

**AUTHORIZATION OF APPROPRIATIONS FOR THE U.S.
CUSTOMS SERVICE, U.S. INTERNATIONAL TRADE
COMMISSION, AND OFFICE OF THE U.S. TRADE
REPRESENTATIVE, FOR FISCAL YEAR 1981**

HEARING
BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE
OF THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
NINETY-SIXTH CONGRESS
SECOND SESSION

MARCH 18, 1980



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AUTHORIZATION OF APPROPRIATIONS FOR THE U.S. CUSTOMS SERVICE, U.S. INTERNA- TIONAL TRADE COMMISSION, AND OFFICE OF THE U.S. TRADE REPRESENTATIVE FOR FISCAL YEAR 1981

THURSDAY, MARCH 13, 1980

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL TRADE,
COMMITTEE ON FINANCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2221, Dirksen Senate Office Building, Hon. Abraham Ribicoff, chairman of the subcommittee, presiding.

Present: Senators Ribicoff, Roth, and Heinz.

[The press release announcing this hearing follows:]

(Press Release No. H-13, Feb. 27, 1980)

FINANCE SUBCOMMITTEE ON INTERNATIONAL TRADE SETS HEARING ON AUTHORIZATION OF APPROPRIATIONS FOR THE U.S. CUSTOMS SERVICE AND THE U.S. INTERNATIONAL TRADE COMMISSION FOR FISCAL YEAR 1981, AND AUTHORIZATION OF APPROPRIATIONS FOR THE OFFICE OF THE U.S. TRADE REPRESENTATIVE

Senator Abraham Ribicoff (D., Ct.) Chairman of the Subcommittee on International Trade of the Senate Committee on Finance announced today that the Subcommittee will hold a hearing on *Thursday, March 13, 1980*, on the authorization of appropriations for the U.S. Customs Service and the U.S. International Trade Commission for fiscal year 1981, and authorization of appropriations for the Office of the U.S. Trade Representative (formerly the Office of the Special Representative for Trade Negotiations).

The hearing will begin at 10 A.M., in Room 2221 of the Dirksen Senate Office Building.

A five-year authorization of appropriations to the U.S. Trade Representative (USTR) was provided for in section 141(f) of the Trade Act of 1974 (19 U.S.C. 2171(e)). The authorization expires at the end of fiscal year 1980. The USTR has responsibility for developing and coordinating the implementation of U.S. trade policy, including commodity and direct investment matters. To insure an effective overall trade policy, the USTR has authority to issue guidelines to other agencies determining U.S. policy on major international trade matters. The USTR is the chief trade negotiator of the United States and the chief representative on trade matters.

Section 301 of the Customs Procedural Reform and Simplification Act of 1978 requires an annual authorization of appropriations for the U.S. Customs Service. The amount requested in the President's budget for the Customs Service in fiscal year 1981 is \$472,000,000, about \$7.7 million more than the fiscal year 1980 budget. The President's budget would provide for 13,889 permanent positions, a slight reduction in personnel. The Service collected about \$8.5 billion in customs duties in fiscal year 1979. It administers over 300 laws relating to the importation of products into the United States.

Section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330(e)), as amended by the Trade Act of 1974, requires an annual authorization of appropriations for the U.S. International Trade Commission. The Commission, whose proposed appropriations are required to be included in the budget submitted by the President to the Con-

gress without revision, has requested \$16,981,000 for fiscal year 1981, an increase of about \$1.0 million over the fiscal year 1980 budget (assuming enactment of supplemental appropriation). The number of authorized permanent positions requested is 438, unchanged from the previous fiscal year. The Commission performs numerous studies on trade matters for the Congress and the President, and administers certain unfair trade practice and other statutes relating to the importation of articles into the United States.

Requests to testify.—Chairman Ribicoff stated that witnesses desiring to testify during this hearing must make their requests to testify to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than Friday, March 7, 1980. Witnesses will be notified as soon as possible after this date as to whether they are scheduled to appear. If for some reason the witness is unable to appear at the time scheduled, he may file a written statement for the record in lieu of the personal appearance.

Consolidated testimony.—Chairman Ribicoff also stated that the Subcommittee urges all witnesses who have a common position or with the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the Subcommittee. This procedure will enable the Subcommittee to receive a wider expression of view than it might otherwise obtain. Chairman Ribicoff urged very strongly that all witnesses exert a maximum effort, taking into account the limited advance notice, to consolidate and coordinate their statements.

Legislative Reorganization Act.—Chairman Ribicoff observed that the Legislative Reorganization Act of 1946, as amended, and the rules of the Committee require witnesses appearing before the Committees of Congress to file in advance written statements of their proposed testimony and to limit oral presentations to brief summaries of their arguments.

Chairman Ribicoff stated that in light of this statute and the rules, and in view of the large number of witnesses who are likely to desire to appear before the Subcommittee in the limited time available for the hearing, all witnesses who are scheduled to testify must comply with the following rules:

1. All witnesses must include with their written statements a one-page summary of the principal points included in the statement.
2. The written statements must be typed on letter-size (not legal size) paper and at least 100 copies must be delivered to Room 2227, Dirksen Senate Office Building not later than noon of the last business day before the witness is scheduled to appear.
3. Witnesses are not to read their written statements to the Subcommittee, but are to confine their oral presentations to a summary of the points included in the statement.
4. No more than five minutes will be allowed for the oral summary.

Witnesses who fail to comply with these rules will forfeit their privilege to testify.

Written statements.—Witnesses who are not scheduled to make an oral presentation, and others who desire to present their views to the Subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearings. These written statements should be submitted to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than Friday, March 21, 1980.

Senator RIBICOFF. The committee will be in order.

Today we will receive testimony on authorizations for appropriations for the Office of the U.S. Trade Representative, the U.S. International Trade Commission, and the U.S. Customs Service.

Authorizations of appropriations are required annually for the International Trade Commission and the Customs Service and the 5-year authorization of appropriations provided in the Trade Act of 1974 for the U.S. Trade Representative expires at the close of this fiscal year.

These agencies, along with the International Trade Administration of the Department of Commerce, have primary responsibility for formulating and implementing U.S. trade policy under the guidance of Congress.

I welcome our first witness, Governor Askew, our U.S. Trade Representative. I think all of you here are about to embark on a new course in American trade. The problems are just as complex, and even more so, than before. There is not a news report that you

read in any financial journal that does not indicate the shoals that await all of you gentlemen and women in the days ahead.

I know all of you and the work you have done over these years. It has been outstanding. I think the country's interests are in good hands. We start out that I am prejudiced in favor of all of you.

So, let us have your testimony. All of your testimony will go into the record as if read.

You can summarize it if you want to, and you may proceed as you will.

Governor?

Mr. ASKEW. Mr. Chairman, with your permission, I would just like to submit the formal statement for inclusion in the record.

Senator RIBICOFF. Without objection, the entire statement will go into the record as if read.

STATEMENT OF HON. REUBIN O'D. ASKEW, U.S. TRADE REPRESENTATIVE, ACCOMPANIED BY ROBERT C. CASSIDY, JR., GENERAL COUNSEL AND JOHN GIACOMINI, DIRECTOR OF MANAGEMENT, OFFICE OF THE U.S. TRADE REPRESENTATIVE

Mr. ASKEW. The budget request for fiscal year 1981 will provide for maintenance of our current organization for certain increases in operating expenses. It appears to be tight because of the rapidly rising cause of trouble and printing.

The total request of \$9,270,000, an increase of \$853,000 over our current fiscal year 1980 budget.

Increases are requested for personnel compensation and related benefits, travel, rent and printing. An additional increase of \$5,000 is requested in representation funds.

We have been able to effect several decreases in certain categories of expenditures because of the establishment of the Geneva office and the completion of staffing of the Washington office, both in fiscal 1980 and there are no increases requested in fiscal 1981 for permanent positions.

As you are aware, Mr. Chairman, we are authorized for 115 positions. We now have 64 filled. We have 24 waiting to be filled and the rest we are in the process of working out the necessary paperwork to be able to get in the position to hire.

So that our increase is essentially one of maintenance.

I would like to address the question of the authorization. We would hope that we would have the benefit of another 5-year authorization. I think essentially the reasons for the annual one was to give the committee closer oversight of these areas of responsibility.

I believe in the case of the U.S.T.R. we work almost daily with the staff of this committee and I would hope that the Senate, in its wisdom, might see fit to renew the 5-year authorization.

Senator RIBICOFF. Why do you think, Governor, it is more appropriate to have it for a 5-year period instead of 1 year?

Mr. ASKEW. I believe, Senator, as I stated, it is my understanding that the reason for the annual authorization was really one, to maintain a closer oversight of the committee of various activities of Government.

I believe, in our case, we maintain almost daily connections with the committee and I would hope that, because of the closeness in operations on a day-to-day basis where the committee has an opportunity to assert oversight, in fact, we request, solicit, views from the committee and some of our staff, we even try to utilize some help from the committee.

So I would hope, on that basis, that the committee might feel that their oversight is close enough on a routine basis that it would not be necessary to go back to an annual authorization.

Senator RIBICOFF. In other words, you feel that the relationship between the U.S. Trade Representative and the Finance Committee is of such a nature that it is different than the occasional oversight that takes place with respect to many other functions in the Government, and it is the custom and experience that you undertake close and continuous contract, and have always undertaken that, I do believe.

From my own experience over these past 17 years being involved that there has been a continuous ongoing consultation between your predecessors, yourself, and your staff with our staff and the members of the committee.

I think one of the reasons we have gotten along so well has been this close interrelationship between the executive branch and the legislative branch in this problem.

Mr. ASKEW. That is correct, sir.

Senator RIBICOFF. You may proceed, sir.

Mr. ASKEW. I have no other statement.

Senator RIBICOFF. All right.

Governor, on any of these questions, do not hesitate to call on your staff if you want them to comment further.

We are now in the implementation phase of the MTN. What is the status of the implementation process?

Mr. ASKEW. Mr. Chairman, I think the implementation process is moving along. We are working to insure that the codes have the broadest possible application and have been faithfully and are trying to set up their mechanism to insure, really, their faithful implementation with our trading partners in general.

Most of our trading partners have ratified the codes and are applying them de facto while the domestic ratification procedures are being completed. The major trading partners have really signed off on them, with some exceptions, which was anticipated.

We have not officially completed it with Japan, but Japan for all practical purposes is on, and is applying it, de facto.

We are moving along with the LDC's. The gentleman to my right, Mr. Cassidy, as our General Counsel, will be in Geneva tomorrow to continue our efforts to try to bring a representative group of LDC's on the codes.

Senator RIBICOFF. How many of these less developing countries have signed up to date?

Mr. ASKEW. Well, they vary, Mr. Chairman, based upon the code.

In the case of the standards code, for instance, Argentina, Chile, those would be the two on the standards code.

The subsidies code, you have Chile, and Uruguay and Brazil.

On the dairy arrangement, you have Argentina, both on dairy and beef. And I think that those would be the main ones.

On the licensing code, we have, again, Argentina, Chile and India.

Antidumping, Brazil.

I think those are the ones.

Senator RIBICOFF. That is not many.

Why has there been the delay, in your opinion, in more LDC's signing up for these codes. What do you think has been occurring?

Mr. ASKEW. Mr. Chairman, I believe almost in each instance there are often personal and unique reasons why a particular country will not, in a particular instance, be signing on a code. We are trying to overcome them and discuss them all, but there is an underlying challenge, and that is the success or completion of a safeguards code.

Many of the LDC's feel, in the absence of a safeguards code, they are really not protected from selective safeguard action. They feel that the large trading partners are able to take care of themselves.

They have the leverage that they do not. That is why I place very high priority on trying to continue the negotiations on a multilateral basis to try to effectuate the safeguards code.

I think that it is questionable whether or not we are going to get as many LDC's as we feel are desirable coming on the codes without the successful completion of a safeguards code. That is what, in each instance, a lot of them come back to.

I do not think that necessarily will be completely the case, and what we are trying to do is almost on an individual basis, on the main ones we feel should come in and try to encourage them to come in.

We are trying on a one-on-one basis to try to overcome that objection but this is their concern and, of course, in this instance the United States took a position that was acceptable to the LDC's in terms of avoiding any selective safeguard action, preferring that any type of general safeguard action, that the EC feels strongly the other way, and it is a difficult issue.

We, of course, have other concerns on the safeguards code, as well, but I think this is going to remain the central challenge to successfully getting LDC's on the codes and it is one that we are addressing with substantial priority.

Senator RIBICOFF. Let me ask you, how do you think that the United States is doing with the LDC's in relation to the European Community; let us say, and Japan?

Are we increasing our share of that market, or are we decreasing in the amount?

Mr. ASKEW. Are you talking on our exports, Senator?

Senator RIBICOFF. Yes.

Mr. ASKEW. On our exports, I think we are doing very well. We had approximately 37 percent of our exports last year that went to LDC's.

We think that a tremendous growth, possibility for future exports and markets, lies with the LDC's and what it is going to require, however, is some discipline on our part in terms of avoiding trying to close them out in certain areas where they are able to have products for purposes of export.

This is one of the very big problems that are facing the LDC's. Sometimes developing countries will come in and encourage them

to go into various industries and then, when they are ready to produce a product for purposes of export, then of course they find that their opportunities are very limited.

We are, I think, moving in a good direction in this regard.

I also think, Mr. Chairman, that the key was going to be investment and here, again, we are examining ways in which we could actually be a part of encouraging some investment in LDC's. This is a controversial thing, yet in the final analysis, I believe that investment, of course, has to be a two-way street. We are working as hard for some investment to come into the United States, but I think that some investment considerations and our ability to work with them in a fair way on our general system of preferences, which is an open system, which procedurally they like much better, because they are given an opportunity to react to some of the other general systems or preference.

They may be satisfied substantively but not necessarily given an opportunity to react to an open way, so I think we are moving forward in terms of developing the markets with the LDC's.

Senator RIBICOFF. I would suggest that this is a very, very important field for America's future. I think the competition we are going to face is going to be rough and tough.

For many reasons, the political and economic, I would hope that you and your staff and the other departments would keep in close touch with this committee and those that will be interested in this field after I leave, to point out the implications of every step that we take and the necessity of looking at some of the ways that we approach these countries, either through legislation or policy or regulation; that we understand the long-range problems that face this country.

It is just not a question of ongoing consultations with the staff. I think that you have a big problem to keep up an informal, ongoing consultation with those Members of the Senate and the House who are charged with the responsibility of making sure that our trade position remains as strong as it possibly can be.

Mr. ASKEW. I accept that, not only as the constructive way to do it, and from my standpoint it is very welcome, because we get the advice of some people on the staff as well as the principals in the Senate and the House.

More so than that, Mr. Chairman, I accept it as a part of my responsibilities in terms of the constitutional responsibility of the Congress in this area, and I guess that one of the aspects of this responsibility that attracted me was the close working relationship, effective working relationship, between the executive and legislative branches as well as the nonpartisan/bipartisan approach to trade.

So I have found that this is very important and I have found that it is very helpful to be able to rely upon some help from the Congress.

Senator RIBICOFF. Let me ask you, are our trading partners with whom we do the most business implementing the agreements? Are they doing it to the same degree that the United States has and what is being done to assure that foreign implementation is going apace?

How are we doing? How are the other countries doing?

Mr. CASSIDY. Mr. Chairman, in the case of the European Community, they have—the European Community and its governing bodies have proposed directives which are comparable to our Trade Agreements Act of 1979 which are now being put into effect by their administrative agencies, the only place right at this moment where there is a delay, which we are concerned about, and it is in the area of customs evaluation and the nine governments that make up the EC have got to implement the customs evaluation system independently and there is some delay there. Otherwise, these things seem to be going along quite well.

With respect to the Japanese, the nine treaties and two bills that they need to adopt to implement the MTN are now before the Diet and there appears to be no problem there. It is moving through the Diet, as they informed us it would.

We expect that they would complete action by some time in the middle of April.

Their legislation, which we have reviewed very closely, is consistent with the agreements. Of course, the question of the Japanese is always how do they implement in administrative practice, more than what does their law state. So we will have to keep a very close eye on them.

In respect to the Canadians, the fall of the Clark government caused a delay in the implementation but the Trudeau government will move forward, we are told, in the next few weeks and we expect no trouble there.

The other major trading countries, such as the Swiss and the Nordics, the Australians, New Zealanders, have done what they told us they would do. In some cases, they are not signing every agreement however, but to the extent that they committed themselves to agreements, they are implementing them.

Senator RIBICOFF. Do you sense that there is a deep sense of sincerity in implementing or are important countries going through the motions?

Mr. CASSIDY. The countries with whom we have worked the most, intimately, which are the European Community countries and the Japanese, I think there is a great deal of sincerity. They are taking the process very seriously indeed and are working on it at least as hard as we did last summer when we were working on the legislation.

Senator RIBICOFF. Let me ask you, in advocating the MTN last year, the administration repeatedly told us—and I think this committee felt the same way—that enforcing the codes in Geneva was critical to making the MTN work for the benefit of the United States.

What resources are you allocating for this function for fiscal 1981? How many staff will be located in the United States and how many in Geneva?

Do you have those figures?

Mr. ASKEW. We have scheduled 11 people in Geneva out of 151, Mr. Chairman.

We think that that is going to be adequate. We think that it is going to work.

In fact, the professional people in Geneva concerned with the implementation of it are pleased that we have made the commit-

ment we have on a permanent basis in Geneva. While we had people there during the negotiation of the Tokyo round, we really did not have a permanent representative.

Now, of course, one of my two deputies, Ambassador Michael Smith, is now in effect the permanent U.S. representative to the GATT, working directly under USTR.

So that we think we have an adequate set up. I have been over there and visited with them, gone through many issues, and of course we stay in daily contact.

There is absolutely no question but that the implementation of the codes will make the difference as to whether or not they are really going to work.

There has been some delay, frankly, in determining and establishing the leadership of the GATT. It is anticipated that there will be a new Director General and a Deputy Director General.

There has been some differences between candidates, I think. That is in the process now of being reconciled.

We think that is important and we are substantially encouraging our major trading partners because the United States has already submitted candidates for all of the codes and for determining, you know, the people who would go on the panels.

We are not completely happy with how that is going. We are pushing the people who have signed, the countries who have signed, in order to get their people and get that underway without a firm implementation of the codes.

There is no hope, really, of trying to come to grips with this whole question of nontariff barriers which is a central issue which was addressed during the Tokyo rounds.

So we continue in this administration to place a very high priority on the implementation of it. It is coming, however, Mr. Chairman, at a time when there has been a downturn of the economies of most of the countries of the world and one of the great concerns that I have at this moment is that there are tremendous pressures that are building up all over the world in the countries that we have to depend upon to lend leadership toward insuring that the spirit of the MTN is present and that it works and I think to the extent that we can we have to resist pressures from within our own company.

I think that without the active leadership of the United States together with the EC it probably is problematical that we can do the job as it should be done, but we are stressing this with our major trading partners and thus far I personally, of all those I visited, I have not seen any lack of concern or diminution of commitment to the MTN.

The only thing I would share with you is that there have been some changes to where some of the domestic pressures are of such a nature that I think during this next year, I think we must be very careful or we would wind up literally undermining the spirit of the MTN.

I am not sure that many of these countries, if they were pressed to start approving it now, could approve what some have approved last year. I think that is going to be the challenge this year.

Senator RIBICOFF. I think you are right. You see the problems of steel, the problems of automobiles and textiles. You are going to get it in this country. You are going to get it around the world.

You were an outstanding Governor and you realize, like I do, that in many ways, organization is policy. You can have the best ideas and the best legislation and if you do not have the organization to put it into place it is not going to work.

We see it every day in this country. Both of us have had that experience in our various careers.

I am just curious as to how the GATT is developing in Geneva. It seems to me that there is a great sense of drift. We have had these months go by and you do not even have in place the top hierarchy.

When do you see the organization, the bureaucracy, the permanent groupings being in place in Geneva and do you have assurances that at least the number two man will be an American? I have stressed constantly with all the Europeans and the Japanese that have come to visit with me the absolute necessity to make sure that the No. 2 man, at least, is an American.

How do you see this organization taking place and are you reasonably certain that the No. 2 man will be an American? Is the No. 1 man going to be a Frenchman, a Swiss?

I am just curious as to what is taking place in the permanent organization.

Mr. ASKEW. Mr. Chairman, I have found a general consensus, aside from any one individual as a possible candidate, I have found a general consensus of the desirability of having an American as the Deputy Director and I rather think that I am confident that that will come about.

As to who will be the Director General, the only thing I can tell you, we are supporting the candidacy of Mr. Arthur Dunkel who is a Swiss.

I think that he, right now, appears to be the leading candidate although there has not been, I think, the full consensus to develop that needs to be developed in order to close the question.

One of the purposes of my recent visit to our headquarters in Geneva was to try to see if this could not be moved along. I was convinced upon leaving there that it was going to move along and that we would come to a conclusion soon. I cannot give you an exact time, but we are pressing to try to get the matter and the leadership reconciled.

We are pressing the countries to make sure they are getting their people in order to complete it.

