The original documents are located in Box 34, folder "Transition Reports (1977) - Commerce Department: Consolidated Issues (4)" of the John Marsh Files at the Gerald R. Ford Presidential Library.

U.S. DEPARTMENT OF COMMERCE

BRIEFING HANDBOOK

CONSOLIDATED ISSUES BOOK II OF 4

National Oceanic and
Atmospheric Administration

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

- Oceans Policy Formulation and Organization
- Implementation of the Fisheries Conservation and Management Act (1976)
- Deep Seabed Legislation
- Energy Issues Related to Implementation of the Coastal Zone Management Act
- Reducing Porpoise Mortality
- Marine Minerals Jurisdiction
- Resources for Implementing New Legislation

OCEANS POLICY FORMULATION AND ORGANIZATION

Background

Concern has been expressed by prominent members of both the Senate Commerce and House Merchant Marine & Fisheries Committees with regard to policy direction involving issues and programs. This concern focuses primarily on general ocean issues involving the National Oceanic and Atmospheric Administration (NOAA) and numerous other agencies and Departments from the Maritime Administration and the Coast Guard, to the Environmental Protection Agency and the State Department. Many in the Congress feel that our ocean policies, investment and organization are inadequate to deal effectively with ocean problems--ocean pollution and coastal zone congestion, for example--and unable to realize ocean potentials--food, minerals, energy, and international cooperation at the Law of the Sea Conference.

On September 9 Secretary Richardson testified before the House Committee on Merchant Marine & Fisheries' Subcommittee on Oceanography. Despite vigorous OMB opposition, he stated his firm personal belief that a Cabinet-level oceans committee should be established to assist the President in establishing ocean policy objectives and priorities. The Secretary noted that, while ocean questions have been dealt with in a variety of Cabinet committees (e.g., NSC, Domestic Council, Energy Resources Council), and these committees have a large degree of common membership, there is an important need to deal with oceans questions as a whole and not simply as one item on an agenda.

Beyond a Cabinet-level policy body, the Secretary indicated the need for a broader ocean organization. He felt that an ocean agency should be either Cabinet-level or a part of a Cabinet-level agency.

On the last days of the 94th Congress, Senator Hollings introduced S.3889, a bill to establish a Cabinet Department of the Environment and Oceans (DEO). The Hollings bill includes, among other entities, EPA, NOAA, the Coast Guard and the National Park and Fish and Wildlife Services and Bureau of Outdoor Recreation from Interior. Since the elections, both Office of the Secretary and NOAA staff have met with Senate staff on this bill.

Issue

The issues are (1) how should the Federal Government develop a more coordinated policy thrust for ocean issues and programs; (2) what

should be the role of NOAA in this area; and (3) what should be the nature of the eventual organization encompassing oceans issues?

Analysis of Issues

1. Oceans Policy:

Ocean activities may be regarded in at least two fundamentally different ways. One philosophy considers ocean efforts as functional extensions of land-based efforts; this would group ocean transportation, food production and energy development in the oceans with their counterparts on land. On the other hand, Secretary Richardson has noted four fundamental qualities which differentiate ocean-based efforts from land-based efforts and indicate that oceans should be treated as unique. First, oceans are not divided by private property rights in the same way as the lands; second, the ecological interrelationships of the oceans are very tight and the impacts of oceans activities in the fluid medium are more widespread than are those of land activities; third, the technology for marine resource development is qualitatively different; and fourth, the oceans constitute an area in which U.S. interests butt up against the interests of other countries. Regardless of our eventual oceans organization, there will be a need to assure cross-cut consideration of ocean issues in relation to each other, as well as in relation to other domestic and international governmental functions. There is a general sympathy within the Executive Branch and the relevant committees of Congress for such an approach, although there are differences of view within the Executive Branch whether the Vice-President, the Secretary of Commerce, or someone else should have the lead. In addition, the State Department/Defense Department/NSC complex of institutions are concerned that any such Cabinet-level effort might interfere with NSC coordination of Law of the Sea negotiations.

2. At present, NOAA is the only agency of Government with general ocean responsibilities. The objective of Reorganization Plan No. 4, in establishing NOAA, was to coordinate and provide cohesion to our ocean efforts. Despite this initial charter, NOAA has not been able to provide ocean policy direction--in part due to the competing interests of other agencies, in part due to opposition at OMB, and basically because of a lack of statutory authority. On the other hand, with the possible exception of the deep seabed mining issue (see separate issue paper) the involved Congressional committees generally support a more active leadership role by NOAA and the Commerce Department.

3. With regard to eventual ocean reorganization, the principal issue is: what should be the principal context within which oceans issues

are dealt? Essentially, the oceans are a repository of resources (both living and mineral), a medium for transportation, and an important determinant of environmental quality through the interaction of the oceans and the atmosphere. These uses of the oceans involve both developmental and environmental protection interests. Certainly, the environmental service aspects of the oceans should be dealt with as a whole. This is not the case at present; protection and regulatory functions are spread as far as the Interior Department, the Corps of Engineers, the Coast Guard, and the Environmental Protection Agency. NOAA developmental functions with respect to fisheries, on the other hand, are lodged together with conservation functions in the National Marine Fisheries Service. In addition, a large portion of NOAA's activities can be lumped under the heading environmental services. Many other agencies such as the Geological Survey and the Coast Guard provide related services.

To complete this change, it would be logical to include ocean conservation and regulatory programs in a strengthened environmental agency, which would generally be concerned with the management of common resource properties. However, the case for including ocean development activities is not as compelling. Indeed, arguments can be made against it, since the pressure for development could compromise conservation interests; the reverse is also true. At the same time, separating these activities would lose the benefits of a single agency responsible for oceans policy.

Schedule

Both the Senate Commerce and Government Operations Committees will consider the Hollings bill, which will be reintroduced in the 95th Congress next year. The House Merchant Marine and Fisheries Committee intends to continue its hearings on national ocean policy as well. This issue should be the subject of immediate Secretarial involvement and leadership, both within the Administration and in concert with the Congress.

IMPLEMENTATION OF THE FISHERIES CONSERVATION AND MANAGEMENT ACT (1976)

Background

The Fishery Conservation and Management Act of 1976 allows vessels of foreign nations to fish within the U.S. 200-mile fishery conservation zone after March 1, 1977 if their governments have (1) entered into a Governing International Fishery Agreement (GIFA) not rejected by Congress, and a valid permit is aboard the vessel; or (2) have an international fishery agreement in effect on the date of enactment of the Act, along with a registration permit issued by the Secretary of Commerce for each fishing vessel.

A variety of nations have traditionally fished off our shores beyond 12 miles (the width of our fisheries conservation zone prior to enactment of P.L. 94-265) but within 200 miles. This fishing has resulted in serious depletion of certain stocks. Japan and the USSR account for 87% of the foreign harvest.

The principal purpose of P.L. 94-265 is to conserve and manage the fishery resources found off the U.S. coast and strengthen domestic commercial and recreational fishing. To achieve this purpose, the Act provides for the establishment of Regional Fishery Management Councils to prepare fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery. Among other things, these plans will contain that portion of the optimum yield which, on an annual basis, will not be harvested by U.S. fishing vessels and can be made available for foreign fishing. Based on this determination, the Secretary of State is to allocate the amount available among foreign nations.

The Councils were appointed in August, 1976. It is generally conceded that the Councils will not be able to prepare plans by March 1. Therefore, in accordance with the Act, NOAA has prepared draft preliminary fishery plans which can go into effect, pending development of council plans, when State notifies Commerce that a foreign nation has submitted an application for a fishing permit.

It appears that foreign vessels will not be able to have valid fishing permits on board by March 1, 1977. Only four nations have to date signed GIFAs, but one of these is the Soviet Union. Japan has not signed, but negotiations are proceeding favorably. Even if all thirteen countries which are anticipated to seek fishing privileges in U.S. waters sign GIFAs by March 1, 1977, they will not have valid permits on board because it takes approximately four months to complete the permit application review and issue a valid permit.

Issue

How do we assure a reasonable process to permit foreign fishing after March 1 which is in accord with the purposes of P.L. 94-265?

Analysis

It is important to assure preferential opportunities for U.S. fishermen within the 200-mile zone and protect the authority of the Regional Fishery Management Councils in this regard. It is likewise important not to cause unnecessary friction with other nations which are prepared to recognize our law and sign GIFAs. Therefore, a process must be developed which will allow, on an interim basis, fishing by foreign vessels of nations which have agreed, by signing GIFA's, to respect our jurisdiction and conserve our fisheries, but which are unable to obtain the necessary permits on time.

The legal and administrative requirements for obtaining congressional approval of GIFA's, reviewing foreign applications to fish, approving preliminary plans, complying with the National Environmental Policy Act, and collecting fees and issuing permits will require a time period of approximately 4 to 5 months subsequent to signing a GIFA. The key elements are the necessity to complete regulations for signing GIFAs as early as possible and to obtain congressional approval of GIFAs. The 60 continuous day mandatory congressional review cannot start before January 1977 and, hence, GIFA approval cannot be completed prior to March 1, 1977.

Consequently, the Department will request a "one-time waiver" of certain permit requirements of the Act, which would allow issuance of temporary permits for the period March 1 to August 1, 1977, to vessels of countries having signed GIFA's. (Note: It may be necessary to modify the clause "having signed GIFA's" to accommodate the Japanese problem, if the Japanese have signed a satisfactory interim agreement and have engaged the processes necessary, on their part, to formalize the agreement as a treaty.)

The Department of Commerce needs to secure the concurrence in seeking legislative relief of the Department of State and the Coast Guard and the support from the eight Regional Councils in the first quarter of fiscal 1977. The Administration must request Congress to provide the specified "one-time" legislative relief in the second quarter of fiscal 1977.

DEEP SEABED LEGISLATION

Background

The deep seabed beyond the limits of national jurisdiction contain vast quantities of manganese nodules composed of manganese, copper, nickel and cobalt. While the technology has never been demonstrated on a commercial basis and there are still questions as to whether such technology will prove economic, two consortia led by U.S. firms and two additional U.S. firms have indicated a considerable interest in mining these nodules.

Regardless of what happens at the Law of the Sea Conference, it is conceded that these nodules lie beyond the jurisdiction of any coastal nation. They are in an international area which has been termed by U.S. Administrations (beginning with the Johnson Administration), other industrialized countries and the developing countries as the great "common heritage of mankind." The lesser developed countries claim that, pending agreement on an international regime, there should be a moratorium on deep seabed development. They have incorporated this view in a UN General Assembly resolution which the U.S. does not accept as binding. The U.S., and other industrialized countries maintain that countries have the right under existing international law and as a part of traditional high seas freedoms to move forward in developing the deep seabed.

At the same time, in the Law of the Sea Conference, negotiations are still underway to establish an international deep seabed regime which would be administered by an International Seabed Authority (ISA). However, the Law of the Sea Conference completed its fourth session last September with little progress being made on any of the major unresolved issues. In particular, the seabeds discussions deteriorated into a "new international economic order" ideological debate. The next Law of the Sea session is scheduled to begin in May 1977.

There is considerable domestic interest by the Congress in developing interim domestic legislation which would authorize U.S. companies to move forward with deep seabed mining in specific areas. The Senate Commerce and Interior Committees and the House Merchant Marine and Fisheries Committee are all involved. The companies want such legislation before they make major investments in commercial development. Key advantages in proceeding with such legislation is seen by many as providing a stimulus to the Law of the Sea negotiations, given the fact that the U.S. has a major technological lead.

Finally, there is a long standing dispute between the Commerce and Interior Departments over which agency should have the lead with respect to deep seabed development. Interior claims that deep seabed development should be an extension of their mining responsibilities

on land. OMB staff tend to agree with this view. Commerce maintains that deep seabed mining is an oceans matter and not at all like mining on public lands. Commerce also points to Reorganization Act #4 of 1970 and President Nixon's transmittal statement to buttress their view. This dispute has not been resolved. (See more detailed issue paper on this jurisdictional issue).

Issue

How and in what manner should the U.S. proceed with U.S. deep seabed legislation? What should be the role of Commerce in this regard?

Analysis of Issue

A detailed departmental options paper is available which provides a detailed analysis. Secretary Richardson has decided to support legislation in the first session of the 95th Congress. He would urge that final action on the legislation not take place before the next session of the Law of the Sea Conference, to provide more negotiating flexibility. The more detailed paper sets out the scenario which has been recommended to the NSC Law of the Sea Task Force.

There are many unanswered questions about the kind of legislation that ought to be developed. Companies maintain that they will need investment guarantees against future treaty provisions which render their deep seabed investments and operations impossible or uneconomic. They also maintain that they need authorizations to specific sites vis-a-vis other U.S. nationals. NOAA, in conjunction with the Office of Energy and Strategic Reserves Policy is undertaking a series of detailed analyses of these provisions. They should be completed by the end of the year.

From a bureaucratic point of view, given the dispute between Interior and Commerce policy leadership in connection with deep seabed issues, it is important for Commerce to take a leadership role in developing interim legislation.

Schedule

The Law of the Sea Task Force plans to submit a decision paper on this subject to the President in December. The Congress reconvenes January 4. Senate Commerce and Interior staff are working on draft legislation now.

ENERGY ISSUES RELATED TO IMPLEMENTATION OF THE COASTAL ZONE MANAGEMENT ACT

Background

As described in more detail in the NOAA portion of this document, the Coastal Zone Management Act provides for a program of coastal zone planning and management, with Federal grants to assist states in this respect. Many elements of the Nation's energy "crisis", have a focus on the coastal zone. These include the development of the gas and oil resources of the outer continental shelves, the coastal siting of nuclear and conventional power plants, the handling, storage and transportation of petroleum products including deep water ports, liquefied natural gas operations, and, in certain instances, coastal refineries and petrochemical complexes.

In most instances, successful solutions to the siting problems associated with these facilities will require a high level of intergovernmental cooperation with positive steps being taken by all three levels of government. Unfortunately, in many cases energy-related activities clearly in the national interest, are being delayed or prevented due to the lack of an adequate framework for the resolution of conflicts between levels of government and the general lack of agreement on coastal goals and objectives.

The Coastal Zone Management Act was designed to provide substantial help in facilitating a rational resolution of conflicts such as these. The Coastal Zone Management program and the related Coastal Energy Impact Program, which was authorized by the amendments of July 1976, relate to these energy issues in two important ways. First, the basic Coastal Zone Management Act itself requires that states adequately consider the national interests involved in the siting of facilities necessary to meet requirements which are other than local in nature in their coastal management programs. To insure that this is the case, the Act requires states to fully involve appropriate Federal agencies in the development of their state programs. Second, Federal financial assistance is available through CEIP to assist coastal states and communities in energy siting planning and dealing with impacts in their coastal zones caused by coastal energy activity.

A set of issues involves the implementation of the Coastal Energy Impact Program. As discussed in the NOAA section of this report, draft regulations have recently been issued. Given the complexity of the legislation that ultimately resulted from the melding of the rather different views held by the Ford administration and the Congress, it is not surprising that the draft regulations are somewhat complex. A number of concerns with regard to the draft CEIP regulations have been raised.

Issues

1. What effort, if any, should be made to simplify or modify the Coastal Energy Impact Assistance Program and its draft regulations?

2. Potential budget and policy issues with regard to funding of program and the policies governing implementation.

Analysis of the Issues

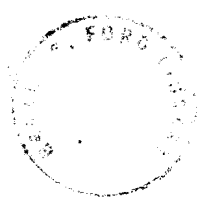
1. The Coastal Energy Impact Program, as developed in draft regulations, is consistent with legislative intent but admittedly is rather complex. Given the Congressional differences involved in the passage of these provisions (there were major differences between the House and Senate versions), and the desire of the Louisiana Congressional delegation to open up the bill to provide additional monies for Louisiana, it is probably undesirable to attempt to simplify the provisions legislatively. Nevertheless, the Office of the Secretary will want to insure that administrative discretion is exercised as fully as possible to make the program as simple as possible for impacted states and communities. The Office of the Secretary should maintain oversight to assure that red tape is minimized.

Concerning the discretion proposed in the regulations for NOAA in dispensing formula grants (a very controversial provision with some segments of Congress), it is difficult to see how DOC responsibilities under the National Environmental Policy Act can be met without using the procedures proposed. Nonetheless, NOAA should be encouraged to go as far as possible in providing pre-clearance and pre-assessment procedures to make the disbursal of these funds as close to automatic as possible.

2. Secretary Richardson, in negotiating with the Congress on the provisions of the amendments to the Coastal Zone Management Act, committed the Administration to early implementation and funding of the Coastal Energy Impact Program, a commitment that was taken very seriously by members of Congress and one which played an important role in the ultimate compromise.

a. Failure to fund the program at levels of Congressional expectations will greatly increase the pressure for sharing of the Federal revenues being obtained from OCS oil and gas with the coastal states. A move in this direction by the Congress, if successful, could have a drastic impact on efforts toward a balanced budget.

b. The Department awaits final funding decisions which may require review and change.



