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## 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.

THE WHITE HOUSE  
WASHINGTON

April 23, 1976

1976 APR 27 11 11 52

U.S. DEPARTMENT OF COMMERCE  
OFFICE OF THE SECRETARY  
EXECUTIVE SECRETARIAT

MEMORANDUM FOR JAMES A. BAKER III

FROM: L. WILLEAM SEIDMAN *LS*  
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.



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 together to further mutual interests. The constitution of the ILO is predicated on the existence within member states of relatively 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 participation in the ILO we should give up our liberties simply because they 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 abolition 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 left 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.

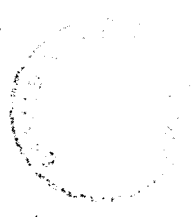
The International Labor Office and the member states of the Organization have for years been aware that these trends have reduced support in the United States for the ILO. It is possible, however, that the bases and depth of concern in the United States have not been adequately understood or appreciated.

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 reasonable 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)

Year	Steel Mills				Ferrous Foundries				
	Raw Steel Production	Scrap Consumption	Home Scrap Produced	Net Receipts	Shipments	Scrap Consumption	Home Scrap Produced	Net Receipts	Export
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.

\$ Per  
Gross  
\$170

n Ferrous Scrap: Composite Price No. 1 Heavy Melting - Pittsburgh, Chicago, Philadelphia  
Average Annual 1963-72; Monthly Average 1973-1976 From American Metal Market