To say we are happy with the progress we have made would be an incorrect statement. We are not. We feel like it should have already been made. It should have been made by the first of the year and we are continuing to press.

It is a tight thing, however. Traditionally, it evolves by consensus.

Senator RIBICOFF. You are never going to get the organization in place if you do not have the top people in place. There is no way that you can organize the bureaucracy until you have number one and number two in place.

I would hope that this country would keep on pressing our trading partners to come up with a choice, you know? I do not think that you can really afford much more delay.

Mr. ASKEW. Mr. Chairman, I think that you made more eloquently than I did when I was over there, the whole reason that I went there, because there are few things that I feel stronger about right now than the necessity of starting to put the blocks in order and to build, and get to that question and get that worked out.

We cannot really concentrate as much as we would like in the formation of the panels and it cannot function until such time as it is set and organized.

To the extent that we possibly can, we have pushed and are almost in daily contact with them.

Senator RIBICOFF. You know—

Mr. ASKEW. Mr. Chairman, I believe the matter will be reconciled sometime by May.

Senator RIBICOFF. There is one danger. In the study made by my other committee, the Governmental Affairs Committee, after much research, I was deeply disturbed to see the reduction in all international organizations of American representation.

What had been happening over the years was an erosion of the number of Americans in key policymaking roles and much of it was due to the fault of ourselves and different administrations, Republican and Democratic.

It becomes obvious and yet is so little realized how much foreign policy has been made in international organizations. It is done on a day-to-day basis. Every decision that is being made by an international organization affects policy in every country, including the United States.

Yet the studies that we made indicate that over a period of years, Americans were slipping away from policymaking spots. International organizations in which there were many Eastern European countries and Communist countries were slipping into unfavorable policymaking positions and Americans were being replaced and downgraded.

Whoever represents the United States or whoever our choice is for the No. 2 spot in Geneva should be a person very much aware of the necessity of insuring that Americans are placed in very important policymaking positions in that bureaucracy who are not always Mr. Nice Guy.

Often Americans do not seem to be concerned with America's position and you usually find the nationals of other countries very much concerned about the position of their own Nation.

So it is very important for you in choosing the American representative in Geneva that he is aware of America's position and America's interest because if a dissatisfaction develops in the Congress or in the country, that American interests are being sloughed off, or being treated cavalierly. I think you would find quite a backlash in this country and in the Congress about that; this is something, Governor, that you are going to have to watch very, very carefully in the setting up of the bureaucracy in Geneva.

Mr. ASKEW. Mr. Chairman, that was an item of extended discussion in my visit in Brussels with Mr. Mature. Mr. Long, the Director General, was not in Geneva at the time of my visit. I, however,

called to talk to Mature in the Secretariat and substantially indicated that that was a concern of ours.

I agree with everything you say and so much of the policy that evolves, evolves from the professional staff and we have not been, I think, as vigilant as we should in trying to keep them.

As far as any American may become the Deputy Director, the American candidate is Mr. William Kelly, a distinguished person in international trade who is presently the associate U.S. trade representative.

He would be in an awkward position to advocate Americans being there, but I have discussed it with him enough to know that he also in the sense of fairness and discharge of that job also feels like there should be more representation including that of Americans.

It is not my intention to depend upon him once he is placed in that position. He, in effect, becomes an international civil servant.

We intend to do this ourselves and try to press at every point the problem of it.

The people that are there are not often dislodged. Then it becomes, frankly, a matter of staying on top of it.

This is one of the things that the Deputy USTR in Geneva will be charged with doing. That is the way to insure that at least there is an American point of view, even though whoever works for the organization is not an employee of the U.S. Government.

Obviously if they come at certain points of view that are compatible with what they have stood for, then they can be a great deal of help in asserting that view. So whatever comes out will be something that will be acceptable to us.

Senator RIBICOFF. You say of importance, too, are those advisory groups. Those who should be involved should be of the highest caliber. I know that there was a time when these advisory groups were designated, that they were people with the highest credentials and ability and understanding and they made their impact in these international meetings.

Then it became sort of a political plum, doing someone a favor, making them an Advisor, giving them a trip to Geneva, Paris, Rome, or London.

Other countries are aware of the impact that can be made at these meetings by having people of international reputation and prestige—I am talking generally, not just the field of trade, but all international organizations; the Soviet Union is very, very zealous in this effort.

They send their most prestigious and most able men and women to these meetings who are recognized all over the world for their contributions and it is going to be very important in this trade field that the men and women that you put on advisory groups are people who are knowledgeable and can do a job and get the respect of the various representatives of all the countries that they are talking with.

That becomes a very important factor, the respect that other people have for the calibre and quality of American representatives. You just cannot put any Tom, Dick, or Harry in these positions.

Mr. ASKEW. Mr. Chairman, I quite agree and I would like to say something on behalf of the President, that in each instance when I have had the responsibility to appoint various committees, the President has given me tremendous leeway, really, and great political insulation in trying to put the people who are the strongest and who can carry their point the most effectively and that is the way we are moving along.

Senator RIBICOFF. Let me ask you, with respect to the Government procurement code, is Japan likely to be a signatory to which the United States will apply the code? How do you intend to advise U.S. business of its rights under the Government procurement code, or otherwise make sure that the export opportunities for a U.S. business created by the code are exposed and enforced?

Mr. ASKEW. Mr. Chairman, I am confident that Japan will sign on the given procurement code. I do not think the question will be whether or not they would become a signatory as far as we are concerned. The question will become whether or not there is meaningful entity coverage under the code that sufficiently opens it up to where we think that it does the job properly.

Obviously, the areas that we are most interested in are the Nippon Telephone and Telegraph, NTT, and the large contracts that come with the telecommunications equipment as well as the National Railways System.

These are, I would say, of the highest substantive priority in terms of further negotiation. It will be with the meaningful coverage of the code with Japan.

I think it has the greatest implications of where the United States may stand and how competitive it may be in the years to come by virtue of having a shot at those contracts.

The Japanese are quick to point out that we do not have that large system in our country because our railway system, except for one portion of it, as well as our telephone and telegraph systems are not government operated, therefore not open to it.

We still intend to press the point.

As you know under the law if they do not come forward with meaningful entity coverage the President is required to insure that they are closed out from the equivalent type of coverage in the United States under the code.

So the very fact that Japan may sign on, if they do not come up with a satisfactory entity coverage, we would proceed as though they were not on the code in terms of opening up to them. That is what the law authorizes us to do.

As far as working with the business people, it is our intention to work out a system to make sure that the transparency is such that they will be given an opportunity to know about this, the same as being given the opportunity to bid on contracts within the United States.

Without that knowledge, and without their willingness to get in and to be willing to compete, we would win a battle that would be hollow. I do not anticipate at all that that would be the case with Japan because it is so competitive that oftentimes they can wind up telling us as opposed to having to tell them.

I assume there would be a system of notification to assure that they know that the opportunities throughout the world that are

opened up by the government procurement code are available to them.

Senator RIBICOFF. Are there any key positions vacant in your agency and when do you expect to be at full strength?

Mr. ASKEW. Mr. Chairman, there are no key positions vacant in terms of what has been previously authorized prior to this last increase. We are moving forward and have not filled some of the ones and we are in the process of doing it.

We hope—we have 64 now and we have hopes of adding another 24 fairly soon and some of those, frankly, it is just a matter of completing the paperwork and we are in the process now of advertising the others.

So we hope by the fall to have our people in place.

One of the problems that we have is that a lot of the positions that we are looking for to be filled are very technical positions. Once you are trying to get an economist with special technical expertise in one area, sometimes they are not easy to find.

But I hope that we will have it done by the fall, I am sure by October 1.

Senator RIBICOFF. One final question. Interagency coordination is a function of the USTR under the trade reorganization that went into effect of November of last year. Is the agency system working?

Mr. ASKEW. Mr. Chairman, I think it is working. I think that the closeness that I think we have been able to work with the agencies in particular, Commerce, I think it has been very gratifying.

My personal relationship with the Secretary of Commerce, Philip Kluznick, has been excellent. As we went around trying to take people from other agencies to fill ours, we were the victim of losing one of our key people, which I guess is part of the game as you look toward getting others and losing John Greenwald, our Associate General Counsel, and frankly an outstanding young man. Mr. Kluznick selected him to take over the antidumping and countervailing program which was removed from Treasury to Commerce.

The very fact that we have him there is going to assure a tremendous working relationship. My only concern, Senator, in the whole interagency process, I guess as someone who went through the whole battles of reapportionment in the sixties and making sure that bodies were fairly apportioned, my only concern, as I view the interagency process, is that I am not sure in the construction of the composition of the trade policy committee, which functions mainly upon interagency input through the staff—and we have the review group, and then the principals—I am not sure, in terms of the type decisions we have to make whether the composition of it may be completely balanced.

I think that it stands to reason that the new law makes it very clear that the USTR in the final analysis makes a recommendation to the President. The whole TCP process is one of an advisory nature to the STR. It is not that people get together and vote, therefore if it is a 5-to-4 vote, for instance, that that becomes the recommendation. That is not the case.

However, the recommendations from the agencies are very important and obviously, under our system, when an agency feels like that, their point has not prevailed. The head of that department

could reserve the right to go to the President to express himself so that the input, as a practical matter, becomes important.

I guess one of the things I am looking at is, as you begin the process, for instance in review of ITC findings, for instance, when you look at them, I think that you can, almost from the beginning, see part of your staff process that you feel have preexisting inclinations to begin as to which way they will go.

Some will usually support ITC findings. Some will usually not support ITC findings and that is wherein I am taking a look. I am not sure what can be done about it, but I sometimes feel that on the question of remedies, whether or not the whole process is balanced sufficiently from those who may be inclined to be sympathetic toward domestic interests and those who might feel certain obligations in terms of being very careful to avoid any protectionism.

I think that each are valid positions. It requires balance to assist the STR in its recommendation to the President, but personally, the personalities, the departments—I think the interagency system is functioning and functioning well.

My only concern in that whole process is that sometimes you get votes that may be difficult to go and say to the President that I feel this is strongly the position and then for your report to indicate, you know, that that is a 5-to-2 or 6-to-1 vote.

I am not hesitant, because I think that the Congress expects me to utilize that as an advisory capacity and then make the recommendation that I feel is in the best interests of the country to the President for whatever decision he may make.

But the balance of it, philosophically, which is something that I think concerns the Congress when you look to any body, ITC as well.

Senator RIBICOFF. After all, you are the boss, you know. When you were Governor and you had a group of Commissioners in front of you and you listened to all of them, you never put it to a consensus, I am sure.

You listened to them and you made the decision.

Mr. ASKEW. I know.

Mr. Chairman, if the law said I would make the decision, there would not be a problem.

One of my biggest adjustments is learning how to work for someone else.

Senator RIBICOFF. I tell you, that is a damned tough job. I got out of the Cabinet because I did not want to work for anybody else. I did not want to be a No. 2 man to a President, either.

I think that this is one of the big problems that you have got. It was the intention to make you the lead man in this operation.

My feeling is that the worst thing that would happen would be that everybody would arrive at a consensus decision even though that was not the best decision, you know. Everybody tried to compromise down.

I would contemplate that either you or the Secretary of Commerce, or anybody involved, if they feel strongly about a position, they should not hesitate to go to the President.

Mr. ASKEW. You have my total assurance, Senator. That is the way I operate, because I have had a political career that someone

often says the issues that I have tackled have been somewhat suicidal. I have managed to survive. I have absolutely no hesitancy in that regard and I will assure you that I will never stay in this position a day that I do not feel that that is my responsibility.

All I am suggesting to you in this whole process, however, I make a recommendation to someone else and then there are others who might disagree that, as a practical matter, are really entitled to state their point.

And so that is why I say that even though the process is titled only "advisory in nature" when you send a memorandum to the President you certainly include in it those of his Cabinet that might take a differing view.

Again, my only point is I am not sure that the way it is presently composed that you may not have maybe those who might be predisposed against one side out of balance with another.

If I had to say to the President, "This is my recommendation to the President, that is it, period."—but as a practical matter, Senator, I think I would be less than candid if I told you that that is not the way the Federal Government works.

I am having a new initiation into the Federal Government. The only thing I can tell you thus far is that my relationship with the President has been excellent and as I say, I did not come up here to be a custodian. I came up here, frankly, to hopefully make a contribution but in response to the question of the interagency, that has been one of the things that I have come to view as something to look at.

Senator RIBICOFF. It sure is.

I think—just one little piece of advice from a man whose career has been similar to yours in many instances. You can solve everything on paper, but often it does not work in practice as you intended it to when you put it on paper, legislation included.

I would hope that a man with your practical bent of mind and your experience, as you keep working with this, if you think that there is something in the legislation setting this whole process up, that is defective, or is not working, I would strongly recommend that you come to this committee and tell them, frankly, what your problems are.

And I am sure you will get a very, very careful hearing and if anything should be corrected, it will, because I sense that this committee and the men on it, who I think are some of the outstanding men in the Senate, want this to work. And if they feel that there is something defective, they will be the first ones to back you up and it does not take very much to get an amendment through if it is important.

You are the one who is going to be living with it. You will see it a lot sooner than the Congress will see it because it takes a long time for these defects to surface. Until they surface, much damage can be done.

So I would hope, Governor, that as you work with this, if you see something defective, you come and talk to the men on this committee and tell them what your problems are and I think you will find them very sympathetic.

Mr. ASKEW. Mr. Chairman, I think one of the strengths of this office is the fact that we have that relationship and I am not hesitant to do that.

I will point out one problem that is not akin to the question of interagency decisionmaking, but one that I have already been concerned with, and that is this whole question of voluntary restraints.

From time to time Members of the Congress ask that foreign countries restrain exports to the United States when there is no formal import control investigation before us. Of course, a statutory proceeding, such as section 201, can provide an explicit statutory basis to negotiate OMA's. In such cases, we have the right to make recommendations to the President for remedies aside from what the USITC may recommend. However, one of the things that concerns me is that it is unclear what authority the executive branch has in this whole area. Having been a chief executive officer and having to prosecute a lot of people, I get very sensitive on this whole question of where we have the authority.

I believe that the Congress could well look at this whole question of whether they have fully equipped the executive branch to deal in the area of possible voluntary restraints. I have not come upon any similar limitations on any of my counterparts in any other major trading countries of the world. There are some very important antitrust implications arising from discussions of voluntary restraint agreements absent specific authority given to them.

My point is, I believe that there may be times voluntary export restraints would be less restrictive than a statutory action. To say that voluntary arrangements are always protectionist, I think is incorrect.

I personally, would hope that this is something that we could discuss with you. It is an area that I point out to you because since I have been in this capacity, when anyone wants to talk to me about voluntary restraint, all I do is listen, because the law is not clear. The Justice Department really cannot help you that much in terms of telling you what the law is.

I initially started out by thinking that, government-to-government discussions of export restraints were always proper. Then I found out even government-to-government discussions may raise antitrust questions if the foreign government talks to its industry and that results in the industry voluntarily restraining trade.

So I intend for my tenure in USTR to be interesting. I hope to enjoy some of it. It is not a job you can particularly be overwhelmed with in terms of joy, but I hope very much to try to get out of it without any question of having innocently—and I use that word correctly, "innocently"—to try to get in a situation where some may claim it is an illegal restraint on trade.

If the Congress expects us to do something, then as far as I am personally concerned, there probably should be clear authority to do it, or I am not even going to talk about it.

Senator RIBICOFF. You see, you are going to be good at this job because you are aware of these problems. The important thing after all, you know, you are a double-headed creature. You are a part of the President, part of the Congress, and you owe loyalty to both.

So some of these ideas are important and you are going to know them and we will not. You will know them a lot faster than the Congress will know them.

I think that the important thing is to get your concerns to Congress and I think you will find enough people here willing to take up your battles for you.

I am just giving you some parting insights before I leave this spot.

Mr. ASKEW. Let me say one other word, Senator. It is not contained in our budget, but my concern is that I view the implementation of the MTN, that I have come to appreciate personally—I cannot speak for the administration on this point—but I have come to appreciate personally that it would be very helpful if we had some regional representative—and, by that, I am not talking about the 50 that some have suggested. I am talking about four or five throughout the world who are regional representatives of USTR who can assist in monitoring the codes.

It is going to be a very delicate matter. I think to assume that your commercial attachés are going to be able to do it completely on their own is probably incorrect. I think our business people overseas have got to feel that there is somewhere they can go where the main responsibility is one of insuring the workability of the codes.

Senator RIBICOFF. Let me interrupt you there. I think this point is excellent. My feeling is that this committee will vote unanimously to give you that. I think we all sense that that is important, that there be somebody out of your office who is going to monitor these codes and make sure that they work.

You just come up to us and tell us how much money you need to get that.

I would like to have that submitted to the staff here and I would just like to put in that extra money because unless you have got representatives here on a regional basis, making sure that they are monitoring, we are going to get the dirty end of that stick.

I think that is an important factor. I do not know if Senator Heinz agrees with me or not. It is very important to make sure that our interests are protected and they are being watched around the world.

Senator HEINZ. Mr. Chairman, two things.

Mr. ASKEW. Let me just say that in fiscal 1982, so I can get myself square, that is essentially what I am looking to for that.

Senator RIBICOFF. I am through. You can take over.

Senator HEINZ. Thank you, Mr. Chairman.

Just really one point. I was going to ask permission to continue for 3 minutes because I have a meeting with the leadership in a few seconds, but on this point I would agree with you, Mr. Chairman, although unless the State Department were willing to make some kind of compensatory budget reduction for their part as we are, in effect, transferring money from them to STR for this purpose, I think that we would have a budgetary problem in fiscal 1981.

Ambassador Askew has said what he is aiming at is 1982 rather than 1981, and I think that will be the subject of some negotiations, and I do not mean international.

Mr. ASKEW. I can assure you it will be, Senator. Let me just say that to assume that you have to take away from the State Department, if we are talking about fiscal 1982, I do not think that would be fair, because we are talking about a completely new responsibility. I think you are going to find the State Department—

Senator HEINZ. Let's take a look at what you have in mind.

Mr. ASKEW. We are not talking about that many people. My concern is that there needs to be some people set strategically in different parts of the world whose sole responsibility is to be the focal point for trying to monitor the code to work with commercial attachés where business has a place to go.

You know, we are going to get—the early vibrations are going to come from the business community itself.

Senator HEINZ. Mr. Ambassador, I have no quarrel with that principal. We look forward—I think the chairman is correct—to receiving your recommendations on that.

I just want to clarify something that you were mentioning on voluntary restraints a moment ago.

Do I understand you to be saying that you do not like the countervail or dumping laws, to restrict undertakings?

Mr. ASKEW. No.

Senator HEINZ. I just wanted to be clear on that.

What kind of voluntary restraint operations are, in a sense, up in the air that concern you the General Counsel?

Mr. ASKEW. There is no authority I can find that satisfies me. We do not have any authority for voluntary restraint, unless there is an action that specifically gives you that authority. An argument could be made otherwise but I personally would not want to rely upon it.

I think the question is—I am not necessarily advocating it—but what I am saying, somewhere along the line I think the Congress probably needs to look at the question of whether there might be instances where it is not provided for, where some flexibility would be given as an exception to any type of antitrust case.

Senator HEINZ. How could you give that in a way that would not undercut the very strict parameters under which we want our dumping and countervailing codes to operate?

Mr. ASKEW. It might require approval by the Congress or something like that, where a person does not go off on their own and try to do that.

I am sure that there are some devices, upon consultation. Anyone who sits in my responsibility—for instance, if he knows he has got to consult, say, with this subcommittee—if he goes against this subcommittee, he certainly goes at his or her own risk.

It may be that there are no areas where you can do this. All I am suggesting, however, is that we are called upon in a sense to do it wherein we do not have the clear authority to do that. In the absence of clear authority, I am not going to do it. In fact, I cannot even talk about it.

Senator HEINZ. Mr. Ambassador, it would be helpful, if you believe this to be the case, to give examples to the committee so that there is a record of what we are talking about, even though at the present time it would be an academic record, but it would be useful for future reference.

Let me urge you, if there are some concerns, as I think there are with you, to put on the record from time to time examples where you think that kind of authority would be helpful to you.

Mr. ASKEW. Yes, sir.

Senator HEINZ. Let me turn, if I may, to the next to the last area. As you know, Mr. Cassidy was down before us on Tuesday and we did discuss interagency clearing processes. I am sure he has filled you in, and I will not discuss the same matter, which was the spun acrylic yarn question and the intervention of the Justice Department which I think we hashed over and I assume you feel as everybody, I think, does, that it would be nice if the Justice Department established their credibility as being a friend of Americans generally before they entered into an area outside the antitrust field.

There is, on Monday, a hearing before Senator Stevenson's and my Subcommittee on International Finance on what has been described as the administration's major trade bill for 1980.

This is a bill that would amend the law to permit the establishment of trading companies. It would generally try to facilitate exports and include in our export potential the unrealized potential in many medium, and hopefully smaller, sized companies.

I am told that there is no, and there will be no, administration position on that bill unless it is cleared by the Justice Department. Is that true?