REDUCING PORPOISE MORTALITY

Background

The Marine Mammal Protection Act of 1972 provides for the protection of all marine mammals and prevents the importation of marine mammal products into the United States. Modern U.S. tuna fishing depends on setting nets around porpoise schools which travel with schools of yellowfin tuna. In the fishing process, large numbers of porpoise are killed or injured. The Act requires that the number of porpoises killed incidental to tuna fishing be reduced to insignificant levels with a target of zero mortality.

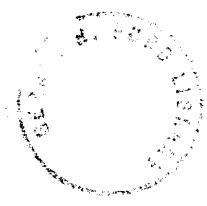
The Act gave tuna fishermen a two-year grace period to reduce the incidental kill of porpoise through scientific research and authorized Federal assistance. Following the two-year exemption, the incidental taking of porpoises was allowed, subject to certain permit restrictions. The U.S. District Court Decision in May 1976, determined that the National Marine Fisheries Service interpretation of the Act regarding the incidental taking of porpoise was not correct, and invalidated the tuna-porpoise regulations allowing fishing for yellowfin tuna on porpoise. This Decision becomes effective on January 1, 1977.

Issue

Reduction in porpoise mortality consistent with the requirements of the Marine Mammal Protection Act, while maintaining an economically viable tuna industry.

Analysis

The National Marine Fisheries Service (NMFS) is taking positive action to comply with Court Decisions by: (1) estimating porpoise population levels and the "optimum sustainable population" for each stock of porpoise; (2) estimating the impact of taking porpoise that would be allowed under proposed regulations; and (3) publishing these estimates and proposed regulations, and holding full public hearing before an administrative law judge. The NMFS established a quota of 78,000 animals for the remainder of 1976 which was exceeded in November. NMFS then issued regulations prohibiting further taking of porpoise associated with yellowfin tuna. This decision was appealed and upheld by the courts. As of November 11, 1976, the taking of porpoise associated with yellowfin tuna was prohibited for the remainder of the year. The proposed regulations for the 1977



season are presently subject to intense public review, scrutiny, and comment. The Department of Commerce is under severe pressure and considerable criticism, on the other hand for failure to stop porpoise fishing in both domestic and foreign tuna fleets, and for the establishment of regulations on purse seine fishing on the other.

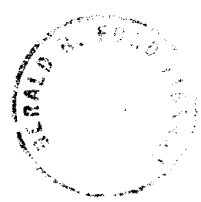
The regime which is called for, with severe restrictions on setting on porpoise, will affect the tuna industry adversely. Because foreign fleets--which kill porpoise at a greater rate than do domestic ones--may move into waters vacated by the U.S. fleet, there may be a net increase in porpoise mortality. The greater than 5 million square mile size of the fishing area may make enforcement very difficult.

It is likely that legislation will be introduced in the next Congress to amend the Marine Mammal Protection Act to ease the difficulties in implementation. Any such legislation is likely to be opposed by environmentalists.

Schedule

The NMFS is taking appropriate steps in the first and second quarters of 1977 FY to implement strict regulations for the 1977 season; such as,

1. Estimate OSP for each population
2. Determine regulation for each population
3. Hold Administrative Law Judge hearing
4. Publish final regulations



MARINE MINERALS JURISDICTION

Background

Both the Department of Commerce and the Department of the Interior are encouraging commercial mining of manganese nodules from the deep seabed, beyond national jurisdiction, in order to provide the United States with stable and economical supplies of copper, nickel, cobalt, and manganese. Nickel, cobalt, and manganese are heavily imported because of inadequate land supplies within the United States. Deep seabed mining is being delayed by the lack of an adequate legal regime (to be established either through a Law of the Sea Treaty or interim domestic legislation) and by environmental concerns. In addition, there is a Commerce-Interior dispute as to which agency should have the lead role within the Government.

Historically, the Department of Commerce received deep seabed mining related functions from Interior through Reorganization Plan No. 4 of 1970, which transferred the Marine Minerals Technology Center to NOAA. However, there are areas of expertise and responsibility within NOAA, the Domestic and International Business Administration, Economic Development, Administration, and Maritime Administration, for matters related to fisheries, environment, insurance and investment, international commodity agreements, maritime operations, and international resource management, which are required of the agency with lead responsibility for deep seabed mining. The Department views deep seabed mining as the development of one of many ocean resources, thus necessitating deep seabed mining authorization and regulation to be a part of a comprehensive ocean resource management program.

During 1974, Interior established an Ocean Mining Administration (OMA) to assume responsibility for authorizing and regulating commercial deep seabed mining when the necessary legal regime is established. Interior views deep seabed mining as an extension of land mining and outer continental shelf responsibilities, with the water column being the equivalent of a soil overburden on land, and cites responsibilities of OMA, the Bureau of Mines, and Geological Survey and the Minerals Policy Act of 1970 as the basis for it to be the lead agency. Interior also feels that all minerals management functions should be vested in one department (Interior).

Issue

The basic issue is which agency (Commerce or Interior) should be the "lead" agency for the authorization and regulation of deep seabed mining.

Analysis

During the past two years there have been a number of meetings between Commerce and Interior, including those between the Secretaries, in an attempt to resolve the dispute. Tentatively agreed upon functions were developed for Commerce and Interior, as well as areas of disagreement.

Secretary Richardson personally sought to arrive at a compromise and also sought to have impartial mediation by a three member panel which included representatives of the White House, Office of Management and Budget (OMB), and Department of Justice. Interior rejected this proposal in favor of letting OMB decide the issue.

Based on the Department of Commerce's competence and marine resources responsibilities, the Secretary subsequently directed work to begin considering the desired contents of interim domestic deep seabed legislation which assigned responsibility to the Department of Commerce. A classified Decision Memorandum on legislation was prepared for the Secretary during early November 1976 and is available. The Secretary also requested a Decision Memorandum, suitable for subsequent use with OMB, on the jurisdiction issue.

Secretary Richardson has repeatedly advocated that the Department of Commerce should be the "lead" agency for deep seabed mining, while Secretary Kleppe has advocated Interior.

Schedule

If the Administration does not resolve the issue during the first quarter of 1977, the issue of the "lead" agency will not be resolved until passage of interim domestic deep seabed legislation which may occur in the 95th Congress. Such legislation could be passed before the May-July 1977 Law of the Sea Conference, but passage shortly after the Conference is more likely. The House of Representatives is likely to support Commerce having the lead role, while the Senate Interior Committee is likely to obtain Senate support for Interior having the lead role.

RESOURCES FOR IMPLEMENTING NEW LEGISLATION

Background

Since the formation of NOAA in 1970, the Congress has assigned new and specific responsibilities to NOAA by legislation. These responsibilities have addressed the critical issues facing the Nation relating to food, energy, mineral resources, environmental problems. However, in some cases, resources have not been sought by the Administration nor appropriated by the Congress at levels to carry out all of the programs authorized by the Congress.

Issues

Newly legislated programs and authorizations are not being fully carried out through lack of appropriate resources.

Analysis

As a consequence of Congress passing legislation authorizing new programs and subsequent decisions by the Administration to fund these programs at levels lower than authorized, NOAA has faced criticism with respect to meeting fully these additional responsibilities. The principal acts and the related impacts are:

a. Amendments to the Coastal Zone Management Act of 1976 authorizing new catagorical grants, fourth year planning funds and higher Federal matching shares.

b. The National Weather Modification Policy Act of 1976 (P.L. 94-490) which became law on October 13, 1976, directs the Secretary of Commerce to develop a national policy and program on weather modification. The Act specifically directs the Secretary to (1) undertake a comprehensive study on weather modification and (2) submit to the President and Congress by October 13, 1977, a final report on the findings, conclusions and recommendations of this study. The study must consider various aspects of weather modification such as: research; development; economic, social, environmental, and legal aspects; legislative factors; and international agreements. NOAA does not have the resources, estimated to be $850,000, to meet the requirements specified in the Act; a request for supplemental funding has been delivered to the OMB. The 12 month period allotted for completion of the study and report also is too short, given the complexity and controversy of the subject; an extension request must be made at some point. Resolution of these issues will be needed during the first quarter of 1977.

c. The Sea Grant Improvement Act of 1976 (P.L. 94-461) - The Sea Grant Program was created in 1966 by the National Sea Grant College and Program Act (P.L. 89-688). The Act authorized the establishment and

operation of Sea Grant Colleges and programs of education, training, research and advisory services related to the development of marine resources. The program during the early years grew steadily from a Federal funding level of $5.0 million in FY 1968 to $23.2 million in FY 1976. However, since FY 1973 the Federal funding levels have increased only slightly and inflation has consumed any hope for program growth.

On October 8, 1976, the President signed into law the Sea Grant Program Improvement Act of 1976 (P.L. 94-461). This Act raises the authorization for appropriation to in excess of $50 million and, more importantly, authorizes several new program activities. These new activities include: (1) the establishment of a National Projects program to support on a realistic scale a number of specific projects directed at secretarial identified national marine related problems or needs; (2) the development of a program of International Cooperation to support joint efforts between U.S. institutions and their foreign counterparts. Initially, the program will focus on marine technology transfer; (3) initiation of a Sea Grant Fellowship program to provide assistance to highly qualified individuals in fields related to ocean and coastal resources.

d. The Whale Conservation and Study Act of 1976 (P.L. 94-532) - The recently enacted Whale Conservation and Protection Study Act has placed new responsibilities on the Secretary. This law requires that the Secretary of Commerce, in consultation with the Marine Mammal Commission and the coastal states, to conduct comprehensive studies of all whales found in waters subject to the jurisdiction of the United States, including the recently declared 200-mile fisheries conservation zone. The results of this study, together with recommendations for legislative action, must be reported with recommendations to Congress by January 1, 1980. Appropriations totaling $1 million for fiscal years 1978 and 1979 are authorized by Public Law 94-532. Funding is not yet available, but the 1978 OMB allowance includes $309,000 for whale stock assessment which could be used to initiate the program.

e. The Deepwater Port Act of 1974 (P.L. 93-627) became law on January 3, 1975. It authorizes the Secretary of Transportation to issue, transfer, amend, or renew a license for the ownership, construction, and operation of a deepwater port. Under the Act, NOAA is required to (1) recommend, upon petition from a coastal State and subsequent request from the Secretary of Transportation, whether the petitioning State should be designated as an "adjacent coastal State" based on risk of damage to the coastal environment of the petitioning State by an oil spill as a result of construction and/or operation of a deepwater port, (2) cooperate with other Federal agencies in the preparation of the environmental impact statement, and (3) to review the application and recommend approval or disapproval based upon legal considerations within NOAA's area of responsibility. Also, NOAA and EPA must periodically recommend to the Secretary of Transportation environmental review criteria which shall be used to

evaluate a deepwater port. Since early 1975, NOAA has been actively involved in carrying out its responsibilities assigned by the Act with reprogrammed funds.

f. The Marine Protection, Research, and Sanctuaries Act of 1972 (P.L. 92-532), approved on October 23, 1972, assigned to Secretary of Commerce responsibility for initiating or promoting programs of research related to ocean dumping and other activities of man which affect ocean ecosystems.

There have been significant problems encountered in implementing the Act. It was not until FY 1977 that the first appropriation ($1.07 million) was approved under the Section 204 authority. This money is to be used to establish a NOAA program to study selected dumpsites in partial implementation of Section 201.

To date, NOAA has not implemented Sections 202 or 203. Funding will be sought for programs to implement these sections in the FY 1978 budget.

g. The Endangered Species Act of 1973 (P.L. 93-205) established a new list, "Species Threatened with Extinction," in addition to retaining the existing list of Endangered Species under the Endangered Species Act of 1969 that considered only endangered species which were divided into those native and foreign to the United States. NOAA now is responsible for most marine species of mammals, and marine species of fish, reptiles, and invertebrates. Under interagency agreements with the Department of the Interior, NOAA receives assistance in listing, protecting, and controlling the importation of threatened and endangered marine species. Due to the lack of financial and/or personnel support, NOAA has been unable to meet its statutory responsibilities under this Act. For example, NOAA is unable to effect adequately the rehabilitation of endangered species, and in the area of enforcement, coverage is not always available to investigate reported endangered species cases which will result in an increase of illegal traffic.

DOMESTIC AND INTERNATIONAL BUSINESS

Bureau of International Commerce

- Need for and definition of Export Promotion Policies
- Role and composition of President's Export Council
- State/Commerce Commercial Relationships

Bureau of Domestic Commerce

- Materials Policy and Federal Organization for Materials Policy
- Economic Health of the Aerospace Industry
- U.S./Canadian Automotive Products and Parts Trade Imbalance
- Telecommunications-Government Regulation and Monopoly versus Independence
- Products Liability Program
- International Labor Organization Withdrawal Question
- Workers' Compensation
- Business-Consumer Relations
- Ferrous Scrap

Bureau of Resources and Trade Assistance

- Implementation of GATT arrangement regarding International Trade in Textiles
- PRC Textile trends
- Renewal of the Multifiber Arrangement
- Footwear imports
- Import Problem--Steel
- Import Problem--Specialty Steel

- Import Problem--Consumer Electronics Products

Bureau of East-West Trade

- Normalization of Trade Relations with People's Republic of China
- The Trade Act of 1974 and East-West trade
- Appropriate role of the Department in East-West policy
- Controls on the transfer of technology and export of high technology goods to Communist countries
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Office of Energy Programs

- Relationships between DOC and the Business Community
- Industrial Conservation: Division of Responsibilities between FEA and DOC.
- Energy Export Policies and Levels

Need for and Definition of Export Promotion Policies

Background

Export Promotion needs remain no less critical today than in the past. The United States does not yet appear to be exporting to its full potential consistent with comparative advantage and to this extent, is not fully maximizing its potential gains from trade. The Bureau of International Commerce efforts to foster and promote a further expansion of exports and a stronger export community are:

A. Serving U.S. policy and economic interest
B. Answering express needs and desires of the U.S. business community

This is important when we consider that:

- nearly 8 million Americans are unemployed;
- plant utilization in some instances is running at less than 75% of capacity;
- U.S. industry is exporting less than 15% of its output;
- only about 8% of U.S. manufacturers are currently active in exporting;
- U.S. imports, particularly energy, are on the rebound;
- rich export markets in OPEC and other resource-rich emergent countries are largely untapped; and
- major competitor countries are intensifying their own promotion efforts.

Comparing official U.S. export promotion efforts with those of other countries, in 1974 (the latest year for which comparable data are available) our major competitors spent three times on the average, the U.S. amount for export promotion per thousand dollars of manufactured exports--$1.08 compared with 30 cents for the United States. In that year, our major competitors also spent 40% more for export promotion as a percent of total non-defense governmental expenditures.

Issues

(1) The need for full and expressed Administration policy on the objectives of export promotion and the role of the Federal Government in reaching these objectives.

(2) The need to resolve the question whether Departmental export promotion efforts should be directed almost exclusively to new-to-foreign-market firms (which would result in a broadening of the export base), or whether a balance should be aimed at that would include export-experienced firms into this effort (which would tend to create large export sales in addition to the broadening of the export base).

(3) Should consideration be given to small-and medium-sized, export-capable firms for whom the cost of participating in a Commerce-sponsored trade event becomes prohibitive?

(4) Should the Government achieve "full cost recovery" for its export efforts by charging industry the cost of its promotions?

(5) Clarification is needed as to who should have the responsibility and therefore also the authority to devise and execute the Government's export promotion programs. Should it be the Department of Commerce or the Office of Management and Budget which, through its instructions to the Department, directs its export promotion efforts, if not in name then in effect?

Analysis of Issue

The above issues are of extreme importance because of differences of opinions among agencies and OMB. For the past two years, a debate has continued within the Executive Branch on the national objectives served by export promotion and the proper role of the U.S. Government in this area. In March 1975, OMB issued a draft report on the subject in which it put forth limited objectives and a considerably diminished role for export promotion. The primary agencies involved in export promotion, Commerce, State, Export-Import Bank and Agriculture took exception to these findings. The debate is unresolved to this day.

Schedule

The White House should, at the earliest possible time, determine and issue export promotion objectives and state the role and level of Federal participation in export promotion.

Hearings should be held, at the earliest possible time, by the relevant Senate and/or House oversight committees to determine the objectives and proper U.S. Government role in export promotion.

The Secretary of Commerce should meet with the Director of OMB to reexamine and resolve issues two, three, and four above.

Role and Composition of The President's Export Council

Background: The President's Export Council (PEC) was established by Executive Order in 1973 to serve as a national advisory body to the President on export expansion activities. Through the Secretary of Commerce, it advises the President, the Council on International Economic Policy, and the President's Interagency Committee on Export Expansion on matters relating to export trade.

The Council has two subordinate committees. The Task Force on Export Promotion, scheduled to terminate December 31, 1976, has been reviewing Commerce's Export Promotion Programs. The Subcommittee on Export Administration provides advice and offers recommendations on ways to minimize the adverse impact of export controls on U.S. business. The subcommittee's activities are viewed as long-term in nature.

The PEC membership consists of a Chairman, a Vice Chairman, and twenty other members representative of business and industry. Each member is the chief executive officer of his firm. Members are appointed by the President and serve at his pleasure. Presently, the Council has two vacancies and the position of Vice Chairman will be vacated effective January 1, 1977. Both the PEC and its Subcommittee will terminate on January 5, 1977 unless extended by Executive Order.