150  
130  
110  
90  
70  
30

Average Annual  
1963-72

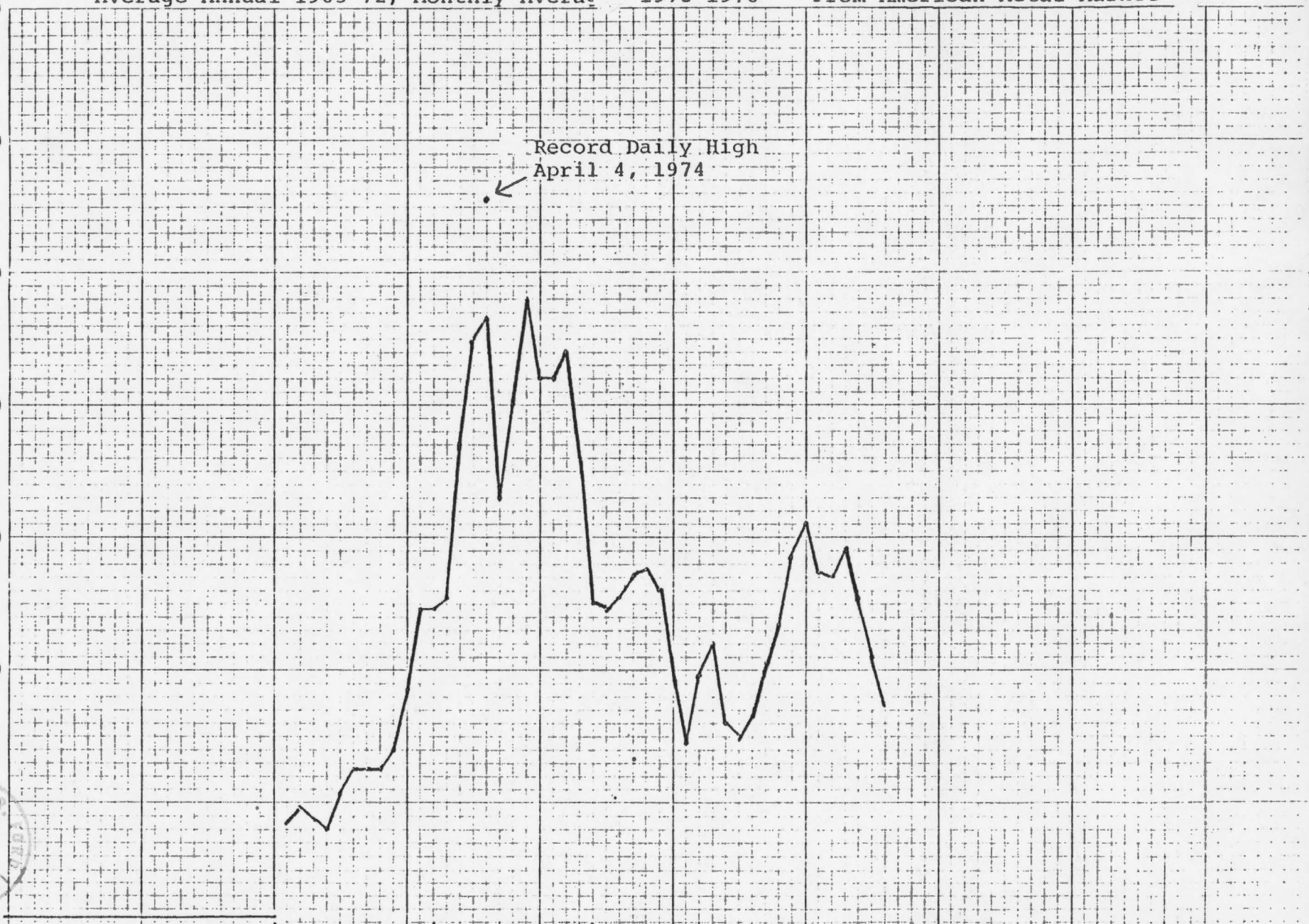
1973

1974

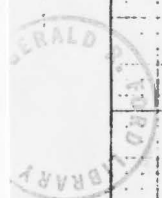
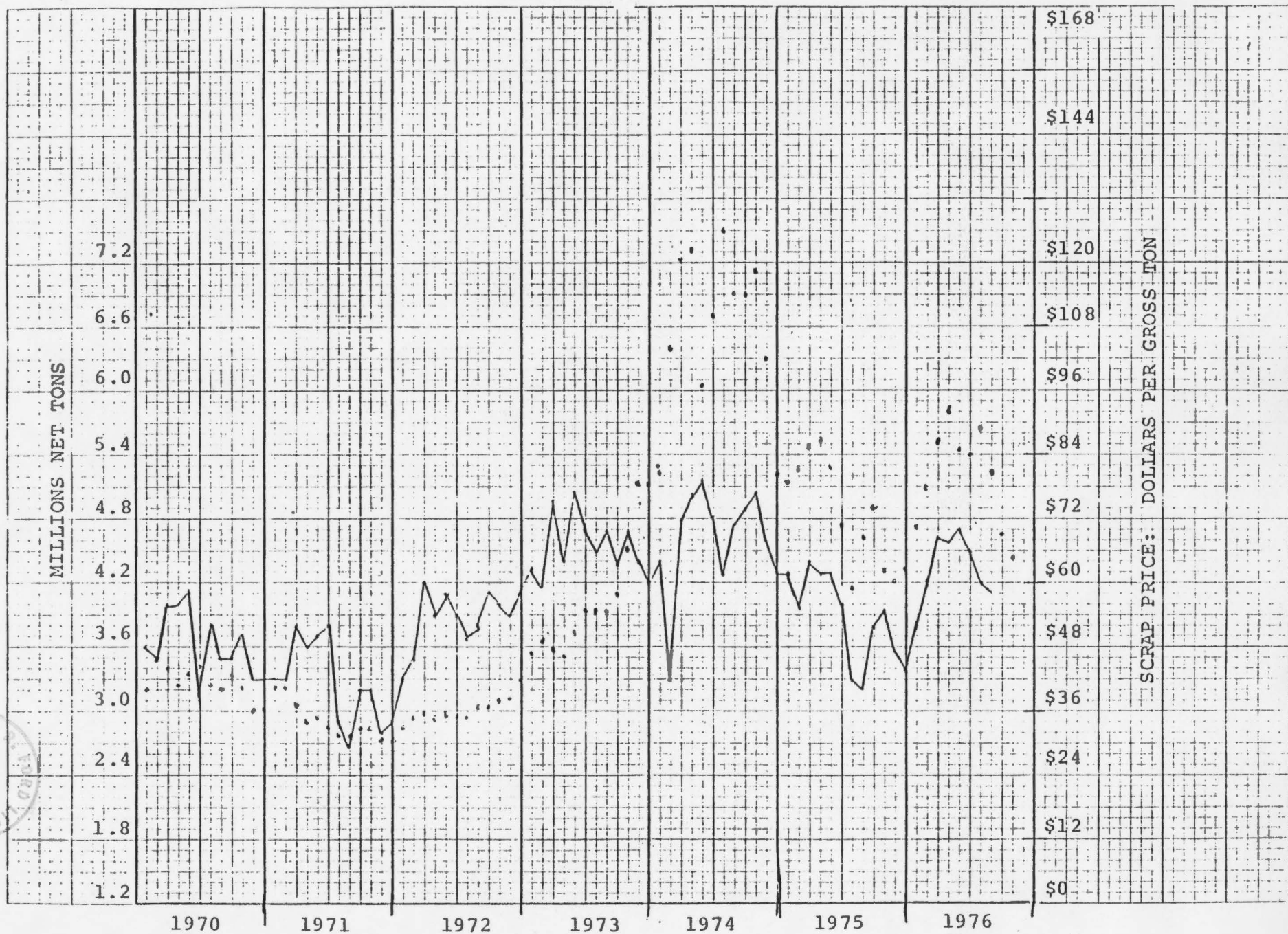
1975

1976

Record Daily High  
April 4, 1974



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



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.

