left to Customs Service personnel whose primary concerns and experience have lain in enforcement of the drug laws. New investigators should be hired and based in Washington.

Commercial service

To improve U.S. export promotion activities, the Administration proposes to create a foreign commercial service based in the Commerce Department. While we agree that the Foreign Service commercial attachés cannot do an adequate job of assisting American businesses to gain export markets, we do not regard the creation of a large commercial service as a top priority at this stage. Rather, we believe it is much more important to place highly qualified personnel with business backgrounds, by either education or experience, in key posts overseas. Small U.S. Government offices should be established in Brussels, Paris, London and Tokyo to

monitor foreign compliance with the non-tariff barrier codes, in particular the Government Procurement code, and to assist U.S. businesses in establishing export markets. Legislation should bar U.S. commercial service personnel from assisting U.S. businesses to make foreign investments.

We oppose the creation of a foreign commercial service that would base personnel permanently overseas. Such personnel lose touch with realities back home, and tend to subordinate domestic interests to the niceties of international diplomacy. We therefore support the idea of rotating these personnel among Washington, domestic field offices and foreign posts.

To conclude, of the various trade reorganization proposals submitted, the one that comes closest to addressing our concerns is H.R. 4995, submitted by Representative Gillis Long.

Mr. VANIK. The proposal that your organization sponsors is substantially the Long bill, which provides really for a department. Isn't that the substance of it?

Ms. KRAMER. Well, it is my understanding that the special trade agency——

Mr. VANIK. You would make the STR an independent agency?

Ms. KRAMER. That is right. It would be based on the present STR.

Mr. VANIK. I have been through many problems, as you know about, and Mr. Winpisinger knows about. For example, when I had problems relating to the fastener industry, the nut/bolt industry. If the STR had not had as close a relationship to the White House, those problems would have been much more difficult to resolve. The high visibility of STR with his position in the President's circle, really a step you might say above Cabinet level is very important. I think he has that in mind when he nominates a person of stature to take over the Bob Strauss function. It seems to me that we would put in jeopardy one of our very, very effective methods of getting to the highest level of the administration, if we would sacrifice the present role. This way, we have the advantage of the magnitude of the office that has been developed through Bob Strauss' administration; we have the potential for carrying on the same sort of thing in the appointment of Governor Askew. How do we respond to that? You know, this is not only an organization by rule; it is an organization by people, and, of course, we have to think about it over the long term, beyond these personalities, what is going to happen beyond these personalities, but I want to tell you that I think my problems in the past would have been much more difficult—our problems—if it were not for the relationship, the unique relationship the STR had with the President.

Ms. KRAMER. Mr. Chairman, I completely understand your concerns, and one of the difficulties we have in dealing with the various reorganization proposals is the constraints imposed by OMB in insisting that the staffing of the Executive Office of the President cannot be expanded. STR cannot do an adequate job, in particular, in enforcing the trade laws and in monitoring the implementation of the new trade agreements without sufficient personnel.

This has been one of the basic handicaps in enforcing the laws under the Treasury Department, where essentially they had only 12 people concerned with enforcement.

It is my understanding——

Mr. VANIK. Are you not comforted with a stronger law? We have written a much stronger law.

Ms. KRAMER. As you, yourself, remarked, Mr. Chairman, the law has to be enforced by people, and we thought we had protections in the amendments in the Trade Act of 1974, and I won't bring up the famous color TV case again; we are all familiar with what happened there. In the Treasury Department enforcement was not a matter of priority. There was nobody whose sole responsibility this enforcement was who could be called before you every month and questioned about enforcement activities.

In discussions that have been taking place among various people and organizations concerned with this matter, concerning the creation of a special trade agency, it was a general consensus that there should be a small staff that remains within the Executive Office of the President that would be headed by this Special Trade Representative, whatever that might be called under any reorganization proposal so that a strong liaison would be maintained, and certainly with the strengthened role of the Trade Policy Committee the close connection with the White House would be maintained provided that the Trade Policy Committee is not weakened as proposed by OMB by removing key functions to a subcommittee, which they call the Trade Negotiating Committee.

Mr. VANIK. I raised some of the very questions with the administration in the colloquy we had yesterday, and my own feeling is that I would like to see the trade negotiator's position strengthened over and above the President's recommendation, but I am not really ready to say I would like to separate him from the White House, because you know however you work it out, the White House policy is going to weigh very, very heavily in these matters.

Ms. KRAMER. It comes back to a problem of the staffing levels.

Mr. VANIK. Well, maybe we can argue that out. It seems to me the same amount of people are going to be involved wherever they are. It is a case of whether they are wearing one set of hats or another. I have always been afraid when we were transferring, and I was one of the advocates of transferring out of Treasury some of the functions which caused the neglect that was the problem in the *Zenith* case, and yet every time I looked at reorganization, I didn't know how we would avoid ending up with anyone else but the same people who made the error ending up with the responsibility. You know the title that people have to a government position, and I don't know how that kind of thing can be avoided, and the only way I think we can really approach the problem is try to provide strong leadership at the top so that policy and discipline will be exercised by a person at the top responsible.

That is one of the features of the Long bill, but I would like to strengthen the STR without severing the important link that he has with the Presidency.

You said nothing about the Trade Commission. Are you satisfied with those changes?

Ms. KRAMER. I can't say that we have been very happy with the performance of the ITC, but I really don't see how taking away section 337 cases would really improve much. I view that as the outcome of a dispute over jurisdiction between Treasury and ITC, and it seems to me that if we were to strengthen our whole enforcement mechanism, it might not be necessary to shift the unfair trade practices cases out of the ITC. Again, it goes back to

priorities and leadership and staffing, and I really saw that as more a struggle over turf between two government agencies than anything substantive.

Mr. VANIK. Thank you very much. Of course, the nomenclature change also is very serious, but you consider that a turf struggle, also?

Ms. KRAMER. Well, I haven't seen any evidence that shifting those functions is going to result in any great improvements. You may recall that the Trade Act of 1974 mandated the establishment of an early warning system on import statistics, and you know we are still waiting to see a full-fledged development of that, so that while again the argument is used by the Commerce Department that they were not given sufficient funding, I really question whether very much will be accomplished.

As we pointed out in our testimony, Commerce is trying to do too many things. Mr. Long, in his statement on the floor, referred to it as a kind of grandmother's attic full of things of whimsical items such as the Weather Service and the whale census. Perhaps if Commerce were trimmed of some of these assorted functions, it could perform more central functions more effectively, but until there is some evidence of that, I don't see why it should be moved from the Commission.

Mr. VANIK. Thank you very much. Send my best greetings to the international president. He is one of the leading citizens of my community in addition to his work here on the national scene.

I would like to call on Harvey Kaye, of Spencer & Kaye, and Paul Plaia, Jr., of Plaia, Schaumberg & Taubman, and ask them to please come forward. We will be very happy to have your testimony. Your entire statement will be admitted into the record, as submitted. You may summarize from it or excerpt, but I would hope you would try to hit the high points of it.

JOINT STATEMENT OF HARVEY KAYE AND PAUL PLAIA, JR., ATTORNEYS, WASHINGTON, D.C.

Mr. KAYE. It was not our intent this morning to repeat what is in our statement, and we only had but a brief statement to make to the committee at this time.

[The prepared statement follows:]

JOINT STATEMENT OF HARVEY KAYE AND PAUL PLAIA, JR., ATTORNEYS, WASHINGTON, D.C.

This statement only addresses the impact of reorganization upon the effective administration of Section 337 of the Tariff Act of 1930, as amended, and opposes removal of administration of Section 337 from the United States International Trade Commission.

PERSONAL

Harvey Kaye, whose office address is 1920 L Street, N.W., Washington, D.C., is an attorney and is registered to practice before the United States Patent Office. His statement is submitted on his own behalf. The law firm of Spencer & Kaye, in which he is a partner, has a substantial number of foreign clients as well as domestic clients who, it is believed, may benefit from the position taken herein. This statement, however, is not being made at the request of or on behalf of any client of the firm, or any person or organization.

Paul Plaia, Jr., whose office address is 1019 19th Street, N.W., Washington, D.C., is a partner in the law firm of Plaia, Schaumberg & Taubman, which has a substantial number of foreign clients as well as domestic clients who, it is believed, may benefit from the position taken herein. This statement however, is not made on

behalf or at the request of any client of the firm, or any person or organization. He was formerly employed by the General Counsel's Office, United States Tariff Commission, Washington, D.C.

We have particular interest in the proposed relocation of Section 337 into an executive agency because we have practiced for a number of years before the United States International Trade Commission concerning Section 337 cases and have written extensively in the area of Section 337.*

OUTLINE OF STATEMENT

Recommendation that the administration of Section 337 not be transferred from the United States International Trade Commission.

Reasons why Section 337 should not be relocated outside of the United States International Trade Commission.

Comments concerning the statutory and technical implications of a reorganization move.

I. SECTION 337 DIFFERS FROM OTHER TRADE-TYPE ADMINISTRATIVE PROCEEDINGS AND IS NOT READILY TRANSFERABLE TO AN EXECUTIVE AGENCY SUCH AS THE COMMERCE DEPARTMENT

A. Section 337 is a judicial or a quasi-judicial proceeding administered by the International Trade Commission in its capacity as an independent fact finding agency. To carry out properly its judicial function, it is important that the trier of fact be independent and not subject to control by those who have interests in the outcome of the proceedings.

B. Under the 1975 amendments to Section 337, hearings are conducted pursuant to the provisions of the Administrative Procedures Act with full "due process" protection to all parties participating in the proceedings. In order to protect the important due process rights now afforded under Section 337, it is necessary that the trier of fact be free of, and completely insulated from, persons with any private or political interest in the outcome of the proceedings.

C. To ensure that the Administrative Law Judges render independent decisions, it is essential that their tenure not be affected in any way by the outcome of their determinations. This is particularly significant inasmuch as the Administrative Law Judges are an extension of the Commissioners themselves, and the Commission's authority must be delegated to the ALJ with the institution of each investigation. It is as a result of this political independence that the Commission has a long history of non-partisan activities in aid of both the legislative and executive branches of government. Furthermore, this traditional role of independence permits the Commission to adapt itself to the type of judicial proceedings which are required in the administration of Section 337, i.e., APA type proceedings.

D. At present the administration of Section 337 includes formal discovery procedures as well as formal hearings before Administrative Law Judges.

E. As an important part of implementing and administering its Section 337 obligations, the Commission has promulgated rules and regulations in accordance with the Trade Act of 1974 and under which the Commission and its Administrative Law Judges have operated for more than three years. These rules, as passed by the Commission and implemented by the Law Judges, are similar to those of the Federal Rules of Civil Procedure.

F. As opposed to other types of interparty procedures, Section 337 has rigid time limit requirements. All cases must be completed within one year, or eighteen months for complicated cases. This creates great pressure upon the Commission, its employees, the judges and the parties. Notwithstanding these rigid requirements, the Commission has uniformly shown an ability to administer the statute so that proceedings are completed timely and in a manner which is fair and just to the parties.

G. In summary, any proposal to remove Section 337 proceedings from the International Trade Commission, an independent agency, to an executive department, must be examined carefully so as not to undermine the fundamental concepts of Section 337. Since Section 337 proceedings are judicial in nature, calling for formal hearings during which due process rights are guaranteed, it might be difficult, if not impossible, for an executive department to operate so as to assure completely these rights.

The International Trade Commission, through expedited and arduous work, has demonstrated its ability to handle investigations in a timely manner while providing Administrative Procedure Act due process rights. The ability to administer the proceedings under the rigid time limits has benefitted both complaining and re-

*A list of publications is attached hereto.

sponding parties in that both sides receive a rapid decision and thereby minimize the impediments to their business and commercial transactions. The International Trade Commission, the individual Commissioners, the Staff and the Administrative Law Judges have gained and continue to gain favorable experience in the laws of unfair competition which are involved in Section 337 proceedings and in the administration of due process-type proceedings wherein a formal record and impartial fact findings are required.

II. ADMINISTRATION OF SECTION 337 REQUIRES AN INDEPENDENT AGENCY SINCE IT ENTAILS JUDICIAL OR QUASI-JUDICIAL PROCEEDINGS RATHER THAN TRADE POLICY-TYPE PROCEEDINGS

A. (1) Section 337 proceedings involve complaints concerning various types of unfair competition including patent infringement, trade secret misappropriation and other unfair acts. The investigation of these types of activities occurs in an adversary setting. Parties stand before the Commission to have their rights and obligations determined as a matter of fact and law. The Commission has been administering this statute since 1922 and consequently possesses vast experience with and has developed a body of law in connection with Section 337.

(2) When the Administration prepared a proposal for Congress concerning the "Trade Reform Act of 1973," an amendment to Section 337 was proposed. The Administration, in referring to domestic dealing with unfair trade practices, stated that the authority to deal with unfair trade practices "must now be modernized if we are to respond effectively and even-handedly to unfair import competition at home." To effectuate this goal, the Administration sought to "amend the current statute concerning patent infringement by subjecting cases involving imports to *judicial proceedings* similar to those which involve domestic infringement. . . ." (Emphasis supplied.) The removal of Section 337 to an executie department might thwart this purpose.

(3) At the time this Committee prepared its report on the Trade Reform Act of 1973 and introduced H.R. 10710, it stated that one of the bill's purposes was "to improve the procedures and means of dealing with problems of unfair trade practices in the United States and abroad." This Committee indicated that Section 341, which would have amended Section 337, would have provided that in cases involving patent-based investigations Commission findings that the merchandise in question should be excluded would be final.

(4) Since the Committee was concerned that under the then-existing statute appeals to the CCPA might not be available, its proposed bill vested authority in the Commission to order exclusion of articles in patent-based investigations to make certain that the Commission would be subject to judicial review.

(5) That fairness was paramount in proposing amendments to Section 337 is clear from the Committee statement that:

"The Commission would also consider the evolution of patent law doctrines, including defenses based upon antitrust and equitable principles, and the public policy of promoting a 'free competition' in the determination of violations of the statute." (Committee Report at 78.)

(6) To assure fairness in Section 337 proceedings, the proposed bill required Commission proceedings and actions to be based upon a full hearing on a record so as to bring these provisions into accord with the provisions of the Administrative Procedure Act (Subchapter II of Chapter 5 of Title 5 of the United States Code).

(7) As pointed out by the Senate Finance Committee in its report on the bill: "The full hearing required would be a full 'due process' hearing. . . ." It further stated that the Commission in reaching its findings should accept and consider evidence regarding all legal and equitable defenses and to consider the evolution of patent law doctrines.

B. The International Trade Commission proceedings under Section 337 require adversary-type discovery similar to that available under the Federal Rules of Civil Procedure. Decisions and enforcement of the regulations during the discovery period involves application of sophisticated legal doctrine and precedent for which the Administrative Law Judges and the Commission Staff have been specifically trained and the regulations specifically designed. Prior to a positive remedy being issued by the Commission, the party complaining of unfair acts must meet its burden of proving that a violation of the section has taken place. This is not necessarily the case where policy type trade proceedings take place where many factors other than the specific facts alleged are necessarily weighed and determined.

C. Discovery and remedy of unfair acts, unlike policy determinations, should be free of any external political or diplomatic factors which are necessarily an integral part of administration of trade-type statutes.

D. Presently, Section 337 reserves for the President a 60-day period during which a Commission remedy based on its final factual and legal determination can be vetoed and set aside. It is important to note that the Presidential action, which may be based on foreign trade considerations, is a policy decision and is not a factual and legal determination such as that which resulted from the International Trade Commission proceedings.

III. TECHNICAL PROBLEMS MAY BE INSURMOUNTABLE IF SECTION 337 PROCEEDINGS WERE TO BE UPROOTED AND DEFERRED TO THE COMMERCE DEPARTMENT

A. Well-established rules and regulations as well as a full body of established Commission decisions would have to be transferred under whatever decision authority would be vested in the Commerce Department. In addition, the transfer of Section 337 would cause an automatic merger in one of the President's own departments of the Presidential veto with a factual and legal judicial determination. Consequently, special provisions would have to be developed to fully insulate Section 337 proceedings and findings within the Commerce Department from control and imput by executives of the Commerce Department itself and other executive agencies.

Should the Committee have any questions concerning this statement, we would be pleased to answer them.

Respectively submitted.

PARTIAL LIST OF PUBLICATIONS BY H. KAYE AND P. PLAIA ON SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED

The Tariff Commission And Patents: Anatomy Of A Section 337 Action, 55 Journal of the Patent Office Society, 346, 413, 1973.

Enforcement Of U.S Patents Against Imported Articles, Industrial Property (October 1974).

Revitalization Of Unfair Trade Causes In The Importation Of Goods: An Analysis Of The Amendments To Section 337, 57 Journal of the Patent Office Society, 208, 269, 1975.

Unfair Competition Appeals Under The New Trade Act, 57 Journal of the Patent Office Society, 659 (1975).

Unfair Trade In The Form Of Patent Infringement By The Importation Of Products Into The United States, Current Developments in Patent Law 395 (1976, PLI).

Tariff Act Section 337 Revisited: A Review Of Developments Since The Amendments Of 1975, 59 Journal of the Patent Office Society, 3, 1977.

The Relationship of Countervailing Duty And Antidumping Law To Section 337 Jurisdiction Of The U.S. International Trade Commission, 2 International Trade Law Journal 1, 1977.