Issue: A decision is needed on whether or not the PEC and its Subcommittee should be continued and if continued, whether the role of the Council should be strengthened and expanded. Replacement of all or a portion of the Council members must also be determined.

Analysis of Issue: Continuation of the Council and the Subcommittee on Export Administration would keep a line of communication open between the President, the Secretary and a corps of chief executive officers of major U.S. industrial organizations who provide industry views and recommendations on export trade matters. There are no other advisory committees which perform these functions. If the PEC is continued, its ongoing activities, generally those agreed upon during a July 13, 1976 joint meeting with the President's Interagency Committee on Export Expansion would also continue. The role of the Council would be strengthened and expanded if the Administration were to frequently seek the Council's advice.

Additionally, replacement of at least a portion of the membership would provide new impetus to the Council. However, the current Chairman of the Subcommittee, a member of the Council, should be retained for reasons of continuity, irrespective of any other Council membership changes that may ultimately occur.

Schedule: Decision on continuance of PEC and its Subcommittee - last quarter CY76

Decision on modifying PEC membership - first quarter CY77

First meeting of reconstituted PEC - second quarter CY77

Appendices: - Executive Order 11753 of December 20, 1973

- PEC membership List

Title 3—The President

EXECUTIVE ORDER 11753

Establishing the President's Export Council and For Other Purposes

By virtue of the authority vested in me as President of the United States of America, it is hereby ordered as follows:

SECTION 1. *Establishment of the President's Export Council.* (a) There is hereby established within the Department of Commerce the President's Export Council, hereinafter referred to as the "Export Council," which shall be composed of a Chairman, a Vice Chairman, and twenty other members representative of business and industry of which eight members shall be selected without regard to geographic considerations and twelve members shall be selected so as to provide appropriate regional representation. The President shall appoint the Chairman, the Vice Chairman, and all other members of the Export Council.

(b) The Export Council shall serve as a national advisory body to the President on export expansion activities.

(c) The Secretary of Commerce (hereinafter referred to as the "Secretary") is directed to insure that the recommendations of the Export Council receive appropriate Governmental consideration.

(d) The Secretary, with the concurrence of the Chairman, shall appoint an Executive Secretary for the Export Council.

SEC. 2. *Functions of the Export Council.* The Export Council shall, through the Secretary, advise the President, the Council on International Economic Policy (CIEP), and the President's Interagency Committee for Export Expansion (PICEE) on matters relating to export trade. In particular, the Export Council may—

(1) Identify and examine problems regarding the effects of industrial practices on export trade and the need for industry to improve its export efforts, and recommend solutions to these problems.

(2) Survey and evaluate export expansion activities which reflect the ideas of the business community.

(3) Provide liaison among members of the business and industrial community on export expansion matters.

(4) Encourage the business and industrial community to enter new foreign markets and to expand existing export programs.

(5) Advise on plans and actions of the Federal Government involving export expansion policies affecting business and industry.

(6) Provide a forum for business and Government on current and emerging problems and issues in the field of export expansion.

SEC. 3. *Subordinate Committees.* The Export Council may establish, with the concurrence of the Secretary, an executive committee and such

other subordinate committees as it considers necessary in the performance of its functions. Subordinate committees shall be headed by a chairman selected from the membership by the Chairman of the Export Council with the concurrence of the Secretary. Members of the subordinate committees shall be selected by the Secretary from representatives of business and industry.

SEC. 4. *Administrative Assistance.* As permitted by law and as necessary to carry out the purposes of this order, the Secretary may provide or arrange for administrative and staff services, support, and facilities for the Export Council, including its executive committee and subordinate committees.

SEC. 5. *Expenses.* Members of the Export Council, including its executive committee and subordinate committees, shall receive no compensation from the United States by reason of their services under this order, but may, to the extent permitted by law, be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

SEC. 6. *Federal Advisory Committee Act.* The Department of Commerce shall perform such functions with respect to the administration of this order as may be required under the provisions of the Federal Advisory Committee Act (Public Law 92-463; 86 Stat. 770).

SEC. 7. *Construction.* Nothing in this order shall be construed as subjecting any Federal agency, or any function vested by law in, or assigned pursuant to law to, any Federal agency to the authority of any other Federal agency, the Export Council, or its Executive Committee and any of its subordinate committees, or as abrogating or restricting any such function in any manner.

SEC. 8. *Revocation.* The Interagency Committee on Export Expansion is hereby abolished and Executive Order No. 11132 of December 12, 1963, as amended by Executive Order No. 11148 of March 23, 1964, is hereby revoked.

Richard Nixon

THE WHITE HOUSE,
December 20, 1973.

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State/Commerce Commercial Relationships

Background: Until the Reorganization Act of 1939, the Department of Commerce (DOC) administered the Foreign Commerce Service of the United States; however, since that time, the DOC in its support of the U.S. business community has had to rely on the unified Foreign Service of the United States which is administered by the Department of State (DOS). The Foreign Service under the DOS has been dominated by political and consular program demands which have been consistently and traditionally the major responsibilities of the DOS. In the view of the U.S. business community and the DOC, the DOS has not given the proper program emphasis and resource allocation to international commercial and economic program activities within the unified Foreign Service. Accordingly, the DOC should seek to assume majority responsibility for management-related matters which directly affect economic/commercial functions of the Foreign Service.

Issue: The DOC has primary international program responsibilities in the fields of business support, trade promotion, trade policy, and investment for which the DOC has received inadequate support from the Foreign Service as administered by the DOS.

Analysis of Issue: There are numerous program deficiencies which could be analyzed and related to the primary issue; however, those factors of greatest immediate concern are: (1) The DOC's requirement for full participation in the management of economic/commercial operations of the unified Foreign Service. (2) The DOC is not directly represented at the DOS (Deputy Under Secretary for Management) in making the final determination of Foreign Service resource allocations and budgetary expenditures. The DOC should press for such representation as its international commercial programs are dependent upon Foreign Service staffing and, to a large degree, DOS funding. (3) The DOC and the DOS should improve the State/Commerce (Personnel) Exchange Program in terms of proper balance of personnel exchangees for executive and career development purposes so that both Departments may establish an improved reservoir of experienced employees to fill key international commercial positions. (4) The DOC funds and is

held responsible for the management and operation of the overall Trade Center program. Therefore, the DOC should have final approval of all Trade Center personnel assignments. Presently the responsibility for the staffing of the sixteen overseas Trade Centers is shared by the DOC and the DOS. The Centers are staffed by a mix of Foreign Service personnel and General Schedule employees of the DOC.

Schedule: (1) During the second quarter of FY 1977, it is recommended that a meeting be held between the Secretaries of the Departments of State and Commerce to express DOC concern that it fully participate in the management of the overseas economic/commercial operations of the Foreign Service.
(2) A request is presently pending to State's Deputy Under Secretary for Management that the DOC be represented in making the final determinations related to Foreign Service resource allocation. If this issue is not resolved in accordance with DOC's pending request, it should be on the agenda at the above recommended Secretarial meeting.
(3) Prior to July 1977, negotiate a new State/Commerce Exchange Agreement to assure a continuing personnel source to meet DOC's staffing needs of its international programs.
(4) During the second quarter of FY 1977, it is recommended that the Secretary of Commerce negotiate with State for final approval of all Trade Center personnel assignments.

Note: The current State/Commerce review of DOS/DOC commercial activities, reported under Administration, should provide additional insights and recommendations relevant to this problem.

MATERIALS POLICY AND FEDERAL ORGANIZATION FOR MATERIALS POLICY

Background

There is increasing interest in resources and raw materials issues, in establishing a coordinated National materials policy, and in organization of the Executive Branch to deal with materials policy. Resources/materials policy has been of concern for a number of years. Both the Paley Commission (1952) and the National Commission on Materials Policy (1973) addressed materials policy issues and made general recommendations for actual policy and Federal organization, while the Mining and Minerals Policy Act of 1970 (P.L. 91-631) gives the Secretary of the Interior very broad responsibilities for fostering and encouraging development of domestic mining and resource recovery industries. The principal recent interest has been in the aftermath of short supply problems during the 1973-74 period, the Arab oil embargo of 1973-74, and growing fears over supply and price stability for import-dependent commodities. Several proposals have been made for Federal reorganization, ranging from strengthening the capabilities of line agencies (e.g., Commerce or Interior) to creation of a new Department of Energy and Natural Resources or creation of a centralized coordinating organization in the Executive Office of the President.

In addition to organization, considerable interest has been generated in material policy issues, including the use of Federal economic stockpiles to prevent supply disruptions, Federal policies for stockpiling of strategic and critical materials for military emergency, the impact of environmental regulation upon materials-producing capacity, Federal land use policy, and recycling.

The National Commission on Supplies and Shortages is examining a number of materials-related issues and is expected to complete its report by the end of 1976, thus providing new impetus for continued interest in 1977.

The Resource Conservation and Recovery Act of 1976, designed to foster recycling and disposal of solid and hazardous waste, provides a number of new responsibilities for the Department of Commerce.

Issue

The principal issue involves Federal organization for collecting and analyzing information on resources and materials

problems and for the formulation of materials-related policy. At issue is whether centralization of such capabilities or strengthening of existing agencies would provide the most efficient and effective mechanism for materials activities.

With respect to actual policies themselves, issues such as economic stockpiling or prevention of domestic shortages, generally involve maintenance of long-term stable supplies of industrial raw materials and development by the private sector of capacity to produce these materials. These issues generally entail choices about the degree of Federal involvement in the private sector, the utility of Federal programs to accomplish this goal, and an understanding of the role of Federal policies on materials supply.

Analysis of Issue

The Department of Commerce position has been that, in fact, there are very few direct materials policies. Instead, there are a wide variety of Federal policies that have an impact upon materials supply and demand. These are implemented by a number of Federal agencies and include: macroeconomic policies, trade and international economic policies, export administration, stockpiling acquisitions or disposals, environment and occupational, health and safety requirements, [illegible] acts, and taxation. Centralization of these diverse activities would not result in the desired goal, but coordination of Federal policies in terms of their impact upon materials supply or capacity would.

The National Commission on Supplies and Shortages has recognized this and is expected to make recommendations that would strengthen the capabilities of existing line agencies for materials data and policy analysis while modestly strengthening micro-level analysis capabilities in the Executive Office. The Commerce Department also has emphasized the need for maintaining expertise and knowledge in individual commodities or industries in micro-level analysis.

Schedule

The National Commission on Supplies and Shortages will complete its report by the end of 1976.

Proposals dealing with Federal organization and materials policy issues are likely to be introduced during the 95th Congress and throughout calendar year 1977.

ECONOMIC HEALTH OF THE AEROSPACE INDUSTRY

Airlines/Commercial Jet Transport Manufacturing

Background

U. S. airlines employ 300,000 workers and represent a capital investment of $16 billion. In 1975 scheduled operators carried 205 million passengers 163 billion miles. They transported 4.8 billion ton miles of freight - a 2.5% decline from 1974 - and moved 80% of the inter-city first class mail. On this carriage, their net loss totaled $84 million.

These carriers moved into the black during the first half of 1976 when the 11 major operators posted a traffic gain of 11.7%. For 1976 total industry profits may reach $300 million. Whereas most analysts agree that the carriers will further increase their earnings for several years, insufficient funds will accrue to finance purchase of the new aircraft the lines will require for replacement, to meet noise standards and for future traffic growth.

Traditionally dependent on the domestic airlines for the bulk of their sales, manufacturers of U.S. jetliners exported 65% of their production in 1975. The firm order backlog has fallen to approximately 370 transports, 70% below the backlog of 1,234 planes in 1969. The builders - with assets of approximately $25 billion - have not undertaken a new U.S. jet transport project since 1971, limiting subsequent production efforts to derivatives of current models. Reflecting this situation, employment in the jet transport manufacturing segment of the industry will fall to around 44,200 by the end of 1976 - down 65% from the 126,200 of 1968.

Since World War II, the U.S. has produced the great majority of civil transport aircraft in use worldwide. As late as June 30, 1976, U.S.-built turbo jet-powered aircraft constituted 84% of the total air transports in use or on order by the world's airlines - excepting Aeroflot, the Russian national airline. Erosion of this position has begun.

To improve foreign market position, U.S. aerospace companies have entered into "offset" arrangements or shared production agreements. During 1975, transport aircraft produced in the U.S. contained over 14% foreign content in terms of value. Movement abroad of joint manufacturing ventures constitutes the next step. Already a French manufacturer has teamed with McDonnell Douglas to produce in France the Mercure 200, a 174 seat medium-range jet transport fitted with 2 GE/SNECMA CMF56 engines. Another engine joint venture between Pratt & Whitney and Rolls Royce will produce "10-ton" engines for new aircraft and retrofit of existing aircraft.

Issues

1. Source of funds required by airlines for:

   (a) The purchase of aircraft needed for replacement and future traffic growth; and

   (b) Purchase of new aircraft or retrofitting of existing planes to meet fleet noise standards.

2. Source of funds required by the commercial transport manufacturing industry to:

   (a) Finance the R & D required to assure continued U.S. technological superiority;

   (b) Finance the development - estimated cost $2 billion - of a new high technology narrow-bodied super critical wing jet transport; and

   (c) To reverse the movement abroad of airframe and engine manufacturing.

Analysis of the Issue

U. S. airlines continue their efforts to secure CAB approval for rate increases necessary to cover increased operational costs.

On November 18, 1976, Secretary Coleman announced that the domestic U.S. commercial aircraft fleet must meet Part 36 Noise Standards by 1985. Unresolved questions remain relative to retrofit or replacement of the 1,600 older aircraft currently in use which fail to meet the new standard.

Sales of used aircraft and increased operating revenues will improve airline cash flow and assist in generating funds required for the purchase of new aircraft. Investigation of the feasibility of government loans and of government guaranteed loans continues. In addition, serious consideration is going to transfer of a portion of passenger/cargo user charges now flowing to the Airport and Airways Fund.

Competent authorities estimate the world requirements of new transport aircraft in the period 1977-1985 will range from $40 to $50 billion. Maintenance of the U.S. world leadership position in the supply of jet transports to the Free World's commercial air fleet requires development of a new, high technology, narrow-bodied super critical wing jet transport.

Schedule

Secretary Coleman has scheduled hearings on December 1, 1976 to discuss financing the aircraft noise reduction program. A report on the hearings will go forward to the President on or before March 3, 1977. Should incorporated recommendations involve Federal assistance to the airlines, Congressional action must follow.

U.S./Canadian Automotive Products and Parts Trade Imbalance

Background

With the objective of freeing up intercountry trade and avoiding a costly trade war, the U. S. and Canada negotiated the U.S./Canada Automotive Products Trade Agreement during 1964. President Johnson and Prime Minister Pearson signed the Executive Agreement at Johnson City, Texas on January 16, 1965. Duty free importation of Canadian automotive products retroactive to January 1, 1965 followed enactment of PL 89-283 on October 21, 1965.

The Agreement has brought benefits to both nations. Total two-way trade has grown from $716 million in 1964 to over $14 billion in 1975 (Appendix A). Canada's share of North American Automotive Industry production now stands at 13% versus consumption of 11%. Canadian employment in assembly operations has increased 9% over the life of the Agreement; in parts manufacture, 16%.

The traditional U.S. favorable trade balance in automotive products swung into deficit as the participating companies developed additional production in Canada. During this period Canada rejected U.S. proposals for elimination of "transitional" safeguards. In 1973, the balance moved into surplus again. Substantial surpluses followed in 1974 and 1975.

The net favorable balance in 1975 of $1.8 billion results from a surplus of $2.4 billion in parts trade and a $.6 billion deficit on assembled vehicles. As in 1974, the substantial surplus in parts trade resulted from reduced economic activity in the U. S. rather than an explosive increase in U. S. exports. As the health of the U. S. sector improved, the flow of Canadian parts has increased and the U.S. overall surplus has decreased. Figures for total automotive products trade through July 1976 show an unfavorable Canadian trade balance of $610 million compared to $1 billion for the same period in 1975 (Appendix B).

Issue

As one facet of its program to bring its international accounts into balance, Canada seeks to reduce its unfavorable balance in automotive products trade with the U.S. In this effort primary attention is going to that portion of the deficit for which automotive parts account - $2.4 billion in 1975.

Analysis of Issue

Through the Agreement the Canadians have achieved their objectives of increased vehicle production and employment in Canada with safeguards. The resulting integrated North American Automotive Industry has, essentially, allowed free market forces to operate across the border. Through statements to the press and in public forums,

Government of Canada and Canadian industrialists have declared their continuing support for the Agreement.

The great majority of Canadian parts production is concentrated in the Province of Ontario. Although total parts production and parts exports have increased under the Agreement, Government of Ontario is bringing pressure - in part, political - on the Federal Government to correct the imbalance in parts trade.

Ontario supports appropriate amendment of the Agreement or some other intergovernmental action to assure a greater share of the parts market for Canadian producers. Any such action would affect production and employment in the U.S. parts and components industry and introduce additional rigidities in U.S./Canadian trade in automotive products.