Mr. ASKEW. I cannot answer that. I cannot say whether there will or will not be.

I have never come upon any interagency matter thus far in which I have been told anything like that.

First of all, it is not an administration bill.

Senator HEINZ. No. The administration is supposed to testify.

Mr. ASKEW. Yes.

Mr. Hormats is scheduled to testify on it, but you obviously have some differences.

Senator HEINZ. My question is, is there going to be an administration position? The legislation Senator Stevenson and I have been writing, and Senator Danforth and others, is clearly our legislation and not administration legislation, but there will be testimony from people in the administration.

I am told that none of them will represent an administration—that is, the White House, the President's, point of view, and that to the extent that there is any point of view, it will not come out of your office, it will not come out of Commerce, it will not come out of Stu Eizenstat's office, but it will come out of the Justice Department.

Mr. ASKEW. I cannot confirm that that is the case that it must come out of the Justice Department. The Justice Department is a part of the whole interagency process and in many areas, different departments take the lead.

I would hope that there would be an administration position, but when the time comes for Mr. Hormats to testify, there either will or will not, and whichever way, that is the way, of course, that he would testify.

I think that again one of my tremendous adjustments in this responsibility has been, you know, trying to work with other agen-

cies and not go off half-cocked and say something that could be interpreted as representing the administration.

In fairness to the President, he needs the input of all of his people and personally, you know, I am somewhat sympathetic to that approach because I believe, really, that we are going to do a better job than we have done thus far to try to free up American business people abroad, to try to effectively compete.

When it comes time to testify, if there has been a position that has evolved which is what we would hope would be, but if there is not, then we would simply testify in that regard.

Senator HEINZ. I understand that.

What I suppose—I would like to take this opportunity to ask you specifically, to try between now and the time of that committee hearing—

Mr. ASKEW. I assure you I am. I can assure you I am.

Senator HEINZ [continuing]. To do the very best you can to get a real, genuine, unified administration position.

If you cannot, sometimes you cannot because of the time available, I would hope that there would be not too long after that a decision on the part of the administration as to what it is that they really want to do and that it would be sent out down in the form of a bill that Senator Stevenson and/or I would be happy to introduce by request so that we would have a clear idea of what administration policy in this area is.

I must tell you that when I heard what the situation was likely to be on Monday, I was very distressed. One of the reasons we are just not doing the kinds of things we need to be doing in this country to fight inflation in energy and trade is because it is sometimes very hard to get the decision made by the person who wants to make it, so there is something from which we can work.

We have had the same situation last week with coal conversion, where we have been promised a bill on three separate occasions and there will not be any bill submitted by the administration because, presumably, the administration does not want in writing one way or the other where they are going to come out on the environmental issue and to speak out on that issue will make the environmentalists mad.

We are all politicians. None of us like to get caught in an election year, especially on something that might be unpopular with some people, but the country has gone beyond that.

We are in dire straits and we have to have decisions made for the good of the country rather than for the good of any particular party or politician.

Mr. ASKEW. I can assure you that the President feels the same way and I would submit to you that that is exactly the way he has tried to conduct the Presidency, Senator.

One thing that I would share with you, I think that you are aware that NSC has been a lead agency in export incentives. To get into some of the things you talk about in your bill, they released a preliminary report that recently they are looking toward completing their own study which is due, under the Trade Agreements Act, by July 1 of this year, at which time some of these things will evolve, and the administration will state a position.

What I am trying to do, I am trying to determine whether or not it is possible, prior to the completion of that report, to state the administration position that would be consistent with something that has already been arrived at. That may not be possible because the process is still going on, but I certainly can assure you that I will be trying to get just that.

Senator HEINZ. I hope you succeed. I surely do.

One last question. You may remember that we exchanged some views, some correspondence on mushrooms last November?

Mr. ASKEW. That is what I have been sitting here thinking everytime I see you.

Senator HEINZ. You look at me and all you see—

Mr. ASKEW. Not only mushrooms, but canned and fresh, because I think it is a very important matter to the people affected and I would say to be complimentary to you, Senator, you have been effective in terms of asserting their position which I think is exactly why you are here.

Senator HEINZ. Flattery will get you somewhere, but I am not quite sure—

Mr. ASKEW. That simply is a predicate to the question.

Senator HEINZ. Let me be specific.

On November 16, when I asked whether or not the question of mushrooms had been discussed with the PRC, the People's Republic, you indicated on November 16 to your knowledge the issue of canned mushroom imports was not specifically raised with the Chinese during the trade talks.

Therefore, I have asked you—in other words, have asked the State Department—to express to the appropriate Chinese officials our concern over the potential increase in imports.

Do you know if that has been done?

Mr. ASKEW. Senator, I will confess to you that I do know whether it has been done. We have met with the Chinese on essentially around textiles which was from a standpoint of the overall interests of the United States was the most critical problem.

It has been my hope that events would be such that I would personally go to the People's Republic of China by the fall. I have not forgotten it, by any means.

We have not gotten to the point where I believe that those, along with some other issues, that we are in a position, really, to discuss with them.

Senator HEINZ. So that I understand you, you feel now somewhat differently than you felt in your November 16 letter? Specifically, as I understand you—correct me if I am wrong—that whereas before you said that the State Department not only has been asked but should contact Chinese officials over the increase in mushroom imports; the answer today is that you do not feel that that is something that should be taken up until you go to China.

Is that what you mean?

Mr. ASKEW. No, sir. I do not mean that at all. What I am saying is that I will be very happy to check with the State Department to see to what extent that has been raised and get back with you.

Senator HEINZ. I would appreciate that.

Mr. ASKEW. Thank you.

Senator HEINZ. Thank you, Mr. Ambassador.

Mr. ASKEW. Thank you.

Senator HEINZ. Mr. Chairman, I see that we have a new and equally distinguished chairman. Thank you very much.

Senator ROTH. Mr. Ambassador, I am sorry to be late for your appearance here.

Senator HEINZ. Mr. Chairman, I forgot one thing. Unfortunately I have to go to a meeting. May I ask when the USITC appears that the questions that I have prepared be submitted to them to respond in writing, after the hearing?

Senator ROTH. Yes. Without objection.

Senator HEINZ. Thank you, Mr. Chairman.

Senator ROTH. Mr. Ambassador, I understand that in the course of your testimony, or during the questioning, you raised the problem of antitrust implications of these voluntary agreements. This is a matter that has given me considerable concern. As a matter of fact, I am concerned about the whole problem of the antitrust laws as they affect our efforts, your efforts, and those that appear on the Hill to promote trade.

Do you have any suggestions at this time as to what might be done?

I would hope that somehow we could at least begin to hold some hearings in the appropriate committees on this matter, because I think it is an extremely important and somewhat controversial part of the problem of promoting American trade.

Mr. ASKEW. That may be a good idea.

The way this discussion came up is that Senator Ribicoff indicated that any time something comes up that you want to share with us, it is important to do so. This has been an area of concern to me, and I am not necessarily suggesting any change. What I was trying to say is that sometimes we are asked to do things or it is suggested to us that we do things which, under the law, are not clearly permissible.

I think hearings on this question could be beneficial. I think that those who believe that any type of voluntary restraint is philosophically not desirable have a valid point of view. There are a lot of people I respect who have the point of view, but the law already explicitly authorizes us to seek export restraints in certain cases.

I think it is a very delicate field. I think you would have to proceed very cautiously and it may well be that you will determine that you do not want to change existing law. Personally, I think it would be helpful to clarify that existing law so whoever sits in my position will have the benefit of knowing more precisely what is permissible. I have serious doubts as to what is permissible and I should really be very careful in terms of talking about it. The Congress itself, of course, in a specific area could direct that authority.

What I would like to see is an exploration of the issue. Are there any areas where the executive branch might be given explicit statutory authority to seek voluntarily restraints?

Senator ROTH. Let me point out, I think it was during the steel discussions last year when the administration was trying to work out the triggering mechanism, at that very time when discussions were going on with the Japanese, either the Deputy or one of the Assistant Attorney Generals made a statement that the Japanese

would be in violation of our antitrust laws if they proceeded with an agreement which our government was asking them to consider.

We cannot have it both ways. We have got to be able to have a consistent policy within the executive branch of the Government.

And I think that some tough decisions have got to be made. We have the automobile situation coming up, with which I know you are involved. I have had a number of the Japanese stop by my office and they have raised this question about the antitrust laws.

To me, this is not of your doing, but you are in a very difficult, negotiating position. I do not know what you are proposing or intend to propose, but seems to me the Japanese can somewhat accuse us, even if we are negotiating in good faith, that at least one branch of the Government is saying he is in violation of our law. We cannot really expect them not to agree.

This is something that I think clearly needs to be zeroed in on and, as you say, clarified. Frankly, I do not think clarification is the answer. I think there is going to have to be some resolution of the matter as to what the policy is going to be.

Ambassador ASKEW. I would like to be able to understand, however, what Congress expects because if a Congressman calls upon us to urge the Japanese to use voluntary restraint in this instance, my personal guess is that he can do so with a pretty good feeling of congressional immunity. However, we are put in a position of discouraging the Japanese from a VRA. But they assume from our discouraging it that that is what we want them to do.

What I am telling you is that as we attempt to assert ourselves more actively in the whole area of international trade, it would be helpful if we went back and unemotionally reviewed where we are in terms of the antitrust, what the implications are of any change in the law, and then determine whether or not the Congress and the President might wish to change the law. Senator, I believe this is an important issue. The question is, are we going to put ourselves at a disadvantage because of the ambiguity under current law? Are we going to continue to put our people in an uncomfortable position of talking in subtleties that might have some implications that personally would not be good for them.

I think that the hearings you are talking about could be helpful. My concern is that I know exactly what the law is, that I not be asked to do something that is illegal, and if I should do it, in the wisdom of the Congress, then we should consider changing the law.

It is a difficult field.

Senator ROTH. It is a very difficult field and there are no easy answers and I am not sure entirely where I come out but I think there does have to be some resolution of the matter.

The only thing I would urge is that I think it would be helpful, at the same time, we get hearings held here, and the administration itself begin to examine the question of what kind of recommendations they would make in the area because ultimately it will take both branches of the government to come to a firm policy.

Ambassador ASKEW. I agree, Senator.

Senator ROTH. Thank you very much, Mr. Ambassador.

Senator RIBICOFF. Unfortunately, I came in—I had some calls to make and I just came in at the end. I gather—was there a request, or a feeling on your part, Senator Roth, that our antitrust laws as

they are now constituted are harmful to America's trade position in the world?

Senator ROTH. I am very concerned about that.

Senator RIBICOFF. I think you are making a very good point, although acting on it could be a question of taking over the jurisdiction of the Judiciary Committee.

I have thought for some time we have been very unrealistic in the changing world with multinational corporations in tough competition from the European Community and Japan. A real question exists as to whether this is something that should be addressed from a trade position.

Senator ROTH. I think it should. While we do not have direct jurisdiction, it is something, I think, because of our responsibility in the export area, would be very worthwhile to begin exploring.

I think the fact—there are two things we have to face today. One, essentially in a world market American business is competing not only with American competitors but more importantly with some very efficient, large, multinationals of other origins.

This is a fact of life that I think has to be recognized today. I am not sure to what extent the courts are aware of this fact. I am not saying they are not, because I am not an expert, but I have some doubts.

I was also pointing out that I was also concerned about the fact that, for example, last year when the administration was trying to make some resolution in the steel area, at the very time our people were proposing a solution—I think it was Bob Strauss—we had an Assistant Attorney General, I think it was, who said if the Japanese agree to it, they would be violating the law.

No. 1, we cannot be very effective negotiators if we have a divided house. And second, if that is true, then we will have to abide by it, or we will have to change the law.

Senator RIBICOFF. I am just wondering. I think you are making a good point. Whether we have time for it, I think it might be something worth exploring.

Mr. Cassidy, would you get together in the near future with Mr. Foster and just discuss whether these hearings would be worthwhile from our position and also I would bring in Senator Roth's staff man in that discussion with you, to see if this is something worth going into, just opening it up this session, or whether it should be explored later, whether it would have a salutary effect?

Senator Roth and I will look at our schedules and look at this session and see if it is in the cards.

Senator ROTH. I would be happy to cooperate with that, Mr. Chairman.

Senator RIBICOFF. Are there any more questions?

Senator ROTH. No.

Senator RIBICOFF. Thank you very much.

Mr. CASSIDY. There is one last statement, Mr. Chairman. A few months ago we were told that OMB has finally cleared our authorization bill draft, which we have discussed with your staff and we urge you to consider it when you consider our authorization this year.

Senator RIBICOFF. Whether they had approved it or not, I think we would have known how to handle it.

Mr. CASSIDY. Thank you very much.
 [The prepared statement of Mr. Askew follows:]

STATEMENT OF AMBASSADOR REUBIN O'D. ASKEW, U.S. TRADE REPRESENTATIVE

Mr. Chairman, I am pleased to appear before you to discuss our 1981 budget. I have with me today our General Counsel, Robert Cassidy, and John Giacomini, our Director of Management, who will assist me in answering your questions.

Mr. Chairman, during the past five years the Office of the United States Trade Representative has operated under a five-year authorization contained in the Trade Act of 1974. This authorization will expire after fiscal year 1980 and must be extended.

We hope to be able to propose another 5-year authorization.

As you know, during the Multilateral Trade Negotiations of the Tokyo Round, part of our budget was included in the State Department budget. As a result, we were able to use the State Department's basic authorizations which most, if not all, agencies have. We are prepared to submit a draft of an authorization bill that will facilitate the performance of our increased responsibilities.

As you also are aware, when major new responsibilities were given to the USTR, Congress allocated additional resources to us so that implementation of the Trade Agreements Act could begin on January 1. Fifty-seven additional positions brought total personnel for this fiscal year to 115. Eleven of these positions are assigned to our Geneva office, which is our operating arm abroad. The remaining positions were assigned to the various organizational units as illustrated in the handout which you have. All new positions are expected to be filled by late spring. Also, we are attempting to find sufficient space to accommodate adequately our enlarged staff.

We have a single budget. (Through fiscal year 1979, multilateral trade negotiations were budgeted for by State and by STR.) For this fiscal year, supplemental funding brought our total budget up to \$8.4 million. Of that total, \$1.5 million is being used to set up the Geneva office. The supplemental assistance given to us by Congress made possible the rapid initiation of our new responsibilities.

Our request of \$9.3 million for fiscal year 1981 will provide for maintenance of our current organization and for certain increases in operating expenses.

Areas which appear to be tight because of recent significant cost increases are printing and reproduction—Federal Register fees have gone up significantly—and travel, where overseas and domestic rates, and per diem, are apparently going to increase significantly in the spring.

We are required by law to publish items such as tariff proclamations, case notices, and trade agreements. By next October, the Register will have increased in cost per page by about \$100 to a new high of \$408 per page. Travel, of course, is essential to the success of our international operations. So projected cost increases in travel will have an effect on our requested budget.

By early summer, we will have a clearer fix on the effect of these increases on our projected needs.

We have opted for holding total personnel in fiscal year 1981 to the 115 positions. As we begin to prepare our budget request for fiscal year 1982, we will reassess our staffing in terms of perceived requirements for the future and decide at that time if additional positions are needed.

This completes my testimony. I would be pleased to answer any questions you might have on the budget or on our operations generally.

Thank you.

Senator RIBICOFF. The U.S. International Trade Commission.

Madam Chairman and ladies and gentlemen, you may proceed.
 Your entire statement will go in the record as if read.

I have read your statement. Your request seems to be very much in line.

You are only asking for \$118,000 for program increases. As I understand it, the Subcommittee on Trade of the Ways and Means Committee has authorized the full amount of \$16,981,000. Is that correct?

STATEMENT OF HON. CATHERINE BEDELL, CHAIRMAN, U.S. INTERNATIONAL TRADE COMMISSION, ACCOMPANIED BY HON. BILL ALBERGER, VICE CHAIRMAN, U.S. INTERNATIONAL TRADE COMMISSION; PAULA STERN, COMMISSIONER, U.S. INTERNATIONAL TRADE COMMISSION; EDWARD C. WALLINGTON, JR., DIRECTOR OF FINANCE AND COMMISSION BUDGET, U.S. INTERNATIONAL TRADE COMMISSION

Ms. BEDELL. That is correct, Mr. Chairman.

Senator RIBICOFF. Your entire statement will go into the record as if read.

We have placed upon your shoulders by the Trade Act of 1979 a considerable amount of new responsibilities and my hunch is that once the trade acts get into the works, you are going to have many burdens.

I have no questions.

Do you have any questions?

Senator ROTH. No.

Senator RIBICOFF. The better part of wisdom, I suppose, would be to say thank you, on your part, and you come back some other time, if we have any questions.

Ms. BEDELL. This has been a most delightful presentation and I thank you, Mr. Chairman, and my friend Senator Roth.

[The questions submitted by Senator Heinz and the Commission's answers and the prepared statement of Ms. Bedell follow:]

STATEMENT OF HON. CATHERINE BEDELL, CHAIRMAN, U.S. INTERNATIONAL TRADE COMMISSION

Mr. Chairman and members of the committee, I am pleased to have this opportunity to discuss with you the fiscal year 1981 budget request of the United States International Trade Commission. As we have previously stated, the Commission appreciates this Committee's continued strong interest in, and support of, the Commission's work.

I am accompanied today by Vice Chairman Bill Alberger and Mr. Edward Wallington, the Commission's Chief of Finance and Budget. Other staff members are also present.

The Commission's fiscal year 1981 budget request is essentially a request to fund operations at the same level as fiscal year 1980, but with some shifts in emphasis on individual activities. The Commission is requesting the authorization of \$16,981,000 to support its operations and a staff of up to 438 full-time permanent employees in fiscal year 1981. This amount is \$1,064,000 more than the Commission's fiscal year 1980 obligating authority, assuming enactment of the pending pay increase supplemental. Only \$118,000 of this rise is for program increases. The balance, \$946,000 is the result of built-in cost increases and inflation. The number of authorized position remains unchanged. As you may already know, the Subcommittee on Trade of the House Committee on Ways and Means has approved an authorization of the full amount of \$16,981,000 requested by the Commission.

In developing this request, we used zero based budgeting procedures to update our fiscal year 1980 budget as well as to establish the fiscal year 1981 budget. We believe that the result is a conservative plan for operation in both years.

As you know, the Trade Agreements Act of 1979 assigned the Commission new responsibilities for antidumping and countervailing duty investigations. We know already that these new responsibilities will cause a heavy Commission workload in fiscal year 1980, when many outstanding cases must be processed under provision of the new law. We expect further work to result from new requests for investigations and from the requirement to determine possible injury if outstanding countervailing duty orders are waived. The timing and extent of this demand are not yet fully clear.

In order to accomplish this greater volume of work in fiscal year 1980 within the limits of the funds appropriated, the Commission has sharply reduced previous fiscal year 1980 plans for other activities. Much of this reduction will come in investigations under section 332 of the Tariff Act of 1930. The Commission adopted

this planned reduction reluctantly after determining that no reasonable alternative existed if we were to have the resources necessary to meet our statutorily mandated work and still be in a position to make a full response to Congressional and Presidential requests for investigations.

Once the initial fiscal year 1980 surge in the work required to complete both outstanding and new antidumping and countervailing duty investigations is behind us, we believe there should be a reduction in demand for such work in fiscal year 1981, although not to the pre-Trade Agreements Act level. The Commission then plans to shift some of its resources back in support of section 332 investigations. We are convinced we have a responsibility to anticipate rather than react to developments in world trade so we can be prepared to render prompt assistance when called upon to analyze problem areas before they become critical. In preparation for this eventuality, a new planning committee consisting of several members of our senior staff is developing plans and options designed to enable the Commission to direct our limited resources to those analyses that will be of maximum value to trade policymakers. Within the next four to five months we hope to have the first draft of a plan for optimal allocation of those Commission resources which are not being used for statutorily required work.

It may be that our estimates on antidumping and countervailing duty investigations in fiscal year 1981 are too conservative. If this happens, we again will try to shift our resources. I would point out, however, if there is a significant increase in the workload we might have to come back and ask for additional funds.

We are also looking toward at least a partial solution to a problem over which we have no control—high rent or Standard Level User Charge (SLUC) from GSA. The budgeted rental fee for our 148-year-old main building in Washington will rise from \$535,000 in fiscal year 1980 to \$827,000 in fiscal year 1981. This increase of almost 55 percent results solely from new rates established by GSA on the basis of their 3-year assessment. So instead of seeking additional high rent space, we have initiated a test program using "systems" or modular furniture that will enable us to place three or four employees in small acoustically paneled rooms, now occupied by fewer people, without any reduction in efficiency or productivity. While the initial expense is high, we feel that it is the only way we can hold down space costs if our personnel strength is constant, or avoid sharp cost increases if we have to add new staff in future years. An added advantage accruing from the use of this equipment is the energy savings it offers us in a National Historic Landmark Building with an overloaded and inadequate electrical system. Should we determine that systems furniture will be cost effective, we would expect to develop a plan for phased installation throughout the agency. It could however, be necessary to ask you later for additional funds for this purpose in order to avoid space shortages or a delay of years before beginning to effect this cost savings.