Developments In Unfair Trade Practices In International Trade: A Review Of The Third And Fourth Years Under Section 337 As Amended By The Trade Act Of 1974, 61 Journal of the Patent Office Society, 115, 1979.

Mr. VANIK. You may proceed.

Mr. KAYE. We believe that for both substantive and procedural reasons section 337 proceedings should remain where they now are, namely, at the International Trade Commission. What has happened as a result of the Trade Act of 1974——

Mr. VANIK. Your offices are practitioners?

Mr. KAYE. That is correct. We are attorneys in private practice.

Mr. VANIK. I would like to know the specifics, technical reasons, why you feel it would be a mistake to move.

Mr. KAYE. Well, the functions of the Commission, at least in section 337 proceedings, appear to be primarily judicial in nature, as is recognized by this committee in its discussion of the Trade Act of 1974. The proceedings were at that time, as you know, placed under the Administrative Procedures Act, and it seemed to be important to the Congress that these proceedings be due-process type of proceedings.

Now with this in mind and the judicial structure of the proceedings in mind, we believe that proceedings of that type belong at an

independent agency so that decisions are made strictly on the law and on facts and not for policy reasons

Policy is not ignored under section 337 because the policy aspect of these proceedings is taken into consideration, or can be taken into consideration by the President subject to a determination by the Commission. The President can, in effect, veto any remedy issued by the Commission in section 337 action for policy reasons, so the policy matters are already taken care of.

That is all the statement we had today. We will be happy to answer any questions you have.

Mr. VANIK. You didn't say anything about nomenclature transfer. Does that pose any problems to you as a practitioner?

Mr. KAYE. We were trying to limit our testimony this morning to section 337 proceedings.

Mr. VANIK. Well, on that issue I just want you to know that I personally share your concerns on that transfer. I have raised that question with other witnesses; I raised the question with the OMB yesterday; and I am hoping that we can get to a policy position in subcommittee so that we can give the administration the benefit of our feeling on it before the final proposal comes down here, because I don't really know what sense it makes—this function is under the Administrative Procedures Act, isn't it?

Mr. KAYE. Yes.

Mr. VANIK. How will that operate if it was transferred to Commerce? Can you visualize that?

Mr. KAYE. I would assume that were it to be transferred, some type of procedure of using administrative law judges would have to be continued in the Commerce Department the way it is set up now.

Mr. PLAIA. Mr. Chairman, I think also somehow if it were transferred to the Commerce Department there would have to be a separation of bodies and people within the Department and control thereof to create the independence which already exists in the ITC.

Mr. VANIK. Then there is a question as to whether the Commerce Department can be objective about it.

Mr. PLAIA. As it works now, the fact findings and the conclusions of law are recommended to the Commission by the administrative law judge, and the Commission reviews and makes the final determination. I don't know how mechanically in the Commerce Department that would occur other than the recommended decisions going from the administrative law judge to the Secretary, and, of course, the Secretary would not be independent, as I see it proposed. He would be the head of an executive agency, a Presidential appointee.

Mr. VANIK. How could a finding be challenged? The law judge would make his finding and the Secretary would have arbitrary discretion to do anything he wanted to, couldn't he?

Mr. PLAIA. Correct.

Mr. VANIK. He could say the law judge made that finding, but I feel differently about it.

Mr. PLAIA. As it is administered today, there are appeals for individuals who come to the Commission with complaints or defending parties to the CCPA if they are adversely affected.

Mr. VANIK. How would it move to the courts then? Supposing the appeal is out of the administrative jurisdiction to the courts. What would be the procedure going to the courts?

Mr. PLAIA. I think that is a problem in that by moving it to an executive agency, you are merging the presidential policy review with an executive department. There would be some question as to whether it was occurring under a policy review by the President or whether it was happening substantively, like it happens at the Commission, where you may appeal.

Mr. VANIK. Is it your fear that there would be arbitrary or capricious or political or biased decisions that might prevail?

Mr. KAYE. Well, we would not like to think that anyone, regardless of what his political persuasion was, would go that far. Yet the proceedings seem to call for an impartial type of factfinding, and it would seem that in an executive department it might be more difficult to do than in an independent agency.

Mr. VANIK. I want to thank you for your statement, and I hope you can somehow communicate with the other members of the committee who are not here and give them your reading on your problems with this section because I understand it, and I want to be sure that all of them are aware of what the implications are in this transfer.

Thank you very much.

It is the intention of the Chair to proceed on through the list without any interruption excepting for rollcall votes on the floor.

The next witness is Richard M. Cooperman, chairman, Counsellors for Management, Inc. We will be happy to hear from you, Mr. Cooperman. Your entire statement will be admitted in the record. You may excerpt from it or read from it, whichever is most convenient. I would like you to cover the high points of your testimony.

STATEMENT OF RICHARD M. COOPERMAN, ON BEHALF OF THE ALUMINUM RECYCLING ASSOCIATION, THE INDEPENDENT ZINC ALLOYERS ASSOCIATION AND THE STATE OF HAWAII

Mr. COOPERMAN. Thank you, Mr. Chairman. If I may do both, we will proceed quickly.

I am Richard M. Cooperman, chairman of Counselors for Management, Inc. Over the years, Mr. Chairman, our work with some of our clients, particularly the Independent Zinc Alloyers Association, the Aluminum Recycling Association, and the State of Hawaii, has taken us into the area of international trade. Among the members of the association, some of which, Mr. Chairman, are in your district, 44 are small businesses. Based upon that experience over the years we have come to the conclusion that we favor a wide-ranging reorganization of U.S. Government international trade functions, and generally we support S. 891 to establish a department of international trade.

We do take exception to one or two of the functions stated in the bill, and I will reference those later. We feel that the area of international trade in the United States over the last decade has become as important to the country as the Department of Labor, the Department of Commerce, the Department of State.

In our experiences through the years, it has been necessary for us to work with many of the agencies and departments that now have cognizance over international trade, and the list of those

agencies is testimony in itself to the amount of time and the amount of effort small businesses and their associations must expend in order to work in this particular field.

I shall not go through the listing of the various activities we have pursued on behalf of those clients. It takes us into a broad spectrum of agencies and departments of the U.S. Government where small businesses must make appearances, must make preparation, in some cases must hire special counsel to present their case or to be heard.

In addition to that work a principal of our firm has served on an industrial sector advisory committee to the STR, and I have served as a member of a U.S. delegation, advising an international study group.

The experiences I shall cite in detail, and I want to read just two or three paragraphs, I think will make the point better than general remarks.

There are now at least three major trade laws that can affect the importation of slab zinc—and this, of course, affects the independent zinc alloyers—into the United States: The Antidumping Act of 1921, the Trade Act of 1974, and the Trade Agreements Act of 1979. The responsibility for administering sections of these acts is divided between the Department of Treasury and the International Trade Commission, pending the reorganization about which we are talking. In the past, most petitions for relief from alleged abuses of international trade under the general agreement on tariffs and trade have originated in the private sector. However, the Committee on Ways and Means, in its recent report on the Trade Agreements Act of 1979, clearly calls upon the administering authority to self-initiate antidumping and countervailing duty petitions. The President has endorsed the committee's position.

It is likely, therefore, that in addition to petitions from industry, the Government will start its own investigations of alleged abuses. None of the acts cited above offer any protection to a processing or consuming domestic industry—in this case, the independent zinc alloyers, whose vital foreign supply lines may be threatened in an antidumping, countervailing duty, or escape clause action. In fact, the domestic processor who cannot be supplied from meager U.S. raw materials frequently is before the ITC defending his position alongside of foreign shippers accused of violating GATT trade rules. Without a central policymaking authority in international trade matters, Government actions as well as petitions from the private sector will continue to threaten supplies for intermediate levels of domestic industry. We feel the Congress is as interested in intermediate levels of industry as it is in supporting the producer level of industry, and we feel that an international trade department would enable the Congress to learn more about this sort of problem and to have the data before it needed to make decisions on a broader base than is indicated in the three acts I have cited.

Finally, I want to cite the cut flower industry in Hawaii, which is being developed partially with tax dollars in an attempt to diversify Hawaii's agricultural base.

Recently, the Governments of the Dominican Republic and of Singapore have petitioned the United States for duty-free treatment for cut flowers under the generalized system of preferences.

Production costs in these countries are less than in Hawaii. Elimination of the 10-percent duty on imports of cut flowers from the Dominican Republic and Singapore would render the State's infant industry noncompetitive. So here we have a conflict where Federal policy encourages liberalization of trade practices and State policy encourages the creation of job opportunities. It is our belief that a centralized international trade department is necessary to deal with these conflicts.

The additional costs to small businesses and their associations to operate in international trade have become burdensome. If small business is to participate in foreign trade—and that seems to be a consensus—and if the use of tax moneys by State government is not to conflict with the international trade policy of the Federal Government, we believe there must be a department of international trade that is easily recognizable, that functions with consistency in the administration, regulation, and adjudication of our trade laws, and that is able to implement policies of the Congress pursuant to its constitutional power to regulate commerce with foreign nations.

I don't believe the two exceptions I take to S. 891 are critical to this, and they appear in the testimony we have submitted for the record, and I want to thank you for the opportunity to appear before the committee. I will be happy to respond to any questions you may have.

[The prepared statement follows:]

STATEMENT OF RICHARD M. COOPERMAN, COUNSELORS FOR MANAGEMENT, INC.

Our company, Counselors for Management, Inc., represents clients of diverse interests. Our work for three of those clients, the Independent Zinc Alloyers Association, the Aluminum Recycling Association, and the State of Hawaii, includes representation in many areas of international trade. Of the 49 members in the two associations, 44 are small businesses. Based upon our experiences in behalf of these clients, we are in favor of a wide-ranging reorganization of U.S. government international trade functions.

Generally we support S.891 to establish a Department of International Trade. Section 3 of the bill lists 14 purposes and functions of the proposed department. We have some reservations about paragraphs (b)(2) and (11), respectively, which deal with U.S. participation in international trade negotiations and administration and enforcement of Customs laws. We feel, also, that serious consideration should be given to including the International Trade Commission in a Department of International Trade.

The international trade operations of the United States in the last decade and a half have become equally as important as domestic commerce, labor, and agriculture and should be focused in a single department where all U.S. Government activities in this field are easily identified and can function under the policy of one Secretary with administrative and regulatory consistency.

Over the past dozen years we have worked with many international trade functions of the Federal government, including the Treasury, Commerce, State and Labor Departments, the International Trade Commission, the Customs Service, the Office of the Special Trade Representative, and the Trade Policy Staff Committee. Through the Export Administration we have sought limitations upon exports; through the Bureau of International Trade we have examined and forwarded opportunities for U.S. exports; at the International Trade Commission we have defended against an action under Section 201 of the Trade Act of 1974 to curtail imports of a commodity in short supply in the United States; through the Special Representative for Trade Negotiations we sought an exception for a processed material from the recently concluded Multilateral Trade Negotiations; at the Treasury and Commerce Departments and the ITC we have sought clarification of tariff nomenclatures; and from time to time the Associations have offered testimony before this Committee on duties, quotas, and other international trade matters.

A principal of our firm has served on an Industrial Sector Advisory Committee to the Special Trade Representative and another has served as an industry advisor to a U.S. delegation to an international materials study group.

We would like to cite a few of our experiences in support of our position.

First let me say that in our work in this field before departments and agencies and before Congress, many of our positions have been sustained, some have not. On occasion we have not agreed with the reasoning of individual officials or agencies. However, we have never felt victimized or mistreated, and we have no axe to grind for or against any branch of government.

There are now at least three major Trade Laws that can affect the importation of slab zinc into the United States: the Antidumping Act of 1921, the Trade Act of 1974, and the Trade Agreements Act of 1979. The responsibility for administering sections of these Acts is divided between the Department of Treasury and the International Trade Commission. In the past most petitions for relief from alleged abuses of international trade under the General Agreement on Tariffs and Trade have originated in the private sector. However, the Committee on Ways and Means, in its recent report on the Trade Agreements Act of 1979, clearly calls upon the Administrative Authority to self-initiate antidumping and countervailing duty petitions. The President has endorsed the Committee's position.

It is likely, therefore, that in addition to petitions from industry, the government will start its own investigations of alleged abuses. None of the Acts cited above offer any protection to a processing or consuming domestic industry, e.g., independent zinc alloyers, whose vital foreign supply lines may be threatened in an antidumping, countervailing duty, or "escape clause" action. In fact, the domestic processor who cannot be supplied from meager U.S. raw materials frequently is before the ITC defending his position alongside of foreign shippers accused of violating GATT trade rules. Without a central policymaking authority in international trade matters, government actions as well as petitions from the private sector will continue to threaten supplies for intermediate levels of domestic industry.

Without presuming, we feel the Congress is interested in all U.S. industry in international trade. It has not had information and data upon which to consider protecting all levels of a domestic industry. A single department, focused entirely upon international trade and its consequences for all U.S. industry, could review the balances required between domestic raw materials industries and domestic processing industries and would present all the equities to Congress for any future international trade legislation.

Another example demonstrates the involvement of three agencies in changing a single line of a U.S. export schedule. In 1977 the Departments of Treasury and Commerce and the International Trade Commission combined to seek comments on a "comparability schedule" to update the export, import and output codes for certain materials. The members of the Aluminum Recycling Association produce an alloy ingot that includes at least 85% scrap aluminum. The U.S. export-import schedule lists "Aluminum Waste and Scrap." The Customs Service easily recognizes imports or exports of aluminum waste and scrap in baled or containerized form. However, scrap is sometimes remelted and shipped in ingot form, also the form for pure aluminum or alloys of aluminum. The Customs Service found it difficult to differentiate between recycled scrap ingot (RSI) and standard forms of pure or alloyed aluminum. Upon a submission and justification for separating scrap ingot from aluminum waste and scrap, the three agencies ultimately agreed to a new single line classification designated "Remelt Scrap Ingot" (RSI). A single Department of International Trade could have facilitated this matter.

Finally, the cut flower industry in Hawaii is being developed partially with tax dollars in an attempt to diversify Hawaii's agricultural base.

Recently the governments of the Dominican Republic and of Singapore have petitioned the United States for duty free treatment for cut flowers under the Generalized System of Preferences. Production costs in these countries are less than in Hawaii. Elimination of the 10 percent duty on imports of cut flowers from the Dominican Republican and Singapore would render the State's infant industry noncompetitive. So here we have a conflict where Federal policy encourages liberalization of trade practices and State policy encourages the creation of job opportunities.

A centralized International Trade Department might not alter Federal policy. However, at the very least it would provide a single Federal office to which a State government could bring this sort of problem. There can be no meaningful exchange under current functions since the Departments of Commerce and Agriculture, the STR and the ITC exercise some jurisdiction over the problem.

The additional costs to small business and their associations to operate in international trade have become burdensome. If small business is to participate in foreign

trade (and there seems to be consensus that it can affect positively our balance of trade), and if the use of tax monies by State government is not to conflict with the international trade policy of the Federal government, we believe there must be a Department of International Trade that is easily recognizable, that functions with consistency in the administration, regulation and adjudication of our trade laws, and that is able to implement policies of the Congress pursuant to its Constitutional power "to regulate commerce with foreign nations."

We have noted above exceptions to two areas in S. 891 at Section 3(b). Negotiation of multilateral and bilateral trade agreements should remain in the hands of the Department of State. The Department is highly regarded for its impartiality in trade matters and for its conduct amongst foreign nations. The Office of the Special Trade Representative served our nation's interests well in conducting the MTN, but we believe it is the Department of State that must implement the results through its offices around the world.

Also, we can readily understand that the Customs Service originated as an arm of revenue collection rather than a function of our foreign trade and can be seen to be a part of the Treasury Department. Custom's revenue responsibilities make it a tool of our international trade.

From our experience with foreign suppliers to our clients, U.S. declarations of policy on international trade will earn proper respect and will give U.S. industry a full role around the world when our government accords international trade the consummate acknowledgement it requires through a single Department of International Trade.

Mr. VANIK. I appreciate your statement. I haven't come down on the matter of departments. I would probably be willing to organize and support a new department if we got rid of two existing departments. My problem is I can't get very many people here to agree on which two should be eliminated or whether that is enough to be eliminated. I am basically concerned—I think this is something that must happen eventually, and I think it is going to take more time than we probably have in the present arrangement. I think it is very, very important we should have a stable reorganization to deal with the implementation of the multilateral agreement. I just fear that our need is so great that we better do something we can do for now and probably think more seriously on the issue as we get further along in our trade relationships.

But the experience that the Congress has had in creating the Department of Energy has created an animosity and indifference toward solving problems by creating departments. There is always that fear that you put over a function a supergrade level of people that have to be dealt with and who, as one of your preceding witnesses testified, might be more interested in preserving their turf than in looking out for the commerce of the country.

Mr. COOPERMAN. I recognize that problem, Mr. Chairman.

Mr. VANIK. We want to do something that is going to work, and I am trying to arrive at a consensus in committee and trying to arrive at a position that I hope will be formulated by the middle of next week, but I do appreciate your comments. I understand your strong arguments in support of what you believe. Thank you very much.

Mr. COOPERMAN. Thank you, Mr. Chairman.

Mr. VANIK. Our next witness is the American Society of Association Executives, Ellis E. Meredith, president of the American Apparel Manufacturers Association, accompanied by James P. Low, president; John C. Vickerman, director of public affairs; and Stewart Boswell, director of Government relations.