Schedule

We can reasonably expect Government of Canada - under provisions of the Agreement - to seek a Joint Review of parts trade within the North American Automotive Industry. Such a request will probably reach Washington, D.C. during the first quarter of 1977. The Joint Review will then commence during the second quarter of 1977.

Appendices

A - United States - Canada Trade Automotive Products, 1964, 1969-75
U.S. Imports - Canadian Imports

B - United States-Canada Trade in Automotive Products 1976[1/] - 1975
U.S. Imports - Canadian Imports in Transaction Values

United States - Canada Trade Automotive Products, 1964, 1969-75
U. S. Imports - Canadian Imports

Millions of U. S. Dollars

	1964	1969	1970	1971	1972	1973	1974	1975 1/
U. S. exports 2/								
Cars	34	732	631	985	1,075	1,439	1,657	2,142
Trucks	23	244	263	334	504	643	916	922
Parts	577	2,134	2,019	2,448	2,866	3,552	3,980	4,409
Sub total	634	3,110	2,913	3,767	4,445	5,634	6,554	7,472
Tires and tubes	6	34	23	36	51	92	223	170
Total exports	640	3,144	2,936	3,803	4,496	5,726	6,777	7,643
U. S. imports								
Cars	18	1,537	1,474	1,924	2,065	2,272	2,595	2,809
Trucks	4	560	564	587	713	789	887	917
Parts	49	959	1,080	1,481	1,795	2,172	1,997	2,008
Sub total	71	3,056	3,118	3,992	4,573	5,233	5,479	5,734
Tires and tubes	5	5	14	8	22	68	65	67
Total imports	76	3,061	3,132	4,000	4,595	5,301	5,544	5,801
Net balance	+563	+83	-196	-197	-99	+426	+1,233	+1,842
Memo entry								
Snowmobiles included in truck exports above	-	6	12	22	33	30	33	38
Snowmobiles included in truck imports above	-	111	141	124	104	66	35	28

1/ Preliminary
2/ Canadian import data. Parts exports (Canadian imports) adjusted to exclude tooling charges in millions of U.S. dollars as follows: 1969-$75; 1970-$98; 1971-$68. 1972-$85; 1973-$68; 1974-$128; 1975-$58.
Note: Data exclude U.S.-Canadian trade in materials for use in the manufacture of automoti parts.
Data are adjusted to reflect transaction values for vehicles.
$1.00 Canadian = $0.925 U.S., 1964-69; $0.958 U.S., 1970; $0.990 U.S., 1971; $1.009 U.S 1972; $0.9997 U.S., 1973; $1.02246, U.S., 1974; $.984001, U.S. 1975.
Source: U.S. Department of Commerce

United States-Canada Trade in Automotive Products 1976 - 1975
(U.S. Imports - Canadian Imports in Transaction Values[2])

(Millions of U.S. Dollars)

	July		Cum. Jan. thru July	
	1976	1975	1976	1975
U.S. Exports[3]				
Cars	126.3	132.8	1,311.1	1,132.2
Trucks	89.4	82.2	582.1	542.7
Parts	332.5	297.6	3,185.5	2,465.7
Sub-total	548.2	512.6	5,113.6	4,140.6
Tires and tubes	5.8	12.6	77.1	110.1
Total exports	554.0	525.2	5,190.7	4,250.7
U.S. Imports				
Cars	181.9	175.9	2,052.9	1,613.7
Trucks	94.0	66.5	781.0	531.1
Parts	276.7	146.4	1,660.6	1,014.4
Sub-total	552.6	388.8	4,494.5	3,159.2
Tires and tubes	16.7	5.8	85.8	31.9
Total imports	569.3	394.6	4,580.3	3,191.1
t balance	-15.3	+130.6	+610.4	+1,059.6
Memo entry				
Snowmobiles in exports of trucks above	2.3	2.6	9.1	12.4
Snowmobiles in imports of trucks above	3.6	2.4	8.4	11.0

1/ Preliminary and subject to revision.
2/ US imports are FAS or transaction values as published by Bureau of the Census. Canadian automotive imports are valued on similar basis.
3/ Canadian import data converted to U.S. dollars: C$1.00=US$1.0266, July 1976; C$1.00=US$0.977, July 1975.

SOURCE: U.S. Bureau of the Census: Statistics Canada.
NOTE: Monthly figures are preliminary and cumulative year end totals may contain annual corrections not distributed by months.

/15/76

TELECOMMUNICATIONS - GOVERNMENT REGULATIONS - MONOPOLY vs. INDEPENDENT COMPETITIVE SERVICES

BACKGROUND

The regulation of telecommunications services and certain products is a function of the Federal Cummunications Commission (FCC) and State Commissions under the provisions of the Communications Act of 1934. (This Act was to provide the nation with a unified telecommunications network at a reasonable cost.) Their regulations can limit or encourage competition and can control the economic viability of the regulated companies by rate structure decisions. The FCC exercises control over interstate and international communications carriers and total control over U.S. civil radio frequency assignments. The various State regulatory commissions exercise economic controls over carriers within their jurisdiction.

During the late 1960's, the FCC began to introduce competition into the limited monopoly of the Bell System and some 1,600 independent telephone companies by authorizing the direct sale or lease of equipment to users on an unregulated basis and authorizing interstate-intercity private line services between fixed locations by specialized carriers. These actions are bitterly opposed by the Bell and independent telephone companies.

Prior to these decisions, interstate toll rates were based primarily on distance, rather than cost. Basic local telephone service rates were kept low, in part by charging above cost for extension telephones and business services, and by transferring some revenue from interstate toll service to local telephone companies. The FCC's authorization of competition from specialized common carriers, and sale of interconnect equipment, pressures the telephone companies toward cost-based rates. There is much controversy concerning how high some rates might have to go. In general, economists favor cost-based rates, but many State regulatory commissions prefer rates based on judgmental and political factors (value of service based rates), as we have had in the past.

ISSUE

At issue is whether the public will receive better and more economical telecommunications service from a regulated quasi-monopoly (the Bell System and the independent telephone companies) or through the introduction of competiting carriers into the domestic telecommunications industry and authorization for the interconnection to the telephone network of switchboard and terminal equipment not owned by the telephone companies.

Some of the specific items within the issue that require Departmental policy and economic analysis are:

- Alleged increase of local service rates by as much as 75 percent as competition syphons off telephone company revenues.
- Duplication of investment and resources.
- Division of responsibility and management for end to end services.
- Ability to ensure standardization and interchangeability of basic telephone equipment.
- Terms and conditions of access to national telephone network - FCC or State level.
- Impact upon R&D and innovation in a regulated industry.

ANALYSIS

As a consequence of technological innovation and entreprenurial motivation, the precepts of the Communications Act of 1934 are being challenged. In particular, the FCC's role in encouraging competition in the domestic telecommunications industry is under attack by the telephone industry. The telephone industry bases its' arguments on the need to ensure the technical integrity of the National Telecommunications Network and the claim that the diversion of revenues from large commercial users to competing specialized carriers will create an adverse economic impact on the individual telephone subscribers nationwide.

The telephone industry and other groups, including labor, are supporting legislation to remedy the problems introduced by the FCC's regulatory policies. During the past session of Congress, numerous bills entitled the "Consumer Communications Reform Act of 1976" were introduced by some 192 sponsors and co-sponsors.

The thrust of these bills is to reaffirm the intent of the Communications Act of 1934: (1) by reaffirming the authority of States to regulate the interconnection of customer provided equipment; (2) to prevent duplication of services by prescribing standards governing FCC authorization of companies that would provide intercity private line services; and (3) by assuring true competition between firms authorized to provide intercity private line service by requiring that no competitive rates be denied on the basis of being too low if they are compensatory in terms of the costs involved.

Proponents of this legislation are the Bell and independent companies, the National Association of State Regulatory Commissioners, the labor unions representing telephone workers, FCC Commissioner Benjamin Hooks, and Professor Eugene U. Rostow of Yale Law School and Chairman of the 1967-68 Presidential Task Force on Communications Policy. The U.S. Department of Defense is also expected to favor the bills.

Opponents are the present Chairman of the FCC; the ad hoc Committee for Competitive Telecommunications; the North American Telephone Association; and various specialized communications carriers, such as: MCI, USTS, Southern Pacific, RCA Global, American Satellite, and Satellite Business Systems.

The FCC is endeavoring to develop a data and analysis base to reach a conclusion on the question of competition and the public interest. This requires unique and specialized skills, and is of such magnitude as to severely tax the capability of the Commission's limited staff.

In addition, however, to the immediate question of regulated monopoly vs. competition in the domestic telecommunications industry, a revision of the Telecommunications Act of 1934 must address itself to impact of technological advancement on the structure of the industry. Historical concepts are being outmoded. For example: the line of demarcation between telecommunications and computers is rapidly vanishing. One, but yet, a major point is the revolutionary change in production technology now being evidenced in the manufacture of telephone switching equipment. This equipment represents 30 to 40 percent of telephone system costs. Previously switching equipment was necessarily electromechanical and required an investment in the hundreds of millions for machining parts and electrical/electronic fabrication. The advent of solid state large scale integrated circuits minimizes the need for large capital investment in machinery, and permits most product/market oriented organization to enter the switching-exchange market with a minimum of capital investment.

SCHEDULE

New legislation similar to the "Consumer Communications Act of 1976" as well as a revision of the Communications Act of 1934 are said to be priority items for the new Congress.

Product Liability Program

Background

As a result of reports of increasing product liability claims and sharply rising insurance premiums, the Economic Policy Board requested in January 1976 that the Bureau of Domestic Commerce prepare an issue paper on product liability.

The paper stated that sufficient evidence was found to justify a more substantial investigation. The Board approved the preparation of a study which was published in March 1976. The Bureau of Domestic Commerce Staff Study, Product Liability Insurance: Assessment of Related Problems and Issues found evidence that:

- Insurance premiums were rising sharply.
- Some industries were experiencing difficulty in obtaining products liability insurance.
- Some industries were experiencing an increasing number of claims and lawsuits as result of product related injuries.
- Small businesses and capital goods producers were the most severely impacted.

It was also found that the meager data base available precluded analysis of the causes and effects of the problems as proper analysis of proposed remedies.

As a result of the study, Mr. L. William Seidman, Executive Director of the Economic Policy Board approved the establishment of an Interagency Task Force on Product Liability (See Attachment 1 memo from Mr. Seidman to Under Secretary James Baker). The Task Force is composed of agencies that have an interest in product liability problems and is chaired by Mr. Edward O. Vetter, Under Secretary of Commerce.

An Advisory Committee on Product Liability was formed to advise the Under Secretary in Product Liability matters. The Committee has 19 members who are representative of the following groups: Manufacturers, Distributors, Retailers, Lawyers, Insurers, Insurance Commissioners, Labor and Consumers.

The Committee has had two meetings and has provided assistance to the work of the Task Force. The Committee is chartered to exist until June 1978.

Issue

Product liability is the responsibility imposed on a manufacturer or others in the distribution chain, for injuries or damages caused by a defective product. It has not been a problem to industry or of great significance to the consumer or worker until recent years. Changing legal concepts, consumer activism, and increased emphasis on product safety have led to an apparent increase in the number and size of products liability claims and lawsuits. Many companies and industry associations have reported that the insurance problems may drive them out of business with resulting unemployment. They cite the inflationary impact of the increased cost associated with product liability claims. They state further that many products may be removed from the market place and that companies will be reluctant to introduce new products.

Analysis of Issue

Analysis of the product liability system, development of remedies and preparation of the reports are conducted under the direction of Professor Victor Schwartz, on leave from the University of Cincinnati. In addition to in-house analysis, three major contracts were issued. In these, data are gathered from the insurance industry, legal institutions and manufacturing industries. These data are analyzed for description of the product liability system and for use in developing and evaluating proposed remedies. In addition, data on injuries from State Workers' Compensation systems, Occupational Safety and Health Administration systems, and the Consumer Products Safety's National Electronic Injury Surveillance system are used to analyze the nature of product related injuries.

In addition to information received from the Advisory Committee and from a symposium in which experts in the field presented issues papers, a formal request for public comment and data by the Under Secretary of Commerce was published in the Federal Register.

The principal products of the Task Force project will be a policy options paper, a composite research report and three contractor reports. A partial list of currently available products (see Attachment 2).

Schedule

The Task Force is required to report to the Economic Policy Board on December 15, 1976. The incoming Administration would probably wish to review the task force reports and determine whether legislation should be proposed, and, if so, what form the legislation should take.

Attachment 1

THE WHITE HOUSE

WASHINGTON

April 23, 1976

MEMORANDUM FOR JAMES A. BAKER III

FROM: L. WILLIAM SEIDMAN

SUBJECT: Product Liability Insurance

I appreciate your providing me with the packet of materials as requested concerning the program to address the problem of product liability. I have four suggestions:

1. We are aware of numerous requests for copies of the staff study on "Product Liability Insurance: Assessment of Related Problems and Issues" prepared by the Department of Commerce in response to a request from the Economic Policy Board Executive Committee. Our past practice has been not to release any documents containing recommendations or alternatives for consideration by the Economic Policy Board or the President. I am anxious to maintain this precedent and at the same time be responsive to legitimate requests for the information and data collected. Accordingly, I am hereby authorizing you to release those portions of the study which are purely informational in nature and which do not contain recommendations or alternatives for consideration by the Economic Policy Board.

2. The tendency in government to create interagency mechanisms to address particular issues has in the past often led to a plethora of entities with no overall direction or reporting mechanism to the President. The Economic Policy Board was created in September 1974 in part to replace a host of interagency cabinet level committees that were then dealing with economic policy matters. Since it is impractical for the EPB Executive Committee to itself undertake specialized studies, we have adopted the practice of establishing task forces and subcommittees, generally at the Under or Assistant Secretary level, to address particular problems and report to the EPB Executive Committee and ultimately to the President. Product liability is clearly an issue which requires an interagency effort and the EPB Executive Committee has approved the establishment of a task force. I suggest that the task force

be chaired by the Department of Commerce and consist of representatives, at the Assistant Secretary level or higher, from the Departments of Commerce, Justice, Health, Education and Welfare, Housing and Urban Development, Labor, Transportation, Treasury, the Council of Economic Advisers, the Office of Management and Budget, the Assistant to the President for Economic Affairs, the Small Business Administration, and the Consumer Product Safety Commission. Since you have been intimately involved in the effort thus far, I recommend that you chair the task force and that the task force report periodically to the EPB Executive Committee.

3. I agree that it would be useful for the task force to have an advisory committee on product liability to draw upon the expertise of individuals in the private sector.

4. I am somewhat concerned about the projected time schedule for the task force effort. We now have approximately 8 months until late December when the preparations for the 1977 State of the Union message should be receiving final consideration. I prefer a time schedule for the task force geared to providing recommendations that might be included in the 1977 State of the Union address.

I would be pleased to discuss these suggestions with you at your convenience.

Attachment 2

Materials Available:

- Transcript of the Symposium July 21, 1976.
- Transcript of Advisory Committee Meetings.

  September 20, 1976

  November 1, 1976

- Minutes of the Working Task Force Meetings.
- Working Paper #2 - On Proposed Remedies of Current Product Liability Law.
- Contractor Reports (drafts).

International Labor Organization Withdrawal Question

Background:

The U.S. Government representation in the tripartite American delegation to the ILO has been, in turn, tripartite. It consists of representatives of the Departments of State, Labor and Commerce. Within Commerce, ILO matters, including representation at conferences and meetings of the Governing Body, are presently handled by a Legislative Review Officer in the Legislation Division, Office of Business and Legislative Issues, Bureau of Domestic Commerce.

At the 1975 Annual Conference in June 1975, the Palestine Liberation Organization was granted "observer" status and given the right to address, and participate in the work of, the Conference. Immediately thereafter, the U.S. delegation walked out of the Conference in protest. The AFL-CIO delegation did not return. The U.S. Government and employer delegations returned after a two day absence.

This action on the PLO was viewed by those in Washington responsible for ILO affairs (including the U.S. Chamber of Commerce and the AFL-CIO) as the last straw in the trend toward politicization within the ILO. The U.S. thereupon began to evaluate a means by which the U.S. "could return the ILO to its original purposes." After succeeding in having the House Appropriations Committee delete Department of State appropriations of U.S. contributions to the ILO, the AFL-CIO Executive Council called on the U.S. Government to give a "notice of intent to withdraw," the constitutionally required two-year notification. Until such notice was transmitted, the AFL-CIO would not support payment of dues to the ILO.

Secretary of Labor Dunlop established an Inter-Agency ILO Assessment Task Force comprising representatives of Secretarial Offices of Commerce, State, and Labor to prepare: 1) a mini-study of the ILO issue; 2) an outline of a full study on the ILO to be completed with the assistance of the AFL-CIO and the U.S. Chamber of Commerce; and 3) a "notice of intent to withdraw" from the ILO. In addition, a staff-level Working Group was established to assist the Task Force.

Although the Task Force did not succeed in preparing a complete "mini-study," nor an outline for further study, they reached a decision to send the "letter." The President concurred with this decision. The "letter," which was developed after prolonged negotiations between all three Departments, was delivered to the Director General of the ILO on November 6, 1975.