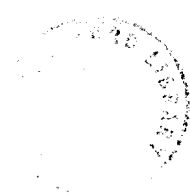
This sudden rise of shipments became the source of much concern to Government officials responsible for the textile program and the textile industry. Since the PRC is not a signatory to the MFA and is the only major U.S. textile supplier with which the United States does not have a bilateral textile 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, i.e., 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 operations, 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 constitutes a 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 Government 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 Communiqué of February 1972. The Communiqué 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 United 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 surrounding the 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 lengthy 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.

## APPENDIX I: Legislative Authority for Cuban Embargo

In 1961, the Congress authorized the President to impose "a total embargo on all trade between the U.S. and Cuba." The embargo was activated by Presidential Proclamation 3447 on February 7, 1962, which directed the Secretary of the Treasury to implement the ban on all transactions including imports. The Secretary of Commerce, acting under authority of the Export Control Act of 1949 (since replaced by the Export Administration Act of 1969) placed Cuba in the export control embargo Category Z. Both Secretaries were further directed to modify the embargo as required by the national interest. Thus, under existing legislation, the embargo could be altered or ended by unilateral action of the Executive Branch.

Commercial relations with Cuba are subject to all of the provisions of the Trade Act of 1974 as applied to non-market economy countries. Cuba will therefore be denied nondiscriminatory tariff (MFN) status, eligibility for Eximbank and Commodity Credit Corporation credits until it concludes a Bilateral Commercial Agreement with the U.S. that complies with the emigration provisions of Section 402 of the Trade Act.

APPENDIX II: Possible Commerce Department Approaches to  
Commercial Relations with Cuba

Assuming the accomplishment of certain political steps, the Department of Commerce could take the following interim measures toward normalized commercial relations:

- U.S. passport travel restrictions are scheduled for routine review prior to March 15, 1977. Appropriate action to end the ban on travel could initiate a more positive environment for future developments as was accomplished with China in 1969. In conjunction with Department of State action on the passport regulations, Commerce could modify the appropriate export regulations that restrict travel. Action would also be required of the Department of the Treasury to remove the prohibition on expenditure of funds for travel to Cuba.
- The actual impact of such steps would probably be minimal since travel to Cuba is inherently limited by the requirement for a direct invitation from Cuba. Furthermore, regulations on travel have complicated, but have not prevented U.S. citizens from legally traveling to Cuba.
- Commerce could approve licenses for exports of U.S. origin medical supplies and food in return for re-activating the antihijacking accord, releasing U.S. citizen prisoners in Cuba and convening substantive talks on other bilateral problems, including compensation for expropriated assets, the status of Guantanamo naval base, and freer emigration.
- If discussions proceed satisfactorily, Commerce could approve licenses for exports by U.S. subsidiaries of foreign made goods that contain a larger portion of U.S. origin components than allow under current regulations (20% by value is the maximum U.S.-origin component currently allowed).
- At the appropriate time, Commerce could place Cuba in Category Y (with the U.S.S.R., China and most of the countries of Eastern Europe) and approve licenses for direct export of nonstrategic U.S.-origin products.



RELATIONSHIP BETWEEN COMMERCE AND THE BUSINESS  
COMMUNITY IN ENERGY MATTERS

Background

Within the Department's overall mandate to safeguard and promote the economic well-being of the Country, energy matters have assumed a major position. Long-term problems such as assurance of supply to produce the Nation's goods and services are coupled with immediate goals to foster and promote energy efficiency in products and processes.

While market forces can, and do, make business more aware of the need for energy efficiency and of methods for achieving it; significant numbers of businessmen have yet to develop and implement programs which address the difficult problems of adequate long-term supplies of energy. Also, many have yet to address the immediate problems of the required actions to achieve energy efficiency.

Issue        Which of the Department's business-related energy programs should be emphasized to inform business of the nature, duration and extent of the energy problem; and to encourage them to take action to reduce the wasteful use of energy while maintaining national economic well-being?

Analysis of Issue

While there are many Federal agencies involved in dealing with the energy problem, this duplication of effort is more apparent than real if consideration is given to the diverse audiences to which these agencies address themselves.

The Federal Energy Administration is given the role of "lead agency" on energy matters, overall, and the Energy Research and Development Administration is the leader in technical aspects of energy supply development and new technology matters.

Under these "umbrellas", various agencies have addressed the energy problem in dealings with their particular constituencies. Agriculture works closely with farmers; HUD in the housing area; DOT with transportation, for example.

Commerce has its own constituency...the business community, and for this audience, Commerce has the highest credibility and easiest access.

While the business community uses a large percentage of the Nation's energy, it also produces the jobs and economic impetus to our continued economic health. Efforts to alert businessmen to long-term problems of



supply and, at the same time, encourage them to develop meaningful programs to improve the efficiency of their products and processes are very appropriate actions to take within the over-all objective of the Department and the immediate goals of addressing our energy problems.