I want to tell you and the American Apparel Manufacturers Association that I have been thrilled in recent days, or not so

thrilled, to find so many American-made pieces of apparel coming back on the market. I make it my business to look around for labels and find out where things come from.

Last week my wife, by her own choice, found $250 worth of items that were made in America. I want to tell you I am not happy about that.

Mr. MEREDITH. Do you have mixed emotions?

Mr. VANIK. But it is noteworthy that things are coming back on the market. They are items of good quality and good design.

We also have the advantage to follow up if things disappear in the wash which is something you can't do about some of the things that are made abroad.

We are happy to have your statement.

STATEMENT OF AMERICAN SOCIETY OF ASSOCIATION EXECUTIVES, ELLIS E. MEREDITH, CHAIRMAN (PRESIDENT, AMERICAN APPAREL MANUFACTURERS ASSOCIATION), ACCOMPANIED BY JAMES P. LOW, PRESIDENT; JOHN C. VICKERMAN, DIRECTOR OF PUBLIC AFFAIRS; AND STEWART BOSWELL, DIRECTOR OF GOVERNMENT RELATIONS

Mr. MEREDITH. Thank you very much for those kind comments. Express our appreciation to your wife as well, sir. We hope she will keep it up.

I am here on behalf of the American Society of Association Executives whom I serve as chairman. My remarks today are on behalf of ASAE.

Mr. Jim Low is to my left, president of ASAE; the Government affairs director, John Vickerman, and Mr. Stewart Boswell, director of Government affairs with ASAE.

Mr. VANIK. Your entire statement will be included in the record.

Mr. MEREDITH. Thank you, sir.

ASAE is a voluntary membership society for nearly 8,000 executives who manage leading business, professional, technical, industrial, and educational associations. This membership in turn represents an underlying constituency estimated at nearly 30 million persons and firms belonging to national, regional, State, and local associations.

Mr. Chairman, ASAE supports the administration's trade reorganization proposal, and we appreciate this opportunity to present our views to the subcommittee. We believe the proposal is in the Nation's interest and in the interest of the many organizations represented by its members.

We are aware that other witnesses have urged various modifications to the administration's proposal. But ASAE believes that the United States is well past the point where we can afford to let trade reorganization languish, or possibly fail, because of the urge to tinker.

The Nation's trade performance must improve, markedly and quickly. There is no way that the United States can sustain a continuation of the trade deficits that we have recorded in the last several years.

The deficits are a symptom. They mean that the United States has become less competitive, both internationally and in its domestic market. They represent lost employment opportunities at home.

They fuel inflation through their effects on the dollar's value. And they influence how other countries view the United States as a political, economic, and security partner.

To rectify this situation, our goal must be more exports, coupled with aggressive application of our country's fair trade laws and programs. In our view, the private sector understands this. But until recently there has been little evidence that the Government has stood ready to assist business in tackling this challenge.

Specifically, there has been a discrepancy between what the administration has said about the need for exporting, and about trade more generally, and Government's ability to deliver the goods.

A year ago, President Carter announced his national export policy. Since then, a few measures, but only a few, have been taken to spur U.S. exports.

A few weeks ago, President Carter signed the Trade Agreements Act of 1979 into law. By implementing the MTN, the act should increase export opportunities for American producers and introduce greater fairness into international trade. But these are promises which only the future will confirm or deny.

Frankly, initiatives to improve the trade performance of the United States will mean little if the Government is not properly organized to translate promises into action. Unlike those of our trading competitors, U.S. Government-sponsored programs to assist American industry lack an overall policy framework.

Rather, we have the haphazard accumulation of Federal actions designed to deal with one trade crisis after another. Moreover, the responsibility for these programs is splintered around Washington.

To this confusion we add regulations in pursuit of noneconomic goals without regard to how they hinder the international competitiveness of American industry. What we have are policy signals coming from all directions rather than clear-cut, coordinated policies.

The last year or two have made the shortcomings of Federal trade organization increasingly obvious. Accordingly, Members of Congress introduced bills which sparked long overdue consideration of the issue.

The administration, as I understand it, has kept these alternatives in mind as it prepared its own proposal for reorganizing the Federal trade apparatus. As a result, ASAE believes the administration's trade reorganization proposal has certain advantages over the others put forth.

Foremost is the fact that by building upon STR and Commerce, both with wide experience in trade matters, the reorganization should be accomplished within a fairly short period of time.

Not only do we need far more effective organization of the Federal Government's trade apparatus, but we need it now. It is alarming to consider the time we might lose if the Government were to move to establish an entirely new Department of Trade.

Under the administration's proposal we should see the first concrete signs on progress within 6 months. Alternative proposals to create a new department from scratch or assemble a new agency hold the possibility of first progress being a year or two off.

Another advantage of the administration's proposal is its recognition of the natural division between policy and program management. Many large organizations outside of Government distinguish between the tasks of policy formulation and program execution.

Policy formulation in these organizations calls for substantial, well-managed coordination activities, and that is what the STR will be expected to do. Couple this with expanded negotiation and representation responsibilities, both designated for STR, and, in management terms, STR will have a full plate.

It makes sense, therefore, to assign program management to a separate organizational unit, to Commerce. True, there will have to be close coordination between policy formulation and implementation, but in STR and Commerce, the administration's proposal builds upon a successful partnership rather than trying to create new working relationships.

Next, the administration's proposal keeps attention to both the international and domestic aspects of industry under one departmental roof. It is quite clear that trade reorganization, no matter how it is carried out, will accomplish little unless it is accompanied by policies and programs to stimulate investment, productivity, and innovation at home.

The Department of Commerce has been broadly involved in domestic industry affairs and will link programs on the trade front to those we must strive for on the domestic front.

Finally, the administration's proposal will further strengthen the Department of Commerce. Today, many Americans, and a good many Members of Congress, are saying that we must revitalize the private sector if we are to overcome the problems that now run through our economy.

To accomplish this calls for, among other things, one major part of government bent on analyzing and understanding what makes the private sector tick. That is a responsibility assigned to the Department of Commerce. It is a responsibility that Commerce has carried out well in the past and one that Commerce should be able to perform even more effectively under the administration's reorganization proposal.

Further to this point, I note that the Department of Commerce intends to strengthen its industrial analysis capabilities as one part of the administration's proposal. ASAE, as a broad-based organization, especially welcomes this prospect. It is of utmost importance that Commerce's broad concern for American industry be intimately linked to our trade policies and programs. This is a combination needed by the Nation.

Mr. Chairman, that concludes my testimony. I would be happy to answer any questions subcommittee members might have.

Mr. LEDERER. We have no questions, but we thank you very much for your testimony.

Mr. Giffen from Armco International is our next witness.

We would like to welcome you to the committee this morning. You may proceed in your comments.

STATEMENT OF JAMES H. GIFFEN, PRESIDENT, ARMCO INTERNATIONAL, INC.

Mr. GIFFEN. Thank you, Mr. Chairman. We have shortened our comments for this purpose and we will make a very brief statement.

My name is James Giffen. I am here today representing Armco, specifically the chairman of Armco, Mr. William Verity. Mr. Verity very much wanted to be here, but is presently out of the country. I am president of Armco International, Inc., and director of corporate development for Armco.

Armco is headquartered in Middletown, Ohio, and through its many diversified businesses is involved in the marketing of a wide variety of products, technologies and services throughout the world.

Armco has manufacturing units in 27 countries and has been actively engaged in selling its products and services in foreign countries since 1911.

In addition to dealing with the market economies of the West, we are actively engaged in pursuing business with the Soviet Union and the People's Republic of China. So we view the issue of trade reorganization from a truly international perspective.

The deterioration of America's role in world trade has been a major factor in the economic disruptions experienced by the U.S. economy during the decade of the 1970's. This deterioration has manifested itself in a ballooning balance-of-trade deficit, a depreciating dollar, and accelerated rates of inflation.

Certainly the United States has not been the only country to experience economic disruptions in the 1970's. But equally certain, our major trading partners have established and implemented policies and programs to promote their exports, and equally important, their governments have vigorously supported these efforts.

At the same time, they have been equally committed to insuring that their industries and markets are not subjected to the ravages of unfair import competition.

If our Nation is to spur economic growth, employment and productivity, while reducing inflation and the massive trade deficit, the present and future administrations must launch and maintain a major effort to expand exports of goods and services.

This is certainly one of the most important challenges facing us during the eighties. Fortunately, the new trade agreements offer an unparalleled opportunity to do this.

The United States, along with other industrialized nations and a number of developing countries, have successfully reduced tariffs around the world and negotiated new international codes which promise to bring a new sense of order and discipline to the world trading system and expanded trade opportunities for all nations.

Congress has greatly enhanced the likelihood of our realizing these potential benefits by including a series of long-needed reforms in our trade laws through the Trade Agreements Act of 1979.

Now we face the critically important task of reorganizing the Government's trade policy and operational functions.

The ultimate structure of this reorganization will play a decisive role in determining how successfully we are able to capitalize on the expanded trade opportunities promised by results of the Tokyo Round negotiations.

Having carefully followed and studied the trade reorganization issue, Armco believes that the reorganization should be completed and in place by the time the new trade laws go into effect, and should achieve the following objectives:

First, substantially strengthen the Government's export promotion and expansion efforts;

Second, attain a greater degree of coordination and centralization in the approach to trade policy formulation and the operation of trade functions—negotation, enforcement and export promotion; and

Third, effectively insulate the trade enforcement function from political influence and noneconomic considerations.

Armco believes strongly that the administration's proposal for reorganizing the trade functions is the best way to achieve these key objectives.

It is our firm opinion that a strengthened Department of Trade and Commerce, with an export promotion structure and programs already in place, is best positioned to achieve maximum results in the shortest time. The transferring of commercial attachés also will enhance export promotion activities in the new department.

We believe also that the President's proposal will achieve a greater and more desirable degree of coordination and centralization of trade policy and operating functions placing overall responsibility for policy coordination and trade negotiation with the Office of the U.S. Trade Representative, and consolidating responsibility for trade law enforcement and export promotion in the Department of Trade and Commerce.

Armco is further convinced that the administration's proposal will achieve improved enforcement of our trade laws by vesting that function in the Department of Trade and Commerce, provided that the reorganization is not structured in a way which would permit fair and effective enforcement of these laws to be subordinated to political or foreign policy considerations.

Congress recognition of the need for effective trade law enforcement was clearly spelled out by the Committee on Ways and Means in its report on the new trade law when it said, "The committee is of the view that strong, aggressive and persistent enforcement of U.S. unfair trade practice laws is an essential element in a sound, broad-based trade policy.

To insure that this intent of Congress is fully carried out, Armco strongly urges:

First, that the enforcement function be lodged in a semi-independent office within the Department of Trade and Commerce, with its own separate budget, and reporting directly to the Under Secretary of Trade;

Second, further, that the head of the new enforcement office be nominated by the President and confirmed by the Senate; and

Third, and last, that the reorganization include a specific direction from the Congress expressly reiterating Congress intent regarding vigorous and effective enforcement of the trade laws.

With these provisos, Armco strongly believes the President's proposal for trade reorganization represents the best vehicle for providing this country with a trade policy and operational structure

capable of facilitating the expansion of fair and free trade for U.S. industries.

Thank you for this opportunity to present our views on this issue.

Mr. LEDERER. Thank you. I have one question or I would go into one of your experiences.

When you started with your testimony you stated that you were doing business in China. How do you see this reorganization helping a company or business like yours in the new market in China?

Mr. GIFFEN. The first thing you have to understand, Mr. Chairman, is that the major negotiations that take place with market economies, the planned economy countries of either the People's Republic of China or the Soviet Union, generally take place at a very high level.

The main problem that has occurred in recent years in our trade relations with these countries is that there has been really not a very well coordinated negotiation process on our side. Our negotiators have not been consistent in the placing of their views, nor have they been really pursuing consistent long-term, broad policies.

With the placement of the negotiating function in the special trade representative, we would hope that we would have some consistency in our negotiations.

I think that would benefit our relationship with all the planned economy countries, including the PRC.

Mr. LEDERER. Thank you very much.

Our next witness is Mr. I. M. Destler, a Senior Associate of the Carnegie Endowment.

Mr. Destler, welcome to the committee this morning. Your remarks will be included in the record.

STATEMENT OF I. M. DESTLER, SENIOR ASSOCIATE, CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE

Mr. DESTLER. Thank you, Mr. Chairman.

I understand my full statement will be placed in the record. It is relatively brief. I would like to speak selectively from my statement.

I should reiterate, as I say in my statement, that I am speaking as an individual who has done research and writing in the area of executive reorganization generally and trade reorganization in particular, and not as a representative of any organization, including the Carnegie Endowment.

Mr. LEDERER. Thank you.

Mr. DESTLER. Trade reorganization must begin with two seemingly contradictory facts. The first is that the United States needs strong trade leadership.

The second is that trade policy engages a range of executive departments and agencies.

This second condition arises not from organizational flaws, though there is some unnecessary fragmentation. Rather, it flows from the fact that official trade decisions and actions affect many important policy concerns: domestic industrial and agricultural welfare, overall employment and price stability, foreign relations.

So the question becomes: How can we respond effectively to both these needs, combine centralized, effective leadership with responsiveness to the full range of policy concerns?

My other general point is that in government reorganization in any area it is fruitful to begin with what works, to build on strength where we can already find operating strength within our system.

As Chairman Vanik noted a few minutes ago, organization is people and patterns of informal as well as formal relations. It is not enough to simply put together some formal structure and expect it to work as designed.

In the Office of the Special Representative for Trade Negotiations we have an institution, fortunately, which is strong and which we can build upon. It has functioned effectively not just under the Strauss regime, although it was particularly effective then, but under at least three different sets of leaders.

It has led in negotiating our two most important multilateral trade agreements, and I understand it has worked effectively with the Congress in the enactment of the last two major trade bills in 1974 and 1979.

Organizationally its location in the Executive Office of the President is somewhat anomalous because it is more specialized, more operational, and trade involves the President himself less frequently than, say, the issues that come to the National Security Council or the Domestic Policy Staff.

But the location responds admirably to the need for leadership which balances oft-competing policy concerns and which engages the talent and expertise of other departments and agencies.

Thus, trade reorganization should begin with STR, not with an independent agency, not with the Department of Commerce, and not with a new Department of International Trade and Investment.

The Carter administration proposal builds on STR in at least two important ways.

First, as this committee has urged in its recent report, it transfers to STR the responsibility for representing the United States in the GATT, a responsibility which seems to be crucial to enforcing the codes and is consistent with the role the STR has played in the past in negotiating at Geneva.

Second, the proposal would strengthen and broaden the STR office, under a new name, as trade policy coordinator.

Both of these proposals make sense because they build on specific, well-established STR roles and strengths. But the administration proposal does not pursue this principle consistently. It withholds functions for which its experience makes STR particularly suited, while granting responsibilities outside of STR's previous mainstream activities.

In the 1970's, the special trade representative has increasingly assumed the role of broad leadership in domestic trade regulation on behalf of the Congress as well as the administration. This role has properly included responsiveness to well-grounded industry import relief petitions.

Thus, it seems reasonable that his successor should be assigned the responsibility—now lodged for historical reasons in Treasury—for enforcement of the countervailing duty and antidumping laws.

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STR has shown concern for the plight of import-affected industries, while also reflecting other U.S. policy concerns affected by import relief decisions. Commerce is not perceived as similarly balanced.

On the other hand, the proposed transfer of responsibility for East-West and commodity—typically North-South—trade is not well linked to established STR strengths. Such negotiations have tended to be marginal in their economic significance to the United States, but important to U.S. relations with the countries concerned.

Thus, it seems logical that primary responsibility for conducting them should remain with State. STR should exercise broad coordinating authority to assure that important U.S. economic interests are taken fully into account. But it does not need to negotiate all trade matters itself.

At least three important questions remain. The first is what to do about the Department of Commerce and the export promotion function.

The second is inevitably somewhat speculative: What would be the likely result if the Congress opted for maximum consolidation and created a new Department of International Trade?

The third relates to the appropriate size of the U.S. Trade Representative's staff.

Commerce's major traditional trade policy role has been nonagricultural export promotion, the very area where a stronger U.S. effort is almost universally advocated. Unfortunately, the department's performance of this function is not widely admired. We cannot build on strength here. But this function is inappropriate for an executive office entity like STR.

Moreover, I have yet to hear a convincing argument as to why export promotion needs to be housed in the same agency as either trade negotiation or import regulation.

The basic choice here, I think, is between strengthening the existing Commerce program or the establishment of a new export promotion agency.

On balance, my judgment is that it is better to pursue the Commerce alternative as the administration proposes. But, of course, neither Commerce nor any proposed trade entity would have jurisdiction over most of the factors affecting U.S. export competitiveness—tax policies, problems of capital formation, et cetera—which are emphasized in section 1110 of the Trade Agreements Act ordering a study of U.S. export trade policy.

Second, let me address briefly the most prominently proposed alternative to STR, creation of a new Department of Trade. Creation of any new department is a gamble, a little bit of leap in the dark, but this one is likely to have particular disadvantages.

A secretary of trade formally responsible for all major executive branch trade functions looks very powerful. But he could prove an isolated, vulnerable official in practice. He would have far less contact with the President than would his colleagues at major departments like Treasury and State because his range of responsibility, from the President's vantage point, would be much narrower.

Thus, he would be much less likely than they to develop or maintain a strong personal relationship with the President, and we have to remember that not all trade representatives have had the type of relationship that Ambassador Strauss has had.