Issue:

Should the United States carry out its announced intention of withdrawing from the ILO before the expiration of the two year notice period, i.e., before November 6, 1977?

Analysis of Issue:

The "letter" noted that the United States intention to withdraw was the result of an erosion of support for the organization within the U.S. Specifically, the letter cited four trends within the ILO which had detracted from its original purpose and which had changed its character. These are: a) the erosion of tripartite representation (government, employers and workers) b) selective concern for human rights c) disregard for due process, and d) the increasing politicization of the ILO.

Schedule:

To analyze the progress made in U.S. efforts to return the ILO to its original purposes the President has established a Cabinet-level Committee. The Department of Commerce official responsible for this Committee has been the Under Secretary (others include, inter alia, the Secretary of Labor and the President, AFL-CIO). This Committee will decide if the U.S. should remain in the Organization, or in fact depart.

By mid-January 1977, the General Accounting Office is expected to make its report on executive branch participation in the ILO to Senator Ribicoff's Government Operations Committee.

In June 1977, the 63rd Annual Conference of the ILO will take place in Geneva. Thereafter, the Cabinet-level Committee, the tripartite delegation, and the staff will review the Conference and developments since the "letter" was transmitted to the Director General. By the end of July a decision should be made to depart the ILO on schedule, or to "withdraw" the letter.

Appendix - Letter of November 5, 1975, from the Secretary of State to the Director General of the ILO, giving notice of U.S. intention to withdraw from the Organization and describing the reasons for this action.

Appendix

November 5, 1975

The Director General
International Labor Office
Geneva, Switzerland

Dear Mr. Director General:

This letter constitutes notice of the intention of the United States to withdraw from the International Labor Organization. It is transmitted pursuant to Article 1, Paragraph 5, of the Constitution of the Organization which provides that a member may withdraw provided that a notice of intention to withdraw has been given two years earlier to the Director General and subject to the member having at that time fulfilled all financial obligations arising out of its membership.

Rather than express regret at this action, I would prefer to express confidence in what will be its ultimate outcome. The United States does not desire to leave the ILO. The United States does not expect to do so. But we do intend to make every possible effort to promote the conditions which will facilitate our continued participation. If this should prove impossible, we are in fact prepared to depart.

American relations with the ILO are older, and perhaps deeper, than with any other international organization. It is a very special relationship, such that only extraordinary developments could ever have brought us to this point. The American labor movement back into the 19th century was associated with the international movement to establish a world organization which would advance the interests of workers through collective bargaining and social legislation. Samuel Gompers, President of the American Federation of Labor, was Chairman of the Commission which drafted the ILO constitution at the Paris Peace Conference. The first meeting of the International Labor Conference took place in Washington, that same year. In 1934 the United States joined the ILO, the first and only of the League of Nations organizations which it did join. The Declaration of Philadelphia in 1944 reaffirmed the Organization's fundamental principles and reformulated its aims and objectives in order to guide its role

in the postwar period. Two Americans have served with distinction as the Directors-General; many Americans have contributed to the work of the organization. Most particularly, the ILO has been the object of sustained attention and support by three generations of representatives of American workers and American employers.

In recent years, support has given way to increasing concern. I would emphasize that this concern has been most intense on the part of precisely those groups which would generally be regarded in the United States as the most progressive and forward-looking in matters of social policy. It has been precisely those groups most desirous that the United States and other nations should move forward in social matters which have been most concerned that the ILO -- incredible as it may seem -- has been falling back. With no pretense to comprehensiveness, I should like to present four matters of fundamental concern.

1. The Erosion of Tripartite Representation

The ILO exists as an organization in which representatives of workers, employers, and governments may come togethe to further mutual interests. The constitution of the ILO is predicated on the existence within member states of relativel independent and reasonably self-defined and self-directed worker and employer groups. The United States fully recognizes that these assumptions, which may have been warranted on the part of the western democracies which drafted the ILO constitution in 1919, have not worked out everywhere in the world; in truth only a minority of the nations of the world today have anything resembling industrial democracy, just as only a minority can lay claim to political democracy. The United States recognizes that revising the practices and arrangements of the ILO is not going to restore the world of 1919 or of 1944. It would be intolerable for us to demand that it do so. On the other hand, it is equally intolerable for other states to insist that as a condition of participati in the ILO we should give up our liberties simply because the have another political system. We will not. Some accommodation will have to be found, and some surely can be found. But if none is, the United States will not submit passively to what some, mistakenly, may suppose to be the march of history. In particular, we cannot accept the workers' and employers' groups in the ILO falling under the domination of governments.

2. Selective Concern for Human Rights

The ILO Conference for some years now has shown an appallingly selective concern in the application of the ILO's basic conventions on freedom of association and forced labor. It pursues the violation of human rights in some member states. It grants immunity from such citations to others. This seriously undermines the credibility of the ILO's support of freedom of association, which is central to its tripartite structure, and strengthens the proposition that these human rights are not universally applicable, but rather are subject to different interpretations for states with different political systems.

3. Disregard of Due Process

The ILO once had an enviable record of objectivity and concern for due process in its examination of alleged violations of basic human rights by its member states. The Constitution of the ILO provides for procedures to handle representations and complaints that a member state is not observing a convention which it has ratified. Further, it was the ILO which first established fact-finding and conciliation machinery to respond to allegations of violations of trade union rights. In recent years, however, sessions of the ILO Conference increasingly have adopted resolutions condemning particular member states which happen to be the political target of the moment, in utter disregard of the established procedures and machinery. This trend is accelerating, and it is gravely damaging the ILO and its capacity to pursue its objectives in the human rights fields.

4. The Increasing Politicization of the Organization

In recent years the ILO has become increasingly and excessively involved in political issues which are quite beyond the competence and mandate of the Organization. The ILO does have a legitimate and necessary interest in certain issues with political ramifications. It has major responsibility, for example, for international action to promote and protect fundamental human rights, particularly in respect of freedom of association, trade union rights and the aboliti of forced labor. But international politics is not the main business of the ILO. Questions involving relations between states and proclamations of economic principles should be lef to the United Nations and other international agencies where

their consideration is more relevant to those organizations' responsibilities. Irrelevant political issues divert the attention of the ILO from improving the conditions of workers - that is, from questions on which the tripartite structure of the ILO gives the Organization a unique advantage over the other, purely governmental, organizations of the UN family.

In sum, the ILO which this nation has so strongly supported appears to be turning away from its basic aims and objectives and increasingly to be used for purposes which serve the interests of neither the workers for which the organization was established nor nations which are committed to free trade unions and an open political process.

The International Labor Office and the member states of the Organization have for years been aware that these trends have reduced support in the United States for the ILO. It is possible, however, that the bases and depth of concern in the United States have not been adequately understood or appreciated.

I hope that this letter will contribute to a fuller appreciation of the current attitude of the United States toward the ILO. In due course the United States will be obliged to consider whether or not it wishes to carry out the intention stated in this letter and to withdraw from the ILO. During the next two years the United States, for its part, will work constructively within the ILO to help the Organization return to its basic principles and to a fuller achievement of its fundamental objectives.

To this end, the President is establishing a Cabinet-level Committee to consider how this goal may be achieved. The Committee will of course consult with worker and employer representatives, as has been our practice for some four decades now in the formulation of our ILO policy. The Committee will also enter into the closest consultations with the Congress, to the end that a unified and purposeful American position should emerge.

Respectfully,

Henry A. Kissinger

Interdepartmental Workers' Compensation Task Force

Background:

Section 27(a) of the Occupational Safety and Health Act of 1970 mandated the establishment of a Commission to evaluate the State workers' compensation laws to determine if they provide an adequate, prompt and equitable system of compensation. The Commission (known as the Burton Commission) released its report in July 1972. The report enumerated a number of recommendations, including 19 referred to as the "Nineteen Essential Recommendations," and recommended that the compliance of the States with the "Nineteen Essentials" be evaluated on July 1, 1975, and that the U.S. Congress legislate compliance at that time if the States had not acted. On May 13, 1974, following the introduction of bills in the Congress which would federalize workers' compensation an Administration White Paper was released. The White Paper called for the establishment of a Federal Task Force which would conduct further research in Workers' Compensation and provide technical assistance to the states. The Task Force was established with Policy representation from the Department of Commerce, Labor, HEW, HUD, as well as OMB and the Council of Economic Advisers.

Task Force Program

The Task Force is conducting programs of technical assistance and research. The technical assistance group has been engaged at the state level in evaluating the progress of the states in meeting the "Nineteen Essentials" and in educating state legislators and employer groups on the need for improvements in the workers' compensation systems.

The research group has contracted for surveys of practices and analytic reports. The projected outputs of the Task Force effort are the publication of three reports.

- A Technical Assistance Report
- A Research Report
- A Policy Overview Report with Recommendations.

Pending Issues and Commerce Role

- Development of any usable data base - DOC is working with DOL to collect all of the data tapes and put them in the NIH computer system where they can be accessed, evaluated and used in the analysis of policy options.

- o Assessment of the Interrelationships among workers' compensation, OSHA and products liability. Potential recommendations for both workers' compensation and products liability could have significant impact on the other system. Any such recommendations should be analyzed for their impacts on the other system; e.g. significant increases in workers' compensation benefit levels is frequently suggested as a solution to product liability problems. DOC is attempting to examine all remedies for both Task Forces in light of ability to solve immediate problems and their impact on the other system.

Schedule for Reports

Significant delays have been experienced by the Task Force. The current target date for the completion of the final reports is December 15, 1976. In view of the fact that most of the final contractor reports have not yet been received by the Task Force and that only limited staff support is available to complete the analysis and report production, it is unlikely that the December 15 date will be met for the Research Report. Formulation of any policy recommendations logically will follow this report.

BUSINESS-CONSUMER RELATIONS

Background

The term "business-consumer relations" implicitly acknowledges that the marketplace involves both a buyer and a seller. The Department of Commerce, which has the responsibility of promoting the development of U.S. commerce and industry, recognizes that both business and consumers must benefit if a transaction is to contribute to the nation's economic vitality.

In recent years the Department has, within the framework of business assistance, substantially stepped up its actions relating to consumer welfare. The National Business Council for Consumer Affairs, an advisory group of 115 business leaders reporting to the Secretary of Commerce, was established by Executive Order in 1971. The Council reviewed seven key consumer issue areas to identify current and potential consumer problems and recommend solutions. The Council's reports, endorsed and distributed by the Secretary of Commerce during 1971-74, called for positive, voluntary action by the business community to raise the level of business responsibility to the consumer.

During 1975 and 1976 six regional Commerce business-consumer relations seminars were held to focus on consumer issues and their impact on daily business decisions. The seminars, coordinated by the Office of the Ombudsman, stressed voluntary solutions to consumer dissatisfaction and emphasized the benefits that business can derive from assuming a leadership role in the consumer movement.

Issue

The business community is charged with bringing about sought-after consumer benefits, whether this action is taken voluntarily or is mandated by legislation or rules and regulations of the Executive Branch and independent regulatory agencies. The effectiveness of business efforts on behalf of consumers, voluntary or otherwise, is dependent upon business awareness and understanding of consumer problems and their implications. Thus, for business to be completely effective in solving many such problems, some means of communicating them to the entire business community must be developed.

In like manner, the need exists for information that consumers can use as a basis for their opinions on many consumer-related economic issues. Trade-offs should be determined so the consumer can weigh costs versus benefits.

The lines of communication between business and consumers, however, are generally poor. The range of opinion on many consumer issues, on the part of both business and consumers, also hinders business-consumer rapport.

Issue Analysis

The Department of Commerce can serve as a catalyst for business and consumers in bringing about identification and adoption of objectives to enhance the buyer-seller relationship. Toward this end, the former National Business Council for Consumer Affairs developed business guidelines for dealing with the concerns of consumer satisfaction, advertising practices, fair credit procedures, essential product information, and safe, warranted products that can be properly serviced.

A reestablished Council could aid the Department in implementing the guidelines and reviewing emerging issues. The Ombudsman Consumer Affairs and Business Relations Divisions can facilitate joint business-consumer relations seminars. The Department's Consumer Relations Council can coordinate the development of pertinent data from analysts of the Bureau of Domestic Commerce and other Department agencies.

In its catalyst role, the Department can act to help accomplish the following objectives:

1) Establish a dialog with consumers, consumer advocates, and business leaders.
2) Identify issues currently considered significant to consumers, and anticipate those issues emerging as a result of business-government decisions and economic developments.
3) Make both consumers and business privy to the issues uncovered or identified by such action.
4) Conduct independent economic impact studies of the consequences induced by the solutions.
5) Arbitrate with both sides so that through trade-offs, an optimum solution having maximum benefits to the consumer ultimately becomes the Department position.
6) Make the position well known in business and consumer circles and urge immediate voluntary business adoption. Make position known to local governments as guidelines for supporting local regulations.
7) Should the above action be proven ineffective for a given issue after a reasonalbe period, propose enactment and enforcement of the position by Federal legislation.

Schedule

Most elements for resolving this business-government relations issue already are in place within the Department. Analysis of the issue has been ongoing and a formal, documented analysis and recommendation can be completed in the second quarter of

FY 1977. The program can be operational during the third quarter of FY 1977.

Immediate attention in 1977 should be given to a proposed Executive Order reestablishing the National Business Council for Consumer Affairs. Building on existing functions, the Department can work to assure full partnership of business and consumers in achieving consumer satisfaction without preempting long-term profitability.

Ferrous Scrap

Background

Ferrous scrap is an essential ingredient in the production of iron and steel products. It is used in mixtures with hot metal (pig iron) by both integrated and non-integrated companies. The latter, many of which are small and operate electric furnaces, are particularly dependent on scrap as a raw material. Scrap prices are quite volatile and can seriously affect the profitability of electric furnace companies. Exports constitute a substantial portion of the scrap market, accounting for from 15 to over 20 percent of the total scrap entering the marketplace in recent years. A number of foreign countries are significantly dependent upon U.S. supplies for sufficient scrap to operate their iron and steel industries.

The supply of purchased ferrous scrap, which excludes run-around scrap re-melted by the generator, can be only partially predicted. The supply of prompt industrial scrap which is derived from manufacturing operations by iron and steel product consumers, such as automobile plants is directly related to the level of those operations. However, the supply of obsolete scrap, which arises from discarded end-products, the demolition of structures, etc., is highly uncertain.

Issue

The Export Administration Act, which is currently extended by Presidential executive order pending passage of legislation by the 95th Congress, provides for short supply export controls under certain inflationary or supply situations resulting from exports, as well as for the monitoring of exports and related information when conditions warrant such action. Although the current state of the economy and of the iron and steel industry do not justify the imposition of controls or monitoring, the expected recovery in 1977 could result in the need for formal monitoring, if not actual limitations on exports.

Analysis of Issue

The decision as to whether to impose short supply quantitative controls or monitoring will depend upon developments in domestic and foreign markets for ferrous scrap. Raw steel production in 1977 is expected to increase by about 15 percent over 1976 and to be approximately as high as the all-time peak output, which occurred in 1973. This rise, plus a recovery of steel production in foreign scrap markets, will result in what could be unprecedented demands for ferrous scrap in 1977. Inventories in the hands of consumers are at unusually high levels, both absolutely and in terms of consumption rates. Information on stocks at processing plants is not available. The extent to which the total demand, as measured against supply, will affect the adequacy

of supply and result in price increases, will determine Government actions under the statutes.

The scrap processing/exporting industry and the scrap consuming industries (steel mills and foundries) take opposite positions on the question of export controls and monitoring. The processing/exporting industry maintains that adequate supplies of obsolete scrap and of capacity to process such supplies now exist and that the flow of scrap to consumers will take place at reasonable prices. Conversely, the consuming industries maintain that the supply of obsolete scrap is finite, in terms of its arisings in a particular period, unless prices rise to inordinately high levels to draw the scrap out. The scrap processing/exporting industry therefore holds that no form of export controls, or monitoring, is ever justified; while the consuming industries maintain that under conditions of high demand, export controls may be necessary in order to provide adequate supplies, at reasonable prices, to domestic users, and that monitoring may be justified as a minimum, in order to provide the information needed to carry out the Department's responsibilities in this area.

Similar conditions of rising prices and increasing exports in the latter part of 1972 and early 1973 led first to a reporting system on export orders beginning in May 1973, and subsequently, beginning in July 1973, to quantitative export controls. For the last 6 months of that year exports were limited to those orders which had been placed prior to July 1. For all of 1974 exports were controlled on a quarterly quota basis, and were discontinued after December 31, as conditions improved.

Schedule

The subject of export controls/monitoring is a continuing one. It will require constant review and analysis as current and prospective conditions change, looking forward at least 12 months at all times. Recommendations about policy actions would be forthcoming as warranted, subject to approval by the Steering Committee, which reviews such matters as required.