As for the overall budget, it is our judgment that we have estimated our needs prudently.

QUESTIONS SUBMITTED BY SENATOR HEINZ

Question 1. In my state, there are some companies which produce steel wire rope. I understand that these producers, along with others, have been working with the Commission for nearly two years to correct misleading country of origin practices which occur in the sale and distribution of imported steel wire rope. I would like to know the present status of this matter.

Answer. The Commission has proposed substantive regulations on this matter. (45 F.R. 12833, February 27, 1980) and is accepting public comment on these specific regulations and also on the general issue of the Commission's promulgating substantive regulations under section 337. A principal reason why the Commission chose to consider a rulemaking proceeding covering country-of-origin marking of steel wire rope is that it has been alleged that there is a preference among consumers of steel wire rope for the domestic product. The Commission is especially concerned with protecting U.S. consumers from alleged unfair trade practices.

Question 2. From what I have heard, parties involved in section 337 investigations sometimes spend in excess of a million dollars in legal fees. Is it correct that rulemaking would be less costly to the parties?

Answer. The Commission is not privy to the legal fees charged in its investigations. It has, however, been asserted by attorneys for the steel wire rope and specialty cable manufacturers that a rulemaking procedure would be somewhat less costly than an adjudication.

Question 3. Since the Commission, through the Office of Legal Services, takes an active role in section 337 proceedings, would rulemaking allow the ITC to more efficiently use its financial resources?

Answer. Substantive rulemaking treats with certain unfair methods of competition on an across-the-board basis rather than case by case as in adjudications. This in aggregate may prove to be less costly to the public at large and perhaps to the Commission as well. However, since input from the Office of Legal Services, especially concerning the public interest, would be equally as important in a rulemaking proceeding as in an adjudication, financial savings to the Commission are not necessarily foreseeable from the use of rulemaking.

Question 4. As you are aware, the amendments to section 337 made by the Trade Agreements Act of 1979 provided the Commission with the authority to impose civil penalties for a violation of section 337. Additionally, the legislative history of the Trade Agreements Act of 1979 indicates that section 337 covers importation and the subsequent sale of the imported product. From what I have read on this rulemaking proposal, including a memorandum prepared by the Commission's Office of Legal Services, rulemaking seems to be a significant new tool useful in the elimination of unfair practices. It also appears that a rule coupled with a subsequent abbreviated section 337 adjudication, where necessary, might be the most effective way to implement this new authority. Is the Commission considering use of rules in such a manner?

Answer. The Commission is, as you suggest, considering the use of substantive regulations as a fair and efficient method of addressing certain unfair trade practices. It is contemplated that a hearing, the format of which is now being studied by the Commission staff, would be conducted to determine whether section 337 is being violated. This would include all statutory elements, including restraint of trade or commerce, as might exist in the deception of U.S. consumers, injury to an economic and efficient operation of the domestic industry, and public interest considerations. Only if the necessary factors are proven to the Commission would a final rule be promulgated. Individual instances of violation of the rule would be handled in subsequent proceedings. Such proceedings would be limited to the question of the applicability of the rule and its violation. As you can see, this does not vary too greatly from a straight forward section 337 adjudication, the principal difference being the general application of the remedy.

Just as with any fully adjudicated section 337 investigation, it would be anticipated that injury to the domestic industry would be remedied by the promulgation of the underlying Commission order (or rule). Hence, one could not expect there to be injury to the domestic industry at the time an enforcement action takes place. As a safeguard against any rule remaining in force longer than is necessary, the Commission has proposed a four-year sunset provision. It is hoped that this combination of features would make the promulgation of substantive rules a fair, efficient, and cost-effective way of exercising section 337 authority.

Senator RIBICOFF. Mr. Chasen and his staff.
All right, Mr. Chasen.

STATEMENT OF ROBERT E. CHASEN, COMMISSIONER, U.S. CUSTOMS SERVICE, ACCOMPANIED BY WILLIAM T. ARCHEY, DEPUTY COMMISSIONER OF CUSTOMS; CHARLES C. HACKETT, JR., ASSISTANT COMMISSIONER FOR BORDER OPERATIONS; ALFRED R. De ANGELUS, ASSISTANT COMMISSIONER FOR COMMERCIAL OPERATIONS; AND KENNETH L. WILSON, DIRECTOR, PLANNING AND BUDGET DIVISION

Mr. CHASEN. With your permission, Mr. Chairman, I do have a formal statement.

Senator RIBICOFF. The formal statement will go into the record as if read. If you would like to summarize, you may.

Mr. CHASEN. I would just like to make a few brief remarks. To begin with, I would like to introduce the staff who are with me.

On my right, Bill Archey, our Deputy Commissioner; next to him is Al De Angelus, Assistant Commissioner for Commercial Operations. On my left is Charles Hackett, our Assistant Commissioner for Border Operations; Ken Wilson, our Budget Director.

I would like to make my remarks very brief. We are requesting an authorization for \$472 million. The Customs Service, in fiscal year 1979 collected \$8.5 billion and we returned \$20 to the United

States Treasury for every dollar expended in carrying out our mission. Outside of that, we fully support the aim of the administration to keep government expenditures at a minimum and we will be prepared to answer any questions you might have.

CUSTOMS INTERNAL INVESTIGATION

Senator RIBICOFF. Let me ask you, your agency has been in the press to a great extent during the past year involving charges of illegality. As I understand it this has been as a result of an internal investigation made in the Customs Service itself. Is that correct?

Mr. CHASEN. The investigation that you are referring to is probably the one in our New York region, which was initiated by the Customs Service itself with the U.S. attorney's office in Newark.

It has led to seven arrests so far and, because it is in litigation, I am not at liberty to discuss it.

Senator RIBICOFF. That was initiated by the Service itself. It did not come from any outside source?

Mr. CHASEN. No, sir.

Senator RIBICOFF. Now, let me ask you, do you think you have got this under control now?

Mr. CHASEN. Are you referring to the New York situation?

Senator RIBICOFF. The general corruption factors.

Mr. CHASEN. I think that we have in place an organization, an internal affairs association. We set up a new organization that we call management integrity, which is now directed by a highly competent individual and I think we can handle our integrity problems with the organization that we have in place at the present moment.

There is active cooperation between the Justice Department and yourself now?

Mr. CHASEN. Yes, sir.

Senator RIBICOFF. Now, let me ask you, the Ways and Means Committee gave you \$5 million more than you asked for?

Mr. CHASEN. Yes, sir.

Senator RIBICOFF. The President has asked agencies to cut even further. If additional cuts are made, what happens with the Customs Service?

Do you think that that saving will be contrary to the best interests in collection of additional sums? Do you think you can raise more than the so-called cut by a full complement of people, or can you still raise the same amount of money and be more effective and more efficient?

Mr. CHASEN. It is my judgment that we could perform as effectively as before. I think that our problems are not wholly solved by additional manpower.

It would be helpful—there are certain areas where more manpower is necessary particularly in Miami International Airport. We had hoped to use the additional funds for critical points. If the funds are not forthcoming, we will just have to review all of our operations to see how we can do the best that we can.

MIAMI AIRPORT

Senator RIBICOFF. What is the problem at the Miami Airport that needs special attention.

Mr. CHASEN. The Miami Airport is a good example of inadequate advance planning. The facility in the last 15 years tripled its growth. Each 5 years it doubled in size.

I was down there recently and the airport director told me in 3 or 4 years you will have a larger volume than JFK in New York.

Senator RIBICOFF. You mean Miami will be larger than JFK?

Mr. CHASEN. Yes, sir.

Senator RIBICOFF. Why is that?

Mr. CHASEN. The primary reason is because of the high cost of fuel. Many of the international carriers instead of overflying Miami, for example going to Tampa or Atlanta, will now create a hub at Miami. This will allow the South American carriers to utilize Miami as the nearest turn around point.

I saw Jim Gorson here. He is probably more competent to answer that question than I am, but this is what I have been advised. We have tracked Miami very carefully because of the discomfort caused by incoming international passengers there and we see this trend line of an approximately 20 percent growth increase per year.

The problem there, to answer your original question, the facilities were inadequate. They did not have space to handle the increased amount of incoming passengers. They were all compressed into 17 belts, we call them primary stations, and there was no other place for them to go so they just had to back up.

Senator RIBICOFF. This is not the Customs Bureau's responsibility, it is the management of the Miami Airport, is it not?

Mr. CHASEN. That is right. We do not control the facilities where we work.

Senator RIBICOFF. Who does control it? Is there a special authority in Miami to control the Miami Airport? Is there a special authority?

Mr. CHASEN. Yes, it is a local authority.

Senator RIBICOFF. Well, what are they doing about it?

Mr. CHASEN. Well, they have planned a new facility which will open in April. It is scheduled to open April 1.

Senator RIBICOFF. Of this year?

Mr. CHASEN. This year.

Senator RIBICOFF. I see.

Mr. CHASEN. I do not know. I went down there to see whether they would be on schedule. It is questionable, but when they open that will alleviate Miami substantially, because about 20 to 24 new primary stations will be available to the public.

We have agreed to staff these stations. We have been prepared for this all year and I believe that Miami will be greatly alleviated beginning with April 1 when these additional primaries open.

OVERTIME

Senator RIBICOFF. Let me ask you about another problem with the Customs Service that has been in the public print; it is the large amount of overtime pay.

It is estimated that as much as \$70 million may be paid out and the Ways and Means Committee has recommended imposing, for fiscal 1981, a ceiling of \$20,000 in overtime pay per Customs employee.

Does that have to be? Is there any way that you can run the Customs Service on regular hours without large overtime, or is it endemic to the customs business?

Mr. CHASEN. I think that overtime is peculiar with the customs business and also it flows from any staffing situation where you try to handle peaks and valleys and unusual situations and not build a big staff which will just sit around part of the time.

So you have to have overtime in-order to meet these peaks and valleys and unusual situations such as unloading oil freighters. Overtime is a way of life.

As a matter of fact, Senator, a large proportion of that overtime is reimbursed because of the recognition of its necessity.

Senator RIBICOFF. In other words, the cost of the customs employees are paid for by the exporter or importer as the case may be in unloading the merchandise? Is that the case?

Mr. CHASEN. Primarily the air carriers and the vessel companies. They will reimburse us—what is the percent, Ken?

\$43 million out of the \$70 million?

Mr. WILSON. Approximately that.

Mr. CHASEN. Approximately 60 percent is reimbursed.

Senator RIBICOFF. If I come back from overseas on an overseas carrier and I land in any American airport and the plane is an hour or two late and a customs employee has to hang around waiting for them, they go overtime.

Is that paid for by the air carrier, or is that cost picked up by your department?

Mr. ARCHEY. That, Mr. Chairman, is paid for by the air carrier if it is on a week night.

Senator RIBICOFF. If it is on a what?

Mr. ARCHEY. A week night, but not in all instances.

For instance, at J. F. K., that plane may come in 2 hours after it is scheduled to arrive, but we may have a shift on anyway to deal with incoming traffic beyond 5—we do not work a regular 8 to 5 shift. This is a regular shift on, and a plane that is due at 4 comes in at 6 it still will be carried out by customs under the normal appropriated moneys.

Some airports which do not have much traffic after 5 and a plane was scheduled for arrival at 4 and comes in at 7, that would be reimbursed by the carrier except on Sunday.

An act of a couple of years ago provided that all Sunday overtime between 8 and 5 is now a matter of appropriated funds.

That is also holidays as well, Sundays and holidays.

NEW INSPECTION TECHNIQUES

Senator RIBICOFF. Let me ask you, what progress has been made in reducing delays in processing travelers through customs?

Mr. CHASEN. Probably the most outstanding advance that has been called to our attention is what we call the citizens bypass. It is in considerable use here at Dulles.

If you are a U.S. citizen returning from abroad, and we do this by cooperation with the Immigration Service, you do not go through two services. You go directly to your luggage, you get your luggage, and you go to the inspector who asks you a few questions and processes you through our machine.

You do require a handbag inspection on behalf of the Department of Agriculture, all of which can be done in 10 seconds. Our problem there is that the airlines are having difficulty in getting the luggage delivered fast enough.

That has been the most outstanding advance.

Senator RIBICOFF. Any thoughts on the alternatives suggested by GAO? Are you doing much in that field?

Mr. CHASEN. We tried the GAO's suggestion in 1968 of processing the passenger before he picks up his luggage. It did not work satisfactorily then for us and we have reservations about it as being the right way to do it as compared to Citizens Bypass or our other technique that we are using now which is called one stop that covers both noncitizens and citizens at the same time.

ANTIDUMPING AND COUNTERVAILING DUTY LAWS

Senator RIBICOFF. We are sort of running behind on these hearings. I would like you to submit for the record a statement as to what you see to be the functions of the Customs Service in aiding in the enforcement of the antidumping and countervailing duties laws.

What priority do you assign with working with the Commerce Department in this area?

Are there any problems that you foresee?

I would like a statement from your service on that question.

Mr. CHASEN. Yes, Mr. Chairman.

Senator RIBICOFF. Thank you, gentlemen.

Mr. CHASEN. Thank you.

[The material to be furnished and the prepared statement of Mr. Chasen follow:]

THE COMMISSIONER OF CUSTOMS,
Washington, D.C., March 31, 1980.

Hon. ABRAHAM A. RIBICOFF,
U.S. Senate, Washington, D.C.

DEAR SENATOR RIBICOFF: In response to your verbal request made at the Trade Subcommittee hearing of March 13, 1980, regarding the functional responsibility in the enforcement of the antidumping and countervailing duty laws, the following information is provided.

The Trade Agreements Act has transferred to the Department of Commerce the responsibility for the investigation of antidumping petitions, countervailing duty investigations, and the final determination of the amount of both dumping and countervailing duties to be collected after the International Trade Commission has made the necessary determinations. The task of receiving deposits of estimated duties with the entry summary, of accepting bond coverage or deposits of other securities and the final resolution of the amount of duty remains with the Customs Service. This responsibility requires that customs take the necessary actions in accordance with the stages of development that the antidumping and countervailing duty investigations are in at the time of entry processing. In the preliminary stages, Customs must accept bond coverage or estimated duty deposits, and when the case is completed and Customs is advised of the amount of dumping or countervailing duty that is due, the initial collection must be adjusted by a refund or billing and collection of the additional amounts. During this period, the Customs Service must hold the entries in an inactive file so that the liquidation may, if necessary, be suspended in accordance with Public Law 95-410.

In cases where the final adjustment is completed, the entry has been liquidated and the importer has protested the assessment of the countervailing or dumping duty, Customs must identify the entry summaries involved and provide them to the Department of Commerce for review. When action is taken on the recommendations of the Department of Commerce, they will hold these documents for the prescribed regulatory time, awaiting a possible further action by the importer. This would be done by filing a summons with the Customs Court.

We are responsible for publishing pertinent information about dumping findings in the Customs Regulations and also for notifying all of our field offices and the importing public of any significant actions in countervailing and dumping cases.

We are currently developing within the Customs automated systems the ability to automatically accumulate the information on deposits of estimated dumping and countervailing duty computations as well as the final assessment of these duties through the liquidation procedures. This information is currently available through manual methods and is correlated in our automated systems. This method of collection is very tedious and expensive and, therefore, is not done as a matter of course. The development of the automated capability will provide us with the ability to respond to inquiries from the Department of Commerce, members of congress and domestic interests in a more expeditious manner.

We have established within the Customs Service Headquarters Office a designated coordinator to handle these functions. This Office is responsible for the expeditious handling of any inquiries, correspondence, instructions and coordination between the Customs Service, Department of Commerce, and the importing sector. Customs and Commerce are developing a memorandum of understanding to formalize their respective responsibilities under the Act. For those inquiries which require special expediting, a procedure has been established whereby the proper field personnel may be contacted directly by the Department of Commerce. To date, this procedure has not caused any trouble.

The only problem that will possibly arise is that of obtaining information for the Department of Commerce and providing that information to Customs field personnel within the time constraints laid upon both agencies under Public Law 95-410 and Public Law 96-39. The resolution of the time problem constraints will come about with the completion of our revisions to the current Customs Automated System now providing or collecting this data.

Sincerely,

R. E. CHASEN,
Commissioner of Customs.

INTRODUCTORY STATEMENT OF ROBERT E. CHASEN, COMMISSIONER OF CUSTOMS,
U.S. CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

INTRODUCTION

Mr. Chairman and Members of the Committee, I appreciate the opportunity to appear before you today with my associates to present our fiscal year 1981 requirements, and to discuss my views on the future needs and directions of the U.S. Customs Service.

In order to carry out the Customs mission during fiscal year 1981, the Customs Service is requesting an authorization of \$472,000,000. This authorization level represents an increase of \$7.7 million over the proposed authorized level for fiscal year 1980. This increase is composed of \$2.4 million for program expansion and \$5.3 million for other changes.

The proposed authorized level for fiscal year 1980 reflects the transfer of \$5,271,000 to the International Trade Administration, Department of Commerce, for the Antidumping and Countervailing Duty Program. This transfer was authorized by Reorganization Plan Number 3. Our Authorization request for fiscal year 1981 does not include resources for the activity which was transferred.

In accordance with the desire for fiscal restraint, the proposed budget for fiscal year 1981 reflects the minimum requirements for maintaining Customs effectiveness. This is especially significant in view of the increasing complexities involved in administering our responsibilities under Customs laws, and the laws of other agencies which we enforce.

Our basic role continues to be the facilitation of international trade and travel, the criminal enforcement of Customs and related statutes and the enforcement of this nation's complex tariff laws and regulations.

First, as a primary revenue collection agency and enforcer of our Trade Laws, Customs administers U.S. tariff laws, regulations, agreements, quota administration

and statistical programs. Without effective implementation of these laws, imports could adversely affect domestic industry and the U.S. economy.

Second, Customs is necessarily oriented toward serving both customers and business. Travelers must be processed and inspected efficiently and courteously. The private business sector similarly depends on us to expedite the flow of materials and goods upon which U.S. industry depends.

Last, the Service is the country's major border defense against the flow of commercial quantities of narcotics and contraband.

The Customs Service continues to be a major source of revenue for the Federal Government, as well as a vitally important law enforcement arm. During fiscal year 1979, Customs collected a record \$8.5 billion in revenue, up \$1 billion or 12 percent over fiscal year 1978. This translates into a return of almost \$20 to the U.S. Treasury for every dollar expended in carrying out our responsibilities at 300 ports of entry on our Nation's land, air and sea borders.

GENERAL STATEMENT

The growth of our workload, in the decade just ended, was phenomenal. For example, formal entries of merchandise increased over 58 percent from 2.8 million in 1970 to 4.4 million in 1979. Persons arriving for processing at air, land, or sea ports increased by 44 million from 226 million in 1970 to 270 million in 1979. The most astonishing growth occurred in the level of international air travel. Persons arriving for processing at airports increased by 105 percent from almost 13 million in 1970 to 26.5 million in 1979.

The proposed budget does not request increased resources for workload growth. However, we estimate that a total of 284 million persons will cross our borders by all modes of transportation in fiscal year 1981. This is an increase of 15 million or 5.3 percent over fiscal year 1979. Arrivals of individuals by air are expected to total 30 million, an increase of 24 percent over the level processed in fiscal year 1979.

In fiscal year 1981, the Customs Service should process approximately 4.7 million formal entries of merchandise, an increase of 316,000 or 10.2 percent over the level processed in fiscal year 1979. In addition, revenues from cargo, mail, and baggage in fiscal year 1981 have been estimated at \$10 billion. This is \$1.5 billion or 18 percent greater than the revenue collected in fiscal year 1979.

We will handle this additional workload by increasing productivity throughout the Customs Service. We are approaching this objective in two ways. First, through the review of functions and subsequent reorganization of the National Headquarters, we have been able to redirect almost 200 positions to "on-the-line" activities. This review is now being broadened to cover Regional Headquarters Staffs.

In addition to reducing overhead and redirecting staffing, we are continuing approaches for increasing productivity through the adoption of innovative alternatives for processing workload. Presently we are expanding the use of the "Citizens By-Pass/One Stop" concept of inspection of individuals and evaluating the "Accelerated Cargo Clearance and Entry Processing Test (ACCEPT)" method for inspection and clearance of cargo.

Within a context of limited resources, Customs will refocus its efforts in several basic ways. The development of strategies, identification of priorities and emphasis and determination of criteria for expedient processing of passengers and cargo are already underway in our enforcement and interdiction programs. With the sheer volume of regulations and laws, we are arranging our priorities to achieve the greatest return from our resource investment. Application of technology, with greater emphasis on selectivity and increased cooperation with other agencies are other approaches being explored by Customs. Our workload will not decrease, and at the same time, we cannot continually request large increases in our budget. We must rely on new technology and data processing if we are to keep pace. Finally, internal management improvements and controls, including annual performance goals and increased efforts toward improved program measurement and evaluation systems, have been initiated to distribute available resources more effectively. In an effort related to obtaining the most effective use of our resources, we have been designing a five-year enforcement and investigative strategy, and a program development and evaluation capability to support new problem solving activities. The Appropriation Committees' request for an agency wide five-year consolidated long-range plan complemented our earlier efforts to determine future demands for our services and better ways for use to meet those demands.