But other trade representatives have had relationships with other cabinet-level advisors which gave them power in the executive branch.

The Secretary of Trade would find it harder to build such relationships because consolidation would reduce these advisers' engagement in trade issues and because a Secretary of Trade would be more their formal rival.

Hence, the new secretary might well become overdependent for support on import-affected U.S. industries since they would exert the most day-to-day pressure and since he would lack the leverage to balance them.

If this logic is correct, he might end up responding mainly to them. This is a common pattern among regulatory institutions. But it would violate the principle repeatedly stressed by the Congress and reiterated in this committee's recent report, that policy "should be responsible equally to all trade interests."

Mr. LEDERER. Excuse me, Mr. Destler. Could I call a recess because there are two votes on the floor.

[A brief recess was taken.]

Mr. LEDERER. Thank you for your patience.

Mr. DESTLER. Thank you. I have just one more point to make.

The last question is the question of size, how large a renamed and restructured special trade representative's office, or Office of U.S. Trade Representative, should be.

I am familiar with the argument that entities in the Executive Office of the President should remain small and I am not familiar with that just in the abstract. I was engaged deeply as a consultant in the first Carter Administration reorganization study, the study of the Executive Office of the President.

I not only felt the pressure, as did others on that study, to squeeze EOP staff numbers, but I basically agreed with it. I thought it was sensible and desirable. Yet it seems unreal to me to expect that this new trade office can operate as the administration has suggested with STR's fiscal 1980 staff level or slightly higher.

I think the fiscal 1980 staff level is 59 positions. Some significant expansion is needed, particularly if the new office assumes responsibility, as I have urged, for administering the countervailing duty and antidumping laws.

As argued earlier, STR should not and need not conduct all negotiations and it can draw on positions on detail from other agencies. But a core staff in the 150 to 200 range seems about the minimum necessary, including the customs investigation staff for the enforcement of unfair trade practices legislation.

So to summarize my conclusions, Mr. Chairman, we should build on strength, which means building on STR, but concentrate its energies on central trade negotiation and coordination, and on administration of import regulation laws.

[The prepared statement follows:]

STATEMENT OF I. M. DESTLER

LEADING FROM STRENGTH

I am currently a senior associate at the Carnegie Endowment for International Peace, directing the Endowment's research project on executive-congressional relations in foreign policy. My testimony draws on my work at Carnegie and on my forthcoming Brookings Institution book, Making Foreign Economic Policy. In presenting it I speak only for myself, in my individual capacity as a scholar of trade policymaking and executive reorganization, and not for the Carnegie Endowment, Brookings, or any other organization.

Trade reorganization must begin with two seemingly contradictory facts. The first is that the United States needs strong trade leadership. The second is that trade policy engages a range of executive departments and agencies. This second condition arises not from organizational flaws, though there is some unnecessary fragmentation. Rather, it flows from the fact that official trade decisions and actions affect many important policy concerns: domestic, industrial and agricultural welfare, overall employment and price stability, foreign relations. Thus the challenge for trade reorganization is to strengthen trade leadership and coordination without denying important concerns, domestic or international, their fair hearing. How can this challenge be most effectively met?

In government reorganization, it is fruitful to begin with what works, to build on strength where strength can be found. On trade, we are fortunate to be able to put this principle into practice. In the Office of the Special Representative for Trade Negotiations, established at congressional insistence under the Trade Expansion of of 1962 and strengthened (again at congressional insistence) by the Trade Act of 1974, we have an institution that has functioned effectively under at least three different sets of leaders. STR led in negotiating our two most important multilateral trade agreements in 1963-67 and 1973-79. It worked effectively with the Congress in the enactment of the major trade bills of 1974 and 1979.

Organizationally, STR's location in the Executive Office of the President is somewhat anomalous. Its responsibilities are more specialized and more operational, and they involve the President less frequently, than those of other strong Executive Office entities. But this location responds admirably to the need for leadership which balances oft-competing policy concerns, which draws upon and engages the talent and expertise of other relevant departments and agencies.

Thus trade reorganization should begin with STR—not with an independent agency, not with the Commerce Department, not with a new Department of International Trade and Investment. The Carter administration proposal builds on STR in at least two important ways. First, as urged in the Ways and Means Committee Report on the Trade Agreements Act of 1979, the renamed Office of the United States Trade Representative would assume responsibility for U.S. representation before the GATT, a role integrally related to the need for strong follow-through on the codes just negotiated at Geneva. Second, the proposal would strengthen and broaden the Office's role in trade policy coordination, exercised through the interagency Trade Policy Committee, a new Trade Negotiating Committee, and their subcabinet working groups.

Both of these proposals make sense because they build on specific, well-established STR roles and strengths. But the administration proposal does not pursue this principle consistently. It withholds functions for which its experience makes STR particularly suited, while granting responsibilities outside of STR's previous mainstream activities.

In the 1970s, the special trade representative has increasingly assumed the role of broad leadership in domestic trade regulation on behalf of the Congress as well as the administration. This role has properly included responsiveness to well-grounded industry import relief petitions. Thus it seems reasonable that his successor should be assigned the responsibility (now lodged for historical reasons in Treasury) for enforcement of the countervailing duty and antidumping laws. STR has shown concern for the plight of import-affected industries, while also reflecting other U.S. policy concerns affected by import relief decisions. Commerce is not perceived as similarly balanced.

On the other hand, the proposed transfer of responsibility for East-West and commodity (typically North-South) trade is not well-linked to established STR strengths. Such negotiations have tended to be marginal in their economic significance to the United States, but important to U.S. relations with the countries concerned. Thus it seems logical that primary responsibility for conducting them should remain with State. STR should exercise broad coordinating authority to

assure that important U.S. economic interests are taken fully into account. But it does not need to negotiate all trade matters itself.

At least three important questions remain. The first is what to do about the Department of Commerce and the export promotion function. The second is inevitably somewhat speculative: what would be the likely result if the Congress opted for maximum consolidation and created a new Department of International Trade? The third relates to the appropriate size of the U.S. Trade Representative's staff.

Commerce major traditional trade policy role has been non-agricultural export promotion, the very area where a stronger U.S. effort is almost universally advocated. Unfortunately, the Department's performance of this function is not widely admired; we cannot build on strength here. But this function is inappropriate for an executive office entity like STR. Moreover, I have yet to hear a convincing argument as to why export promotion needs to be housed in the same agency as either trade negotiation or import regulation. Thus the choice is between strengthening the Commerce program or establishing a new, independent export promotion agency. On balance, it may be better to pursue the Commerce alternative, as the administration proposes. But, of course, neither Commerce nor any proposed trade entity would have jurisdiction over most of the factors affecting U.S. export competitiveness—tax policies, problems of capital formation, etc.—which are emphasized in Section 1110 of the Trade Agreements Act ordering a study of U.S. export trade policy.

Second, let me address briefly the most prominently proposed alternative to STR—creation of a new Department of Trade. Creation of any new department is a gamble, but this one is likely to have particular disadvantages. A secretary of trade formally responsible for all major executive branch trade functions looks very powerful. But he could prove an isolated, vulnerable official in practice. He would have far less contact with the president than would his colleagues at major departments like Treasury and State, because his range of responsibility—from the president's vantagepoint—would be much narrower. Thus he would be much less likely than they to develop or maintain a strong personal relationship with the president. But he could not easily compensate for this lack as some pre-Strauss special trade representatives did, by developing strong relationships with other Cabinet-level advisers, because consolidation would reduce these advisers' engagement in trade issues, and because a secretary of trade would be more their formal rival. Hence the new secretary might well become overdependent for support on import-affected U.S. industries, since they would exert the most day-to-day pressure and since he would lack the leverage to balance them. This is a common pattern among regulatory institutions. But it would violate the principle repeatedly stressed by the Congress and reiterated in this Committee's recent report—that policy "should be responsible equally to all trade interests."

Finally, there is the question of the size of the new office. As one who participated in the first major Carter administration reorganization study—that of the Executive Office of the President—I am familiar with the argument that EOP entities should remain small. Moreover, I agree strongly with this argument—in general. Nonetheless, it seems unreal to expect that the new office can operate, as the administration has suggested, "with its fiscal 1980 staff level or one slightly higher." Some significant expansion is needed, particularly if the new office assumes responsibility—as urged here—for administering the countervailing duty and antidumping laws. As argued earlier, STR needs not and should not conduct all negotiations, and it can draw on positions on detail from other agencies. But a core staff in the 150-200 range seems about the minimum necessary, (including the customs investigation staff for the enforcement of unfair trade practices legislation).[1]

Mr. LEDERER. Thank you.

I would like to say, not necessarily the judgment of the committee but my judgment, that we have to go a long way in the way of expansion if we are going to convince the American public, for instance, from a place that I represent like Philadelphia that this is necessary.

Mr. DESTLER. I think that in a lot of these issues that come up, people protest that trade is being sacrificed to some other objective.

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[1] If objections to such an EOP staff expansion continue to be strong, the office could be split into two layers. A small oversight and coordination unit would remain inside the EOP; a larger trade administrative agency would be established formally outside it but reporting directly to the U.S. trade representative. But such a split would complicate things administratively and could be a source of considerable confusion to those who must deal with the new trade structure.

It gets down to an argument about the importance of trade as compared to other objectives that people pass laws about or people in the administration pursue quite legitimately. Our trade may not be getting sufficient emphasis as a result.

Thank you.

Mr. LEDERER. It is good to be with you on this one.

Our next witness will be Reuben Johnson of the National Farmers Union. I believe Mr. Johnson is the director of legislative services.

Good afternoon.

Mr. Johnson, your remarks will be included in the record.

STATEMENT OF REUBEN L. JOHNSON, DIRECTOR OF LEGISLATIVE SERVICES, NATIONAL FARMERS UNION

Mr. JOHNSON. Thank you, Mr. Chairman.

I would like my statement to appear in its context in the large print as presented to the subcommittee and I will move to the back.

Our position is that the status quo to the trade function within the administration is not an acceptable option.

Some of our directions relate to the reluctance of the Office of Special Trade Representative to support commodity agreements with a special pricing mechanism; the inordinate amount of influence exerted by the State Department in negotiating meaningful commodity agreements; the laxity of the Treasury Department in acting on countervailing duty and other agricultural concerns which would inflict injury on domestic producers resulting from excessive importation of certain commodities, and the apparent continued support in the Commerce Department for inflicting controls on such commodity exports as hides.

It would not seem to be in the interest of the Nation's family farmers to concentrate trade concerns and decisionmaking in one or more of the existing agencies, State, Commerce, or Treasury.

The more wide dispersal of decisionmaking among the existing agencies, the more difficult it would be for agriculture or for the general public to have a substantial input in trade policy decisions. A fresh start would seem to be in order.

Under these circumstances we believe that the establishment of a new Department on International Trade would be a step in the right direction.

This conclusion expresses the view that a new Department on International Trade and Investment could centralize the policymaking authority to enable the public to better understand the decisionmaking apparatus and, hopefully, to give Congress more influence over the policy decisionmaking process.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF REUBEN L. JOHNSON, NATIONAL FARMERS UNION

Mr. Chairman and members of the subcommittee, I am Reuben L. Johnson, Director of Legislative Services, National Farmers Union, headquartered in Washington, D.C., at 1012 Fourteenth Street, N.W.

Public Law 96-39 suggested three options for the President to consider:

1. Increasing the responsibilities of the office of the Special Trade Representative;

2. Establishing a trade coordinating mechanism in the Executive Office of the President;

3. Establishing a new Department of International Trade and Investment.

We understand that the President has made recommendations to Congress which include points as follows:

1. Creation of an Office of U.S. Trade Representative (TR) in the White House, consolidating the functions of trade policy coordination and trade negotiations within the TR (succeeding the present STR);

2. Consolidate the day-to-day administration of the government's non-agricultural trade functions in the Department of Commerce, to be renamed the Department of Trade and Commerce;

3. Retain the Foreign Agricultural Service and the U.S. agricultural attachés in USDA.

4. Provide cabinet rank for the U.S. Trade Representative but have him function in the White House. His office would take over from the State Department the supervision of East-West trade and the conduct of commodity negotiations; from the Treasury Department, trade remedy functions such as escape clause, Section 301 (relief from unfair practices), and market disruption;

5. The new Trade and Commerce Department would take over from the Treasury Department the responsibility for antidumping and countervailing duty actions, and, from the State Department, the system of commercial attachés;

6. Broaden the mandate of the interagency trade policy committee and establish within it a new Trade Negotiation Committee.

Another option before the Senate is S. 377 which is under consideration by the Senate Governmental Affairs Committee. This bill would establish a separate Department of Trade and International Investment.

Our Policy Statement, as comprehensive as it is, does not provide specific direction in the matter of structing a new trade agency. But we believe that some changes would be productive.

In short, the status quo is not an acceptable option.

In summary, some of our frustrations are (1) the reluctance of the Office of Special Trade Representative to support commodity agreements with an acceptable pricing mechanism; (2) the inordinate amount of influence exerted by the State Department in negotiating meaningful commodity agreements; (3) the laxity of the Treasury Department in acting on countervailing duty and other agricultural concerns which would inflict injury on domestic producers resulting from excessive importation of certain commodities; (4) the apparent continued support in the Commerce Department for inflicting controls on such commodity exports as hides.

It would not seem to be in the interest of the Nation's family farmers to concentrate trade concerns and decision-making in one or more of the existing agencies—State, Commerce, or Treasury. The more wide dispersal of decision-making among the existing agencies, the more difficult it would be for agriculture or for the general public to have a substantial input in trade policy decisions. A fresh start would seem to be in order.

Under these circumstances, we believe that the establishment of a new Department on International Trade would be a step in the right direction.

This conclusion expresses the view that a new Department on International Trade and Investment could centralize the policy-making authority to enable the public to better understand the decision-making apparatus and, hopefully, to give Congress more influence over the policy decision-making process.

Mr. LEDERER. Thank you, Mr. Johnson, for your candid remarks. I have no questions.

Our next witness is Donald W. Bedell of Diamond/Sunsweet, Inc., and president of Bedell Associates.

Good afternoon. You may proceed and your remarks will be spread upon the record.

STATEMENT OF DONALD W. BEDELL, DIAMOND/SUNSWEET, INC.

Mr. BEDELL. Mr. Chairman, I appreciate this opportunity to express our views on specific aspects of trade reorganization on behalf of Diamond/Sunsweet, Inc., a major farm marketing cooper-

ative with sales in excess of $200 million, nearly a third of which is exported, and on behalf of its more than 3,500 member growers.

Our comments will be brief and will touch only on those key organizational and management questions which may be considered controversial, rather than to respond to all the questions raised in the very perceptive and comprehensive outline of issues prepared by your staff and contained in the notice for these hearings.

At the outset, let me express my gratification for this subcommittee's dedication and performance during the MTN's, and for its role in establishing and projecting to the Nation at large a new awareness of the critical nature of international trade to the United States.

The issues which are now to be resolved center around the nature of a new Federal focus on trade, not whether it is worth making the adjustment needed to deal with long-term and structural imbalances of U.S. balance of trade and payments. We think this in itself is a major achievement.

We believe an effective, new results-oriented focus can be achieved and indeed should be achieved, with minimum structural changes.

On that basis we suggest that a prudent course is to retain in the Executive Office of the President the critically important policy development and negotiation functions.

Certain structural modifications then can be made in the overall composition of the Office of the Special Representative for Trade Negotiations to fix both authority and responsibility in that agency the bulk of U.S. international trade activity, including enforcement of all unfair trade practices statutes.

By such a move a current vehicle assumes specific overall responsibility, not a coordinator function, for trade operations without launching a new department and without running the risk of splitting responsibility with a diverse group or requiring this fledgling new agency to seek rations and quarters from a huge and venerable operating department.

Everyone is aware that there exists no perfect form of organization for any given activity. But I would like to describe those fundamentals of management we considered in leading us to our conclusion:

1. Organization changes relating to a new or relatively new activity, in this case to provide a new focus on foreign trade operations, should begin with minimum incremental changes. Building on past satisfactory operations on an evolving basis is to be preferred to a major wrenching of policies and personnel which more often than not causes more problems than are solved.

2. Any new or relatively new operational entity should be given special status under the wing of a president, whether as head of government, or in industry. If the new unit establishes a leadership position and performs a results-oriented function generally recognized as effective, a more independent role can be established later.

3. Any new unit should be either line-oriented or staff-oriented, but not any combination thereof. If combined, responsibilities become confused, signals are garbled and performance measurement becomes all but impossible.

organizationally to place authority and responsibility in one unit of government, along with section 301.

Commercial attaches now located at State should be moved to Commerce where by being organized as is the single service of the Foreign Agriculture Service of the U.S. Department of Agriculture that function could become as effective as is the FAS. Their share of implementation of export policy would then match that of the FAS for agriculture and would function on the same executive level.

Mr. Chairman, your staff included reference to the Foreign Agriculture Service in the hearing notice, and suggested the possibility that the FAS single service might be used as a model for commercial activity. We believe it can be a model provided all the ingredients are present in commercial activity as in agriculture.

From our own vantage point we perceive the following key ingredients to the effectiveness of the FAS:

1. The personnel is highly trained and informed about agriculture.
2. Superior quality foreign market research, market contacts and trade intelligence on a regular basis flows to Washington from around the world.
3. FAS is organized in Washington on a commodity basis into which foreign attaches can plug their inquiries and trade opportunities, and generally receive overnight answers.
4. Responsibility and authority within reasonable limits are well defined and generally understood.
5. Provision is made for swift advancement for qualified results-oriented activities.
6. A series of effective statutes underpin an ability to be flexible in dealing with our trading partners.