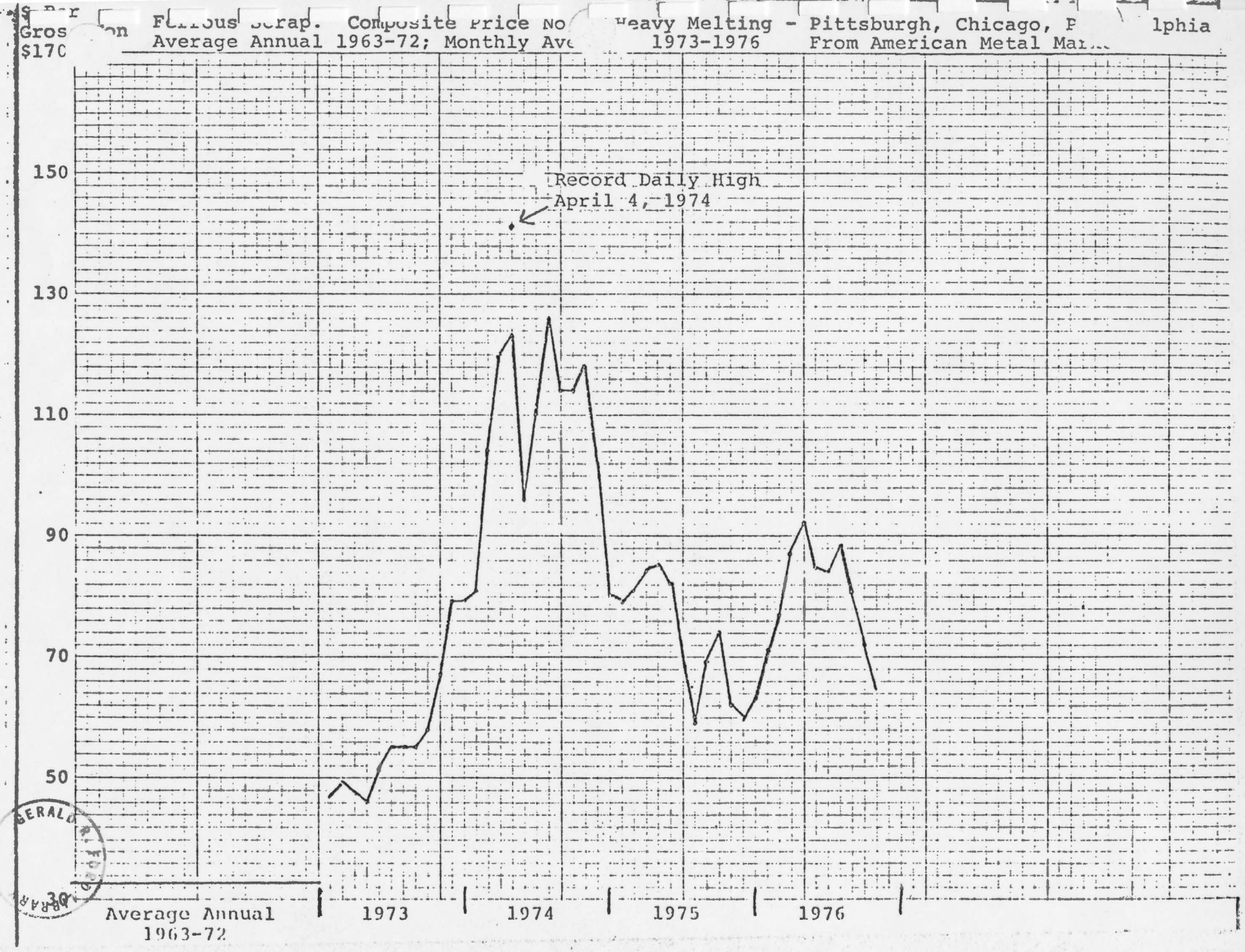
Appendix

Attached are a table and two charts setting forth pertinent information relative to this issue. Additional information of this type would be provided as part of the analysis as called for, from time to time.

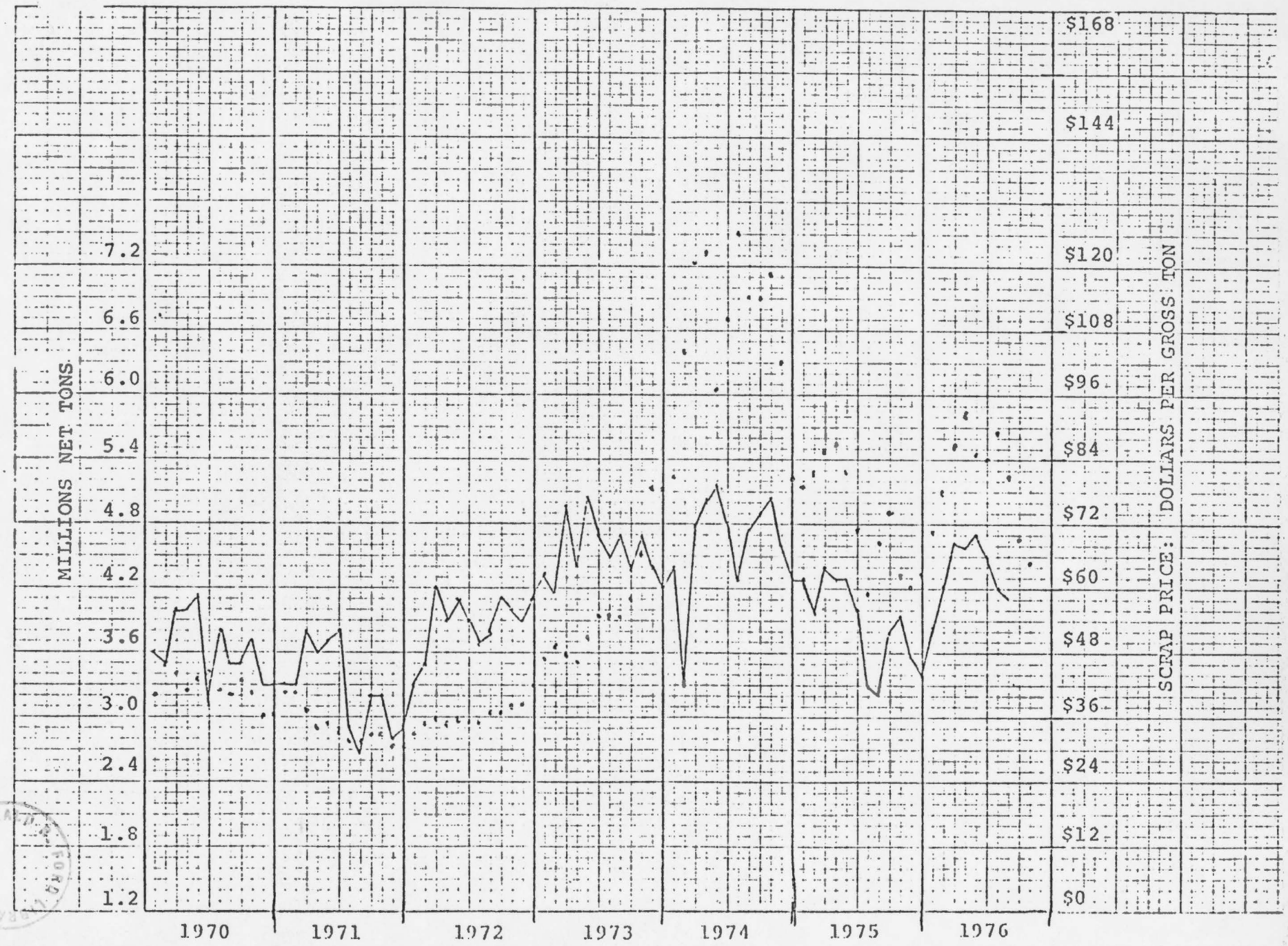
Ferrous Scrap and Related Statistics, 1971-1975
(Million Short Tons)

		Steel Mills				Ferrous Foundries				
	Year	Raw Steel Production	Scrap Consumption	Home Scrap Produced	Net Receipts	Shipments	Scrap Consumption	Home Scrap Produced	Net Receipts	Expor
	1971	120.4	63.7	42.6	21.8	16.3	17.9	6.6	11.0	6.
	1972	133.2	73.4	44.4	28.5	17.9	20.0	6.8	13.1	7.
	1973	150.8	82.5	50.4	30.9	20.0	21.1	7.4	13.8	11.
	1974	145.7	81.1	47.1	34.6	18.7	24.4	8.2	13.2	8.
	1975	116.6	62.8	39.9	23.6	15.1	19.5	6.4	13.3	9.
7 mos.	1976	77.6	41.3	25.9	16.3	10.0	12.7	3.8	8.9	4.

Source: American Iron and Steel Institute, Bureau of the Census, and Bureau of Mines.


Ferrous Scrap. Composite Price No. 1 Heavy Melting - Pittsburgh, Chicago, Philadelphia
Average Annual 1963-72; Monthly Average 1973-1976 From American Metal Market
Gross Ton
$170
150
130
110
90
70
50
30
Record Daily High
April 4, 1974
Average Annual 1963-72
1973
1974
1975
1976

SOLID LINE: TOTAL PURCHASED SCRAP (INCLUDES EXPORTS)
DOTTED LINE: SCRAP



IMPLEMENTATION OF GATT ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES

BACKGROUND

The U.S. textile and apparel industry consists of 30,000 plants and 2.3 million workers, or one out of every nine in manufacturing. In addition, 500,000 cotton farmers, 150,000 wool growers and 105,000 man-made fiber workers also depend on a healthy domestic industry. A high proportion of the industry's workers are semi-skilled, minority group members, less educated and older than the average worker. Textile and apparel workers often are women heads-of-household, and reside in areas without ready alternative employment.

Sharply rising imports from low-wage countries frequently have had a disruptive impact on the domestic market. Between 1962 and 1972 imports of cotton, wool and man-made fiber textiles and apparel rose 312% to 6.3 billion sye. In 1973, the U.S. joined with 50 other major textile trading nations to negotiate under GATT the multifiber Arrangement Regarding International Trade in Textiles, known as the MFA.

ISSUE

Vigorous and effective implementation of the MFA.

ANALYSIS OF ISSUE

Under Article 4 of the MFA the United States has negotiated bilateral textile and apparel restraint agreements with 18 exporting countries. Under Article 3, the United States can unilaterally restrain textile and apparel imports that threaten disruption to the domestic market in accordance with MFA criteria.

Decisions on the negotiation of new agreements or the taking of unilateral import restraints are made by agreement of officials in the Departments of Commerce, State, Treasury, Labor and the Office of the Special Trade Representative (STR). The Under Secretaries of these agencies and the Executive Director of the Council of International

Economic Policy (CIEP), under the Chairmanship of the President's Special Trade Representative, comprise the Textile Trade Policy Group (TTPG), which was established by Presidential memorandum.

Textile policy decisions are normally reached by consensus of the operating level officials. Occasionally issues are raised to the TTPG level for review or resolution.

The interagency Committee for the Implementation of Textile Agreements (CITA) was established by Executive Order 11651 to implement the MFA and agreements under it pursuant to the TTPG's general instructions. CITA is chaired by the Deputy Assistant Secretary for Resources and Trade Assistance and is administered by the Office of Textiles. The Committee's members represent the Departments of State, Labor, Treasury and STR. Under the Chairmanship of the Chief Textile Negotiator of STR, CITA members comprise U.S. textile delegations to bilateral and multilateral negotiations.

On behalf of CITA, the Office of Textiles monitors imports from all textile trading countries to insure that bilateral agreement restraint levels are not exceeded and to identify potential sources of disruption not restrained under a bilateral agreement.

Based on the Office of Textiles monitoring of the domestic market and the impact of imports, CITA may recommend to the TTPG Article 3 unilateral import restraints or the negotiation of new agreements.

CITA is authorized to direct the Commissioner of Customs to deny entry into the United States of shipments that would exceed the levels of bilateral agreements or unilateral import restraints.

SCHEDULE

This is an ongoing activity.

PRC TEXTILE TRENDS

BACKGROUND

In CY 1975, the PRC became the second largest supplier of cotton textile and apparel products to the United States, shipping 140 million square yard equivalents (sye). This volume compares to 84 million sye for CY 1974. This 169 percent rise was in major part achieved in the last four months of 1975 when the PRC shipped 103 million sye vs. 36 million sye for the first eight months.

This sudden rise of shipments became the source of much concern to Government officials responsible for the textile program and the textile industry. Since the PRC is not a signatory to the MFA and is the only major U.S. textile supplier with which the United States does not have a bilateral textile restraint agreement, much of the concern arose from the unique uncontrolled status of PRC textile exports. Unrestrained imports of this magnitude conflict with U.S. equity obligations to our trading partners who are restraining their exports pursuant to bilateral agreements.

ISSUE

The uncontrolled status of PRC textile exports to the United States.

ANALYSIS OF ISSUE

Because this issue is but one element of the very sensitive and complex relationship between the United States and the Peoples Republic of China, the United States has been pursuing a strategy to bring the problem under control outside the MFA framework. This strategy thus far has taken the form of formal and informal communications to PRC officials in Washington and Peking, voicing the U.S. Government's concern over the effect these imports have on a very sensitive U.S. industry. These communications include Secretary Richardson's discussion of the problem with Ambassador Huang (Chief of the PRC Liaison Office in Washington) on July 26, 1976, here at the Department during the Ambassador's courtesy visit.

The PRC responses to these communications usually make the following points: (1) the United States enjoys a favorable trade balance with the PRC, (2) PRC textile exports are very small in comparison to total U.S. textile imports and U.S. textile consumption, and (3) most importantly, the PRC is not willing to enter into any further normalization of trading relationships until progress is made in the normalization of political relationships. (Issue papers prepared by the Bureau of East-West Trade discuss more fully the overall U.S./PRC trade issue.)

From December of 1975 to the present, monthly PRC imports have fallen off by 59 percent on an average monthly basis. This drop has reduced some of the immediate concern of this past spring, however, the issue still remains. The reason for this drop is not at all evident. Three reasons have usually served as the basis for conjecture: (1) the earthquakes of last spring and summer in the industrial regions, (2) the rise in cotton prices over the last nine months, and (3) the political activity surrounding the death of key political leaders.

SCHEDULE

We will continue to monitor textile and apparel imports from the PRC. Should imports again begin to rise, we will be in a position to consider appropriate action.

RENEWAL OF THE MULTIFIBER ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES (MFA)

BACKGROUND

Sharply rising textile and apparel imports have often caused disruption to the domestic textile and apparel market and have adversely affected the U.S. industry and its 2.3 million workers. To bring order as well as growth to world textile and apparel trade, the United States led in the negotiation of the GATT multifiber Arrangement Regarding International Trade in Textiles, known as the MFA. The MFA, which has been signed by 38 nations, is scheduled to expire at the end of 1977.

ISSUE

Administration support for the continuation of the MFA.

ANALYSIS OF ISSUE

The United States seeks early action toward renewal of the MFA without change. During the next five years, there will be continued threat of disruption to textile markets of importing countries from low-wage developing countries. The United States further believes that restraint measures administered within an internationally sanctioned framework which takes account of the special features of international textile trade are preferable to unilateral measures by importing countries. Such a framework can better reflect the interests of exporting countries and would inhibit importing countries from taking unjustified protectionist actions.

The MFA has provided significant liberalization in world textile trade despite the economic downturn. While the MFA is not perfect, it does represent a balance of interests painstakingly negotiated between importing and exporting countries.

The MFA should be renewed without modification. Efforts to modify the MFA during renegotiation would not be constructive since the conflicting positions of importing and exporting countries would be difficult if not impossible to reconcile, jeopardizing renewal.

The European Community officially has not made a decision on whether to seek MFA renewal. However, the Community has indicated it will seek renewal with significant modifications that will be vehemently opposed by the exporting countries.

While a considerable diversity of opinion exists among exporting countries, at least publicly, most support the Group of 77's opposition to continued export restraints on textiles. Leading textile exporting countries have stated that any future international arrangement on textiles should include changes favorable to them.

SCHEDULE

The United States interest in early progress toward renewal of the MFA is motivated principally by its desire to prevent uncertainty among textile trading nations and textile traders. In addition, early renewal would also prevent textile trade issues from holding back progress in the Multilateral Trade Negotiations. In the United States and many other importing countries, assurance regarding the availability of future protection for domestic textile markets would improve the political environment for action respecting the MTN.

The Textile Committee, the plenary organization of all MFA signatories, is meeting in Geneva November 29 to December 10. At that meeting, the MFA's operation will be reviewed and renewal considered. While we hope, at that time, to reach agreement on simple renewal without modification, agreement may not be reached in December, and additional meetings during 1977 may be necessary.

Import Problem

NONRUBBER FOOTWEAR

Background:

For the past decade, imports have been a serious problem for the U.S. nonrubber footwear manufacturing industry. As imports increased, domestic production, shipments, and employment declined. A series of investigations and studies were undertaken between 1968 and 1971, and in August 1975 the footwear industry and its two major craft unions petitioned the U.S. International Trade Commission (USITC) for relief from serious import injury under the liberalized criteria of the Trade Act of 1974. The Commission, on February 20, 1976, unanimously found injury as a result of imports, but was divided in its recommendation to the President as to the remedy, ie., higher import duties, tariff rate quotas, or only adjustment assistance to injured firms, workers and communities. The split recommendation on the remedy precluded the possibility of a Congressional override, otherwise provided in the Trade Act, of any specific action the President would take. The President, on April 16, announced that he had ruled out any form of import restraint as a remedy. Instead, he directed the Secretaries of Commerce and Labor to provide expedited consideration to any petitions for adjustment assistance by footwear firms or their workers. He also directed that the levels of U.S. imports, production, and employment be monitored, and that reports be provided to the White House on significant changes as they occurred, with appropriate recommendations.