A private consulting firm has completed Customs' initial step in establishing a long-range plan. The next phase is institutionalizing long-range planning in the agency. In this way, the Customs Service will have the ongoing ability to continuously analyze the environment in which it operates and thus facilitate the design of efficient and effective advanced planning.

Overtime within the Customs Service is largely controlled by Services requested by the carriers. At this time we are faced with demands for additional service as well as meeting the requirements at new or expanded facilities. In fiscal year 1979 we paid out almost \$64 million in all types of overtime, of which \$39 million was reimbursable. In fiscal year 1980 the overtime payments will approach \$69 million, of which \$43 million is reimbursable. This increase is due primarily to the seven percent pay increase last October and the increasing service requirements.

As a part of the Customs management objectives, as well as my personal interest and the public concern in the amount of overtime paid to government employees, each of the senior executives has an objective requiring intensive management and the declining use of overtime. This is one of the criteria by which I will measure management performance and accountability.

In addition, the Congress has directed that a restriction of \$20,000 be placed on the amount of overtime which a Customs employee may earn during fiscal year 1980. As a result of this and the overtime initiatives within the MBO program, we hope to reduce overtime by establishing new operating shifts, eliminating misassignments or abuses in the authorization of overtime, equalizing the participation, and where possible, encouraging the use of part-time employment.

Update on areas of special interest

As you know, the question of the duty status of cab chassis is still under consideration in the Customs Headquarters. After the decision of the Court of Customs and Patent Appeals in the *Daisy-Hedden* case a notice was published in the Federal Register asking for public comments with respect to the effect of the Court's decision on the current practice of classifying cab chassis for trucks under the provision for chassis in item 692.20 of the Tariff Schedules of the United States. The period allowed for comment closed on January 31, 1980. Comments were received from approximately 30 interested parties. Included in this group are Foreign Governments, foreign manufacturers, domestic manufacturers, trade associations, unions, customhouse brokers, attorneys, and the general public. In addition, several members of the congress have expressed their interest. This represents a substantial increase in public concern from our previous notice published in 1975, when 19 comments were received.

The Customs Service has not completed its analysis of these comments and, thus, is not yet in a position to make any recommendations with respect to the current practice to the Treasury Department. Let me assure you, however, that every effort will be made to bring this long-standing controversy to a prompt resolution.

After a lengthy process of fact finding, improved petroleum product data collection regulations and associated Customs procedures will be published shortly. The new rules include increased carrier accountability, new means of monitoring oil imports, improved control over measuring and ullaging, and limitation on the use of public gaugers. In combination these actions insure more reliable oil import statistics. In addition, customs is conducting seminars throughout the country to inform the major petroleum importers and industry representatives of the changes. Customs has developed new standardized internal procedures for controlling oil imports and initiated a training course for its officers to provide Customs with the necessary expertise. Our goal is to insure proper control of imported petroleum and petroleum products and uniform, complete and reliable statistics relating to the importation of these products.

In another area of interest, we continue to emphasize our courtesy program in training courses and through recurring reminders. However, complaints still arise. Each complaint is reviewed. Statements are obtained from the employees involved, any witnesses, and supervisory personnel. As a result of this process, if the seriousness of the information warrants, a Management Integrity investigation is conducted.

Three years ago we started a semi-annual complaint analysis of those complaints received at our National Headquarters. This has now been broadened to the regions, as well. Statistics are compiled to show the number and types of complaints received. We are fully cognizant of need to maintain the integrity of our work force and the requirement to establish internal controls to accomplish this. One of these controls is the rotation of our inspectors. The type of rotation varies throughout Customs depending upon the different activities and types of assignments available at any particular location. For example, at fixed stations at small border ports we have only shift rotation usually on a weekly basis, but when other stations are within close proximity the rotation will include between stations within the area. Other large border ports such as Buffalo and Detroit have full rotation; bi-weekly at Buffalo and weekly at Detroit—between shifts, railroad, seaport, airport, bridges, and tunnel, and between cargo examination and passenger baggage inspection.

CONCLUSION

The Customs Service is one of the major revenue-producing and law enforcement arms of our government. Customs provides substantial sums of money for the government's operation at a very low cost, in addition to providing essential enforcement support to national policies concerning international trade, national health, safety and security.

We fully support the efforts and interests of the Administration and this committee to keep government expenditures to a minimum. Therefore, our program request represents our shared concern for fiscal restraint.

This concludes my introductory remarks. We shall be glad to go into any detail of our request and answer any questions you or the members may have.

Senator RIBICOFF. Mr. Gerald H. O'Brien.

Mr. O'Brien, your entire statement will go into the record as if read and you may proceed with your allotted time to make your points, sir.

**STATEMENT OF GERALD H. O'BRIEN, EXECUTIVE VICE
PRESIDENT, AMERICAN IMPORTERS ASSOCIATION, INC.**

Mr. O'BRIEN. Thank you, Senator.

I will skip over even the immediate version that was prepared for me. I do not think you need to know who the American Importers Association is.

Senator RIBICOFF. I know who you are.

Mr. O'BRIEN. We want to direct our comments today as far as the Customs authorization is concerned, solely to the proposal made by OMB for cash management. But before doing that I want to comment briefly on the Customs Service performance of its international trade responsibilities.

Customs has an enormous mission in processing entries and in enforcing regulatory requirements under several hundred statutes for more than \$150 billion worth of merchandise each year.

It has a unique position directly in the flow of commerce, and minor shifts in policy or attitude can determine whether it will be a bottleneck for international trade.

Particularly under the leadership of the present Commissioner, Customs has recognized this potential hazard and has tried to accommodate the needs of commerce within its statutory constraints and resources.

Importers will always have quarrels with the Customs Service but as long as Customs is willing to listen and to avoid institutionalized responses, such problems will be solvable.

The President's Office of Management and Budget in the past year has proposed several cash management initiatives to improve the cash flow of the Customs Service. All but the one before us have been successfully implemented.

The remaining measure, however, was proposed without regard to its broader effects on trade and on the Customs Service itself.

OMB's proposal would require Customs to reduce the number of days in which an importer must calculate and deposit estimated duties and related charges from 10 days after the goods are released from Customs custody to only 3 days.

Until about 10 years ago, Customs required importers to deposit these estimated duties at the time the goods were released. This procedure proved to be increasingly unworkable as the volume of trade grew.

Consequently, Customs expanded its immediate delivery system under which most shipments are now released upon the filing of several basic documents. Full documentation and estimated duties must then be presented to Customs within the next 10 days.

Two years ago, Congress codified this procedure and even gave Customs discretion to extend this 10-day collection period, as necessary, to implement an automated and periodic, rather than entry-by-entry, collections system. This system was endorsed by Customs. The OMB proposal would, in effect, return importers and the Customs Service to the earlier, unworkable, system.

AIA's written statement covers the major arguments against the OMB proposal and I will only highlight two of them.

First, the proposal does not correspond to the modernized system for processing merchandise and collecting duties which Congress authorized in Public Law 95-410 in 1978. It would be shortsighted to handicap that automated system merely to save a relatively small amount of money.

AMPS—automated merchandising processing system—which Customs has been exploring, is a new entry procedure which separates duty payment from the entry and the movement of the goods by a later not earlier deposit of duties. Moving the deposit date forward, such as OMB is proposing for 3 days from 10 only binds it more tightly to the entry process and the movement of the actual goods.

Second, OMN's proposal carries an alarming potential for disrupting commerce. For estimated duties to be collected at the time of release means that detailed information relating to the classification and appraisal of imported merchandise must be available when the entry is made so that the amount of duty collected is as nearly correct as possible.

Unfortunately, the documentation which carries this information rarely is at hand when the goods are released.

Customs recognized this problem years ago. If duties must be deposited upon release, or even within 3 to 5 days after release, importers will be able to comply only by delaying the filing of the entry. Thus, goods will be left on the docks increasing the opportunity for pilferage, spoilage, and delays in distribution.

These are large social costs which must be balanced against the relatively small savings the Government predicts. These additional business expenses will be deducted from corporate profits subject to tax and thus the amount realized by the Government will be even less.

We feel that much of the time and thought that this committee expended in the enactment of Public Law 95-410 will be meaningless if OMB's proposal is put into effect. The House Ways and Means Committee has condemned this proposal and is writing language into the appropriation to prevent its being implemented.

We are asking you today to help insure that the purpose of Public Law 95-410 be carried out. Rather than go forward with this proposal, AIA urges the administration to concentrate implementation of the full automated entry and duty collection system envisioned by the Customs Procedural Reform and Simplification Act in 1978.

Our hope is that your committee will agree with the Ways and Means Committee, and with us.

Senator RIBICOFF. Thank you very much.

[The prepared statement of Mr. O'Brien follows:]

STATEMENT OF GERALD O'BRIEN, EXECUTIVE VICE PRESIDENT, AMERICAN IMPORTERS ASSOCIATION

Mr. Chairman and members of the committee, my name is Gerald O'Brien, I appear here in my capacity as Executive Vice President of the American Importers Association, 11 West 42d Street, New York City.

The American Importers Association is a nonprofit organization formed in 1921 to represent American companies engaged in the import trade. As the only association of national scope representing American companies engaged in the import trade, AIA is the recognized spokesman for importers throughout the nation. At present, AIA is composed of over 1,300 American firms directly or indirectly involved with the importation and distribution of goods produced outside the United States.

Our Comments today will be directed toward one issue: the proposed implementation of the Office of Management and Budget's cash management initiative for the earlier collection of estimated customs duties.

We do wish to comment briefly on the Customs Service's performance of its international trade responsibilities. Customs has an enormous mission in processing entries and enforcing regulatory requirements under several hundred statutes for more than \$150 billion worth of merchandise each year. It has a unique position directly in the flow of trade, and minor shifts in policy or attitude can determine whether it will be a facilitator or bottleneck for international trade. Particularly under the leadership of the present Commissioner, Customs has recognized this potential and in an exemplary fashion has tried to accommodate the needs of commerce within its statutory constraints. Further, it has done so even as it has reduced its total personnel resources. Importers will always have quarrels with the Customs Service but as long as Customs is willing to listen to this constituency and avoid institutionalized responses, such problems will be solvable.

The President's Office of Management and Budget in the past year has proposed several cash management initiatives to improve the cash flow of the U.S. Customs Service. All but the one before us has been successfully implemented and we commend OMB for these beneficial measures. The remaining measure, however, was proposed without regard to its broader effects on trade and on the Customs Service itself. We believe that once these effects are balanced against the proposal's expected savings, the proposal will result in a net loss to the government and a significant disruption of the flow of commerce. In addition, the proposal runs directly counter to a recent amendment of the customs laws enacted in the Customs Procedural Reform & Simplification Act of 1978 (Public Law 95-410) which was intended to allow Customs to modernize its duty collection procedure.

OMB's proposal would require Customs to reduce the number of days in which an importer must calculate and deposit estimated duties and related charges from ten days after the goods are released from Customs custody to three days. Until about ten years ago Customs required importers to deposit these estimated amounts at the time the goods were released. This procedure proved to be increasingly unworkable as the volume of trade grew. Consequently Customs expanded its "immediate delivery" system under which most shipments now are released upon the filing of several basic documents; full documentation and estimated duties must then be presented to Customs within the next ten days. The procedure has allowed both importers and Customs to cope with the continuing growth of trade.

Two years ago Congress codified this procedure and went even further by providing Customs the discretion to extend this ten day collection period as necessary to implement an automated and periodic (rather than entry by entry) collection system. (Public Law 95-410, sec. 103, 19 U.S.C. 1505(a)) This system was endorsed by Customs and the trade community. The OMB proposal would in effect return importers and Customs to the procedures found unmanageable at a time when there were a third (roughly 1.5 million) fewer entries than are made today.

AIA has prepared a detailed memorandum which covers the major arguments against OMB's proposal. That memorandum is attached to our written statement, and we will only highlight several of its points.

First, the proposal does not correspond to the modernized system for processing merchandise and collecting duties which the Congress had in mind and authorized in Public Law 95-410. It would be most shortsighted to handicap that automated system and its concomitant benefits to commerce merely to "save" the relatively small dollar amount expected from OMB's proposal.

Second, OMB's proposal carries an alarming potential for disrupting commerce. For estimated duties to be collected prior to release means that detailed information relating to the classification and appraisement of imported merchandise be available when entry is made so that the amount of duty collected is as nearly as possible correct, i.e. sufficient but not excessive. Unfortunately, the documentation which carries this information rarely is at hand when the goods are released. Customs recognized this problem years ago when it adopted its "immediate delivery" system for use on most shipments. If duties must be deposited upon release or even within three to five days after release, importers will be able to comply only by delaying the filing of the entry. This means that goods will have to be left on the docks for longer periods of time thus increasing the opportunities for pilferage and spoilage. In addition, the importer will incur increased demurrage charges. And, of course, this increased port congestion will lead to delays in distribution. All of these are large social costs which must be balanced against the relatively small savings the government will realize. Additional business expenses will be deducted from corporate profit taxes reducing the amount gained by this initiative even further.

Third, while the proposal is not intended to hinder or delay trade, it is almost certain to have that effect. Without adequate documentation at hand, the importer can only postpone entry until he knows he can provide adequate information. This delay inherently impedes the movement of goods. AMP, Customs' new automated entry procedure, authorized by Congress in Public Law 95-410, anticipates separating duty payment from the entry and movement of goods. This was to be accomplished by a later, not an earlier, deposit of duties. Moving the deposit date forward in the process only binds it more tightly to the process of entry and to the movement of goods. We feel that much of the enormous amount of time and thought that this Committee and the Congress expended in the enactment of Public Law 95-410 will be made meaningless if this proposal is put into effect. We are asking you today to help ensure that the purpose of Public Law 95-410 be carried out.

It is difficult in this inflationary period to oppose measures which appear to save money for the government. Nevertheless when such measures merely shift costs from one budget line to be hidden in another and create new costs for the private sector, they are neither a savings nor anti-inflationary.

Rather than go forward with this proposal, AIA urges Customs, the Treasury Department, and OMB to concentrate their efforts on an expeditious implementation of the full automated entry and duty collecting system envisioned by the Customs Procedural Reform and Simplification Act of 1978. Such programs to modernize Customs procedures are much more likely to result in cost benefits for both the government and business.

We urge this Committee to ensure that the intent behind Public Law 95-410 is carried out and that the time allowed for the deposit of estimated duties not be reduced from the present ten days.

Thank you for the opportunity to present our views on this technical but vital issue.

COLLECTION OF CUSTOMS DUTIES

The Office of Management and Budget ("OMB") has proposed that the Customs Service collect all import duties and related charges at the time imported merchandise is released from Customs' custody. This proposal, if implemented, would: (1) Nullify the intent of Congress; (2) disrupt commerce; (3) require an increase in Customs personnel; (4) not materially improve Customs' cash management; (5) probably result in a net revenue loss; and (6) add to inflationary pressures.

Nullify intent of Congress

It is ironic that this proposal surfaced just 30 days after President Carter signed the Customs Procedural Reform and Simplification Act of 1978 ("the Act"). One of the major objectives of the Act is to permit Customs to develop more efficient and flexible procedures for handling the documentary and financial aspects of import transactions. Congress changed the law specifically to give Customs the authority to separate the flow of documents from the actual collection of money. This change was deemed necessary to permit Customs to cope with the dramatic increase in the number of importations which it must process. In contradiction of its previous approval of the very legislation which authorizes such flexible procedures, OMB by its proposal will make it exceedingly difficult to achieve this objective.

Prior to its amendment by the Act, Section 484 of the Tariff Act of 1930 (19 U.S.C. § 1484) required that estimated duties be paid prior to release of merchandise from Customs' custody and within five days of arrival. However, for its own convenience and to facilitate the movement of goods, the Customs Service under its "immediate

delivery" procedure has been permitting imported merchandise to be released from Customs custody up to ten days prior to the deposit of estimated duties where such would pose no threat to the revenue. (19 C.F.R. Part 142).

This practice was ratified by Congress in the Act. Section 103 of the Act completely divorces the movement of imported merchandise and paperwork from the payment of duties and permits the deposit of estimated duties at a time, not exceeding thirty days, subsequent to entry or release. The purpose of this provision, which was closely and extensively studied by Congress over a three-year period, is to permit Customs to handle import transactions more efficiently by abandoning the traditional entry-by-entry approach to import processing and by adopting periodic payments and reconciliations. (S. Rept. No. 95-778, 95th Cong., 2d sess. 5-11, 1978). The OMB proposal runs directly contrary to the will of Congress.

Disruption of commerce

The most alarming element of the OMB proposal is its potential for disrupting commerce with costs to the public and the government far greater than any benefit possibly derived.

The prescription that duties to be collected before the goods can be released carries with it the requirement that detailed information relating to the classification and appraisal of imported merchandise be reviewed as part of the release procedure and before the duty is accepted. This is necessary to ensure that the deposit of estimated duties is sufficient. This suggested procedure, which, in essence, requires a return to "live" entries, in which all necessary documents are filed and estimated duties deposited before the imported merchandise is released from Customs custody is the very method of Customs clearance which was abandoned as unworkable more than a decade ago because of its adverse effect on commerce. Customs substituted its immediate delivery procedure for the old live entry procedure in which all necessary documents were filed and estimated duties deposited before the imported merchandise is released from Customs custody because the live entry procedure did not allow Customs to handle efficiently the volume of goods presented to it. The volume of importations has grown enormously since then, and Customs' reasons for the change are only more valid today.

The almost certain result of a reversion to a live entry procedure is chaos, delay, and financial loss. The documents which contain the classification and appraisal information usually are not at hand when the goods are available for release. (Indeed, this unavailability of entry documents was a primary reason for abandoning the live entry approach.) The immediate effects of implementation of the OMB proposal are frightening. Customs now processes more than four million entries annually. As more time is taken with each entry before permitting its release, merchandise will become piled up in the ports. This congestion, which in itself will be a most serious problem, will lead to increased demurrage charges to importers and to delays in distribution. The congestion, of course, will also delay export shipments. Additionally, our members' experience, when they increase their use of airports during dock strikes, is that backlogs in cargo movement cause a dramatic increase in pilferage. These are large social costs to balance against the mere \$9-10 million government savings of the OMB proposal.

The almost certain result of a reversion to "live" entries is delay.¹ The documents which contain the classification and appraisal information, usually are not at hand when the goods are available for release. Indeed, this unavailability of entry documents was the primary reason the live entry approach was abandoned. Port congestion, accompanied by increased pilferage, increased demurrage costs and delays in export and import shipments, will be the immediate result of the OMB proposal.

That Customs will be forced to review entry documents in some depth prior to release will add to the disruption of commerce. Past experience suggests that as many as 25 to 30 percent of document packages will not be accepted as tendered. If goods covered by such documents cannot be moved from docks, airports and border crossings until corrected documents are available, it is obvious that congestion will be made even worse. Furthermore, Customs personnel will be under intense pressure to expedite review of the documents. This will mean either a less intensive entry review, thereby endangering the revenue, or an increase in Customs manpower to handle the workload.

¹ See Bureau of Customs, "Mission Organization Management" pp. vi-6, 7 (1964) (The "Stover Report"). The Stover Report recommended that duties be accepted subsequent to release as a means of improving Customs efficiency.

Customs personnel

If the time required to process these corrected documents is as little as 5 percent of Customs' current merchandise workload, it would mean a \$10 million increase in expenses to maintain overall activities at current levels. A budget increase of this magnitude is unlikely. Indeed, Customs has been directed to reduce staffing levels. In view of the widespread public and Congressional concern about the Service's ability to discharge its many statutory responsibilities with its current resources, any proposal which would require extra manpower and hinder efficiency must be subjected to a detailed cost-benefit analysis. Further, a return to live entries is likely to result in many more "change" liquidations, and additional drain on Customs' limited resources, and an additional cost to importers.

Cash management

The purpose of the OMB proposal is to improve the government's cash flow by collecting duties earlier than is now the practice. It is questionable that the proposal will have the desired effect. OMB's assumption is that merchandise will continue to be released in the same time period as under current procedures—two to four days after the aircraft or vessel arrives. However, as is pointed out above, the requirement that estimated duties be paid prior to release is likely to result in a return to live entries with the payment of duties and release of goods occurring five to ten days after the aircraft or vessel arrives. Thus, the government will not necessarily receive duty payments earlier in any absolute sense. Payments will be earlier only in relation to the date of release.

Net revenue loss

Assuming a system that did not disrupt commerce but "simply" resulted in a greater number of entries requiring correction or change liquidations (liquidations with increases or deductions from the estimated duty which was deposited), the proposal's "savings" become illusory.

If only an additional 15 percent of entries require Customs processing as change liquidations (at present 70 percent of entries are liquidated no change), the cost to Customs would exceed the savings promised for the OMB proposal. This is based on our conservative estimate that the cost of processing a change liquidation is \$20 greater than processing a no change liquidation. Assuming four million entries in 1979 the additional cost to the government is \$12 million.