In attempting to compute the size of a commercial single service activity, certainly some guidance can be found in the fundamentals of FAS organization.

In the real world of trading in international markets there is a desperate need for commercial types to be up front. With due respect to the achievements of the State Department in international commerce over the years, we submit the discipline needed to make a major advance in restoring the imbalance of international trade for the United States is a commercial discipline, not a diplomatic discipline.

Perhaps State should become the ultimate arbiter when U.S. exporters are perhaps too persuasive in a foreign land. Meanwhile, we believe the commercial process should be permitted to flower and should be supported as is the case generally with the politics of our trading partners.

Mr. Chairman, a final point.

Some of our colleagues worry that a single International Trade Agency could not perform a negotiation function, a trade policy development function, and an enforcement function. There would be too much conflict of interest and perhaps too great a temptation to sacrifice one industry for another.

We submit that with the tightening of unfair trade practices statutes, combined with what all hope and expect will be expanded congressional oversight, any chance the International Trade

organizationally to place authority and responsibility in one unit of government, along with section 301.

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We submit that with the tightening of unfair trade practices statutes, combined with what all hope and expect will be expanded congressional oversight, any chance the International Trade

Agency might sacrifice one segment of industry at the expense of another seems remote.

Under our suggestions, responsibility and authority are combined, defined and pinpointed. Accountability and measurement of results are made clearly possible with a minimum of upset.

Thank you for your interest and I will attempt to respond to any questions as constructively as possible.

Mr. LEDERER. Thank you. I have no questions. I thank you for your informative thesis.

I think your thoughts will go a long way to help the Congress, to help us get out of the dilemma that we certainly are in.

Thank you again.

Mr. BEDELL. May I just make one comment?

Mr. LEDERER. Sure.

Mr. BEDELL. Chairman Vanik raised a question during an earlier witness' testimony with regard to whether or not Congressman Long's bill was a step ahead or a step sideways with regard to the influence of power of the STR.

My own feeling is that having the STR as chairman of the Trade Coordination Council and as a part of the President's inner circle as well as functioning as the head of the International Trade Agency would achieve that objective.

Now, the ultimate result depends in part on what the relationship is between those two gentlemen, the President and this executive. But the functional possibility is there. I see no reason why it can't work.

Thank you.

Mr. LEDERER. I thank you, sir.

The hearing record will remain open through the close of business Friday, September 14, for the receipt of additional statements for the record.

The committee is now adjourned until further notice.

[Whereupon, at 1:28 p.m. the hearing was adjourned.]

[The following was submitted for the record:]

STATEMENT OF BILL ALBERGER, VICE CHAIRMAN, U.S. INTERNATIONAL TRADE COMMISSION

Mr. Chairman and members of the subcommittee. I appreciate the opportunity to submit this statement. These are important hearings for the future of trade policy in the United States. I must indicate that my statement is not on behalf of the Commission, but merely an expression of some of my own thoughts on reorganization of trade functions. As an official of an agency charged with quasi-judicial functions administering various import relief statutes, I am not involved in actual policy-making, and have attempted in this statement to leave those judgments to you and other experts here in the Congress and in the Executive Branch. It is my intention to set forth some facts and impressions relating to the issues before you, and to raise some questions, the answers to which may help you determine the proper structure for our government's trade bureaucracy.

The question of reorganization of Federal Government machinery for formulating and conducting international trade policy is a very important one, because the organizational structure may have a critical impact on the substance of policy as well as whether the policies are effectively implemented.

In any decision-making process involving trade policy in the United States, there will be competing interests. Foreign policy and national security objectives have always played a key role, as have international economic, national economic, and even various micro-economic objectives. Often these objectives are in conflict, and it is in the balancing of these various interests that policies are determined. Our present governmental trade structure is apparently designed to assure that compet-

ing policy considerations get a fair hearing, as several Cabinet Departments have input into trade policy decisions from their own perspectives. I understand that when STR was created in 1962, the original proposal was to place it in the Commerce Department. The perception at the time apparently was that State Department influence on trade policy has to be reduced. Congress apparently determined that interagency coordination was the best answer and placed STR in the Executive Office of the President.

It is reasonable to expect that a well-functioning trade bureaucracy whatever its structure, will insure that American firms are informed of opportunities to export, that such firms are given reasonable encouragement in such endeavors, that barriers abroad to American exports will be vigorously challenged through appropriate channels, either bilaterally or in international forums, and that unfair foreign trade practices which materially injure industries in the United States will be ferreted out and dealt with as authorized by law.

There are several trade activities outside my authority which these hearings have focused on. Several bills and proposals, for example, remove findings on less than fair value sales under the Antidumping Act and findings of a bounty or grant being paid on the export of merchandise to the United States under the Countervailing Duty Law from the Department of the Treasury. Several issues arise upon such a considered move, such as whether related Customs Service activities move with these functions, and if not, how staff functions such as factfinding are to be handled and coordinated, and if so, why a still-significant revenue raising activity is not under the revenue-raising department. These issues have been covered in depth by other witnesses, and I will not attempt to cover them further.

The various reorganization proposals before you have varying impacts on the U.S. International Trade Commission (Commission), ranging from none at all to removal of certain functional components and actual transfer of the agency to within a Cabinet Department. I will attempt to give you some more detailed information on some of our functions in an effort to aid you in determining where and how these functions should be performed.

As you know, the Commission does not make trade policy. Rather it provides to those charged with that responsibility—the Congress and the President—factfinding, technical, economic and legal assistance, and, within proscribed standards or criteria, findings or recommendations. Both in its original charter and in several subsequent legislative actions, the Congress has gone to considerable lengths to establish and insure the independence of the Commission from control by political branches of the government. To be more specific, among the requirements are these:

(a) The Commission shall be composed of six Commissioners who are appointed by the President, by and with the advice and consent of the Senate;

(b) Not more than three Commissioners may be from the same political party;

(c) Each Commissioner is eligible for one 9 year term;

(d) The Chairman and Vice Chairman are designated by the President for terms of two years and must be from different political parties;

(e) The President must designate a Chairman every two years, but may not select anyone who is from the same party as the preceding Chairman.

(f) No Commissioner may actively engage in any business, vocation, or employment other than that of serving as a Commissioner.

Some of these have existed since 1916, but others are newer requirements. In addition, the Commission's budget is to be submitted to the Congress without review or comment by the Office of Management and Budget, in order to eliminate any attempt to influence Commission actions by controlling the budget. Because of this independence and insulation from political influence, the Commission has been able to perform functions which fall within the constitutional power of the Congress, allowing resolution of politically sensitive matters without excessive delegation to the Executive. Yet in serving this role the Commission has maintained a high degree of accountability to Congress.

Various reorganization proposals suggest three units for possible transfer from the Commission to a department: the Office of Industries, the Office of Nomenclature, Valuation and Related Activities, and administration of Section 337 of the Tariff Act of 1930 which involves two Administrative Law Judges, support staff, and the Office of Legal Services. Let me briefly describe the functions of these units and the role each plays in Commission activities.

The Office of Industries is the commodity-based expertise which has been the foundation of the Commission's work in product analysis and evaluations of injury to domestic industries. It houses the core of commodity expertise which has enabled the Commission to provide (I trust) prompt, factual reports and analysis to the Congress and the Executive Branch. This commodity expertise also enables the

Commission to conduct thorough investigations in import relief cases within the strict statutory deadlines. It is my view that if this expertise did not exist on our staff the Commission would have to create it. If you view this particular unit of 120 analysts and related staff as essential expertise for export promotion, then one should ask both why it is important to remove commodity expertise from the Commission and how, as a result, the import relief functions and Section 332 investigations of the Commission would be conducted. If the commodity expertise is to be located elsewhere, yet support the Commission as well, can you assure that we get their staff support within our time constraints?

For its functions, the Office of Nomenclature, Valuation and Related Activities (NVRA), relies heavily on other Commission components for support. The Commission expertise in nomenclature and valuation matters grew from one of our original roles as the non-partisan agency for resolving tariff issues. Use of this expertise has been necessary as well in everyday micro-economic analysis of industries in developing the product scope of our investigations and for the preparation of numerous studies and reports for the Congress and the Executive Branch. This particular office has but 17 employees, but the function required more than 50 work-years in fiscal year 78. This time was contributed mostly by commodity analysts from the Office of Industries assisting the nomenclature specialists.

NVRA works with congressional and executive staffs in the technical aspects of preparing legislation such as the Tariff Schedules Technical Amendments Act of 1965 and the Trade Agreements Act of 1979 as well as schedule XX of the 1979 Geneva Protocol for the GATT. The staff routinely prepares draft Presidential proclamations and Executive Orders affecting the Tariff Schedules of the United States (TSUS). I know this Subcommittee is familiar with historic accomplishments such as the tariff classification study which lead to the Tariff Classification Act of 1962 and adoption of the TSUS in 1963. Section 608 of the Trade Act of 1974 directed the Commission to use Section 332(g) to provide the basis for full and immediate participation in the U.S. contribution to the technical work of the Harmonized System Committee under the Customs Cooperation Council. Since 1975, our staff has been instrumental in involving the U.S. business community in development of this international production classification system, and, in cooperation with others, has prepared virtually every technical proposal submitted by the U.S. to the Harmonized System Committee.

NVRA continues to be involved under Section 484(e) of the Tariff Act of 1930 in developing the statistical enumeration for imports, and under the Trade Act of 1974 and Public Law 95-106, has extended that responsibility to the export schedule and comparability with statistical programs for domestic production and international harmonization. In 1978, the Commission, the Bureau of Census and the Customs Service issued a revised export classification system and made over 3500 modifications to the Tariff Schedules of the United States Annotated (TSUSA).

This Committee is well aware of the Commission's advice on duty reduction bills, classification issues (such as the recent report on cab chassis) and customs valuation procedures. It is a question for you to decide—whether this capability should continue to exist in an independent body directly responsive to the needs of this Committee or whether assistance from the Executive Branch will better serve your needs. I know that reorganizations in government or business are occasionally made to allow greater control over the timing of projects. If there have been complaints about our responsiveness to your or other requests, we have not been told. I would only add with respect to NVRA and Industries, that neither unit is autonomous. Each is reliant to a considerable extent upon the other, but each is also closely coordinated with other units in the Commission—Economic Research, General Counsel, Trade Agreements, and Data Systems. The Commission needs the input of these kinds of units to adequately perform its statutory responsibilities under import relief statutes. While their role is critical, I question the efficiency of duplicating such expertise in two areas of the bureaucracy. More specifically, with respect to NVRA, if 484(e) and the Harmonized Commodity Code (HCC) work were removed from the Commission, re-creating the nomenclature expertise might be too costly for the remaining uses. I have been told that this expertise develops and sharpens through the kinds of projects the staff currently performs—*i.e.*, without the day-to-day work on product classification issues relating to import-relief cases, perhaps the expertise for 484(e) and HCC work would not be as finely developed.

This Subcommittee is well aware of the Commission's work for you in analyzing the MTN agreements. In this project the interrelationship and input of the Office of Industries and NVRA was critical—we would have had serious gaps without one unit or the other, and certainly without both. And I suspect some of your objectives in asking us to do those studies would have been frustrated by our having to rely on

commodity analysis or detailed tariff input from an Executive department. This combination of commodity and tariff expertise was also tapped for certain key projects for STR during the negotiations. The separation of these two functions would make it much more difficult to obtain coherent, united and complete responses to the kind of requests the Commission receives.

I would raise one further question in the NVRA and Industries area—do you want an independent agency to be reliant upon the Executive Branch for technical advice with respect to tariff matters? As I have indicated, the mix of skills which go into our current reports has developed based on our needs over time, and you must consider whether the need for changes outweighs any effect upon our ability to make sound, factually supported decisions.

The third unit proposed for transfer under some plans is jurisdiction over Section 337 of the Tariff Act of 1930. This is even more clearly a judgment for you to make and one where any opinions I may have are best left unsaid. The role of the Commission under this statute has been, since 1974, primarily judicial. Section 337 was devised as an adjunct to Federal unfair competition law, and the Commission was given jurisdiction because Congress believed it could objectively investigate and decide such matters.

As an administrator of the statute, I am particularly ill-suited to decide where it fits in the overall scheme. I should raise a few issues, however. Concerns have been expressed about the Commission's foray into the field of antitrust and pricing practices. However, many of the problems of overlapping jurisdiction which concerned the President in his action in overturning of the decision in the Stainless Steel Pipe and Tube case have been resolved by corrective amendments in the Trade Agreements Act of 1979. At present, Commission policy demonstrates a good faith attempt to avoid any unnecessary duplication while actively enforcing the statute against anticompetitive or injurious unfair trade practices.

Ultimately, the issue at hand is whether Congress wants Section 337 jurisdiction to reside in an independent body such as the Commission, or whether it would be a more effective tool of United States trade policy in the Executive Branch.

I know questions may be raised about the Commission's competence to administer Section 337. I am sensitive to the need for fairer, more efficient procedures. For your information, I have attached to this statement a copy of an internal memorandum I sent to the Chief of our Office of Legal Services suggesting some ideas for improving our administration of Section 337. No further action has been taken since that memorandum was sent.

In conclusion, I hope this presentation has illuminated some of the issues raised by reorganization proposals insofar as they impact on the International Trade Commission. We all want a smooth and efficient trade bureaucracy, and if I am to continue to have any role in administering that bureaucracy, I will do everything I can to be totally responsive to Congressional needs for quality service and objective analysis.

Thank you, Mr. Chairman.

[Memorandum]

AUGUST 13, 1979.

To: Harold Brandt—Director, Office of Legal Services.
From: Bill Alberger.
Subject: Need to revise 337 procedures.

For some time now I have been discussing with various people the many problems with our current 337 procedures. A number of disagreements at the staff level over the handling of recently filed complaints have spurred my interest in this matter. These disagreements, falling largely in the area of non-patent jurisdiction, demonstrate the pressing need to improve our rules.

The purpose of this memorandum is to discuss with you various ideas for improving our administration of Section 337. The discussion fails into two areas; (1) A general discussion of our jurisdiction—focusing on the problems which different types of cases present; and (2) A more specific discussion of actual procedural improvements. Many of these ideas are being reviewed by the General Counsel, who will be presenting a rules package to the Commission (one set of rules on consent orders, settlement, and enforcement is about to go forward). However, I would like to begin discussing this matter with fellow Commissioners, and would like to have your impressions first. Since these are only ideas, I welcome alternative solutions to the problems outlined. Any real change will of course be the task of the full Commission.

1. JURISDICTION AND GENERAL POLICY

My position with respect to "antitrust type" cases was explained in my public statement on the Coke complaint. I stated that the Commission should exercise jurisdiction over conspiracy or monopolization allegations, but only if the information available to us indicates that such an investigation is justified. As a practical matter, I feel it is too simple to couch a mere dumping case in the garb of an antitrust case. Therefore, I believe we must have some discretion to require factual support for the allegations. This policy is justified by our statutory time limitations, which seriously affect our ability to adequately handle complex cases, and by the expense of full scale APA proceedings. We certainly should not waste government resources adjudicating groundless allegations.

Having reached this policy decision, I realize the necessity for adopting some form of pre-institution functions which would facilitate the gathering of crucial factual information. I support a more widespread use of our 603 powers—including compulsory process—in order to facilitate the bringing of meritorious cases (and conversely, discouraging weak cases). Later in this memorandum I will discuss my ideas more fully. They would require a rather complex set of rules revisions. In general, they aim towards a better method of using the pre-institution phase to (1) strengthen large scale cases and clarify the factual issues; (2) reject or discourage weak cases; (3) enable the investigative staff to play a larger role by conducting more 603 investigations and self initiating a greater number of cases; and (4) enhance our credibility as an investigative body, because our allegations (or those of private complainants) would be supported by credible factual information.

Assuming the pre-institution procedures advocated below are adopted, our capacity for handling large scale antitrust cases would still be limited. Your staff would devote more time to preliminary investigations and to drawing up well documented complaints for self-initiation. Since they would also play a central role in the subsequent 337, we would need to assure that only the best cases receive staff support. The goals of Section 337 are best served by investigating only those practices which seriously impair competition and affect a large number of competitors.

Because of the limited role which I see antitrust cases playing in future years, I believe your staff will have considerable resources available to conduct investigations into other anticompetitive practices. There are a vast number of business practices against which Section 337 has not yet been fully utilized. Our recent initiation of cases based on passing off, false designation of origin and similar practices are excellent examples. I believe these cases also may require a good deal of pre-institution investigation to determine questions such as the level of consumer confusion, secondary meaning, and the extent of the practices involved. In these cases too, we should be concerned with practices that adversely affect a large number of competitors, rather than unfair acts which merely abuse the proprietary rights of a single business entity. It is my feeling that such cases are in keeping with the purposes envisioned for Section 337 in the legislative history of the Trade Act. These cases are concerned with foreign practices which greatly affect conditions of competition in the U.S. economy, the interests of U.S. consumers, and U.S. industry.