Given these considerations, it is felt that Commerce has a vital and unique role to play in business-related energy matters.

In fulfilling these responsibilities, we have felt that a prerequisite for action is an awareness of the need for action. This has been the initial premise of Departmental energy program planning. While most major companies have adequately responded to the forces acting upon them (present and anticipated), there is a significant number of businesses for which even today's energy costs have not been sufficient motivation.

Commerce programs have been in two basic areas: first, demonstration of the need for action...both today and in the future... and, second, what actions can be taken. While need for the former still remains a high priority, particularly for smaller organizations, increased emphasis needs to be placed on the latter.

New publications in the "how-to" area should be developed to supplement those now available and these new efforts should be directed to specific audiences and/or industrial processes. Increased funding is required to address the multitude of subjects of importance to business.

Refocusing our efforts to local levels is required so as to reach the large number of relatively small companies which are not part of major corporations.

Additional innovative methods of direct technology transfer, such as the "Energy Efficiency Sharing" program, need to be developed and implemented.

Departmental leadership of an ad-hoc, multi-agency, effort to improve the total Federal image in energy matters to businesses, the "Federal Energy Center" program, should be continued and additional resources are needed to continue this trade-show and industrial exhibition program.

Work with technology transfer in the international area should continue and be increased. This is a two-way flow of information on energy efficient products and processes between the U.S. and other countries.

A most important mechanism for achieving the Department's energy goals is the National Industrial Energy Council. Chaired by the Secretary and the only formal linkage between the Secretary and leaders of major companies, this advisory committee should be continued and a more definitive role developed.

#### Schedule

See Appendix I for time-frame and milestones for current business related energy programs.



APPENDIX I

<u>Program or Activity</u>	<u>Schedule</u>	<u>Comments or Notes</u>
o Production, distribution and promotion of EPIC Series on Energy Management		
EPIC Supplement I	Printed and available	Needs additional publicity and promotion through trade associations, NIEC and OFO
Small Business Manual	Due in Oct.	Should be promoted heavily by associations and NIEC. Direct mailings to selected companies and through NFIB and NSBA. SBA can play part if willing
Energy Management Course	Due in Nov.	OFO has need for this and will use, but local groups and Chambers should be key market as well as associations
Energy Management Case Studies	Due in Dec.	Direct promotion to selected businesses and through OFO and associations
Furnaces, Ovens and Kilns	Due in Jan.	Same as above
Steam Systems	Due in Mar.	Same as above
Burner Adjustment Manual	Due in July	Same as above
o Distribute and publicize Progress Reports and Updates on Voluntary Industrial Energy Conservation Program	Oct. et. seq.	An on-going job which needs additional emphasis from press, associations and local groups
o Federal Energy Center/trade show activities	Oct, Nov, May	A comprehensive program which is multi-agency in composition and suitable for business education. Can be played up by media work
o Revision of "Energy: Critical Choices Ahead" film and manual	Due Oct.	Distribution is already good on old version and can be channeled similarly. Needs better TV and press utilization
o Revision of OEP brochures	Oct, Dec.	Should be emphasized through associations and local business.
o Film on "Economics of Energy"	Sept.	First cut only. If film results it should be promoted heavily by trade associations and local business groups





INDUSTRIAL CONSERVATION: FEA AND  
COMMERCE ROLES AND RESPONSIBILITIES

BACKGROUND:

Commerce has been working to promote energy conservation by business and industry since before the Arab embargo of 1973-74. With the creation of the Federal Energy Office, and later the Federal Energy Administration, a Joint Voluntary Industrial Energy Conservation Program (VIECP) was established by agreement between DOC and FEA. Under that agreement, FEA provides policy direction and review while Commerce has responsibility for day-to-day operation of the program. The major thrust of the effort has been to work with trade and other associations to reach very broad groups of companies which make up the largest energy consuming industries. Contacts have been made with some 80 associations or groups and about 40 have provided DOC with data on a regular basis. In the latest report, now in preparation, the Btu's reported account for more than 65% of all industrial energy used. In this voluntary program, the federal government has suggested broad guidelines for the data submitted, while the exact data and energy efficiency measures have been individually designed by the associations to accommodate the realities of their own operations.

The Energy Policy and Conservation Act was passed by the Congress in December 1975 and signed by the President (P.L. 94-163). It contains provision for a mandatory industrial conservation reporting program. Under this legislation FEA is to develop energy conservation targets for the 10 most energy consuming industries (2-digit SIC level) as well as to identify the 50 most energy consuming companies in each of the 10 industries (within a bottom consumption limit of 1 trillion Btu's per year).