Meanwhile, the Senate Committee on Finance passed a resolution, expressing the sense of the Committee "that changed circumstances, including increasing imports and rapidly deteriorating economic conditions in the domestic footwear industry constitute good cause" to institute a new investigation. On September 22, pursuant to that resolution, the USITC opened a new investigation.

Issue:

The President will face another decision on whether or not to take action to restrict imports of footwear. Retailers, importers and consumer groups vigorously oppose such restrictions, while manufacturers and labor unions seek relief to enable the domestic industry to meet import competition.

Analysis of the Issue

Imports since the mid-1960s have increased their share of the U.S. market, while domestic production has been shrinking. In the women's

line, more shoes are imported than are made domestically. The overall import share of the market is approaching 50 percent. As each footwear import investigation is concluded without action by the Administration, more small and medium firms are encouraged to leave the business, adding to unemployment of shoe workers. The larger manufacturing firms are discouraged from investing in domestic production capacity and have expanded their import operation leading to greater concentration of market power. Consumers may not have benefitted from these developments as shoe prices have been rising steadily.

On the other hand, our international trade relations could be adversely affected inasmuch as the imports now exceed $1 billion annually, supplied by some 50-60 countries. Many of these are developing countries that need to earn foreign exchange. Unless some cooperative international approach can be worked out, U.S. action to restrict shoe imports could result in massive claims for compensatory trade concessions on other products exported by the supplying countries or could lead to retaliation against U.S. exports Consumer groups maintain that shoe prices will be even higher if import competition is curtailed.

Schedule:

The USITC is seeking to complete its investigation by December 28, 1976. If the Commission's finding is affirmative, the President will have 60 days, or until March 1, 1977, to determine the method and amount of import relief he will provide, or report to the Congress why the national economic interest of the United States precludes the granting of relief. Also, he would have to indicate what other steps he is taking beyond adjustment assistance programs immediately available to the industry to help it overcome serious injury and to help its workers to find employment.

Import Problem

STEEL

Background:

Steel imports (valued at $4.1 billion in 1975) have constituted an important trade issue since the mid 1960's when imports began to increase sharply, stimulated by an appreciable price advantage and by the hedge-buying of steel consumers in anticipation of possible steel strikes, which accompanied the negotiation of new labor contracts at successive three-year intervals. Concern over this import impact led to the negotiation of a Voluntary Restraint Arrangement (VRA) on steel exports to the United States with the steel producers of Japan and the European Community, in effect from 1969 to 1974. Termination of the VRA occurred at a time when steel was in short supply and prices were rising.

Similar to the U.S. steel industry, the industry in the European Community has encountered substantial import problems. In November 1975, as a result of industry demands for controls on the quantities and prices of steel sold in the Common Market, the EC requested an ad hoc meeting on steel within the OECD. An informal understanding between Japanese steel producers and the EC to limit shipments to the Community has been in effect during 1976. The U.S. industry contends that this arrangement has caused a diversion of trade to the United States.

In addition to seeking some assurance against disruptive or injurious imports through a general safeguard mechanism in the multilateral trade negotiations or a special orderly marketing arrangement, the U.S. steel industry or some industry segments have filed complaints under existing statutes concerning the impact of imports on the domestic industry stemming from alleged unfair trade practices. (See Appendix)

In March 1976, the President directed his Special Representative for Trade Negotiations to negotiate on a sectoral basis solutions to the problems of cyclical distortions in steel trade, while liberalizing the conditions of this trade.

Issue:

To deal with complaints by the American steel industry regarding trade practices by foreign countries and import-caused market disruption, the U.S. Government needs to find some means for a cooperative international solution.

Analysis of Issue:

Alleviation of cyclical distortions in world trade is to be sought by way of a steel sector approach in the multilateral trade negotiations under the GATT, as directed by the President.

The domestic industry has cited strong foreign government support, even involvement and outright ownership of steel industries as placing U.S. industry at a substantial competitive disadvantage. Also, public ownership or planning guidance abroad produce responses to declining demand quite different from usual private industry decisions. In the United States when demand declines, production is cut and workers are laid off, whereas in foreign countries output and employment are maintained and production is often channeled into the U.S. market.

Since the VRA expired, the American steel industry has had no mechanism to assure against market disruption by imports, particularly during downward swings in the business cycle. Rather than seeking renewal of the former VRA, the U.S. industry is seeking a long-term solution moving toward duty-free trade, while providing some internationally acceptable safeguard mechanism specifically applicable to steel trade problems.

Schedule:

Public hearings are scheduled for December 9 before the Steel 301 Committee chaired by the Office of the Special Representative for Trade Negotiations. (There is no statutory time limitation for completion of the Section 301 investigation) In addition, bilateral consultations with Government officials in Japan and the European Community are scheduled for early December.

With the announced objective to complete multilateral trade negotiations by the end of 1977, great effort and creativity will be needed to develop a sectoral resolution of the steel trade problem.

Appendix

Pending Steel Import Complaints

1. On October 6, 1976, the American Iron and Steel Institute (AISI) filed with the Office of the Special Representative for Trade Negotiations a complaint under Section 301 of the Trade Act alleging unfair trade practices resulting from the EC-Japan bilateral understanding. The complaint alleges that the understanding burdens or restricts U.S. commerce by diverting significant amounts of Japanese steel to the U.S. market.

2. There is pending before the U.S. International Trade Commission a complaint by domestic producers of welded stainless steel pipe under section 337 of the Tariff Act of 1930, alleging predatory pricing practices by the Japanese in the sale of this item to the U.S.

3. There is pending before the Department of the Treasury a complaint by a domestic manufacturer alleging Italian Government subsidies received by an Italian producer have resulted in very-low-priced exports of silicon electrical steel to the U.S. market.

4. The U.S. Steel Corporation has filed an action with the U.S. Customs Court, contesting a determination of the Secretary of the Treasury not to impose countervailing duties on steel products imported from some members of the EC. The company has alleged that the remission by seven European nations of the Value Added Tax (VAT) on exports of steel mill products to the United States constitutesa bounty or grant under U.S. law and, therefore, should subject such shipments to countervailing duty.

Import Problem

SPECIALTY STEEL

Background:

The specialty steel segment of the steel industry (producers of stainless and tool steels) and the United Steelworkers of America, on July 16, 1975, filed an escape clause petition with the International Trade Commission (ITC) seeking import relief pursuant to section 201 of the Trade Act of 1974. On January 16, 1976, the ITC determined serious injury from increased imports and recommended to the President imposition of mandatory import quotas for a five-year period. The President, on March 16, directed the Special Trade Representative to seek to negotiate orderly marketing agreements (OMA's) with principal supplying countries within 90 days. Commerce/BRTA participated in negotiations with Japan and consultations with Sweden and the EC. On June 11, by Proclamation 4445, the President announced that an OMA had been negotiated with Japan and that import quotas were being imposed on shipments from other countries effective June 14 for a period not to exceed three years.

Import restraints are based essentially on average actual imports during 1971-75 and permit annual growth at a rate of 3 percent. Separate ceilings apply to stainless sheet and strip, plate, bar, and rods, and alloy tool steel, with specific allocations to Japan, the European Community countries, Sweden, Canada, and a basket of other countries. Annual imports amount to some $200 million.

Issue:

While the import restraint program is in effect, pressures are expected to be maintained by domestic producers seeking its retention and by foreign suppliers seeking its termination. (Related issues also arise concerning administration of the program--countries seeking individual quotas rather than inclusion in a "basket" grouping, product coverage, reallocation of quota shortfalls, statistical and classification problems, etc.)

Analysis of Issue:

The import restraint program may be relaxed or terminated before the end of the three-year period if the industry's production and employment improve. Under the Trade Act, modification or early

termination of existing restraint levels would require a determination by the President that such action, after taking into account the advice of the USITC and the Secretaries of Commerce and Labor, was in the national interest. Thus far, recovery of the specialty steel sector has been spotty. Compared with last year's depressed levels, in the first nine months of 1976 domestic shipments of stainless steel sheet and strip increased considerably, but remained lower than in the comparable period of 1974. Stainless steel bar and rod shipments increased, but also remained lower than in 1974. Stainless steel plate and alloy tool steel shipments, however, continued to decline. The EC, Japan, Sweden, and the other supplying countries have charged that imposition of the quotas is unjustified and have reserved their rights under the GATT to retaliate against U.S. exports or to seek compensatory trade concessions on other products they export to the U.S.

Several half-year quotas were filled fairly early in the program (e.g. sheet and strip and alloy tool steel from "other countries," plate, rod and alloy tool steel from the EC, bar from Sweden). The second half-year quotas will open on December 14.

Schedule:

Under an interagency monitoring system, domestic shipment and import data are reviewed quarterly. The second set of quarterly data were released by Commerce on November 22; data for succeeding periods will be released every three months while the program is in effect. Prices and employment also are monitored on a quarterly basis. No time limits are specified in the Trade Act when the President seeks advice from the USITC and the Secretaries of Commerce and Labor regarding the probable economic effect of relaxing or terminating the quotas. However, a reasonable amount of time would be needed for the USITC to conduct public hearings and the review process probably would take several months. Unless sooner terminated, the import restraint program is scheduled to expire in June 1979.

Import Problem

CONSUMER ELECTRONIC PRODUCTS

Background:

In the face of import competition, annual U.S. factory shipments of consumer electronic products declined from $3.4 billion in 1966 to $2.8 billion in 1975. During the same period, U.S. imports of consumer electronic audio and video products increased from $390 million to $1.5 billion. By value, 1975 imports represented 37 percent of U.S. apparent consumption. By unit count, imports as a percentage of U.S. consumption exceeded 95 percent in radios and tape recorders/players; 65 percent in auto radios; 63 percent in monochrome TV's and 18 percent in color sets.

In 1976, the color TV industry, the only remaining major sector of domestically produced consumer electronics, came under severe import pressure. During the first nine months of the year, color set imports totaled 1.9 million sets, a 154 percent increase over the 766 thousand sets received during a comparable period of 1975. By unit count, imports as a percentage of apparent consumption, which increased from 4 percent in 1966 to 18 percent in 1975, will probably exceed 30 percent in 1976.

Total employment in the consumer electronics industry dropped from 117 thousand workers in 1966 to an estimated 71 thousand in 1975.

Between April 4, 1973, and September 30, 1976, the Department of Labor certified 14,979 workers (30 petitions) in the consumer electronic product and related electronic parts industries as eligible to apply for adjustment assistance. As of September 30, decisions as to certification in 13 cases involving 2,162 workers were still pending.

Several investigations by the U.S. International Trade Commission currently are in progress (See appendix).

Issues:

The President may have to decide whether or not restrictions should be placed on U.S. imports of television receivers if the USITC finds that increased imports are the substantial cause of serious injury to the industry. In case of a finding of unfair import competition, the President may have to decide whether such imports should be excluded from entering the United States.

Analysis of Issues:

The issues surrounding the high volume of consumer electronics imports are complex. One element involves the establishment of labor-intensive offshore operations by U.S. multinational corporations. In some cases, multinationals have gone offshore to maximize profits by utilization of cheaper labor, but in other cases, offshore operations were established in order to remain price-competitive with foreign production.

Other factors involved are the financial aids, tax incentives, etc. offered by government abroad to some major suppliers as a means of attracting foreign investment for the local export-oriented consumer electronic industries.

In addition, some strong foreign companies (mainly Japanese) have invested in production facilities in the United States which result in employment to Americans and tax payments to the federal and local governments. At the same time, however, some U.S. companies contend that Japanese producers are seeking to overtake and monopolize the U.S. market through cartel-like activities.

Few companies in the industry have joined with organized labor in petitioning for import relief. Most companies import finished products and/or components and seek to keep their options open. Many U.S. manufacturers of TV components and parts have had to curtail domestic production and/or transfer production overseas to continue selling to the TV manufacturers.

Marketing practices also are a factor since private-label distributors (Sears, Penneys, etc.) have maintained that U.S. TV makers are unwilling to produce sets to their specifications.

Consumers, in the meantime, have benefitted from the competition among domestic producers as well as from imports.

Schedule:

The USITC is required to complete its section 337 unfair trade practice investigation of color TV receiver imports from Japan within 18 months, or by October 1, 1977. There is a six-month deadline, or March 22, 1977, for the section 201 escape clause injury investigation. In the event the Commission finds injury, the President must act on any USITC import relief recommendation within 60 days, or by May 21, 1977.

Appendix

Summary of Pending Import Investigations

Based on a petition by GTE Sylvania, Inc. and Philco Consumer Corporation, the ITC announced on April 1, 1976, the opening of an investigation of alleged unfair import practices in the importation of certain color TV receivers from Japan. The legal basis for the investigation is section 337 of the Tariff Act of 1930, as amended in section 341 of the Trade Act of 1974. The petitioners allege "the existence of predatory pricing schemes resulting in below-cost and unreasonable low-cost pricing of such (Japanese) television sets in the United States" and "economic benefits and incentives from the Government of Japan contributing to the below-cost and unreasonably low-cost pricing in the United States." Upon application of respondents to terminate the proceedings and dismiss the complaint, and after consideration of a challenge to its jurisdiction in the case, including objections presented by Treasury, Justice, State, and STR, the Commission not only decided to proceed, but announced extension of the deadline until October 1, 1977, allowing 18 months for the investigation in recognition of its complicated nature.

In addition, on its own motion, the ITC announced on April 8 that it will conduct a preliminary investigation of virtually every type of unfair import competition action ever alleged against Japanese TV producers, including both color and monochrome sets. The ITC said that the new inquiry, under section 603 of the Trade Act, which gives it broad investigative powers, will cover 14 areas of concern and, unlike the Sylvania section 337 complaint which accused five Japanese companies of improper acts, will encompass the entire Japanese TV industry.

Based on a petition by 11 labor unions and 5 industrial concerns seeking relief from color TV imports, the ITC instituted, on October 21, 1976, an escape clause investigation under section 201 (b) of the Trade Act of 1974. The Commission on its own motion decided to add other products to the color TV's originally specified in the petition. The agency's notice of investigation said it would cover "television receivers, both color and monochrome, assembled or not assembled, finished or not finished, and subassemblies thereof."

Pending before the U.S. Customs Court at this time is an appeal by Zenith Radio Corporation of a negative Treasury determination made in January of 1976 on a complaint alleging that the Japanese Governmer was bestowing bounties and grants upon certain consumer electronic products in violation of the Countervailing Duty Act (19 U.S.C.,

section 1303). That complaint originally had been filed by Zenith back in 1970.

NORMALIZATION OF TRADE RELATIONS WITH THE PEOPLE'S REPUBLIC OF CHINA

BACKGROUND

U.S. policy towards the People's Republic of China (PRC) is set forth in the Shanghai Communique of February 1972. The Communique states that economic relations based on equality and mutual benefit are in the interests of the peoples of the two countries and that the progressive development of trade should be facilitated. Sino-American trade grew to nearly a billion dollars in 1974 on the strength of large Chinese purchases of American agricultural commodities. With the cessation of these purchases, however, trade has declined and, in 1976 will be less than $400 million. Although our trade continues and will likely increase, its growth is inhibited by a number of unresolved but related issues concerning blocked Chinese assets, nationalized private U.S. property, nondiscriminatory (MFN) tariffs, Eximbank financing, and U.S. controls over exports to the PRC. (See Appendix for legislative authority concerning Sino-American commercial relations).

ISSUES

The full normalization of our commercial relations with China, at a minimum, calls for resolution of the linked question of claims and assets, a Sino-American trade agreement, and improved understanding where U.S. export controls are concerned.

Unresolved, the claims and assets question makes normal banking, air, and maritime relations impossible and prevents the exchange of trade exhibitions. Failure to conclude a trade agreement (which presently would need to take into account the provisions of the Trade Act of 1974 concerned with free emigration, reunited families, market disruption, and protection of industrial property rights) precludes extension by the Unites States of nondiscriminatory (MFN) tariff status and Eximbank financing to the PRC. Refusal by the Chinese to

comply with certain of our export control requirements and a possible Chinese misunderstanding of their intent, makes it more difficult for the United States to treat exports to China equally with those to the U.S.S.R. as called for by existing policy.

ANALYSIS OF ISSUES

Clearly the unresolved issues and the absence of fully normal commercial relations continue to inhibit Sino-American trade. At the same time, because of the close interrelationship among the issues, the high political input in Chinese economic decision making, the paucity of data, and the fact that China is a non-market economy, no reliable estimate has been developed to indicate how much trade would increase with the either total or piecemeal removal of these trade barriers. In quantitative terms, the increase in trade would likely be modest overall, although perhaps quite significant in some commodity areas.

SCHEDULE

Since any resolution of the economic issues appears dependent on U.S. political initiative, a decision to move ahead is required from the President with the commencement of negotiations aiming toward formally recognizing the PRC possibly beginning in 1977.