With respect to patent cases, I believe the Commission senses a growing problem. Many of these cases do not present the Commission with compelling public policy issues. I personally feel that we have entered into a regrettable practice of litigating private rights for the parties. If this practice is to continue. I would like to see the Commission Investigative Attorney participate only on a limited number of issues; particularly where the other parties have failed to develop some aspect of the record which involves the public interest. For example, in a given case there may be a question of patent misuse which raises issues appropriate for the participation of the government as a party. In the normal course, however, I think we could leave many patent based cases to the private parties—perhaps giving the ALJs a larger staff and the authority to make initial decisions (which would become final unless overturned by the Commission). The public interest simply does not justify our routine participation in cases which rarely involve issues beyond the scope of private rights, and which are merely duplicative of Federal court jurisdiction.

2. CURRENT PROCEDURES

A number of changes should be made in our means of handling cases, from institution of the complaint through final determination. Most of these changes will require an extensive revision of current rules. I will separate this discussion into three basic areas: institution of investigations; conduct of investigations; and determinations of terminations.

A. Institution of Investigations

We currently have rules which allow an individual party to file a formal complaint containing certain allegations and information. The Commission "revises" the complaint by dropping certain "courts" or by changing the number of named parties. At that point, the original complaint, together with a notice are served upon respondents.

This entire procedure is unsatisfactory. As I mentioned earlier, the lack of any pre-institution factfinding is a major problem. The result is a general type of notice pleading consisting of broad allegations which rest on information or belief. We then attempt to change or limit the scope by our notice, but this results in confusing inconsistencies between the complaint and the notice. Moreover, there is little opportunity for the investigative staff to redraft the allegations, because we have only 30 days to consider the complaint and no normal procedure for collecting our own "file" of information.

My alternative approach to the pre-institution phase, which would apply in most large non-patent cases, is as follows:

(1) *To strengthen Rule 210.20(a)(2).*—There has been confusion about the scope and purpose of this rule. In the past I felt that "fact pleading" as such was unduly burdensome. However, I now feel it is better to address the concerns I expressed earlier—by making it clear that this rule gives the Commission discretion to determine the threshold level of information required, For example, the rule could require "a statement of alleged facts which, if proven, would constitute a violation of Section 337, supported by data, affidavits, physical exhibits, and other information, sufficient to demonstrate to the satisfaction of the Commission that the allegations rest on more than mere supposition or belief." To meet our discretionary standard private parties would either have to present the information themselves or convince the investigative staff that a 603 was warranted.[1]

(2) *To adopt 603 procedures which would allow the staff to subpoena evidence and put together a "preliminary file" on suspected or alleged violations.* If private parties had *some* reliable evidence of violation, but not enough to satisfy the Commission's threshold, they would be encouraged to request a 603 rather than file a formal complaint. If the results of the 603 indicate a basis for full adjudication, the staff can either move for self initiation or supply the information to the potential complainant under some type of protective order. If the staff concluded that the evidence uncovered was adverse to the potential complainant, then it could oppose complainant once the case is instituted (assuming there is enough information on the other side to institute). The risk of opposition from the investigative staff would deter weak complaints, and would increase the likelihood that such cases would not go beyond the summary judgement point. On the other hand, staff support would strengthen the case and increase the chances for settlement, because the pre-institution file would be persuasive on a number of disputed issues.

In order to avoid frustrating the legislative intent behind statutory time limits, we would have to adopt fairly stringent administrative guidelines for these 603 activities. The first step would be a memorandum from OLS to the Commission describing the information being sought, the reasons why an informal investigation seems justified, and a timetable. Once the Commission authorizes such activity the staff can make periodic status reports, and submit a more detailed report when it has drawn some conclusions. The staff could propose a self-initiated complaint, or alternatively could leave the matter to private parties. Once an investigation is commenced, the information in our 603 file will undoubtedly find its way into the record. This entire process would be under tight time constraints, but would be flexible enough to allow prolonged pre-institution discovery if necessary.

(3) *To improve procedures for considering complaints once they are filed.*—Many complaints are drafted in such a way as to be confusing, redundant and imprecise. Thus, even if they contain sufficient information they are often put together in a form that is difficult for foreign respondents to understand. We attempt to remedy the problem by drafting a notice which changes or limits the scope of the investigation, but the complaint itself still remains garbled. Given the fact that our rules require us to decide on institution within 30 days, there is not enough time to redraft the complaint ourselves or specify the problems to complainant.

I would prefer a more informal pre-institution procedure, whereby the staff can either: (1) re-draft the compaint entirely (I would assume this approach might be justified in most large non-patent cases), or (2) work informally with complainant to

[1] Patent cases would not normally present as many problems. With samples of the allegedly infringing product and the patent itself as exhibits to the complaint, together with available economic data, the Commission is usually satisfied that the allegations are based on more than supposition or belief.

revise the document. As for this second alternative, our rules could provide that complaints be filed informally with the Office of Legal Services prior to filing with the Commission for final consideration. The complaint filed with OLS could be a sort of fluid document, with your attorneys suggesting needed changes.

With respect to procedures for re-drafting the major non-patent complaints, prior filing with your office would permit you to weigh the need for greater participation in the case. If the complaint appears to indicate a need for either a 603 investigation or redrafting of the material, you can make the appropriate policy decisions. Of course the Commission would have to authorize a 603 or make the final judgement on the adequacy of the complaint. But this mechanism would give us greater flexibility in working out the difficulties—compared to the current, highly formalized, 30 day procedure.

The approach outlined above involves, more than aything, a reshuffling of priorities and a different way of looking at our role. It does place a different emphasis on the role of an investigative attorney. However, it would end up being a distinction without a difference unless it is accompanied by a serious committment to utilize the pre-institution phase more productively. The staff would have to look for and propose 603 investigations which public policy considerations tend to support. It would also have to be more circumspect in its duties—opposing frivolous cases or making sound recommendations as to self initiation. Policy and law would become more intertwined, and all elements of the agency would have to exercise their responsibilities carefully. For example, there would have to be a much greater degree of cooperation between your office and the disparate elements of the agency during the preliminary phase. Given a set of policy guidelines which would prevent any commingling of functions, your staff must rely more fully on the commodity and nomenclature expertise of the Commission, and work closely with the General Counsel on all legal issues. We simply cannot afford to continue in the present atmosphere of conflicting recommendations, differing views on our jurisdiction, and disagreements about substantive issues or appropriate procedures. If this overall approach is ever implemented it would not tolerate the kind of chaos which presently prevails during the pre-institution phase.

B. Conduct of the Investigation

The first subject I want to raise in this subsection is the current discord over the operation of the default rule. I believe an analysis of this issue reveals many things about the way the Commission perceives its role.

The entire controversy arose because Commissioners were suddenly confronted with a situation in which they had no means of ascertaining that a trade problem existed. In one case they had no samples of infringing products, no data on imports, and no real information on injury. Yet here was a complainant who claimed to be significantly affected by import practices. On that basis alone, I expected complainant (or the staff) to present a modicum of facts—showing us that imports were in fact occurring, that the product seemed to infringe a valid patent, and that the effect or tendency of this practice was to cause harm to the domestic industry. Most of us could not understand why it became impossible to present these basic facts simply as a result of the foreign default. As a practical matter, the substantive problems raised by this controversy can be solved by revising our rules.[2] Rather than focusing on those issues, I would prefer to dwell on the lessons which can be learned from that experience.

The default controversy was unfortunate, because it forced the Commission to take a controversial view of its own rules. While I am convinced our interpretation was entirely consistent with our mission and function, I regret that our action could not have been avoided by better coordination between the Commission and its investigative branch. It seems to me we should have some ongoing consultative process—totally unrelated to the facts of any pending case—which attempts to deal with such procedural problems. If this were the case, your attorneys would have a better opportunity to assess the Commission's attitude about our rules. It would enable you to place pending cases in the best posture for Commission action, and would enable us to discuss procedural improvements with all elements of the agency. This consultative process could take the form of a Rules Committee, which discusses rules revision and possible interpretations of existing rules. Since it would

[2] While I think the Commission's policy with respect to default is entirely justified, I do feel that the interpretation made by your office is indicative of the need to clarify the rule. I think default should only have substantive consequences when it makes it impossible for the Commission or complainants to obtain further evidence. Therefore, I would favor a rule that permits procedural default, but only absolves complainant of proof requirements if he explains the inability to obtain certain evidence. This concept is similar to our recent action in Certain Electric Slow Cookers.

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deal only with general problems on an ongoing basis, it would not violate the separation of functions principle. The administrative order establishing such a Committee could explicitly state that no pending matters are to be raised. If such a Committee presently exists, I believe it should be enlarged and given greater emphasis.

Another concern is the manner in which interlocutory decisions are made. As you will see from my discussion of final determinations (below) I believe almost all of these decisions should be handled by an ALJ. I cannot understand why the Commission retains control over so many preliminary decisions, and I view the practice as antithetical to the basic concept of speedy, efficient decision making (one of the most important aspects of Section 337). I am aware of the difficulties your office has had in assuring speedy action by the Commission on interlocutory matters. In one case it took two months to add a number of respondents, and by the time it was accomplished there was no longer any meaningful opportunity for discovery. This is intolerable, and whatever the cause, we must change procedures by delegating far more responsibility to the ALJ. This problem is discussed in detail immediately below.

C. Determinations and Terminations

It is clear to me that the present Commission practice of routinely hearing oral arguments on each case and rendering final determinations is grossly inefficient. The whole purpose of having hearing examiners is to delegate most of the hearing functions. By employing highly qualified Administrative Law Judges, the Commission should have enabled itself to adopt a far more efficient approach than is presently used. With the greatly increased load of non-337 cases which will result from passage of the Trade Agreements Act the Commission will have even less time to devote to 337 determinations. Moreover, the legal complexities of these cases—as to patent issues, commonlaw principles of unfair trade practice law, antitrust law, and questions of jurisdiction—are more appropriately handled by a qualified ALJ.

The solution to this problem is to adopt the *initial decision* procedure outlined in the APA.[3] Initial decisions become . . . "the decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the agency within time provided by rule".[4] While the Commission could reject or reverse the decision of the ALJ, I believe that our standard of review should be something far more restricted than the present one. The APA allows us to limit the issues on review,[5] and a number of possible limitations could be incorporated into our rules. I would favor a rule which limited review to matters of law or general policy, and to factual findings which are clearly erroneous or arbitrary and capricious. Other regulatory bodies employ this initial decision procedure, and I believe it is the most appropriate way to handle an APA jurisdiction.

Inherent in this approach is the notion that all matters will be delegated to the ALJ, including injury and public interest, and that no matters will come to the Commission for interlocutory review. While a stricter standard of review limits our ability to reverse the ALJ, it is the only option to wasteful and duplicative reexamination of the record as to each factual and legal ruling. Given responsible and expert judges, the Commissioners can focus their attention on the broader questions of law and policy to which they are uniquely suited.

Finally, I would like to discuss our current settlement policy. As a general matter, I believe the public and the parties are best served by amicable resolution of these cases. We have been employing settlement procedures with some success—and hopefully we will soon adopt rules to formalize our consent order, licensing agreement and settlement agreement procedures. Recently, I expressed concern over the notion of using consent orders in patent cases, because I felt it may be more appropriate to promote licenses or private settlements in all cases except those which involve weighty public interest concerns. I would like your views on this issue, because the Commission will undoubtedly be discussing it in conjunction with the proposed rules package. I realize there are no definitive answers, and that the principal issues are policy ones (i.e. the burden to the agency of monitoring consent orders versus the potential burden of relitigating when a private settlement falls apart). However, I believe the viewpoint of OLS is important here

CONCLUSION

Past practice in 337 cases demonstrates the need for drastic and innovative change. Once the Commission as a body agrees to the need for such change, we

[3] See 5 U.S.C. § 557.
[4] § 557.
[5] Id.

could begin the task of drafting an appropriate mission and function statement for your office. That statement should establish more effective ways of administering the law; including different use of investigative attorneys, better coordination in the handling of complaints, and greater delegation of authority for conducting preliminary investigations. It should emphasize the greater degree of objectivity and investigative (as opposed to adjudicative) responsibility your office must have. I hope to discuss this with fellow Commissioners once I receive a written response from you. Please advise me of your views as to the feasibility and legality of these suggested changes.

I am also sending copies of this memorandum to various staff in order to obtain their informal views.

STATEMENT OF WILLIAM S. SNEATH, BUSINESS ROUNDTABLE

This statement is submitted on behalf of the Business Roundtable task force on international trade and investment. The Roundtable is an association, established in 1972, of business executives of 192 companies. Its members examine selected public issues, develop positions on such issues which seek to reflect sound economic, social and legal principles, and make those positions known to the public and its representatives in government.

The Roundtable believes that reorganization of the Federal Government's international trade and related functions is an issue meriting both careful scrutiny and urgent, immediate attention. We must organize to be better able to develop the policies necessary to reverse the steady decline in our international trade position. We must also be able to move swiftly in the very near future to cope with the challenges and opportunities presented by the MTN agreements. We must have the necessary mechanisms in place both to enforce the new obligations assumed in those agreements and to deal with the disputes certain to arise when they take effect. Finally, trade must have a permanent advocate in the Executive Branch strong enough to have its views heard at the highest policymaking levels and to insure that the need to restore our competitive position in world markets is reflected and considered in every relevant government policy.

The Roundtable believes that the Administration's trade reorganization plan, with but a few exceptions and but for a few issues yet to be clarified, would constitute an important and useful step in the direction of satisfying these needs. By and large, the proposal meets the basic principles or criteria we believe must be met by any successful plan and has the Roundtable's general support.

Apart from the self-evident fact that any reorganization—in government as well as in private activity—cannot be a panacea in itself, the principal reservation we have over the plan involves the division of responsibilities for matters of import relief policy and enforcement between the U.S. Trade Representative (USTR) and the Department of Trade and Commerce (DTC). We understand that further attention is being given to this critical issue and we await a more detailed explanation. It is essential that the respective roles and functions in this specific area be defined with clarity and precision, especially in the area of discretionary enforcement matters, if responsibility is to be shared by two agencies.

We are also concerned that the proposed strengthening and broadening of the role of the Trade Representative, which we urgently recommend, does not appear to be accompanied by provision for adequate staffing. We believe issues in international trade and economic relations will become increasingly important as world competition becomes more complex and controversial. We urge re-examination of the decision to maintain STR staffing at its current level and look forward to seeing plans which define how the Office is to be organized to perform its new and augmented functions.

Turning now to the Committee's list of illustrative issues on which it requested comments, our task force has examined some of the issues in depth and is able to comment. Certain other issues, however, largely involve internal, managerial questions or issues of an essentially adjudicatory nature which the task force has not examined and on which the Roundtable, therefore, has no position. Our comments, keyed to the Committee's announcement, are the following.

Basic organization structure

The Roundtable prefers the first of the three basic organizational options listed—a strengthened STR within the Executive Office of the President. It believes that effective trade policy development, administration, and trade negotiation depend critically upon a close relationship between the Trade Representative and the President. It believes that a major function of the Trade Representative must be,

and must be seen to be, that of the impartial mediator among competing national interests in trade matters, a function not capable of being performed as effectively outside the Executive Office. A truly national perspective on trade policy, together with the close relationship to the President necessary to forge together every government activity and policy that bears upon trade, is possible only if the USTR is at the White House level.

This principle was accepted by the Congress in 1962. We believe experience confirms the wisdom of that decision. Moreover, today there are many additional reasons why at this critical point in our trade relations and competitive posture, the last thing we should risk is creation of a new Trade Department and the concomitant disruption of U.S. trade affairs.

Finally, regarding investment functions, the Roundtable believes formulation and adoption of a U.S. foreign investment policy is overdue. The Cabinet-level Trade Policy Committee (TPC) recommended by the Administration conforms closely to a major Roundtable recommendation—that there must be a permanent mechanism at the Cabinet level responsible for developing U.S. foreign economic policy. Investment should be an integral part of such policy. The implementation of foreign investment policy should also be assigned to USTR.

Unfair trade practices

The six issues listed under this topic in the Committee's announcement one way or another involve the uncertainties which concern the Roundtable in the proposed division of responsibilities for unfair trade practices between the Trade Representative and DTC. Until more specific proposals are known, it is difficult to comment constructively.

Given this limitation, we can offer only a few suggestions. First, the issue in the transfer of dumping and countervailing duty functions is not so much one of any "shortcomings" in the "division of responsibilities" between the Treasury Department and the USITC as it is a widely held perception that these laws have not been expeditiously and vigorously enforced, despite years of mounting concern and criticism.

We would accept the desirability of the fresh start, but, as noted above, are concerned over the inter-relationships between DTC operations with USTR's trade policy coordination functions as well as with its newly focused responsibility for all trade negotiations. These latter responsibilities under recently enacted law not only involve certain enforcement functions but also full responsibility for section 301 which can, and undoubtedly will, overlap both dumping and countervailing duty complaints and preceedings, proposed for transfer to DTC. These possible conflicts and divergencies must be clarified and avoided.

The Roundtable does not normally treat with issues primarily of staffing or competence of U.S. Government personnel. It should be obvious, however, that the complexities of pricing in today's world competition and the limitless possibilities for government assistance and other subsidy practices require highly trained and talented personnel. Trained cost accountants, price and marketing experts, and skilled industry analysts are but a few of the job specifications which must be available for enforcement of our unfair trade statutes.

Since the areas of discretionary authority under the unfair trade statutes normally involve negotiation with other government (or, upon occasion, through them to industries and firms), USTR must have the primary policy role in the exercise of the discretionary authorities. It must also have such a role so that the United States will speak with one voice and that its representatives have at their disposal all available authority in negotiating trade disputes.