These companies are to report annually to FEA their progress toward the target. An exception to the companies mandatory report requirement can be made if the company participates in an "adequate voluntary reporting program." The legislative history makes it clear that this was done in order to provide for the continued existence of the present voluntary program managed by DOC-OEP.

ISSUE:

Should the joint FEA-Commerce program be continued with the respective agency responsibilities unchanged?

ANALYSIS:

To a large extent, the resolution of the issue will be influenced by the general views of the incoming Administration on energy

conservation, their emphasis on voluntary vs. mandatory programs and on government organizational concepts.

The VIECP has been successful (both in terms of increased participation and improved results) primarily because:

- o DOC emphasis has been on holding down or reducing energy costs,
- o DOC recognizes the great diversity among industrial corporations and their energy needs, and
- o Industry has had faith in DOC's advocacy role.

Because the voluntary program has, under EPCA become an alternative to mandatory reporting, FEA has used its requirements under law to report progress toward the targets to reshape the design of the voluntary reporting program to an extent that Department of Commerce regards as inappropriate. FEA has consulted closely with Department of Commerce in the development of implementing actions and rulings for EPCA as well as in deciding the criteria for an adequate voluntary reporting program. However, the criteria proposed by FEA is strictly prescriptive as to how energy efficiency is to be calculated, doing away with the flexibility which has characterized the program to date. We do not yet know how industry will respond to the changes which the criteria and other rulings will require in their program.

Future problems of this sort can be avoided by a recognition of the integrity of the voluntary program and a more specific delegation of authority from the Administrator of FEA to the Secretary of Commerce for conduct of the VIECP under Title III, Part D of P.L. 94-163. FEA would retain policy direction (i.e., setting of goals and objectives for the program) and the review of accomplishments, but the operational and procedural methods used to carry out the program would be Department of Commerce's clear and designated responsibility.

SCHEDULE:

We shall see industry response to implementation of Title III, D of P.L. 94-163 during the first four months following the first report required in 1977.

## ENERGY EXPORT POLICIES AND LEVELS

The Department instituted formal export controls on energy products derived from petroleum and natural gas on December 13, 1973, at the height of the Arab oil embargo, to complement the then Federal Energy Office's domestic allocation controls. These controls were implemented in response to an energy situation which was at crisis proportions with a potential to grow even worse. Export quotas for petroleum products (e.g., gasoline, kerosene, heating oils, propane) were established to restrict exports to historical levels and destinations, thus conserving energy products for domestic use while maintaining our traditional trading relationships. The controls have remained essentially unchanged to date with additional products (e.g., naphtha, petroleum coke, synthetic and manufactured natural gas) being added to the list of controlled products.

Although the controls were originally imposed under the short supply authority of the Export Administration Act, four other statutes\* have since been enacted virtually prohibiting exports of crude petroleum and natural gas, the feedstocks from which the controlled energy products are derived. These statutes also contain broad discretionary authority to control exports of additional energy products, petrochemical feedstocks, coal, and machinery and equipment related to the production and utilization of energy.

With export controls firmly in place and ready availability of foreign crude oil for import, the Federal Energy Administration, in recent months, has removed price controls and has lifted its domestic allocation controls over a number of petroleum energy products. Crude petroleum of domestic origin remains subject to price controls, however, and the FEA maintains standby allocation authority in the event of an actual or threatened interruption in our supply of foreign crude. Pursuant to the Natural Gas Act of 1938, the Federal Power Commission continues to control exports of natural gas.

### Issue:

It is conceivable that the export control program, having been designed to react to the extreme shortages which were occurring during the period of embargo, does not correctly respond to the present domestic energy situation.

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\*The Trans-Alaska Pipeline Authorization Act of 1973, the Energy Policy and Conservation Act of 1975, the Naval Petroleum Reserves Production Act of 1976 and the Alaskan Natural Gas Transportation Act of 1976.

### Analysis of Issue:

With no current shortages of energy products derived from petroleum, and only limited shortages threatened for products derived from natural gas, the need to continue the current export control program over all such products has been challenged. It is argued by some that removal of controls or increased flexibility in the control program would not result in shortages of these products, would encourage expansion of domestic refining capacity, would allow U.S. refineries increased operating and marketing flexibility resulting in increased efficiency, and would reduce unnecessary Government regulation of industry. It should be noted that refined petroleum products which are exported do not benefit from the FEA Entitlements Program or the lower price of domestic crude oil.

Proponents of the current control program, on the other hand, maintain that tight controls over exports of energy products are an essential element of national energy policy, and their removal could result in a surge in exports from their present miniscule level (only 0.3 percent of the domestically refined products under control were exported during the first quarter of 1976). It is further contended that removal of controls might have a domestic inflationary impact, might require reimposition of FEA's domestic allocation controls, and would leave us without a sufficiently tight export control program in place in the event of another interruption of foreign supplies:

Any action substantially altering the present system of export controls on energy products would have to be coordinated carefully with the Federal Energy Administration, and could evoke significant reactions from the Congress, consumer groups, and the public at large.