It is increasingly apparent that the Chinese will not be willing to discuss resolution of the economic issues outlined above until the United States meets their three conditions concerning Taiwan (remove troops, abrogate the defense treaty, and break diplomatic relations). Since the United States would most likely be doing this only in connection with the diplomatic recognition of Peking, it follows that political decisions, not economic ones, will determine any schedule. (Should the Chinese agree to the piecemeal resolution of the economic issues prior to recognition, the claims and assets questions would have to be solved prior to entering into a trade agreement.)

Appendix Legislative Authority Relating to China's Commercial Relationship with the U.S.

MFN Tariff Status, Eximbank Credits and a Trade Agreement China, like the U.S.S.R. and most of the East European countries is subject to the freedom of emigration provisions of the Trade Act of 1974, applicable to, non-market economies that are not presently accorded MFN status.

Blocked Chinese Assets Under authority of the Foreign Assets Control Regulations, Chinese dollar denominated accounts and assets were blocked on December 17, 1950 and now total about $80 million.

Fixed Private (U.S.) Claims In 1966, Congress enacted the China Claims Act authorizing establishment of a Foreign Claims Settlement Commission to evaluate the claims of American Nationals for losses due to Chinese nationalization of property. Adjudicated claims total $197 million.

Export Controls Under authority of the Export Administration Act of 1969, as amended, China in February 1972 was placed in "Category Y" and thus accorded the same treatment as the U.S.S.R. and most of the East European countries.

THE TRADE ACT OF 1974 AND EAST-WEST TRADE

BACKGROUND

Section 402 of the Trade Act of 1974, the Jackson-Vanik Amendment, has precluded the Executive from extending MFN (non-discriminatory) tariff treatment and U.S. Government credits, and from entering into trade agreements with communist countries that deny their citizens the right or opportunity to emigrate. In January 1975, the Soviet Union and most of the East European countries rejected the conditions of the Trade Act as constituting direct interference in their internal affairs. Only Romania has agreed to provide the United States assurances with respect to its emigration policies, and, therefore, MFN and access to U.S. Government credits have been extended to Romania, subject to annual review.

The Trade Act limitations have served to retard the development of trade between the United States and the communist countries. These restrictions unfortunately also have been ineffective in achieving the freedom of emigration objectives of their Congressional sponsors. Moreover, they were enacted in such a way as to preclude separate improvements in commercial relations with the individual countries of Eastern Europe, even though the principal concerns of the legislative restrictions had been with the U.S.S.R.

The Administration consistently opposed the provision linking MFN and credits to emigration, and had begun to consult with the Congress in 1975 to determine whether changes in the legislation might be possible. Soviet actions in Angola made pursuit of such an initiative inappropriate. Consequently, progress toward normalizing commercial relations with most of the affected countries has been minimal and can be expected to remain so as long as the President does not have the authority to act on MFN and credit extensions in the conduct of East-West trade policy.

ISSUE

Should the President attempt to bring about a change in the Trade Act? Given good rapport with the Congress, the new Administration would have a unique opportunity to achieve modification of the Trade Act so that discretionary policy-making authority in the East-West trade area could be returned to the Executive branch.

ANALYSIS OF ISSUE

The impact of the Trade Act on the growth of commercial relations with the communist world, which represents about one-third of the world's population, has been substantial. Already millions of dollars worth of contracts that could have gone to U.S. firms have been diverted to our West European and Japanese competitors,

whose governments continue to provide billions of dollars in official credits, much of it at below-market rates, to support their exporters. These diverted contracts represent lost opportunities for U.S. economic interests in the way of potential jobs, profits for American firms, and contributions to a strengthened balance of payments position. In addition, the U.S. consumer is being denied access to Soviet and East European products. The failure to extend MFN and access to official credits to the communist countries where warranted also represents a major obstacle to the U.S. goal of normalizing bilateral political relations. Prospects for future trade between the United States and the East will depend to a large extent on how the legislative issue is finally resolved. If no action is taken to modify the current restrictions, trade with these countries may stagnate, or possibly decline, and we will be deprived of a useful tool in advancing the state of our political relations.

It is not possible at this time to know what the attitudes of the new Congress will be toward removal of the legislative obstacles to East-West trade. However, the new Administration should be in a better position to address this sensitive issue, since the President-elect has made clear his concern with the critical human rights issue and has not been involved in the controversy surroundingthe original legislation. Consequently, he has a better opportunity to convince interested domestic groups--particularly the American Jewish community--that he should be allowed to exercise ultimate control over the conduct of East-West trade policy, especially in light of the failure of the Trade Act to achieve its emigration goals.

Of course, the overall state of U.S.-Soviet relations will be a crucial factor in determining Congressional sentiment for or against changes in the Trade Act. While an Administration initiative to modify current legislation must take place in the context of its active support for the principles of free emigration, the President must make clear his intention to move cautiously at a pace appropriate to progress in overall U.S.-Soviet relations.

Since a successful legislative initiative cannot take place without bipartisan Congressional support, the Administration should commit itself to extensive consultations with the Congress in order to find a suitable basis for enacting changes in the Trade Act.

APPROPRIATE ROLE OF THE
DEPARTMENT IN EAST-WEST POLICY

BACKGROUND

Since its inception in December 1972, the Bureau of East-West Trade in the Department of Commerce has provided most of the staff support and expertise for the operational implementation of the U.S. Government's policy in the East-West trade area which has been to facilitate the expansion and normalization of U.S. commercial relations with the communist countries. Currently, the Bureau of East-West Trade possesses the largest single concentration of East-West trade expertise available in the Government. This expertise is applied to a variety of primary functions including:

- Assisting U.S. firms in promoting and marketing their products in communist countries;
- Providing staff support for the intergovernment Joint Commercial Commissions with the U.S.S.R., Poland and Romania (the latter two chaired by the Secretary of Commerce); and
- Preparing interagency economic policy studies.

In addition, the Department is a member of the Congressional-Executive Commission on Security and Cooperation in Europe. The Bureau of East-West Trade will be responsible for providing most of the staff support for the Commission's activities in the area of East-West economic cooperation.

Finally, Commerce has traditionally been the lead agency in the interagency export control mechanism, and is responsible for operation of the basic U.S. strategic export control program, the primary impact of which is on our trade with communist countries.

ISSUE

The substantial expertise in East-West trade located in the Department should be used more fully and effectively in the interagency and intergovernmental policy process. The new Secretary might explore the possibility of obtaining the lead role or at least a greater policy role for the Department.

ANALYSIS OF ISSUE

Any discussion regarding an increased role for the Department of Commerce must be considered in the overall context of the interagency East-West trade policy-making process. For the past two years, this process has been characterized by bureaucratic rivalry and frequent absence of interagency coordination. The presumed (though not officially designated) mechanism for interagency coordination of policy has been the East-West Foreign Trade Board. However, the Board, which is chaired by the Secretary of the Treasury, lacks the staff, expertise, and clear Executive mandate to play an effective coordinative role in the policy process. Consequently, State, reflecting the interests of a powerful Secretary, has tended to dominate the process, often to the exclusion of other interested agencies.

Commerce, despite its frequent exclusion from the policy process by State and Treasury, has performed well in its operational role; and, where given or having seized the opportunity, has had a significant impact on policy. Discussion of the possibility of increasing the Department's policy role has focused on two principal means:

- Returning the Chairmanship of the U.S.-Soviet Joint Commercial Commission to Commerce, which is the agency with primary responsibility for the largest number of issues and therefore provides most of the staff, regardless of who holds the Chairmanship. (This would be consistent with the Secretary of Commerce's chairing the Polish and Romanian Commissions.)

- Placing the Chairmanship of the East-West Foreign Trade Board in the Commerce Department. Several outside observers have made this recommendation,

recognizing Commerce's predominant interest, operational responsibility and expertise in the area. (At the same time, of course, the Chairmanship of the Board's Working Group should be lodged in the Department, presumably in the hands of the Deputy Assistant Secretary for East-West Trade. Again, this would reflect the Department's major interest in and staff contributions to the Board's working-level functions.)

It should be noted that a significant elevation of the Department's policy role in East-West trade will be most effective if undertaken in conjunction with a greater strengthening of the Department's role in overall formulation of international economic policy, or in a situation where international economic policy coordination is centered in the White House. Otherwise, the policy-making process will continue to be characterized by interagency rivalries, rather than effective and substantive control.

SCHEDULE

As soon as he takes office, the President should launch a review of the interagency policy-making process in East-West trade. This could well be done in the context of a general reassessment of the international economic policy-making structure of the U.S. Government. Specific action forcing events will also require prompt decisions:

- Because the East-West Foreign Trade Board has a legislative mandate to submit to Congress quarterly reports, an early decision should be made as to its Chairmanship. Secretary Simon's designation does not dictate that the next chairman must come from Treasury. Rather, in appointing a new Board Chairman and Executive Secretary, the most effective and logical location of the positions should be considered.

- The U.S.-U.S.S.R. Joint Commercial Commission will probably be meeting in early 1977. Therefore, a decision must be made as to whether the chairmanship will return to the Secretary of Commerce, so that preparation for that high-level meeting can begin.

- The Department is a member of the legislatively mandated Commission on Security and Cooperation in Europe, charged with monitoring the Helsinki Agreements. A decision must be made by the President as to who will represent the Department on the Commission. This is especially critical, since the Commission intends to hold hearings on East-West economic cooperation, possibly in early March.

CONTROLS ON THE TRANSFER OF TECHNOLOGY AND EXPORT OF HIGH TECHNOLOGY GOODS TO COMMUNIST COUNTRIES

BACKGROUND

The Secretary of Commerce is responsible, pursuant to Executive Order, for administering the Export Administration Act of 1969, as amended. This statute calls for controls to be exercised in the interest of promoting national security, furthering foreign policy, and restricting undue exports of scarce commodities. Insofar as national security is concerned the Act declares it to be national policy to restrict exports of goods or technology which would make a significant contribution to the military potential of any nation or nations that would be detrimental to the national security of the US. The Department has control jurisdiction over all commodities and unclassified technology exports from the US except certain specialized items handled by other government agencies, e.g., arms, ammunition, and implements of war and atomic energy materials and facilities. National security controls focus on such high technology products as computers, semiconductor manufacturing equipment, sophisticated numerical controlled machine tools, and certain electronic instrumentation. Technology relating to production of controlled products is also under control.

ISSUE

For several years increasing concern has been expressed in many quarters over the transfer of US technology abroad. A Defense Science Board Task Force (a non-government body which advises the Department of Defense) expresses the view that current controls over exports of technology do not adequately serve US national security interests. The Task Force report identifies a number of export policy issues and recommends a course of action respecting them. Congress has interested itself in the matter and in proposed legislation on which congressional action was not completed prior to adjournment of the 94th Congress on October 2, 1976, had included

language to amend the Export Administration Act to require any agreement with communist countries that could result in the transfer of technology to be reported to the Department of Commerce. At present there is no real agreement in government or in the private sector as to the nature and extent of the problem and no consensus as to appropriate solutions.

One of the principal issues posed by the Task Force Report is whether controls on strategic technology exports both to the communist and free world countries should be tightened. A corollary issue is whether it would be appropriate from the standpoint of national security to deemphasize strategic product controls and solely to control strategic technology. This question thus relates to the proper scope of the Department's controls over products. Similarly, the Report asks whether US strategic products should be completely embargoed to communist countries instead of being licensed for non-strategic uses as is the current practice. This suggests a fundamental change in the Department's approach to product controls.

ANALYSIS OF ISSUE

A beginning has been made on the analysis of these issues. The Export Administration Review Board has taken cognizance of the Task Force Report. A preliminary identification of the principal issues raised by the Task Force is under review within the Department. The Defense Department is engaged in identifying technologies of national security concern and is otherwise dealing with its internal mechanism for making national security judgments on export control matters. Components of the Department are participating in this. As matters proceed, a number of agencies concerned with national security export controls and the governments of those other countries participating in the international strategic control system (CoCom) will be involved.

The process of identifying and analyzing the issues raised by the Task Force Report is not sufficiently advanced for agency positions or internal departmental views to have been formed.

SCHEDULE

It is difficult to establish a realistic schedule for resolution of this issue in view of the number of agencies and governments involved. In general, it might be reasonable to assume that interagency agreement as to the critical issues to be addressed could be reached by the end of February; interagency discussion of the issues concluded and a US government agreed position regarding the issues reached by early fall; and discussion with our international partners concluded by the end of 1977. This schedule assumes that the Department of Defense will complete its identification of strategic technologies by the end of April 1977.

NORMALIZATION OF COMMERCIAL RELATIONS WITH CUBA

Background

Since 1962, a strict embargo has existed on bilateral commercial transactions between the U.S. and Cuba. (See Appendix I for authorizing legislation.) The embargo affects all U.S.-Cuban trade, whether direct or through third countries, except in special humanitarian cases. During 1975, the U.S. took some tentative steps toward more normal commercial relations with Cuba and the Castro government made some conciliatory responses. The U.S. concurred in the ending of the multilateral OAS embargo and, consistent with that position, in August 1975, allowed U.S.-controlled companies in third countries to engage in limited trade with Cuba. Further movement was suspended in November 1975 however, following the involvement of Cuban troops in Angola. Castro has consistently offered to begin negotiations "if the essential aspects of the embargo" are ended but the U.S. has not accepted, demanding the return of Cuban military personnel to Cuba.

The incoming Administration will face the issue with a new urgency resulting from Cuba's announced cancellation of the 1973 antihijacking agreement, to become effective April 16, 1977. Cuba claims the U.S. has failed to fulfill its commitment under the agreement to curb terrorist activities in the Cuban exile community. However, Castro did allow for possible discussions, without preconditions, to salvage the agreement.

Issues

Before specific commercial issues can be addressed, the new Administration must first decide whether it is timely to improve bilateral political relations with Cuba. If positive determination is reached, then we can begin the lengthly process of resolving the complex issues between the two countries, including claims for expropriated properties of U.S. citizens valued at $1.8 billion. Ultimately, fully normal trade relations can only be achieved through Cuban compliance with the comprehensive provisions of the 1974 Trade Act. This will require complex and laborious negotiations. Nevertheless, since direct commercial relations presently do not exist, significant progress could be achieved even before the Trade Act provisions would need to be addressed.

Analysis of the Issues

Cuba obtains about 75 percent of its hard currency export income from sales of sugar. Now may be a strategic time to negotiate with Cuba since low world sugar prices have forced Castro to institute austerity measures and to limit imports from noncommunist countries sharply in order to conserve scarce hard currency reserves and to maintain the country's international credit standing. Thus, the economic foundation of Castro's bargaining position vis-a-vis the U.S. is significantly weaker than in 1975.

It is possible that an end to the embargo on direct exports of food and medicines would satisfy Cuba's precondition of lifting "the essential aspects of the embargo." An indication of U.S. willingness to do so could enable direct negotiations, initially begun on the antihijacking agreement, to proceed to other bilateral problem areas and thereby restart the long normalization process.

The immediate economic benefits to Cuba of a limited lifting of the U.S. embargo would probably be small since the U.S.S.R. finances most of Cuba's current grain purchases, supplied mainly by Canada. However, Cuba is a large rice consumer and since the U.S. has a large surplus crop, Cuba might divert some purchases to closer U.S. sources. Medical care has a very high priority in Cuba even in austerity, therefore, immediate exports of U.S. pharmaceuticals are likely. There would also be immediate political benefits for the Castro government, including an enhanced status in the third world, but these would result whenever the U.S. decides to deal with Cuba. On the cost side, Castro would lose the U.S. embargo as a ready popular excuse for every economic difficulty.

Unilaterally lifting the ban on food and medicines would do little to weaken the U.S. negotiating position on other issues because the economic impact of the embargo on Cuba has been sharply reduced over time, particularly since the OAS ban ended. Its effectiveness was further reduced when we allowed foreign subsidiaries of U.S. firms to trade with Cuba. The economic benefits to the U.S. of food and medicine exports would be small in the short term, consisting mainly of sales of rice and medical supplies. However, grain sales could become substantial if the U.S.S.R. were to instruct Cuba to divert purchases to the U.S. to realize transportation savings.

Schedule

Substantative action on the political issues lies within the purview of the Department of State. However, in dealing with Cuba, both commercial and political issues must be dealt with simultaneously since Cuba steadfastly refuses to open discussions until the trade embargo is lifted. Furthermore, the negotiating process will involve many issues, such as compensation for claims, that have both political and commercial aspects which are difficult to separate. Consequently, neither the political nor the commercial can be easily used as a precondition for further progress.

Analysis of some commercial aspects of normalizing relations has been undertaken in Department of Commerce studies, although specific positions have not yet been taken. Appendix II lists actions Commerce could take in concert with appropriate political developments.

Although the likely pattern of events is unknown, there are two action forcing events that may provide opportunities for progress. U.S. passport restrictions on travel to Cuba, including the ban on business travel, are due for routine review prior to March 15, 1977. Ending the travel limitations could initiate a more positive environment for future developments (as was accomplished with China in 1969) with little actual effect on the volume of travel. The antihijacking agreement, set to expire on April 16, 1977, may also require a U.S. initiative.