We have no comments to offer on the administering of section 337, essentially a quasi-judicial or adjudicatory proceeding.

Industrial analysis

A major objective of DTC should be to improve its industry sectoral capabilities. We have no comment on the other questions.

Commercial service

The Roundtable believes transfer of the commercial service functions from State to the DTC could prove to be extremely helpful in improving U.S. export performace, but suggests that the transfer and the development of an improved service should be done gradually. It should start pragmatically with the transfer and redevelopment of our commercial services in the major trading partner countries. The goal, in our judgment, should be the eventual creation of a U.S. Career Commercial Service, capable of attacting and motivation highly qualified personnel, and

offering career and advancement prospects comparable to those now offered by the Foreign Service and the Foreign Agricultural Service.

Regarding the functions of the Commercial Service, in most instances the functions of surveillance and reporting can probably be combined with export promotion activities. Responsibility for enforcing compliance with GATT obligations and for conducting investigations must clearly be based in Washington, along with a supplementary cadre of skilled investigatory and enforcement officers available on call for temporary overseas assignments.

In those overseas posts where compliance and investigatory requirements prove to be particularly complex or burdensome, it may become necessary to divide career service personnel into separate functions of surveillance and enforcement, on the one hand, with export promotion and marketing the responsibility of other officers.

The solutions to the problems raised in the Committee's series of questions should be approached pragmatically and the best results will evolve gradually. Abrupt wholesale transfers should be avoided as potentially disruptive and even demoralizing.

We would favor planned rotation of assignments in order to develop the full range of experience and understanding of both international trade problems and the needs of U.S. exporters.

STR organization

STR should be responsible for all U.S. representation in the GATT and the trade activities of the UNCTAD. Again, the initial staffing level proposed by the Administration does not appear to have made adequate provision for these expanded responsibilities.

Export promotion

We would defer comment on questions of improved organization until the recommendations of the President's Export Council are available. Regarding the questions of who should develop a comprehensive U.S. export policy, we believe it essential that the mandate of the TPC be made crystal clear that this should be among its highest priorities. DTC, as an ex-officio member of the Export-import Bank board should have a major policy role in both export promotion and financing.

Other comments

Finally, we believe the mandate of the TPC should clearly state in statutory form that all U.S. economic policies affecting trade and U.S. international competitive performance are within its purview, its coordinating function, and proper matters for advice to the President. Not only should foreign investment issues be specifically included in this mandate, but also such policies as taxation and antitrust as they affect American international business competitiveness.

In order to make clear the broad scope of the mandate for both the USTR and the TPC, we recommend that the individual holding the USTR position also be given the title of Assistant to the President for International Economic Affairs. We further assume that it was an oversight which excluded the Department of Labor from proposed membership on the Trade Negotiating Committee. The interests of labor should have direct representation in both the policy and operational aspects of trade negotiations.

WASHINGTON, D.C., *August 24, 1979.*

Hon. CHARLES A. VANIK,
Chairman, Committee on Ways and Means, Subcommittee on Trade,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reference to the press release of the Subcommittee on Trade, Committee on Ways and Means, United States House of Representatives (sometimes hereinafter referred to as the "Subcommittee"), of August 15, 1979 regarding the Subcommittee's public hearing on proposals to reorganize the federal government international trade functions.

We are specifically concerned about the matter of export promotion and developing a comprehensive United States export policy as related in the Committee's press release. In this regard, the purpose of this letter and the attached materials [retained in subcommittee files] submitted on behalf of Cargill Incorporated is to provide Members and staff of the Subcommittee with our comments and recommendations regarding needed changes in United States taxation of foreign source income and related matters with particular reference to the linkage of tax and trade issues and the need for legislative changes in the context of the Tokyo Round of multilateral trade negotiations ("MTN") and related international proceedings to

preserve the competitive position of United States firms engaged in international trading of agricultural commodities.

We thank the Members of the Subcommittee for their continuing efforts to provide representatives of the private sector an opportunity to express views on international tax and trade matters, and we wish to stress the need for timely changes regarding United States taxation of foreign source income in the context of the MTN agreements and related international trade proceedings. Following enactment of the Trade Act of 1974 and during consideration of the MTN and the Trade Agreements Act of 1979, we have previously provided materials concerning certain of these issues to the House Ways and Means Committee and the Senate Finance Committee.

In accordance with recent international tax and trade developments, including the MTN as a whole, the Subsidies and Countervailing Duty Code, the November 1976 Panel Decisions under the auspices of the General Agreement on Tariffs and Trade on certain tax practices of the United States, France, Belgium and the Netherlands, and various proceedings and deliberations of the House Ways and Means Committee and the Senate Finance Committee, we urge the United States Congress, and more specifically the Members of the House Ways and Means Committee and the Senate Finance Committee, to adopt necessary changes in United States federal income tax law to place United States owned firms engaged in international trading of agricultural commodities on a substantially equivalent tax footing with their foreign owned competitors.

Again, we wish to express our appreciation to the Members and staff of the Subcommittee, and we urge the Congress to proceed, as expeditiously as possible, with the necessary legislative changes to preserve and improve the competitive position of United States firms engaged in international trading of agricultural commodities.

Respectfully submitted.

PAUL H. DELANEY, Jr.

STATEMENT OF THE COLT INDUSTRIES, INC., EUGENE A. MARCH, VICE PRESIDENT

Bills to reorganize the administration of foreign trade matters in the federal government represent a major step toward improvement, notably H.R. 4691, and I submit this statement to express my basic support of it. The concentration of functions in one department has long been needed—with one exception, which I consider of great importance. I urge the giving of an enforcement role to the Department of Justice.

American manufacturers benefit both from sound export policy which expands our foreign market and also from import policy which safeguards American industry from anti-competitive practices which American law discourages—(1) dumping; and (2) the subsidizing of exports to the United States at prices that are not profitable, even lower than real cost. From practical experience, our company knows that federal administration of export law and of import law must not be lodged in the same agency, if the administration is to be effective and acceptable. As legislation moves forward in the Congress, Mr. Chairman, I hope that it will include provisions which separate export policy administratively from enforcement of law regarding dumping of imports and countervailing duties.

The case for the involving of the Department of Justice is strong. Let me develop it as follows:

Reorganization of the federal government's foreign trade functions cannot fully succeed unless it achieves, among other things, three interrelated objectives:

(1) strengthening the full and vigorous enforcement of U.S. trade laws;

(2) assuring the impartiality of that enforcement process; and

(3) restoring Congressional, business, labor and public confidence in the fairness, efficacy and predictability of that enforcement process.

It is respectfully submitted that these objectives can best be achieved, with respect to the enforcement of the present anti-dumping and countervailing duty statutes—the most sensitive, controversial, unevenly enforced and commonly criticized functions in the entire trade picture—by placing those particular law enforcement functions in the Department of Justice.

The mission of the Department of Justice is to enforce the law without prejudice and with effectiveness. The Carter Administration states that it wants the anti-dumping/countervailing duty functions placed "in a location that will afford high priority to faster, efficient enforcement." Furthermore, Justice has advantages over other agencies as noted below.

The Department of Treasury, it seems clear, will not retain these two functions. None of the reorganization proposals provide for continued Treasury responsibility in those matters.

As the Department of Commerce, whether simply revamped or given the new designation of Department of Trade, will certainly be concerned with trade promotion; that interest is best dissociated from responsibility for imports, lest the pressure become irresistible to ease enforcement of import law in order to encourage acceptance of exports abroad from the U.S.; or, vice versa, there is risk of loss of interest in the export market by an agency engrossed in import matters. The two do not go together.

The Office of the Special Trade Representative, favored by some as the locus for these functions, will by nature and purpose always be more oriented toward negotiations than toward law enforcement, more responsive to its negotiating partners abroad than to import-sensitive industries at home, and more subject to White House pressure because of its location in the Executive Offices.

The Department of State has traditionally and not surprisingly expressed an institutional bias giving more weight to the desires and needs of America's foreign friends and allies than to those of domestic constituent.

The Department of Justice has no bias for or against exports or imports, foreign or domestic policy considerations, business, labor or agricultural interests. Its sole interest is the neutral, objective, efficient, effective enforcement of the federal statutes, civil as well as criminal. Without asserting the kind of solo autonomy that can undermine national policy, it is far more insulated than Commerce, the STR and Treasury from the pressures of politics and powerful interest groups, and far abler to resist high administrative interference and foreign government demands.

Not everyone, to be sure, favors the neutral implementation of the anti-dumping and countervailing duty statutes, preferring to see them used for diplomatic, trade or political bargaining purposes. But all those who agree that these matters "are basically adjudicatory in character" (to quote OMB Director McIntyre) should favor placing these two law enforcement functions in a law enforcement agency.

Former Treasury Secretary Blumenthal this past summer argued that these responsibilities "should be carried out by . . . (one of) the 'objective' departments . . . that are supposed to represent national as opposed to constituency interests." Similarly, Treasury's Office of Tariff Affairs Director Self has stated that only an agency that is truly neutral in the tug-of-war between the various departments scrambling for turf and influence in trade matters, with no economic interest group constituency of its own and no tilt toward either foreign or domestic policy considerations, can enforce the anti-dumping and countervailing duty law fairly. Clearly, of all the Departments now represented on the Trade Policy Committee (Justice, State, Defense, Treasury, Interior, Commerce, Agriculture and Labor, as well as the White House and STR), Justice best fits this definition regarding international trade.

Performance of these anti-dumping and countervailing duty functions requires not diplomats, trade promoters, coordinators or negotiators, but lawyers, investigators and economists, accustomed to analyzing formal petitions and complaints, assessing penalties, admitting valid evidence, adjudicating disputes, impartially determining the practices of foreign governments and companies, and above all applying and enforcing the law in an orderly, even-handed, professional manner.

This is exactly what the Department of Justice does better than anyone else, and has for a long time—in enforcing the antitrust statutes abroad, and in enforcing the U.S. Customs Code, the Foreign Corrupt Practices Act, the anti-boycott laws, the Webb-Pomerene Act, the Currency and Foreign Transactions Reporting Act and a host of other statutes. The Department of Justice's Foreign Commerce Section has recently been strengthened in connection with its activities under the Trade Act of 1974 and the Tariff Act of 1930, including consideration of petitions under Sections 201 and 337, and has specifically expressed particular interest in improving the present lack of due process, legal definitions and clear juridiction in the anti-dumping area. Justice is less inclined to make or change law than to enforce it.

The Department of Justice's Customs Section, affiliated with the Civil Division, is already expert in the appraisal of imported goods and the enforcement of customs laws, including the countervailing duty statute. The Foreign Litigation Unit, also in the Civil Division, handles procurement and other cases on a worldwide basis. The Department is accustomed to conducting its law enforcement activities not only in federal courtrooms but in its own administrative proceedings—involving, for example, civil rights, immigration and naturalization, pardons and paroles, and antitrust review letters (in addition to the aforementioned work before the ITC and other outside administrative agencies and tribunals).

Thus Justice can take on the enforcement of the anti-dumping and countervailing duty statutes in a way that would inspire more confidence in the enforcement process than could possibly be induced by the assignment of these functions to Commerce, Treasury, STR or elsewhere. Here clearly the duty and the Department fit.

In that connection, I urge that the reorganization act provide for the establishment of a new office in Justice to take responsibility for all international matters within that Department's jurisdiction (except antitrust, which should be left to the existing Antitrust Division; the office concerned with dumping and countervailing matters should not be attached to the Antitrust Division).

I further urge inclusion of a provision to permit American manufacturers to sue, in federal court, those foreign exporters and the domestic importers of their products whom the American manufacturers consider to be dumping in violation of law. The provision includes suits in countervailing matters. The Department of Justice "Division of Import Law Enforcement" would determine whether or not to support the plaintiff in court.

OTHER PROVISIONS

To further the concept of function-concentration,

(A) The International Trade Commission should be abolished and its responsibilities in information-gathering and in recommendation transferred to Commerce.

The problem of the ITC is not the result of any doubt of that agency's competence, but arises from the indifference of a succession of Presidents to its recommendations. Revealing work on that point has been written by Professor Scott C. Whitney, then at William and Mary College—"The Trade Act of 1974 Revisited: The Need For Further Reform," Boston College Law Review, Vol. XIX No. 5 (July 1978). With respect to the first nine cases acted upon by the ITC after enactment of the 1974 Act, and on which the agency made affirmative determinations and mustered a majority agreement on what import relief should be implemented, "in only three cases . . . did the President ultimately adopt the import relief recommended by the ITC."

. . . Equally disturbing is the manner in which the President has overridden the ITC. The proclamation announcing overrides contain mostly recitals of the findings required by the 1974 Act with virtually no supporting documentation. In many instances the proclamations do not contain a complete recital of the required ultimate findings. In contrast, the ITC reports are extensively documented by evidence adduced at public hearings and informed by the filing of adversary briefs and argument. . . . The President's rejection of most ITC recommendations . . . strongly indicate the need for further reform if the objective of liberalized and effective import relief is to be realized.

The "further reform" available to your subcommittee, Mr. Chairman, is to transfer the authority and responsibilities of the ITC to a stronger body in Executive relationships—the strengthened Department of Commerce.

(B) The administration of the Trigger Price Mechanism would be transferred from Treasury to Commerce.

(C) The Commercial Attachés would be removed from the responsibility of the State Department and assigned to the Department of Commerce.

(D) The Export-Import Bank would be folded under the Department of Commerce with the Secretary of Commerce becoming the chairman of Eximbank.

(E) The Overseas Private Investment Corporation (OPIC) would be made part of Commerce.

(F) Other extraneous Department of Commerce functions, such as the Patent Office and the Maritime Administration would be moved out to other agencies.

(G) The Labor Department would keep the responsibility for trade adjustment assistance for labor and the Agency for International Development (AID) would remain with the Department of State.

(H) The Customs Service and international investment responsibilities currently resting with the Treasury Department would remain there.

(I) The STR would be reduced in size, with the specific tasks of keeping the President fully informed about trade matters, and of transmitting the President's wishes about trade and his views to Commerce and Justice.

I thank you, Mr. Chairman, for the opportunity to submit the foregoing statement and for your consideration of it.

STATEMENT OF THE KORF INDUSTRIES, INC., SCOTT R. LOWDEN, VICE PRESIDENT AND GENERAL COUNSEL

My name is Scott R. Lowden. I am Vice President and General Counsel of Korf Industries, Inc., One NCNB Plaza, Charlotte, North Carolina. This statement is submitted in connection with the proposed reorganization of various trade functions within the federal administrative system and in particular relates to functions involving antidumping enforcement.

Korf Industries is a diversified producer of steel products and steel related technology with principal manufacturing plants in Georgetown, South Carolina and Beaumont, Texas. Our aggregate steel production capacity is approximately 1.3 million tons per year and our primary product line is steel wire rod used in the production of most basic forms of finished wire products. We employ approximately 3,500 persons.

In 1977, Korf Industries, through its steelmaking divisions, filed antidumpting claims against French producers of wire rod under the antidumping statutes. Shortly thereafter, claims were filed by U.S. Steel Corporation and other major U.S. steel producers of a wide range of steel product lines against an extraordinary variety of foreign steel producers. The volume and complexity of the complaints as well as their apparent validity led to hearings conducted by the Subcommittee on November 8, 1977, and on January 25, 1978. On both occasions Korf Industries testified and submitted written presentations to the Subcommittee in support of more expeditious handling of antidumping complaints by the Treasury Department. Congressional pressure and the seriously depressed state of the U.S. steel industry led Treasury to adopt the Trigger Price Mechanism (TPM). Korf Industries was one of the first companies to support the TPM regarding it as a careful, but effective compromise between active enforcement of the antidumping laws and protectionist measures such as outright quotas which have been supported by some segments of our industry. Korf Industries went so far as to intervene on behalf of Treasury in defending a suit brought in an attempt to declare the TPM illegal. The defense was successful and we believe that the effectiveness of the TPM has been demonstrated in the period since its implementation.

Consequently, we view the proposed reorganization of trade functions and the prospective removal of antidumping enforcement authority from Treasury with some concern and we seek assurance that the TPM will continue in force if and when such responsibilities fall under the jurisdiction of another agency. In this respect, we have two substantive comments.

First, we believe that if the reorganization is implemented in the manner proposed by the Administration, clear provision should be made for the relevant sections of the Office of Tariff Affairs, currently under the authority of the Treasury Department, to be removed to the Department of Trade and Commerce in such a way as to permit the continued monitoring and evaluation of steel import pricing. This will require effective measures to ensure continuation of a closely coordinated relationship between the successor to the Office of Tariff Affairs and the Customs Service. This Subcommittee should seek assurance that there will be a clearly defined inter-agency understanding between the Department of Trade and Commerce and the Customs Service to ensure maximum cooperation in fulfilling their respective TPM responsibilities. Such cooperation will be necessary in any event because Customs will continue, after reorganization, to prepare master lists and collect antidumping duties.

Second, we support the proposal of Representatives Jones and Frenzel (H.R. 4567) to merge the International Trade Commission (ITC) into the proposed Department of Trade and Commerce. The ITC is currently responsible for making determinations of economic injury in antidumping claims after Treasury has determined that dumping has occurred. This results in a need to educate a new agency about claims which have already been intensively investigated and wastes a great deal of administrative effort in an area which has already been heavily and justifiably criticized for lengthy processing of claims. Merging the ITC into the proposed Department of Trade and Commerce should provide a substantial opportunity to expedite claims while retaining the considerable expertise of the ITC staff in a coordinated effort to provide more efficient enforcement procedures.