Further, the change liquidation requires additional expenses on the importer's part. It is our best judgment that the cost to importers and brokers of processing supplemental payments and refunds in connection with change liquidations is at least \$50.00 per occasion. The attendant costs are far greater than simply a bank deposit charge or the cost of typing a check. These estimates indicate an additional cost to the private sector of \$30 million which would reduce the tax on profits by \$10 million.

The effect of the OMB proposal on the business community, including importers, customs brokers, stevedores, warehousemen, and truckers and its relation to the revenue as a whole, must be carefully considered. For example, if because of additional interest, demurrage, and administrative expenses, the proposal results in an increase in the total cost of imports by as little as one-thousandth (0.1 percent) and if those costs were completely borne by importers, federal income tax revenue could be reduced by more than five times the estimated \$9 million annual interest cost savings. Imports in 1979 are likely to reach \$150 billion; a 1/1000 increase in their cost would amount to \$150 million. Assuming that these additional costs are borne by the importer, the indirect costs of the proposal would significantly exceed estimated savings since the additional costs would reduce profits by an equal amount and therefore reduce income taxes due. Assuming an average profits tax rate of 35 percent a \$9 million interest cost saving from accelerated duty collection would be offset by a \$50 million reduction in profits tax collection.

The OMB proposal would increase importers' administrative costs, reduce tax income, and increase Customs' expenses. The likelihood that the reduction in tax collections and increase in Customs expense would offset any government savings in interest is very real.

Inflationary impact

It must be pointed out that the increased expense to business will not be absorbed by importers where it can possibly be passed on to retailers and consumers. Whether these costs are occasioned by the interest expense of earlier payments or by increased administrative expenses, they will be included in the cost of merchandise multiplied by overhead and profit and then multiplied in the same manner at each turnover in the distribution scheme. For consumer goods, it can be safely assumed, each dollar of added cost will add two to three dollars to retail price; in the case of

industrial goods, by the time the import reaches the ultimate consumer, e.g., imported steel in a refrigerator or automobile, the inflationary impact will be far greater than two or three dollars as the article goes through more hands in manufacture, distributor and retail, each adding additional overhead and profit.

Further, since it is generally conceded that imports act to restrain domestic prices, any increase in the selling price of imports is very likely to be followed by comparable increases in domestic prices thereby exacerbating the inflationary spiral.

Assuming a \$150 million increase in the total cost of imports and assuming that this increase is passed on to retailers and consumers, the cost to consumers easily could exceed \$300 million, a high price for a projected "saving" or \$9 million.

Conclusion

Earlier payment of duties is not the import community's primary objection to the OMB proposal. What is of most concern is the delay in movement of goods likely to result from the proposal. The Customs Service, for some time, and more recently the Congress, have wisely recognized that there is no reason why creditworthy importers cannot take possession of their goods prior to filing necessary documents and paying duties. The OMB proposal would abandon this common sense approach to the detriment of all concerned.

It is suggested that most effective resource management activity now available to the Customs Service is the installation of the Automated Merchandise Processing System (AMPS). The Congress recognized the desirability of proceeding with this program in passing the Customs Procedural Reform & Simplification Act, and accepted the attendant separation of duty payments from merchandise release to accomplish the objectives of AMPS. We suggest that the introduction of AMPS with its improvement in the quality of both Customs' clearance procedures and its statistical reporting on the approximately \$150 billion annual import total will contribute more to government's quest for budgetary efficiency than reimposition of "cash on the barrelhead" duty collection procedures.

Senator RIBICOFF. Mr. Vincent Connery.

STATEMENT OF VINCENT CONNERY, NATIONAL PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION

Mr. CONNERY. Mr. Chairman, I am accompanied here today by Mr. Jerry Klepner, NTEU legislative director on my right; and Mr. Richard Robinson, NTEU associate counsel, on my left.

Senator RIBICOFF. Your entire statement will go into the record as if presented.

Mr. CONNERY. Thank you, Mr. Chairman.

In his testimony, Customs Commissioner Chasen asked for \$7.7 million over last year's budget for a total fiscal year 1981 authorization of \$472 million. This represents an increase of only 1.6 percent over fiscal year 1980.

As we detail in our full statement, in the face of 13 percent inflation this request would result in a real reduction in Customs resources of about \$50 million.

In recognition of the pressing need for more resources for the Customs Service, the House Subcommittee on Trade authorized an additional \$5 million to be added to the administration's original budget proposal.

Since that time, however, the administration has announced that each of its budget recommendations will be revised to reflect further decreases in spending.

We urge this subcommittee to carefully consider our statement and, at the very least, retain the extra \$5 million above the original administration's proposal, as authorized by the House subcommittee.

Mr. Chairman, we also called the subcommittee's attention to that portion of the NTEU's detailed statement that deals with

inspectional overtime. The subject of customs inspectors' overtime earnings has, unfortunately, become a highly emotional issue which diverts attention from the real problems of reduced enforcement in Customs.

We cannot over-emphasize the fact that the overwhelming amount of inspectional overtime is not borne by the U.S. Government but by parties in interest who demand and benefit from overtime service. As shown in our statement, we believe that the evidence is clear that inspectional overtime is a resource utilized by the agency and the carrier themselves to facilitate the clearance of passengers and cargo.

Even the Customs Service admits that the increase in overtime earnings over the past few years is due to the rapid rise in imports and international travelers and the decrease in the number of inspectors. As long as the Agency is not provided adequate inspectional personnel, it is futile to rail against overtime, for you are cutting into the resource needed to get the job done.

We oppose the imposition of any limitation on overtime earnings. As we have pointed out, overtime is a resource utilized by customs management and the carriers. Inspectors do not set their own overtime hours nor are they given a choice as to whether or not to accept overtime assignments.

The House and Senate, however, failed to consider these factors in enacting the caps on overtime. As a result, in several ports in our country there exists the distinct possibility that by the end of the fiscal year, as that approaches, the entire inspectional work force including supervisors will have reached the statutory earnings limit due to the heavy workload.

In such cases, no qualified personnel will be available to perform inspectional services. Our full statement includes information from customs facilities around the country showing this to be a clear and present danger.

For example, we were recently informed that customs inspectors in Philadelphia are being asked to volunteer for a temporary 60-day detail to Miami International Airport, presumably because the heavy workload in Miami is causing numerous personnel there to approach the overtime earnings cap.

This solution, however, is administratively impractical because the Government is required to pay travel and per diem expenses to Federal workers on detail. The temporary assignment will cost the taxpayer money and have a negative impact on customs' budget.

In addition, as the detailed inspectors' overtime earnings in Miami increase, Philadelphia and other very busy ports may experience similar problems near the end of the fiscal year.

In summary, we believe that adoption of the proposed fiscal year 1981 budget would be disastrous for an already critically weakened Customs Service. Only strong, decisive action by this subcommittee can prevent further crippling of the agency.

Mr. Chairman, this completes my prepared statement. If there are any questions, my colleagues and I would be glad to answer them.

Senator RIBICOFF. No, thank you very much. We understand your position and the committee will take it into account.

[The prepared statement of Mr. Connery follows.]

STATEMENT OF VINCENT L. CONNERY, NATIONAL PRESIDENT, NATIONAL TREASURY
EMPLOYEES UNION

Mr. Chairman, and distinguished members of the subcommittee, I am Vincent L. Connery, National President of the National Treasury Employees Union. Our union is the exclusive representative of over 115,000 Federal workers, including all employees of the U.S. Customs Service.

We are very pleased to appear before you today to discuss the budget authorization of the U.S. Customs Service for fiscal year 1981. We feel it is imperative that the Subcommittee hear a perspective on the Customs budget for fiscal year 1981 that is different and, we believe, more realistic than that presented to you by Commissioner Robert E. Chasen.

In his recent testimony before the Subcommittee on Trade of the House Ways and Means Committee, Mr. Chasen asked for a \$7.7 million increase over the Customs fiscal year 1980 budget, for a total fiscal year 1981 authorization of \$472 million. Despite the requested \$7.7 million increase, the rapid growth in Customs' workload, which the Commissioner himself described as "phenomenal" and "astonishing," will effectively result in a decrease in actual funding for the agency.

Given these circumstances, we were very disheartened that the Commissioner failed to request increased staffing for the Customs Service. In effect, this head of a revenue producing agency who claims to be able to return \$20 to the U.S. Treasury for every \$1 of appropriations is saying that his already beleaguered work force must be pressed even harder.

In recognition of the pressing need for more resources for the Customs Service, the House Subcommittee on Trade authorized an additional \$5 million to be added to the Administration's original budget proposal. Since that time, however, the Administration has announced that each of its budget recommendations will be revised to reflect further decreases in spending. We urge this Subcommittee to carefully consider the evidence we will present here today and, at the very least, retain the extra \$5 million above the original Administration proposal as authorized by the House Subcommittee.

As the representative of the Customs employees who must perform their duties under these adverse conditions, we believe that the Commissioner's position is contradictory and illogical. For years, we have appeared before the appropriations committees in both Houses of Congress to warn of the dire consequences that a policy of less resources to meet a growing workload will have in such important areas as the monitoring of quota goods and the interdiction of drugs, and other contraband.

We feel compelled to inform the Committee that the crisis in the Service which we foresaw last year, and which the Congress attempted unsuccessfully to meet, has come to pass. Customs has been placed in an increasingly perilous position by the budgets of present and past Administrations which have continually deprived the Service of the resources needed to accomplish its mission.

This can be seen not only in the statistics we will present to you today, but, more importantly, in human terms particularly in the near total demoralization of the dedicated Inspectional force. These men and women have been stretched to the breaking point by ever-increasing workloads and by the failure to replace even those Inspectors lost through attrition. The toll on the personal lives of our members is driven home daily in the messages received by our union.

We are mindful of the fact that less than a year ago the House Ways and Means Committee, in a perceptive report, stated that: "The Customs Service, which is faced with an increasing workload will be stretched thin in the coming months The Committee hopes that the Administration will provide more support for the Service in the years ahead, particularly in light of the fact that many Customs functions bring into the Treasury 5 to 7 times their cost. Increased financial support for the Customs Service may actually result in increased revenue for the Treasury."

Unfortunately, the fiscal year 1981 budget submitted by the Administration does nothing to justify confidence in its willingness to provide the resources needed to carry out the Customs mission. The budget is a catastrophe, representing in real terms a \$30 million reduction in resources from the previous year.

This Committee, through the recommendation it makes to the Senate Budget Committee, can either signal continued acquiescence to these disastrous policies of the Carter Administration, or it can mandate that the needed resources be provided. In his statement to the House Subcommittee on Trade on February 7, Commissioner Chasen stated flatly: "The proposed budget does not reflect increased resources for workload growth." The choice is clear. If additional resources are required, Congress must take the responsibility for providing them.

In its report last year, the Committee stated its intention to conduct an in-depth examination of the Customs budget request for fiscal year 1981. We hope, in the

remainder of this statement, to make a contribution to this examination. We will attempt to analyze the current state of the Customs Service in terms of workload, resources, and performance, and in the end propose an alternative Customs budget for fiscal year 1981.

Workload

The growth of the Customs workload as international trade and travel expand each year may be seen in the following figures:

Between 1970 and 1979, the number of international air passenger arrivals grew at the rate of 11 percent a year, and is projected to grow at the same rate between 1979 and 1985.

In the two-year period, fiscal year 1980-81, arrivals of individuals by air will increase by 24 percent over the level in fiscal year 1979, a rate of 12 percent per year.

Between 1970 and 1978, the volume of U.S. imports grew at an average annual rate of 7.5 percent, and is projected to grow at the rate of 8.7 percent annually between 1978 and 1985.

In the two-year period, fiscal year 1980-81, formal entries of merchandise will total approximately 9.1 million, a 10.2 percent increase over 1979. The percent increase for 1981 alone is estimated at 6.8 percent.

The Customs budget for fiscal year 1981, however, directs no additional resources to accommodate this growth in workload. As a result, the agency will be hard pressed to provide necessary services to the traveling public and international business community, protect the collection of revenue, safeguard against the entry of drugs, and enforce the trade regulations which protect the American economy and worker. Instead, the Commissioner states that the Service will cope with this additional workload by increasing productivity.

By making such a statement, the Commissioner is seeking to convince this Subcommittee that by simply shifting personnel or using them more efficiently the problems of enforcement will be solved. We believe that such a band-aid approach to a critical wound will not stand up under scrutiny when all specifics are considered:

First, the Commissioner claims that the Service has been able to redirect 200 positions from Headquarters to "on-the-line" activities, and is now broadening this reorganization to cover regional headquarters. It should be noted that the Commissioner took credit for this staff savings in fiscal year 1980, and cannot accurately count it again in fiscal year 1981.

The budget submission shows no more than 30 spaces to be saved in this manner in fiscal year 1981.

Second, the Commissioner states that the Service is adopting "innovative alternatives for processing workload" by expanding the use of the Citizens By-pass/One-Stop concept of passenger clearance; by implementing the Customs Accelerated Passenger Inspection System (CAPIS) and by evaluating the Accelerated Cargo Clearance and Entry Processing Test (ACCEPT) method for inspection and clearance of cargo.

With respect to these items, we wish to note that Citizens By-pass/One-Stop concept allows a U.S. citizen traveling on a U.S. passport to by-pass Immigration and go straight to Customs. This procedure imposes on the Inspector the additional duty of detecting aliens traveling with a false U.S. passport, and may actually increase the time required for processing passengers.

The Commissioner is also placing reliance for faster passenger clearance on CAPIS, or Customs Accelerated Passenger Inspection System. Under this system, only certain passengers are selected for Customs inspection, and the remainder are waived through. We have as yet seen no evaluation of this procedure, but there is an obvious danger of reduced enforcement, fewer seizures of contraband and drugs and less detection of illegal aliens.

There are equally serious problems with the ACCEPT system of cargo clearance, in which the shipments of certain designated "low-risk" importers are not physically inspected. As the identification of these importers becomes known, there is a clear hazard of loss of enforcement. It is certainly not beyond the ingenuity of smugglers to devise methods to circumvent this system.

The Commissioner states that the ACCEPT program will be evaluated by the end of the current fiscal year. In the meantime, it is clear that this system is still in the test phase and is not ready for adoption service-wide. How the Commissioner expects to get a 6.8 percent increase in productivity of cargo processing from this program in fiscal year 1981, as he claims, remains a mystery to us.

We have always supported reasonable efforts to increase the efficiency of the Customs Service, but we urge this Subcommittee to examine carefully the Commissioner's claim of being able to meet the rapid growth in workload simply through increased productivity. This claim is based on flimsy evidence, and will not survive

close examination. The Administration is simply gambling that it will get by another year—a gamble made at the expense of the taxpayer, the traveling public, and the American economy.

Resources

We would like to turn now to the resources Customs has been provided to accomplish its workload in recent years, beginning with the last four budgets submitted by the Carter Administration. Table 1 at the end of our prepared statement shows the budgetary increases in relation to the rate of inflation.

Note the 1.6 percent increase in total appropriations and obligations proposed in the fiscal year 1981 budget. Given the present inflation rate of 13 percent, this represents a real decrease in the resources available to Customs of \$50 million. Even on the most conservative assumption that the inflation rate in 1981 will drop to 7 percent, there would still be a decrease in real resources of \$25 million.

Basically, Mr. Chairman, we are asked in all seriousness to accept the following picture. First, the Commissioner tells us that workload will increase 7 to 12 percent in fiscal year 1981, but this will be accommodated through increased productivity. Then he submits a budget that cuts available resources by 7 to 13 percent. In other words, we are seriously expected to believe that this magical factor—productivity—will actually rise between 14 to 25 percent to accommodate both the increased workload and the decreased resources.

As can be seen in Table 1, the Administration's 1981 budget of \$472 million is vastly understated. The budget should be on the order of \$496 million if a 7 percent inflation rate is assumed, and \$506 million if a 9 percent inflation rate is assumed. These amounts would simply maintain the 1980 level of funding for the Customs Service in terms of real resources.

Mr. Chairman, we also call your attention to Table 2 at the end of our prepared statement. This shows the Customs personnel picture since 1972 with regard to total employment and the number of Customs Inspectors. The table clearly demonstrates a reduction in both categories for the current year and in fiscal year 1981. Moreover, the average number of Inspectors at the end of fiscal year 1980 will have fallen virtually to the same level as six years earlier despite a 50 percent increase in workload during the same time frame.

Looking to 1981, at first glance it appears from the budget tables that the Administration is prepared to increase the average number of Inspectors by 165 in that year. But, upon a closer examination, even this apparent increase begins to fade.

First, the increase is footnoted with the statement that the Customs Service will have the option to fill 152 of these 165 spaces with either full or part-time employees. Everyone knows that part-time employees are accounted for separately, and are not included in the number of permanent positions in the Inspectional force.

In addition, part-time employees do not have the training and skills of permanent Customs Inspectors. We would recommend that this Subcommittee obtain clarification as to whether it is the Commissioner's intention to hire 165 permanent Customs Inspectors, or 13 Inspectors and 152 part-time personnel. If the budget is intended to fund 165 additional Inspector positions, then it should say so. If these are to be part-time personnel, Congress should be so informed so that it may maintain oversight of the full-time/part-time mix of the Inspectional workforce.

Even assuming that the Customs Service fields these 165 Inspectors, where do we stand? First, the number of Inspectors has fallen from 4,174 in 1979 to 4,083 in 1980, a drop of 91 positions. Adding back 165 slots yields a net gain of 74 Inspectors. Nevertheless, at the end of fiscal year 1981, the Inspectional force will still be 151 positions short of the 1978 levels.

In summary, the resources available to the Customs Service have been decreasing due to inflation and the Administration's severe cutbacks in personnel. Combining these factors with the rapidly growing workload, one of two things must happen: either productivity must rise beyond any reasonable expectation or the Customs Service will be stretched to a point where enforcement will collapse.

Performance

In light of the evidence we have presented, it is useful to examine how well Customs is doing its job under the present difficult circumstances.

First, as the full Committee has pointed out, Customs is presently inspecting fully only one percent of all containerized shipments despite tests showing that increased inspections would result in significant increases in revenue. Containerized shipments now account for 70 percent of all seaborne cargo, and the number of ocean vessel arrivals now stands at approximately 200,000 per year. In the future, the Customs Service will inspect even less than one percent, unless additional inspectors are provided as workload grows.

Second, the congestion and delays at our airports was amply documented before Congress last year by the Air Transport Association. Today the situation, if anything, has worsened. Moreover, on all too many occasions, enforcement is simply being abandoned to clear the backlog of passengers.

Third, except for cocaine, the number of narcotics seizures is declining, as shown in the following table:

NUMBER OF CUSTOMS NARCOTICS SEIZURES

	1977	1978	1979
Heroin.....	245	181	172
Cocaine.....	1,025	865	1,247
Hashish and marijuana.....	21,225	17,842	16,656
Total.....	22,495	18,888	17,075

Because of a lack of adequate resources, throughout the past year Customs management has sought to reduce or to eliminate necessary law enforcement functions.

For example, through the implementation of a Manual Supplement, the Commissioner attempts to severely curtail the gauging of oil and oil product imports by Customs Inspectors. This action was only reversed after an outcry by Congress and the public. We are pleased to say that this important problem appears to be nearing resolution, and that Inspectors will continue to perform this vital function.

At a time when our nation is critically dependent on foreign oil, we believe that the attempt to eliminate gauging was a clear signal that Customs is unable to perform even crucial enforcement functions with its present resources. We are very concerned that unless Congress takes positive action now, we will see other necessary responsibilities diminished or eliminated entirely. Without a significant increase in funding and personnel levels, the once proud and effective U.S. Customs Service will be reduced to a shell of its former strength, unable to fulfill its vital missions.

Inspectional overtime

We were sorely distressed that during the Commissioner's appearance before the House Subcommittee on Trade, several members expressed what we believe to be undue concern about the overtime earnings of some Customs Inspectors. Unfortunately, over the past few years, Customs overtime has become an emotional issue which distracts attention from the real problems of reduced enforcement.

We cannot overemphasize the fact that the vast majority of the overtime earned by Customs Inspectors is not paid by the taxpayers but by the carriers who demand immediate inspectional service upon arrival. In 1911, Congress mandated that the taxpaying public should not bear the cost of providing round-the-clock clearance to carriers but that the Customs Service should be reimbursed for this service. In addition, Congress provided that Inspectors subject to callback at any hour of the day or night should be compensated at a fair rate for this hardship—a rate equivalent to double time.

For nearly 70 years, the law has stood and proved to be an equitable and workable system. Carriers have been able to obtain prompt clearance and the American public has not been forced to pay the bill through appropriated funds. Nor does the law "stick" the business community with excessive charges, as some have suggested. Rather, it requires that segment of the community which demands special service from the government to pay for that service. We might add that the carriers obtain overtime service from Customs Inspectors at a rate of pay equal to or less than that received by the majority of private sector workers at our nation's ports.