### Schedule:

While the Energy Policy and Conservation Act mandates controls over the export of crude petroleum and natural gas until June 30, 1985, it is the Department's current practice to announce the continuation of controls and the establishment of export quotas on a quarterly basis, and it would seem logical to time any announcement significantly altering the present control system to coincide with the beginning of a quarter. Appropriate modifications to the current control program should be identified during the first quarter of 1977 and implemented by the second quarter.





## Key Congressional Contacts

<u>SENATE COMMERCE</u>	Warren G. Magnuson	-	Chairman
FOREIGN COMMERCE AND TOURISM	Daniel K. Inouye	-	Chairman
<u>SPECIAL SUBCOMMITTEES</u>			
OIL AND GAS PRODUCTION AND DISTRIBUTION	Adlai E. Stevenson III	-	Chairman
	Ernest F. Hollings	-	Vice-Chairman
TEXTILE INDUSTRY	John O. Pastore *	-	Chairman
<u>SENATE SELECT SMALL BUSINESS</u>	Gaylord Nelson	-	Chairman
RETAILING, DISTRIBUTION AND MARKETING PRACTICES	J. Bennett Johnston, Jr.	-	Chairman
<u>SENATE BANKING, HOUSING AND URBAN AFFAIRS</u>	William Proxmire	-	Chairman
CONSUMER AFFAIRS	Joe Biden	-	Chairman
<u>SENATE APPROPRIATIONS</u>			
SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE, THE JUDICIARY	John O. Pastore *	-	Chairman
Also on Diplomatic and Consular Items	John Sparkman Jacob K. Javits Frank Church		
<u>HOUSE INTERSTATE AND FOREIGN COMMERCE</u>	Harley O. Staggers	-	Chairman
CONSUMER PROTECTION AND FINANCE	Lionel Van Deerlin	-	Chairman
ENERGY AND POWER	John D. Dingell	-	Chairman
OVERSIGHT & INVESTIGATIONS	John E. Moss	-	Chairman
TRANSPORTATION & COMMERCE	Fred B. Rooney	-	Chairman

\* Not re-elected to 95th Congress.

<u>HOUSE SMALL BUSINESS</u>	Joe L. Evins*	- Chairman
COMMODITIES AND SERVICES	Charles J. Carney	- Chairman
ENERGY AND ENVIRONMENT	John D. Dingell	- Chairman
GOVERNMENT PROCUREMENT & INTERNATIONAL TRADE	James C. Corman	- Chairman
<u>HOUSE BANKING, CURRENCY AND HOUSING</u>	Henry S. Reuss	- Chairman
CONSUMER AFFAIRS	Frank Annunzio	- Chairman
DOMESTIC MONETARY POLICY	Wright Patman*	- Chairman
ECONOMIC STABILIZATION	Thomas L. Ashley	- Chairman
INTERNATIONAL TRADE INVESTMENT & MONETARY POLICY	Thomas M. Rees	- Chairman
<u>HOUSE APPROPRIATIONS</u>		
SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE AND JUDICIARY	John M. Slack	- Chairman
<u>SENATE/HOUSE JOINT ECONOMIC</u>	Hubert H. Humphrey	- Chairman
	Wright Patman *	- Vice-Chairman
CONSUMER ECONOMICS	Hubert H. Humphrey	- Chairman
INTERNATIONAL ECONOMICS	Henry S. Reuss	- Chairman

\* Not re-elected to 95th Congress.



Bureau of Domestic Commerce

Agency

Nature of Contact

Water Resources Council

The Council is composed of Secretaries of several Departments who serve as a "Board of Directors" and who designate representatives to serve on a Council of Representatives acting as the Council's management unit. A Bureau official is alternate to the Commerce representative who cooperates in the coordination of all Federal water resources activities recommending the establishment of river basin commissions, and approval of state planning grants.

Federal Preparedness Agency (GSA)

The Bureau provides staff support on a variety of matters pertinent to management of the Strategic and Critical Materials Stockpile; administers and trains a large National Defense Executive Reserve; and participates in and prepares pertinent material for mobilization exercises and plans.

General Services Administration (Federal Preparedness Agency and GSA Stockpile Group)

A Bureau representative co-chairs meetings called to develop disposal programs for individual materials in excess of stockpile requirements and coordinates and provides assistance to GSA on all stockpile disposal programs.