Our experience with the TPM has shown that enforcement of our antidumping statute can be effective. We believe that effectiveness in these areas will forestall or eliminate much of the pressure for protectionist legislation which is neither beneficial to domestic competitive industries nor in the interest of the public. Effective enforcement of laws already enacted will make the rules of the game consistent and will in the long run substantially enhance our trade relations. We believe that the TPM has been a notably successful application of enforcement procedures against

foreign dumping and that the Subcommittee, through the hearings conducted in November 1977, has been substantially responsible for its implementation. We request that the Subcommittee give special attention to this successful program to assure that the proposed reorganization will carry on and improve the enforcement measures begun by Treasury.

STATEMENT OF THE MILLERS' NATIONAL FEDERATION, WAYNE E. SWEGLE, PRESIDENT

SUMMARY

The Millers' National Federation supports the reorganization and strengthening of the U.S. government's international trade functions. In view of the critical importance of agricultural exports to the U.S. balance of payments, the U.S. must have a strong and forceful agricultural trade policy. This can best be achieved by specifying that the responsibility for implementation of agricultural trade policy should lie with the U.S. Department of Agriculture. USDA possesses the expertise and manpower to most effectively carry out this function.

INTRODUCTION

This statement is made on behalf of the Millers' National Federation, the national trade association of the flour milling industry of the United States. Our members represent approximately 87 percent of the commercial flour milling capacity in the United States.

The Millers' National Federation has been active in international trade matters on behalf of its members since 1952. The Export Subcommittee of the Federation is charged with direct responsibility for assisting the U.S. milling industry with its interest in international trade. Wheat flour is exported from approximately 30 states through 40 ports on the Atlantic, Pacific, Gulf Coast and Great Lakes and has gone to more than 100 countries in the world.

The Millers' National Federation concurs with this Committee that there is a critical need for a strengthened U.S. trade organization within the Executive Branch of the Federal government. This is necessary in order to facilitate the effective coordination of our trade relations with other countries; to insure the vigorous enforcement of U.S. rights under the Multilateral Trade Negotiation agreements (MTN), the General Agreement on Tariffs and Trade (GATT) and other trade agreements; and to promote U.S. economic and commercial interests around the world.

As this Committee recognizes, foreign trade is of critical importance to the U.S. economy. Agricultural exports, in particular, currently make a strong positive contribution to the U.S. balance of payments. Thus, the manner in which agricultural policy objectives and trade activities are handled deserves serious consideration by this Committee and by Congress as a whole.

AGRICULTURAL TRADE POLICY IMPLEMENTATION SHOULD REMAIN WITH THE DEPARTMENT OF AGRICULTURE

The Millers' National Federation believes that the responsibility for the day-to-day implementation of trade policy matters involving agriculture should remain with the U.S. Department of Agriculture. As we understand it, this is what is contemplated by the President's proposal for reorganization of the government's international trade functions, and we heartily endorse this aspect of the proposal.

USDA currently possesses great expertise and a wealth of experience in the area of agricultural economics, agricultural trade policy and commodity analysis. Unlike the Office of the Special Trade Representative, USDA also has the manpower necessary to carry out these functions effectively, including gathering information and monitoring of the agricultural export scene on a commodity-by-commodity basis. Its network of agricultural counsellors and attachés located in U.S. embassies around the world further enhances the Department's capabilities in the area of agricultural trade policy implementation.

Various nontariff measure agreements recently passed as a part of the trade package, including the new subsidies code, represent an important step forward for American farmers in their pursuit of equal access to international markets. The effectiveness of the new codes for agriculture will depend upon our ability to use them. This will be facilitated by permitting the Department of Agriculture, and in particular, the Foreign Agricultural Service, to continue to function as the primary focal point for agricultural policy implementation. The Millers' National Federation

believes this Committee has reflected this view in its report to accompany the Trade Agreements Act of 1979: "The Department of Agriculture and the nation's various farm groups must be prepared to use the tools provided by this trade legislation." Report at 154.

CONCLUSION

The Millers' National Federation fully supports this Committee's efforts to reorganize and strengthen the U.S.'s international trade functions. The upgrading of U.S. government trade activities in light of the recently passed Multilateral Trade Negotiation agreements is essential. The strengthening of our trade functions will also facilitate expanded exports and improved enforcement of U.S. and international trade laws—two goals which the Federation applauds.

The Millers' National Federation trusts that this Committee recognizes the unique set of problems which comprises international agricultural policy and its interrelationship with domestic agricultural policy decision making. Our international trade policy as it relates to agriculture will be strongest and most effective if the responsibility for its implementation is permitted to remain with the U.S. Department of Agriculture.

NATIONAL COUNCIL OF FARMER COOPERATIVES,
Washington, D.C., September 17, 1979.

Hon. CHARLES A. VANIK,
Chairman, Subcommittee on Trade, Committee on Ways and Means,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We share the concern which you and other congressional leaders have recently expressed, that trade and other international economic policies and programs be coordinated and implemented in the most effective possible way. This need is vital to gain the maximum possible benefits which the recently completed Tokyo Round will permit, and to build further on the progress made during this historic round of world trade negotiations. U.S. agricultural interests are especially concerned with the potential opportunities for expanded exports which the new codes and other trade barrier reductions made possible. We need a strong, well-coordinated effort to expand our exports and achieve a better trade balance which is in the interest of world economic stability and U.S. economic health.

You have had many constructive suggestions for achieving this stronger and better coordinated U.S. trade program. We are pleased that all major proposals recognize the effectiveness of our agricultural export programs, and understand that the U.S. Department of Agriculture should retain its vital role in this process. We endorse the encouragement of more aggressive overall U.S. export programs, through this proven type of government-private cooperation.

U.S. agricultural interests have consistently sought to insure that our national trade policy and our overall international economic posture full recognize the needs and the special problems which farmers face in international markets. The Office of the Special Trade Representative has traditionally been open and responsive to consideration of these needs, and we support the expansion of a U.S. Trade Representative's role in policy development and coordination. We also believe this role should include oversight authority for key elements of implementation/enforcement activities, including countervailing duty and other especially sensitive import relief measures.

We strongly support the Administration proposal that the Trade Representative's Office be given broad policy management related to monitoring and resolving international trade disputes. Operational functions such as day-to-day monitoring and analytical and staffing support can be left with the appropriate department. While we agree that an expanded export promotion effort for non-agricultural products would be an appropriate function for an expanded Department of Trade and Commerce, we believe that the U.S. Trade Representative in the Executive Office should clearly be designated as the national "trade advocate" and one who has the major responsibility for assuring the U.S. of a "consistent trade policy", as called for by Senator Russell Long on July 27.

We endorse, too, administration proposals to strengthen the role of the Trade Representative in conducting all trade negotiations, including representation to the General Agreement on Tariffs and Trade; coordination of international investment policy, energy trade issues, East-West trade policy; and participation on the National Advisory Committee on International Monetary and Financial Policies.

While recognizing the commendable objectives of limited staffing of a White House Trade Office, we believe that a substantial increase in the budget and staff of the office would be essential to carry out its expanded functions. Although the details of many day-to-day administrative functions can be carried out within the involved cabinet departments, the additional vital policy and enforcement coordinating and oversight roles would require such an increase in order to be effective.

Finally, in dealing with the problems of effective coordination and implementation of existing agreements and laws, we should not lose sight of the urgent need for further negotiations which will continue to improve the framework for more open and expanding world trade and other international economic matters. The U.S. Trade Representative should be given a strong congressional mandate to work toward that goal, and the firm and consistent support of the President will also be vital to progress in that respect.

We are pleased that you and other trade leaders have recognized the urgency of this need for a stronger, better coordinated, U.S. trade effort. On behalf of U.S. farmers, we want to assist in any possible manner in this effort.

Sincerely,

ROBERT N. HAMPTON,
Vice President,
Marketing and International Trade.

STATEMENT OF THE NATIONAL FOREIGN TRADE COUNCIL, INC.

The National Foreign Trade Council, whose membership comprises a broad cross section of U.S. companies with highly diversified interests engaged in all aspects of the conduct of international trade and investment, offers the following comments on the proposed reorganization of the Federal Government's international trade functions as announced in a White House Fact Sheet of July 19, 1979.

The Council supports the Administration's proposed reorganization, which will consolidate foreign trade policy in an expanded Office of the U.S. Trade Representative, and administrative functions in a Department of Trade and Commerce. This should strengthen the U.S. Government's ability to formulate and carry out U.S. trade policies and to monitor and defend trading rights of U.S. exporters throughout the world.

The Council recognizes that the proposal represents a compromise of views within our Government and within the U.S. international business community.

Some maintain the Administration proposal does not go far enough toward consolidating our Government's trade policy and implementation functions, and that in order to elevate trade expansion to a policy goal of the highest priority, responsibility for all international trade matters should be vested in a new cabinet-level department of trade.

There is, however, general agreement among our members that the Administration's proposal is a positive and essential first step in the improvement of the country's trade functions. Also the proposed organizational changes will permit future improvements, as experience indicates further changes are warranted.

We suggest, however, that legislation and other actions to implement the proposal of the Administration reflect the following recommendations:

1. Policy-making functions should be centered as much as possible in one agency—the proposed new Office of the U.S. Trade Representative—having direct access to the President and able to balance in the overall national interest any conflicting views on U.S. export policy, import relief questions, or other U.S. trade issues which arise, such as the impact of tax and antitrust issues upon foreign trade. We therefore urge that the duties and responsibilities of the new Department of Trade and Commerce and of the new Office of the U.S. Trade Representative be clearly defined so as to avoid duplication of functions and so as to consolidate policy functions in the Trade Representative.

2. We strongly urge that the Trade Representative should be a member of the National Security Council and of other appropriate interagency committees having responsibilities which affect U.S. foreign trade.

3. It is essential that all parts of the new governmental foreign trade machinery be adequately staffed with highly qualified and motivated personnel. The animating spirit of the national concern for more effective governmental organization is the growing realization that the United States needs a much better export performance. And it is obvious that any governmental reorganization will in the end be only as good as the persons who run it.

4. We approve of the continued independence of the Export-Import Bank.

5. We feel strongly that the private sector advisory system provided for by the Trade Act of 1974 for the Tokyo Round of multilateral trade negotiations should be continued. It is essential that the private sector have a voice in developing national positions on trade matters.

6. Since foreign direct investments make a significant contribution to increasing U.S. exports, we are of the opinion that the Commercial Attachés stationed abroad should not only be responsible for issues dealing with trade but also issues dealing with investments.

The overall objectives with respect to international trade are greater national "export consciousness," reduction of self-imposed, counterproductive export disincentives, including administrative delay and deterrence, more effective export incentives, and vigorous implementation of the Tokyo Round agreements—all to the end of a vitally needed better U.S. export performance. The Council believes the Administration's reorganization proposal, carried out as suggested above, will provide improved governmental machinery needed to administer the programs and policies that will be necessary to achieve these objectives.

NATIONAL TREASURY EMPLOYEES UNION,
Washington, D.C., September 13, 1979.

Hon. CHARLES A. VANIK,
Chairman, Subcommittee on Trade, Committee on Ways and Means,
Washington, D.C.

DEAR REPRESENTATIVE VANIK: We thank you for permitting us to submit a statement supplementing the record of your hearings on H.R. 4691 and on the President's trade reorganization proposal, announced on July 19, 1979.

The National Treasury Employees Union represents 115,000 Federal workers, including all employees of the U.S. Customs Service. These Customs workers would be affected by the trade legislation your Subcommittee is now considering.

This legislation would remove functions relating to trade and revenue collection from the various agencies in which they are currently lodged and would place them in a new government agency.

Our union is firmly opposed to the removal of any of the revenue functions that are performed by the U.S. Treasury Department. The assessment and collection of revenue has always been a responsibility of the Treasury Department. To reassign those duties to a new department would discard 200 years of experience in revenue collection and needlessly disrupt what is now an orderly and overall efficient law enforcement process.

With regard to the specific questions raised by your Subcommittee concerning unfair trade statutes, we offer the following:

1. "What is the basic rationale for the transfer of part of the responsibility for antidumping and countervailing duty functions to a new Department of Trade and Commerce? In other words, what short comings of the present division of responsibilities between the Treasury Department and the International Trade Commission would be corrected by placing a part of the responsibility in an additional agency?"

It seems to us that whatever shortcomings others have perceived in the present process would be exacerbated by further division of the responsibilities for enforcing the antidumping and countervailing duty laws.

These laws were both enacted to protect domestic industry, and the U.S. Customs Service was entrusted with enforcement of them pursuant to its role as the guardian against the illegal or harmful importation of goods and merchandise.

Under the antidumping statute, Customs is responsible for responding to complaints that a shipment of goods from a foreign nation is to be offered for sale in the United States at an artificially low price. A foreign country might lower the selling price of goods for export through subsidies to a manufacturer in an effort to create a market abroad and/or to stimulate an industry.

After the complaint has been lodged, Customs employees must determine whether or not the merchandise is being sold at the fair market value. This assessment is an extremely complex one and involves determining the cost of production in the foreign country and factoring in local economic information such as how industry sells its goods, how it determines costs, how its workers are compensated, and many other matters. Especially in a controlled economy that does not determine the value of labor or goods through the interaction of supply and demand, this "fair market" determination is a very difficult procedure.

Once the investigation is completed by the Customs Service, the International Trade Commission determines whether or not the importation of the subsidized merchandise is actually harmful, to U.S. industry.

After this research is completed, a recommendation is sent to the Secretary of the Treasury who makes a finding of whether or not illegal dumping has occurred. If the finding is affirmative, then the Secretary levies an extra "dumping" duty, which is the amount by which the merchandise falls short of its fair market values.

The legislation under consideration by your subcommittee would further fragment this process and make it inefficient and unwieldly. It would separate the processes of assessment and enforcement and in so doing would undercut both. As it is now, the technical branch of Customs, which investigates antidumping cases and the employees who enforce the determinations are in frequent contact with one another and rely upon each other to exchange information and implement policy. to place the investigative function in an agency other than Customs would virtually assure mismanagement, lack of communication, and confusion among those responsible for upholding the antidumping law.

2. "Whether or not the functions are transferred, how should antidumping and countervailing duty operations be structured and staffed to avoid present deficiencies?"

The so-called deficiencies in the administration of these statutes are no more than a strict adherence to the laws as they were written. It seems to us that Congress has already taken a major step toward improving the deficiencies by streamlining the present procedures which are now in existence. To then take these functions out of the Treasury Department, which has developed the expertise to enforce these laws over the years, is tantamount to taking one step forward and two steps backward.

A more efficient and expeditious way to implement these statutes would be achieved if, instead of removing the functions from the Treasury Department, the Congress sought instead to increase the personnel in the Customs Service who are responsible for enforcing the antidumping and countervailing duty laws.

3. "If there is a transfer, how would the policy operation in the new agency interrelate with the basic data and investigative resources that would remain behind in the Customs Service?"

As we have stated, it is our belief that the most efficient and effective way to administer laws as complex as those regulating antidumping and countervailing duty is to keep all the related functions in the Treasury Department.

The U.S. Customs Service has been recommending the disposition of antidumping and countervailing duty cases since those laws were passed. It has developed expertise and knowledge in the area, as well as the practical ability to implement the policy determinations at the workplace. Customs personnel at the docks and airports recognize "dumped" goods as well as merchandise requiring a countervailing duty. They are kept apprised of new findings by their colleagues in other branches of Customs.

There are historical and practical reasons for maintaining these functions in the Treasury Department. But beyond these, there is always a tendency among groups of people to share information where there is a community enterprise where there is a common goal the group is striving to achieve. Conversely, there is a tendency to develop a rivalry with another group or organization when functions are divided. Thus, to split the countervailing duty and anti-dumping responsibilities between the proposed new Department of Trade and Commerce and the Treasury Department is to invite factionalism and competition rather than the cooperation and free flow of information that now exists between the various branches of Treasury that carry out functions under these laws.

4. "If a new Department of Trade and Commerce is to make injury determinations under Section 337, should it not also make injury determinations under the antidumping and countervailing duty statutes?"

The short answer to this question is, "No." On injury determination is not the same as another injury determination, and there is no effective rationale for assigning different kinds of determinations to any one agency. An injury determination under the antidumping and countervailing duty statutes is a necessary prerequisite to a finding of dumping or harmful countervailing duty. If there is no injury to a United States industry, there is no dumping and need for countervailing duty. To suggest separating the injury determination from the rest of the investigation now performed by Customs is like proposing that one person break the eggs, a second scramble them, and a third cook them. To put it briefly, dividing a function such as dumping investigation into numerous disparate parts is to complicate the process unnecessarily and to introduce the possibility for communications breakdowns and delays.

We have one additional comment on H.R. 4691. This legislation sets forth a one year period of save-pay and grade for displaced employees. The Civil Service Reform Act of 1978 mandates a two-year grace period for employees who are downgraded as

a result of an agency reorganization. To enact this Section of H.R. 4691 would be to deny only to customs employees the benefits of existing law.

In summary, our union is opposed to those portions of the bill that would remove antidumping and countervailing duty functions from the Customs Service which is familiar with these laws and has always administered them. To fragment their administration between Customs and Commerce is to invite disruption and chaos in an operation that has functioned well.

Sincerely,

VINCENT L. CONNERY,
National President.

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