We believe that the issue of Customs Inspector overtime earnings must be placed in perspective. First, we would like to call your attention to Table 3 which is attached to our prepared statement. This chart was taken from a Customs Service study. You will note immediately from the chart that Customs Inspectional overtime did not begin to increase more rapidly than base salary until after 1976. You will also note that, even after 1976, the rise in Customs Inspectional overtime was not out of line with the increase in total Customs obligations. Many critics like to point the finger at inspectional overtime, and frequently forget that base salary and total obligations also have been increasing.

Next, we would like to direct your attention to Table 4 which is also taken from the same Customs study. In a sense, this chart summarizes what we have been talking about today, for it puts together workload and resources.

Workload is shown by the two lines that chart the value of U.S. imports, and the number of overseas air passenger arrivals. Resources are shown by the two lines which track the number of Customs Inspectors and the value of inspectional overtime. You will note that since 1975 the number of Customs Inspectors has either declined or held steady. You will also note that, starting in 1975, air passenger arrivals began to rise and there was a sharp increase in merchandise imports. Is there any doubt why Inspectional overtime has been going up? To quote from the Customs study: "Two factors, therefore, appear to be contributing to the rise in inspectional overtime payment: (1) The rapid increase in the value of U.S. imports in the last decade; and (2) the proportionally smaller growth in the number of Customs inspectors."

We agree with this statement as should any fair-minded person. However, in examining the fiscal year 1981 budget submission, we hope that the members of this Subcommittee will not overlook the fact that overtime payments are a resource just like Inspectors are a resource. As long as the agency is not provided adequate Inspectional personnel it is futile to rail against overtime, for you are cutting into a resource needed to get the job done. This is why our union has always considered the attack on Customs overtime, in the face of a critical shortage of Inspectors, to be fundamentally misguided.

In viewing overtime as a resource, it is easier to appreciate the significance of the fact that 73 percent of Inspectional overtime is compensated by the carriers that require services of the Inspector. Fully 73 percent of the payment for this valuable resource—the overtime services needed to enforce the law, protect the revenue, and otherwise discharge the Customs mission—is not borne by the taxpayer but by the parties in interest.

A practical example of what can happen when the resource of Inspectional overtime is misused is presently unfolding in the Customs Service. Last year, the Subcommittee on Treasury, Postal Service and General Government of the House Appropriations Committee decided to restrict Customs Inspectors' overtime by placing a "cap" on such earnings. The full Committee—and eventually the House—approved limiting an Inspector's overtime to 100 percent of his/her base pay.

The Senate, meanwhile, approved its own, more restrictive version of the cap by mandating in its fiscal year 1980 Treasury Appropriations bill a \$20,000 cap on overtime earnings. The Conference Committee subsequently adopted the more stringent Senate provision with a non-binding recommendation that the fiscal year 1981 cap be lowered to \$15,000.

We opposed the imposition of any limitation on overtime earnings. As we have pointed out, overtime is a resource utilized by Customs management and the carriers. Inspectors do not set their own overtime hours, nor are they given a choice as to whether or not to accept overtime assignments.

The House and Senate, however, failed to consider these factors in enacting these caps. As a result, at several ports in our country there exists a distinct possibility that, as the end of the fiscal year approaches, the entire Inspectional work force, including supervisors, will have reached the statutory earnings limit due to heavy workload. In such cases, no qualified personnel will be available to perform Inspectional services.

To register the effects of the cap, we asked our Customs Chapter Presidents to tell us how many Inspectors at their installations made \$5,000 or more in overtime during the first quarter of fiscal year 1980. For projection purposes, we assumed that these figures would give us a reasonable estimate of how many Inspectors would reach the \$20,000 limit before the end of the fiscal year. The following is a portion of the letter we received from our members in Port Arthur, along the Texas-Mexico border:

"We are staffed in the Port Arthur office with eight Inspectors including the supervisory Inspector. All of us have exceeded the \$5,000 you mention. The range is from \$5,309 (low) to \$9,580 (high) . . . Region VI [the regional headquarters for that part of the country] has refused to replace any of the five Inspectors we have lost in the past year (retirement, transfer, etc.) even though our workload has increased considerably. We cover an area over 100 miles in radius including Beaumont, Orange, Port Arthur and Sabine, Texas."

Another Customs office that may not be able to offer any overtime services later this year is Las Vegas, Nevada. All of the Inspectors there have already earned over \$5,000 for the quarter. One of the Inspectors whose overtime compensation exceeds the quarterly cap is the Port Director. In Houston, Texas, 23 of the 75 Inspectors, or about 30 percent of the workforce, have earned more than \$5,000 in overtime. Four

of the 23 are supervisors; which equals about 40 percent of the supervisory force at Houston.

In the Los Angeles, California seaport, 13 of 83 Inspectors, or 15.6 percent, have exceeded the \$5,000 quarterly figure. One of the 13 made \$8,360 during the three-month period. Because of the volume of work in the Los Angeles area, these Inspectors may be called to work at either the airport or the harbor, depending upon where the need is. Obviously, this creates a grave hardship on Inspectors, some of whom may have to travel, more than 150 miles round-trip for an overtime assignment.

Minneapolis/St. Paul, Minnesota, the Twin Cities, historically one of the most grueling airports at which a Customs Inspector must work, has "solved" the "overtime problem" by using part-time Inspectors. However, these part-time personnel are not obligated to work when called upon to do so, as are permanent Customs Inspectors. If they do not show up for an assignment, a full-time Inspector must be called anyway. These circumstances cause even more disruption in the lives of the permanent Inspectors who cannot be assured of spending any evenings or holidays with their families, since they can always be required to return to work if the part-time employee refuses an overtime assignment.

John F. Kennedy Airport in New York is another of the nation's busiest facilities. So far, however, only four of the 340 Inspectors assigned to JFK have reached or exceeded the \$5,000 cap for the quarter. During the last fiscal year, 45 Inspectors made \$20,000 or more. One-third of that number were supervisors.

At JFK, Customs management has negotiated a memorandum of understanding with the union stipulating that the "performance of assigned overtime is a condition of employment" and setting forth, in eight single-spaced pages, the rules concerning overtime. Any failure or refusal to work overtime may be punished. As we were told by the Chapter President, "At JFK airport, management has consistently tried to force employees to work more overtime in response to the Congressional cap. While the cap may limit the earnings of approximately 20 Inspectors at JFK, it will most certainly increase over 100 inspectors overtime earnings."

Recently, we were informed that Customs Inspectors in Philadelphia are being asked to volunteer for a temporary 60-day detail to Miami International Airport, presumably because the heavy workload in Miami is causing numerous personnel there to approach the overtime earnings cap. This solution, however, is administratively impractical. Because the government is required to pay travel and per diem expenses to Federal workers on detail, the temporary assignment will cost the taxpayer money and have a negative impact on Customs' budget. In addition, as the overtime earnings of the detailed Inspectors increases in Miami, Philadelphia, another busy port, may experience similar problems near the end of the fiscal year.

We believe that the message delivered by our Chapter officers is clear. If present trends continue, numerous ports, including some of the nation's busiest, will be faced with an even greater crisis in enforcement. Coupled with the severe shortage of personnel, it is virtually certain that Customs will be unable to provide overtime service to the carriers by the end of the year. In addition, by forcing Inspectors to work overtime when they would rather spend their leisure time in other pursuits, the spirit of an already badly demoralized work force will be further shaken.

We are convinced that any arbitrary limitation on overtime earnings is foolish and counterproductive. We urge the Subcommittee to recommend that the present cap be abolished in fiscal year 1981. At the very least, the \$20,000 overtime limitation should be indexed to reflect the October pay adjustments and within-grade increases afforded Customs Inspectors. Without such an indexation mechanism, the number of Inspectors who reach the limitation will increase and an already critical enforcement problem will be exacerbated.

We sincerely hope that you examine the issue of inspectional overtime objectively and not succumb to the emotionalism that opponents of Customs seek to interject into this debate.

Conclusion and recommendation

We realize, Mr. Chairman, that the Committee must proceed prudently, and what we are doing here today is the start of a process and not the conclusion. Nevertheless, we urge this Subcommittee to seriously consider preparation of an alternative budget for Customs. The crisis in the Service is deepening with each passing day, and it will not be long before the social costs from a collapse of enforcement will be keenly felt.

There is no hope in the Administration's budget as you have seen. Only strong, decisive action by this Subcommittee can prevent further crippling of the Customs Service. We urge you to make your submission to the budget committee a strong signal to the Congress and OMB that enough is enough, that this Committee intends to provide the resources where it finds that resources are replaced.

To assist you in this process, we would like to offer the following recommendations:

1. First, ensure that the budget provides an overall level of resources sufficient to offset anticipated inflation. Again referring to Table 1, this will require total budget authority for fiscal year 1981 of \$497 million if 7 percent inflation is assumed, and \$506 million if 9 percent inflation is assumed.

2. Starting from this baseline budget, provide the resources needed to achieve a buildup of the Customs Inspectional force.

Basically, the Subcommittee should compute the workload growth of the past 5 years and the projected growth over the next 5 years. The number of Inspector positions added should reflect the increase in workload. These additional personnel will obviate the need for an overtime cap since the increase in the number of Inspectors hired will decrease the amount of overtime earned by each.

Data provided by the Customs Service indicates that the agency's workload will increase at an average rate of approximately 9 percent per year. Using this figure, we estimate that roughly 350 positions should be added in fiscal year 1981 at a direct personnel cost of \$7.5 million. If indirect personnel costs such as training are added, this brings the baseline budget, assuming 9 percent inflation, up to approximately \$516 million for fiscal year 1981.

3. Based upon the above considerations, we recommend that you submit to the Senate Budget Committee a preliminary figure of \$516 million for fiscal year 1981 budget authority for the Customs Service. At a minimum, the additional \$5 million above the original Administration budget proposal should be retained.

4. Lastly, we recommend that the Committee report signal clearly to OMB the Committee's intention to propose an alternative budget on the order described, and invite the Administration's views on such budget.

In conclusion, we would like to emphasize our deep appreciation for the interest this Subcommittee has shown in the U.S. Customs Service and its employees. We are confident that in the weeks ahead the Subcommittee will take all steps necessary to ensure that the Customs Service remains a strong, effective law enforcement agency.

Mr. Chairman, this completes my prepared statement. If there are any questions, my colleagues and I will be happy to answer them at this time.

TABLE 1.—ANNUAL CHANGE IN CUSTOMS RESOURCES AND INFLATION, FISCAL YEARS 1978-81

(Dollars in thousands, appropriated funds only)

	Personnel compensation	Percent change	Total appropriations	Percent change	Total obligations	Percent change	GNP implicit price deflator ¹	Percent change
1978.....	278,381		405,474		400,591		153.45	
1979.....	298,642	+7.3	444,059	+9.5	431,836	+7.8	167.20	+9
1980.....	324,546	+8.7	464,339	+4.6	464,339	+7.5		+8
1981.....	325,382	+0.26	472,000	+1.6	472,000	+1.6		+7.9
Required in fiscal year 1981 to keep pace with:								
7 percent inflation.....	347,264	+7	496,843	+7	496,843			
9 percent inflation.....	353,755	+9	506,130	+9	506,130			

¹Other indexes of inflation performed as follows in 1979: The Consumer Price Index rose 13.3 percent and Producer Prices rose 14.7 percent (1972=100)

²Estimated

Source: (1) U.S. Treasury Department congressional budget submission for fiscal year 1981, p. 21. (2) Federal Reserve System for Price Data

TABLE 2.—NUMBER OF CUSTOMS INSPECTORS AND TOTAL EMPLOYMENT, FISCAL YEARS 1972-81

	Total employment (ave. age positions)	Number of Customs inspectors	Indexes ¹ : total employment	Customs inspectors
1972.....	11,116	3,754	100	100
1973.....	11,772	3,700	106	99
1974.....	11,878	4,000	107	106
1975.....	13,076	4,400	118	117
1976.....	13,380	4,300	120	114
1977.....	13,228	4,300	119	114
1978.....	13,854	4,399	125	117

TABLE 2.—NUMBER OF CUSTOMS INSPECTORS AND TOTAL EMPLOYMENT, FISCAL YEARS 1972-81—Continued

	Total employment (average positions)	Number of Customs inspectors	Indexes ¹ : total employment	Customs inspectors
1979.....	14,061	4,174	126	111
1980 (estimated).....	13,643	4,083	123	109
1981 (estimated).....	13,597	4,248	122	113

¹1972=100

Sources: (1) U.S. Treasury Department Congressional Budget Submission for fiscal year 1981, p. 21 (2) U.S. Customs Service, The Issue of Customs Inspectional Overtime, p. 7 and Figure 2

TABLE 3

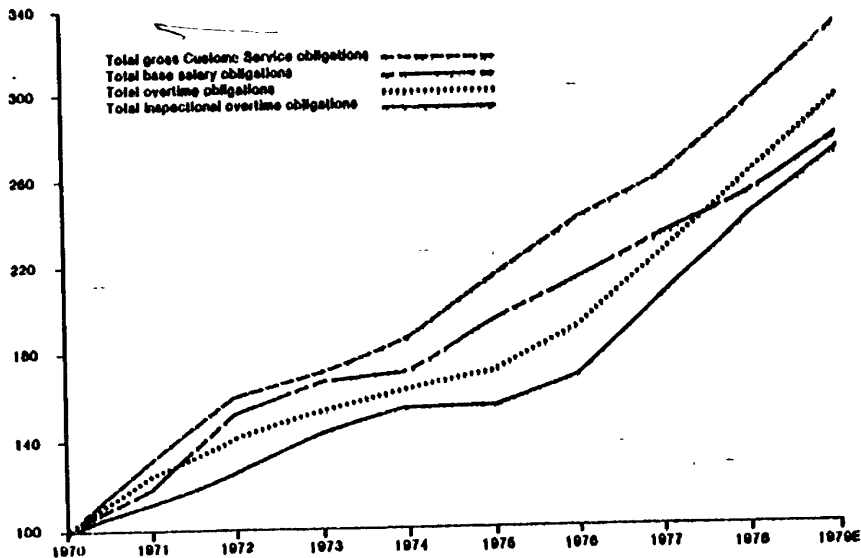


FIGURE 1.—Relative Growth of Customs Service Obligations, Fiscal Years 1970-79.

TABLE 4

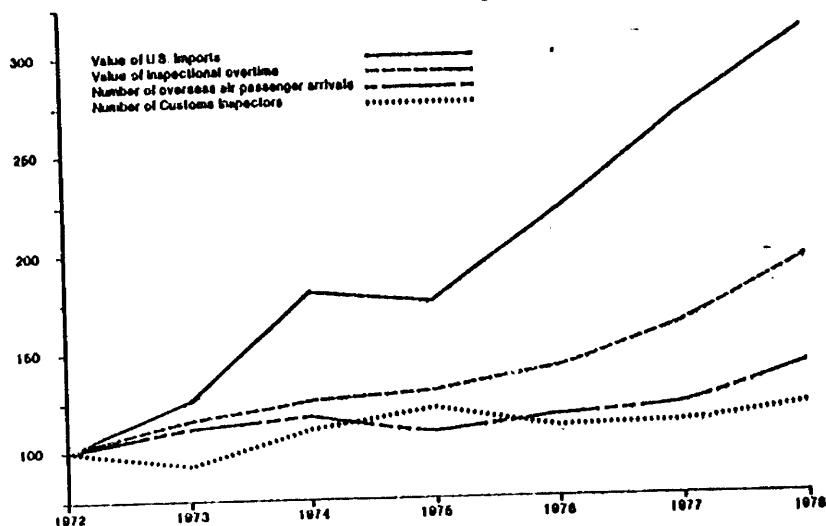


Figure 2.—Trends in the indices of U.S. imports, inspectional overtime pay, air passenger arrivals, and Customs inspectors

TABLE 5.—GROWTH IN CUSTOMS SERVICE SALARY AND OVERTIME, IMPORTS, AND AIR PASSENGER ARRIVALS, 1970-78 AND PROJECTIONS TO 1985

	1970	1978	Growth rate	Projection 1985
Base salary obligations: in current dollars (millions)	1021	257.8	12.3	578.9
Total overtime obligations: in current dollars (millions)	232	59.8	12.6	136.9
Total inspectional overtime obligations: in current dollars (millions)	203	49.1	11.7	106.3
Total 1911 overtime obligations: in current dollars (millions)	172	35.9	9.6	68.2
Measures of Customs Service workload:				
Volume of imports (based on a quantity index with 1967=100)	133.1	121.6	6.5	341.3
Number of overseas air passenger arrivals (millions) ..	92	117.2	8.2	29.1
Value of imports: in current dollars (billions)	40.0	172.3	20.0	618.3
Number of Customs inspectors	3,754	4,559	+2.7	

* Compounded annually, between 1970 and 1978

• 1972

• 1972-78

Senator RIBICOFF. Mr. James Gorson?

STATEMENT OF JAMES R. GORSON, DIRECTOR OF FACILITATION, AIR TRANSPORT ASSOCIATION OF AMERICA

Mr. GORSON. Mr. Chairman, my name is James R. Gorson. I am director of facilitation of the Air Transport Association of America which represents virtually all of the scheduled airlines of the United States.

In the interests of time and to hold to the 5-minute limitation, Mr. Chairman, I can summarize my remarks.

Senator RIBICOFF. Your entire statement will go into the record as if read.

Mr. GORSON. Congestion resulting from inadequate U.S. Customs staffing at gateway airports has caused serious delays and considerable public inconvenience. This situation can be corrected in two ways. First, by authorizing appropriations for customs inspector positions to accommodate the traffic growth at gateway airports and, second, by permitting Customs to pay for the facilities which they occupy at airports, as provided for under the provisions of Public Law 87-255.

Customs is at a serious disadvantage in negotiating for airport space because they do not pay for it. We urge this committee to authorize the funds required by Customs to adequately staff airports and to underwrite space needs at the airports.

With respect to customs staffing, for example, there is a critical situation at this moment in Miami. A telegram was received last Friday from the Greater Miami Chamber of Commerce pointing out that the 21 inspectors pledged by the Commissioner of Customs for the Miami airport will be in jeopardy if the administration's freeze on employment and transfer of personnel is effected before the April opening date of the new customs facility there.

The support of this committee, Mr. Chairman, is needed to insure that Customs pledge is fulfilled for, as the telegram states, the Miami airport anticipates a 40-percent increase in international passengers during the current year.

Another concern of the airlines is costs associated with preclearance, a 28-year-old facilitation procedure which allows U.S. inspection of passengers and their baggage before departure from another country. It reduces the inspection burden on customs operation at U.S. airports by 5 million passengers annually.

Ten years ago when the Customs Service was planning, as a matter of policy, the discontinuance of preclearance, customs punitive preclearance costs were imposed on the airlines. These so-called excess preclearance costs cover housing, duty-post and education allowances, certain transportation expenses, and the cost of supervising each of the preclearance installations, currently nine in number.

Although the Congress put a halt to this ill-advised customs policy, the airlines are still required to underwrite this financial burden for which there is no valid justification. These charges should now be terminated.

Finally, we urge the committee's support of two facilitation measures to reduce customs costs. One is the extension of the one-stop inspection procedure to other U.S. airports whereby all air travelers arriving in the United States proceed directly to one U.S. inspection officer who may be either a customs or immigration official, to undergo the necessary formalities. This integration of customs and immigration inspectors reduces overall staffing needs.

The second cost-saving measure would result from the extension of preclearance to Frankfurt, Germany. Under this proposal, U.S. Immigration at Frankfurt would perform their own mission plus customs primary inspection. Thus, without any additional staffing by Customs, air travelers not requiring secondary inspection would be free from customs formalities when arriving in the United States.

Incidentally, while the Customs Service has sufficient resources to add three urgently needed inspectors at Calgary and two at Winnipeg this fiscal year, the OMB will not approve sending five customs inspectors to these two preclearance airports in Canada.

The Department of State, in turn, is therefore unable to authorize Customs to fill these MODE positions. We ask the support of this committee, Mr. Chairman, in lifting this OMB restriction.

In conclusion, let me say that there is no justification for assessing the airline industry for the costs of providing a Government service which exists, not for the benefit of the airlines, but for the American public. If the U.S. Government believes that Customs provides a vital service to its citizens, as we do, then it should bear the responsibility of associated costs.

The authorization legislation under consideration by this committee, Mr. Chairman, should be clear reflection of congressional intent with respect to the role of the U.S. Customs Service in this regard.

That concludes my remarks.

Senator RIBICOFF. Thank you very much, Mr. Gorson.

[The prepared statement of Mr. Gorson follows:]

STATEMENT OF JAMES R. GORSON, DIRECTOR OF FACILITATION, AIR TRANSPORT
ASSOCIATION OF AMERICA

SUMMARY

The Air Transport Association, which represents most of the U.S. scheduled air carriers is vitally interested in the inspection operations of the U.S. Customs Service at international airports.