<u>Agency</u>	<u>Nature of Contact</u>
Department of Defense, State, Interior, Agriculture	Coordinate matters pertinent to management of the Strategic and Critical Materials Stockpile.
Industry Evaluation Board	The Board is chaired by a Bureau official. Members are represent- atives of Departments of Commerce, Defense, the Interior, Agriculture, Labor, HEW, Atomic Energy Commission and the Federal Preparedness Agency. Members serve as advisors to the Chairman in the identification of and approval of studies of products, services and their supporting facilities which are of exceptional importance to the national security.
Department of Transportation	Participates in consultations on current and expected future activi- ties of U.S. aerospace industry as input to their international technical assistance and promotion of civil aviation programs.
(GSA) Federal Preparedness Agency	The Bureau administers the Priori- ties and Allocations Activities under the Defense Production Act of 1950, and by allegation through Executive Order 10480. Program policy review of these activities flows through the Administrator of GSA through the Director of the Federal Preparedness Agency.
Interagency Committee to Assess the Impact of Crimes Against Business	The Deputy Assistant Secretary for Domestic Commerce chairs this Committee of 11 representatives of government agencies organized to assess the economic impact of crimes against business, and evaluate the effectiveness of existing Federal Programs to reduce such impact.

Bureau of International Commerce

<u>Agency</u>	<u>Nature of Contact</u>
Department of State	<p>The Bureau maintains continuous dialogue and coordination of positions with State on the range of U.S. commercial activities abroad (except for Russia, China and Eastern Europe), particularly as to how commercial promotion activities may be affected by political and economic developments. This involves close cooperation with U.S. Embassies in the areas regarding Commerce trade promotion programs and business assistance for U.S. firms.</p> <p>The Bureau cooperates on liaison with U.S. industry for information on "early warning" and representations to host governments on behalf of U.S. business. Participate with State in an interagency effort to promote American sourcing on major foreign projects.</p> <p>The Bureau works with State to plan, budget, manage and participate in 3-4 regional economic/commercial officer conferences annually. These conferences maintain a continuous dialogue with Foreign Service officers responsible for field implementation of Commerce's commercial programs.</p> <p>The Bureau cooperates with or otherwise negotiates agreement on assignment of Foreign Service Officers to various Economic/Commercial positions overseas.</p>
President's Inter-agency Committee on Export -Expansion	<p>The Secretary of Commerce chairs this Committee of 13 top-level officials organized to coordinate interagency efforts to remove domestic impediments to exporting. A Bureau staff member serves as Executive Secretary of the Committee.</p>
U.S. Information Agency	<p>The Bureau generates program ideas and media material for USIA's export promotion policy through an agency liaison officer assigned to the Bureau.</p>

<u>Agency</u>	<u>Nature of Contact</u>
Export Import Bank	The Bureau cooperates with Ex-Im Bank on a day-to-day basis in various export promotion activities. Ex-Im Bank often participates in Commerce overseas shows.
Small Business Administration	Provide export promotion information--including information about U.S. trade missions and trade fairs held abroad--for dissemination to the business community through SBA communications network. Coordinate on visual aids and seminars to promote exporting by small firms.

OFFICE OF FIELD OPERATIONS

<u>Agency</u>	<u>Nature of Contact</u>
Department of Defense, GSA, SBA, AEC, Agriculture, DOT, EDA, HUD, GPO, Justice, HEW, Interior, Labor, NASA, U.S. Postal Service, and VA	OFO coordinates the participation of civilian agencies and Members of Congress in the Business Opportunity/Federal Procurement Conferences.
Federal Preparedness Agency (FPA/GSA)	OFO provides field support for FPA/GSA administration of priorities and allocations under the Defense Materials System, and other National Defense, Industrial Mobilization, and Emergency Readiness programs.
National Bureau of Standards, Census, Patent and Trademark Office, Export-Import Bank, OPIC	OFO Headquarters and field personnel cooperate with these agencies in the establishment, sponsorship and/or promotion of selected conferences and seminars in the field.



<u>Agency</u>	<u>Nature of Contact</u>
Bureau of Census	OFO trade specialists counsel the business community on the availability and use of Census data for marketing purposes.
Department of Defense, GSA and SBA	OFO cooperates with these agencies in publishing the Commerce Business Daily. OFO also works with these agencies in preparing Armed Services Procurement Relations and the Federal Procurement Regulations as they relate to procurements and contract awards published in the CBD.
Government Printing Office	Thirty-two (32) of the 43 DIBA District Offices are official Sales Agents of GPO.  OFO is responsible for preparing material for the Commerce Business Daily which is published by the GPO.
Department of State	OFO works directly and indirectly with Foreign Service Officers and Foreign Service locals (FSL's) in the counselling and training of American businessmen through seminars, workshops, trade missions and shows and on business calls.
Patent and Trademark Office	OFO field installations become official receiving stations for Patent applications and correspondence in the event of any mail stoppages.

Bureau of Resources and Trade Assistance

<u>Agency</u>	<u>Nature of Contact</u>
Department of State	<p>Collaborate in developing U.S. position regarding, and evaluating performance of, Japanese and European steel producers under the Voluntary Restraint Arrangement (VRA). Participate in considering other import problems such as non-rubber footwear, in developing the U.S. position on a multilateral safeguard system under GATT and on U.S. Delegations to international discussions on classification of steel products and the shoe import problem.</p> <p>Committee for the Implementation of Textile Agreements (CITA) chaired and administered by Commerce. Supervises the operation of and implements all textile agreements.</p> <p>Participate in international discussions and negotiations on hard fibers and raw cotton.</p>
Council on International Economic Policy	<p>Participate in CIEP studies such as possibilities of an "early warning system" to deal with import competition; means to prevent or remedy import injury; development of a multilateral safeguard system.</p>
Department of Treasury	<p>Receive through Bureau of Customs applications for duty-free importation of certain scientific instruments for processing by Commerce and arrange for Customs to implement the subsequent Commerce decisions.</p>

Agency

Nature of Contact

Department of Army

Maintain staff contacts to facilitate the operation of the Foreign-Trade Zones Board chaired by Secretary of Commerce, and its Committee of Alternates.

Department of Interior

Jointly administer the program pertaining to the allocation of quotas for duty-free importation into the U.S. Customs Territory of watches and watch movements made by producers located in the Virgin Islands, Guam, and American Samoa (P.L. 89-805).

Office of Energy Programs

Agency

Nature of Contact

Energy Research &  
Development Administration  
(ERDA)

Task Force on Energy  
Extension Services -- Staff members  
serve as DOC representatives on  
program which entails the transfer  
of energy technology to the public  
and industry as mandated in ERDA  
legislation.

Federal Energy  
Administration (FEA)  
and Energy Research and  
Development Administration

Ad hoc Committee on Concrete  
Industry -- Staff members serve to  
establish energy conservation in  
concrete industry.

Presidential Task Force on Reform  
of FEA Regulation -- This is one  
of several high-level task forces,  
under the overall supervision of  
a member of the President's Council  
of Economic Advisers. The purpose  
of this particular task force is  
to recommend simplification or  
improvements in FEA price and  
allocation regulations which may  
impose excessive costs compared  
to benefits and to recommend  
improvements in the administration  
of affected programs.

Federal Power Commission (FPC)  
Curtailment Strategies Technical  
Advisory Committee on Natural Gas.

Federal Interagency Council on  
Energy Information.

Interagency Task Force (ad hoc) on  
Boiler Conversion.

Interagency Group on Energy  
Information Requirements.

International Energy Subcommittee,  
chaired by State, developing policy  
for the Conference on International  
Economic Cooperation.

Office of Energy Programs (con't)

Agency

Nature of Contact

FEA and Energy Research  
& Development Administration

International Energy Agency (IEA)  
Interagency Subgroup, chaired by  
FEA, developing policy on inter-  
national conservation for the IEA.

Interagency committee, chaired by  
State, for the National Security  
Study Memorandum (NSSM) developing  
a U.S. energy program.

Institutional Barriers Panel of  
the Geothermal Advisory Council.

Intergovernmental Coordinating  
Council (Coordination of energy  
policies with states and regional  
commissions).

In conjunction with the Department  
of State, staff members serve to  
direct ad hoc interagency effort  
to improve international technology  
flow.

Federal Energy Administration  
(FEA)

Ad hoc Task Force on Contingency  
Planning -- Staff members serve  
on this planning staff as mandated  
by the Environmental Policy and  
Conservation Act.

"Federal Energy Center" -- OEP  
acts as lead agency dealing with  
multiagency presence at trade shows  
and industrial exhibitions.

FEA Workshop Programs -- Staff  
serves in planning group.

Interagency Task Force on Energy  
Standards.

Member of National Energy Watch  
Program.

Office of Energy Programs (con't)

<u>Agency</u>	<u>Nature of Contact</u>
Ad hoc Committee on Cogeneration of Electricity	In conjunction with FEA, ERDA and the Federal Power Commission staff members develop recommenda- tions for presentation.
Ad hoc Group on Flue-Dampers	In conjunction with the Federal Trade Commission, American Gas Association, ERDA and FEA, staff members participate in study to provide data and priorities for gas furnace modification by installation of flue dampers.
Presidential Executive Interchange Program (PEIP)	Staff members participate in international seminar steering committee.
Federal Power Commission (FPC)	Natural Gas Survey -- Department of Commerce representative.
Energy Resources Council (ERC)	Arctic Policy Council, Liquefied Natural Gas (LNG)/Policy/Siting Task Force, Staff serves on ERC panels.
Department of Defense	Staff members are part of Economic Adjustment Committee (EAC) Working Group on coal gasification project at Glasgow Air Force Base in Montana.