Congestion from inadequate U.S. Customs staffing at gateway airports has caused serious delays and considerable public inconvenience. Appropriations authorization for Customs inspector positions to accommodate the increasing traffic growth at airports is essential. Authorization of funds is also needed to underwrite space used by Customs at the airports. Customs is at a serious disadvantage today when negotiating for airports space because they do not pay for it. However, Customs is permitted to pay for space it occupies at airports under provisions of Public Law 87-255.

Airline preclearance costs imposed by Customs is another major concern of the industry. Preclearance is a twenty-eight year old facilitation procedure which allows U.S. Customs inspection of passengers and their baggage before departure from another country. Ten years ago when the Customs Service was planning, as a matter of policy, the discontinuance of preclearance, Customs "punitive" preclearance costs were imposed on the airlines. Although the Congress put a halt to this ill-advised Customs policy, the airlines are still required to underwrite this financial burden for which there is no valid justification. These charges on the private sector should now be terminated.

There are two facilitation measures which can reduce Customs costs and the Committee's support of these would be helpful. The first is extension of the one-stop inspection procedure to other U.S. airports since this will reduce overall Customs staffing needs. The second is agreement by Customs to the extension of preclearance to Frankfurt, Germany. U.S. Immigration at Frankfurt would perform U.S. Customs primary inspection and thus, without requiring staffing by Customs at Frankfurt, air travelers not needing secondary inspection would be free from further U.S. Customs formalities upon arrival in the United States.

We commend the U.S. Customs Service for actions taken to modernize and facilitate the inspection of passengers and goods at the airports. More must be done, however, if congestion and processing delays are to be dealt with, and if Customs facility needs are to be obtained. The authorization legislation under consideration should be a clear reflection of Congressional intent with respect to the role of the U.S. Customs Service in this regard.

STATEMENT

My name is James R. Gorson. I am Director of Facilitation of the Air Transport Association of America, which represents virtually all of the scheduled airlines of the United States.

I appear before the Subcommittee on behalf of our 32 member airlines who are engaged in both regular air commerce and charter services to, from and within the United States. Their operations are directly affected by Customs policies, procedures and inspection personnel staffing levels. The airlines believe that the authorization of appropriations for the U.S. Customs Service must be adequate to meet this nation's extensive and essential foreign commerce needs, specifically those relating to international air commerce, in the most effective and efficient way possible. We are concerned about four areas of the fiscal year 1981 Customs budget request because of its direct impact on airline operations, on travelers, shippers, businesses and communities which rely upon the international air transport system. The four areas I would like to discuss are: (1) excess Customs preclearance costs; (2) customs staffing at airports; (3) payment for Customs space at airports; and (4) facilitation measures to reduce Customs costs.

Excess preclearance costs

Preclearance is a U.S. facilitation procedure which permits the inspection by U.S. Customs, U.S. Immigration, and where needed, U.S. Agriculture of air passengers and their baggage before departure from another country, rather than on arrival in the United States. Benefits of preclearance accrue to: passengers, who benefit from the greater convenience; Immigration, which stops inadmissible aliens before their departure to the U.S.; Agriculture, which interdicts prohibited products before they enter the United States; and U.S. Customs, which is relieved of inspecting 20 percent of international passengers who would otherwise require inspection at congested U.S. gateway airports.

Despite these benefits, the U.S. Customs Service imposes upon the airlines special administrative charges initiated pursuant to a Customs regulation adopted 10 years ago when that agency was attempting to terminate preclearance.

Customs at that time imposed these "punitive" charges requiring the airlines to pay for Customs housing allowances, duty-post allowances, education allowances, transportation costs incident to assignment to a preclearance station and return, home leave and associated costs, and Customs cost of supervising each preclearance installation.

In 1977 the airlines paid the Department of Treasury \$1.7 million for these excess costs, but last year the figure was \$2.3 million.

The airlines should not be required to bear these charges, and their continued exaction could jeopardize the preclearance program. Despite that possibility, Customs is now proposing the assessment of additional preclearance costs to underwrite the installation and maintenance of their Treasury Enforcement Communications System (TECS) at preclearance locations.

TECS is an internal communications system of direct benefit to the Customs Service and other U.S. enforcement agencies, but one which would add \$300,000 annually to the private sector excess preclearance cost burden.

No other agency of the U.S. Government involved in preclearance, including the Department of Agriculture or the U.S. Immigration Service, imposes these charges on the airlines. They should be terminated; and the fiscal year 1981 authorization should reflect the funding which Customs requires for this program.

Customs staffing at airports

Foreign air travel to the United States on scheduled airlines increased dramatically last year, up 18 percent. The new climate of competition among the airlines, new entries in scheduled service, and increasingly liberal bilateral agreements called for by U.S. policy have expanded air service significantly, resulting in severe bottlenecks in processing international arrivals through Customs at major U.S. airports of entry. Last summer, it was not unusual for incoming air travelers to experience delays of one to two hours or more at such places as Miami, Chicago, Honolulu, and New York.

In Miami, for example, international air arrivals increased over 20 percent. While 21 additional inspectors are earmarked for the new Miami Airport facility scheduled to open next month, this will only start to "catch-up" on the inadequacy of inspector staffing there of the last five years. The number of international passengers arriving at the Miami Airport is more than doubling every five years, but there has been no commensurate increase in the number of Customs inspectors to process this traffic. However, as outlined in the attached March 6, 1980 telegram from the Greater Miami Chamber of Commerce, even the 21 Customs inspectors pledged for

the Miami Airport may be in jeopardy if the Administration's freeze on employment is effected before the April opening date of the new Miami Airport facility. We urge the support of this Committee to prevent this from happening.

A minimum of 69 additional Customs inspectors will be needed during fiscal year 1981 at the Miami Airport. The plight of Customs staffing at Los Angeles and at Chicago's O'Hare Airports is not unlike Miami's. Your attention is invited in this regard to an article in the February 3, 1980 Chicago Sunday Sun-Times headline, "International Terminal Jam is 'Dreadful,'" a copy of which is appended to this statement.

The airlines are also concerned about Customs proposals to restrict landing rights for arriving international aircraft through the use of a lottery or auctioning scheme, rather than adequately staffing international airports. A gambling mechanism should not be used to compensate for staffing inefficiencies, and we have so advised Customs. We will be happy to supply for the record further details of our concern.

The plain fact is Customs budget requests for inspection personnel have been, and still are, unrealistic and fail to take into account annual increases in international air traffic. Attached to our statement is a list of airports showing additional inspectors needed for fiscal year 1981.

We believe with additional staffing, Customs can fulfill its pledge to provide expedient, effective service to the traveling public and importing community. We believe it is the government's responsibility to provide sufficient staffing to conduct required Customs inspections without penalizing the traveling or shipping public or the airlines which provide government-authorized public service.

Payment for Customs space at airports

There has been much dissatisfaction over the years on the part of the Customs Service, airport operators and the airlines about the arrangements for providing Customs space at U.S. airports-of-entry and the preclearance airports abroad.

Customs today must negotiate with airports managers to obtain whatever free space can be made available to process international passengers and their baggage. The Customs Service has never paid for this space as do other airport users and, consequently, the facilities provided Customs are often inadequate. The U.S. Customs Service was authorized to provide these funds under Public Law 87-255, but funds have never been available for this purpose. These costs would total approximately \$8 million in fiscal year 1981, and we urge the committee to include this amount within the authorized budget.

Facilitation measures to reduce Customs costs

The Customs Service in cooperation with the Immigration Service designed and implemented an experimental inspection procedure at the Philadelphia Airport called "one-stop", under this facilitation procedure, arriving travelers proceed immediately to the Customs counters where a "one-stop" inspection is conducted, either by an Immigration or Customs official. That official performs the primary inspection formalities for his agency and the sister agencies, whether Immigration, Customs, or Agriculture.

The procedure is also in operation at the new pre-clearance airport in Edmonton, Alberta, Canada. The one-stop procedure, coupled with Customs Accelerated Passenger Inspection System (CAPIS) will do much to speed the flow of international arriving air travelers through U.S. government formalities while making the most economical and efficient utilization of limited manpower resources. The procedure should be extended as a cost-reduction measure as soon as possible to other U.S. airports, including Los Angeles, Tampa, and Houston.

Another facilitation measure which would result in Customs cost reductions is the proposed extension of pre-clearance to Frankfurt, Germany, for an experimental six-month test. Under this contemplated experiment, staffing by Customs would not be needed since Immigration inspectors at Frankfurt, in addition to performing their own duties, would also perform a primary inspection both for Customs and Agriculture purposes. This would obviate the need of approximately 80 percent of these travelers from undergoing any further Customs or Agriculture inspection on arrival into the United States. That is, those travelers with no duty collection or without special problems would be free from further inspection in the United States.

Conclusion

In conclusion, we commend U.S. Customs Service for actions taken to modernize and facilitate the inspection of passengers and goods at the airports. More must be done, however, if congestion and processing delays are to be dealt with, and if Customs facility needs are to be obtained.

The Office of Management and Budget continuously proposes a stringent budget for the U.S. Customs Service while expecting Customs to perform its obligations and

meet increased public demand. Although internal measures are being taken within Customs to offset some of the budget restrictions, the fact must be faced that sufficient funds are not available for Customs to adequately carry out its duties. Further, there is no justification for assessing the airline industry for the costs of providing a government service which exists not for the benefit of the airlines, but for the American public. If the U.S. government believes that Customs provides a vital service to its citizens, then it should bear the responsibility of the associated costs. The authorization legislation under consideration should be a clear reflection of Congressional intent with respect to the role of the U.S. Customs Service in the future.

The following expenditures therefore should be included in calculating the Customs Service budget authorization for fiscal year 1981:

204 additional inspectors, at a cost of \$4.2 million, to cover inspection needs at the U.S. airports shown in the attachment;

26 additional inspectors for preclearance airports show in the attachment, at a cost of \$526,000;

\$8 million to underwrite Customs airport rentals and facility costs; and

\$2.3 million for excess preclearance charges.

We will be pleased to work with this Committee and its staff in every way possible on these Customs issues.

Additional Customs staffing requirements, fiscal year 1981

	Additional inspectors
U.S. airports-of-entry:	
Agana, Guam	1
Anchorage	2
Atlanta	1
Baltimore	2
Boston	7
Chicago	7
Cleveland	1
Dallas	3
Denver	1
Detroit	7
Honolulu	4
Houston	7
Los Angeles.....	41
Miami	69
Minneapolis	1
New Orleans.....	3
New York (J.F.K.)	16
Philadelphia	2
Pittsburgh	1
Portland, Oreg.	1
San Antonio	2
San Diego	1
San Francisco	4
San Juan	18
Seattle	3
Tampa	1
Tucson	1
Washington, Dulles.....	3
Subtotal	204
Preclearance airports:	
Bermuda	2
Calgary	7
Edmonton	5
Freeport	2
Montreal	2
Nassau	2
St. Thomas, V. I.	2
Toronto	1
Vancouver	1
Winnipeg	2
Subtotal	26
Total	230

SPECIAL COMMITTEE ON INTERNATIONAL PASSENGER SERVICES,
GREATER MIAMI CHAMBER OF COMMERCE,
Miami, Fla., March 6, 1980.

JAMES R. GORSON,
*Director of Facilitation Care, Air Transport Association of America,
Washington, D.C.*

DEAR JIM: Miami International Airport has suffered extensive delays in processing international arriving passengers. On January 8, 1980, Senator Lawton Chiles chaired a meeting with representatives from Federal, State, county and industry agencies affecting the processing of the passengers. An agreement was reached at that meeting to hold monthly meetings until the problem was solved. United States customs pledged 21 additional inspector positions and United States Immigration pledged 16 new positions to be in place when the new Miami International Airport customs facility goes into operation in mid-April. Customs and immigration services have selected people to fill these new positions and are in the process of checking and training. Senator Chiles and those agency representatives are working diligently and cooperatively to solve this serious problem.

A threatened freeze on employment by OMB will severely cripple this effort. If such a freeze is imposed, an exception to these new positions must—repeat, must be allowed in Miami. Without an exception, the time for processing an international passenger could continue to be one to three hours.

As has been pointed out many times, Miami's ratio of international passengers per customs inspector is woefully short of the ratios of Kennedy and Los Angeles airports. Even with the 21 staff increase, the projected 1980 40 percent increase in international passengers will make this an ongoing problem. Additional budget allocations for an additional 69 positions, over and above the 21, are needed to maintain any semblance of good service.

Your help in pointing out the need for an exception to any employment freeze and the need for 69 additional customs inspector positions will be greatly appreciated.

Sincerely,

FRANK CALLAHAN, *Chairman.*

[From the Chicago Sun-Times, Feb 3, 1980]

INTERNATIONAL TERMINAL JAM IS DREADFUL

(By Harlan Draeger)

The overcrowded international terminal is the worst feature of O'Hare Airport, so bad that even civic boosters give it failing marks.

"Pathetic," says E. Stanley Enlund, the savings and loan president who heads the Chicago Association of Commerce and Industry.

"Dreadful," says John Kramer, secretary of the Illinois Department of Transportation.

Enlund came into O'Hare a couple of years ago on a foreign flight, one of five arriving at the same time. He emerged from the terminal 3½ hours later.

Similar delays are experienced every day by arriving travelers waiting to get off planes or walking long distances to the terminal, or struggling to retrieve baggage from two overloaded carousels, or standing endlessly in long lines to move through limited customs stations:

More than 2.8 million passengers passed through the international terminal in 1978. Foreign traffic is growing twice as fast as domestic passenger volume. But the steady stream of humanity is squeezed into a facility that has been too small and ill-equipped for years.

The sad state of the international terminal finally moved to center stage with the election of Mayor Byrne.

One month after she took office, top business leaders voiced concerns about the international terminal in a visit to her office. The chorus grew louder Aug. 6, when she attended a meeting of the Chicago Economic Development Commission.

Enlund, who was present on both occasions, was surprised at Byrne's readiness to give top priority to the issue. In his view, it's a necessary response to a problem of enormous long-range importance.

"Chicago may lose the opportunity to become a global center if we don't have a first-class international terminal," he said. "The most exciting thing in our economic development over the last 15 or 20 years is Chicago's emerging as a center of international trade."

On August 13, Byrne rolled out her solution: She would begin negotiations with federal officials to acquire the 391-acre military base on the northeast corner of O'Hare. A new international terminal would be built there, freeing the old one for domestic flights.

President Carter, in Chicago Oct. 15 to speak at Byrne's fund-raising dinner, announced an "agreement in principle" to relocate the Air Force facility elsewhere at the airport. But negotiations ceased after Byrne announced Nov. 27 that she would back Sen. Edward M. Kennedy (D-Mass.) for president.

Efforts by the city to acquire the O'Hare military base date back many years. Late in 1969, the Air Force announced plans to move its 928th tactical airlift group to Dobbins Air Force Base, Ga. All but six planes had moved out when a phone call one week before Christmas froze the transfer.

Every city move to acquire the military base kept bumping into a familiar obstacle—money.

Maj. Gen. Donald J. Smith, retired commander of the Illinois National Guard wing at O'Hare, says the Air Force position has remained consistent: It is willing to relocate to a suitable new site if the city will foot the entire bill—estimated last fall at more than \$150 million.

Smith still has an Oct. 26, 1968, letter from the late Mayor Richard J. Daley promising to keep the Air National Guard at O'Hare. Daley also pledged that the city would finance any relocation at the airfield.

"With a new mayor, those things die," said Smith, co-chairman of Operation Retain, a coalition working to keep the military facilities at O'Hare. "But that was the basis on which we operated."

Joseph P. Dunne, the city's aviation commissioner, said the obstacles to a city takeover always have been costs and "somebody to get to the president."

Over the years, more than \$21 million has been invested in some 50 buildings at the military base, despite the city's continued interest in acquiring it. The latest, a \$2.2 million operations and training headquarters for the Air Force reserve, is scheduled to open March 1. One airline official complains that "no forceful arguments" were made to oppose the expansion.

Senator RIBICOFF. Mr. Casey?

STATEMENT OF WILLIAM R. CASEY, PRESIDENT, NATIONAL CUSTOMS BROKERS AND FORWARDERS ASSOCIATION OF AMERICA, INC., ACCOMPANIED BY MORRIS V. ROSENBLOOM, DIRECTOR, WASHINGTON OFFICE OF THE NATIONAL ASSOCIATION

Mr. CASEY. Mr. Chairman, I have with me Mr. Morris Rosenbloom, director of our Washington office.

Mr. Chairman, I am president of the National Customs Brokers & Forwarders Association of America, and chairman and chief executive officer of the Myers Group, Inc., one of the country's largest customs brokers.

In addition, I am a member of the customs policy committee of the American Importers Association and a former chairman of its customs committee.

We want to comply with Chairman Ribicoff's statement that the subcommittee urges all witnesses who have the same general interest in a subject to refrain from reiterating similar views and details. Thus, as we are very familiar and agree entirely with the position of the American Importers Association and their testimony, both oral and written, and we have also testified before the House and we reiterate those statements, as particularly with regard to the 3-day OMB proposal.

I would like, however, to acquaint you with the fact that the National Customs Brokers & Forwarders Association of America,

-which has been in existence since 1897, has 23 regional and local affiliated associations of brokers in practically every port in the United States and we employ over 3,000 individuals and probably clear 98 percent of the commercial traffic imported into and exported from the United States.

We would like to make it clear that we object very strongly to the type of duty payment proposal advanced by OMB and more recently presented in a modified form to the House Ways and Means Committee by the Treasury Department; namely, going down in incremental steps.

Our concern is with the method proposed to achieve the cash flow objective because we would like to make it perfectly clear that we fully support the need for practical, realistic and cost-effective measures to improve the cash management practices of the Federal Government.

I would like to point out that many years ago Customs did operate on a 2- and 3-day system under the idea, and that was then moved because of absolute necessity; and those were in days when you had very, very simple transactions, from 2 to 4 and then to 5 and then to 10 days because they just could not keep up with the paperwork.

We do think that the Customs has taken a great deal of action in order to improve the cash flow, mainly in the procedures of stripping of checks for duties from entry summaries and depositing them immediately upon presentation of the documents, which they did not do before; transferring funds electronically and making sure that funds are deposited the same day.

These steps represent good cash management which was not present before Commissioner Chasen's day.

We also know that they are taking other steps and we are working in our association with the Commissioner and his staff to try to improve this, but to go from the 10 days to 3 days would increase the Customs workload. They could not handle it with the current staff that they have.

It would not be cost effective. It would create at least 10 to 15 percent as a minimum of more change entries, which cost at least \$20 more than a regular entry, this would actually increase the cost over \$12 million, to say nothing of the cost to the importers and to the general public, which would have to be passed on.

Our association is composed of very small business people. We obviously mostly finance our clients within the ten-day period, sometimes longer unfortunately. It is just not possible for even the larger firms in our field to handle lines of credit required for the million to \$10 million more to finance the importers.

In closing, I would like to point out that what OMB is asking us to do would be as if the IRS said to the public accounting field in tax accounting, on January 3, you file all your tax returns for all your clients for the previous fiscal year and finance them yourselves.

Thank you, Mr. Chairman.

Senator RIBICOFF. Thank you very much.

[The prepared statement of Mr. Casey follows.]

TESTIMONY OF WILLIAM R. CASEY, PRESIDENT, NATIONAL CUSTOMS BROKERS AND FORWARDERS ASSOCIATION OF AMERICA, INC.

SUMMARY

Purpose in testifying before the Senate Finance Subcommittee on International Trade:

1. Present support of the NCBFAA for the \$472,000,000 in the Administration's budget for operations of the Customs Service in fiscal year 1981.

2. Explain reasons why the NCBFAA believes that this amount is merited. Reference will be made to the fact that Customs Commissioner Chasen recognizes the importance of fiscal restraint and has achieved est. and increased cash flow by establishing various methods, including:

(a) Stripping of checks for duties from the entry summaries and depositing them immediately without waiting for examination of the entry summaries.

(b) Transferring funds electronically to speed up the deposit of funds.

(c) Making sure that all receipts that day are deposited that day.

3. Mention other strides taken under Commissioner Chasen's leadership about which the National Association is aware.

4. Indicate why the NCBFAA is well-qualified to make a responsible judgment in this area. Advise that the NCBFAA wishes to cooperate with the request of the Subcommittee by foregoing in its presentation a recounting of details expressed by the American Importers Association, an organization which has generally similar views to those of NCBFAA.

5. Add that the NCBFAA concurs with the House Subcommittee's strong opposition to establishing a reduction from a 10-day to a 3-day, or somewhat modified version of accelerated duty payments, as a violation of the spirit of the Customs Procedural Reform and Simplification Act [Public Law 95-410].

6. Point out that the NCBFAA agrees with and hopes that the Senate Finance Committee will lend its support to two important votes taken by the House Subcommittee on Trade which passed unanimously for inclusion in the statute concerning the use by Customs of appropriations the agency receives:

(a) Under a caption stating that no part of a sum to be appropriated is to be used for certain purposes, one was that "no monies are to be expended to implement any procedures relating to the time of collection of estimated duties that shortens the maximum 10-day deferment procedure in effect on January 1, 1980."

(b) The other one was that more on-the-line Customs inspectors are needed and the allocation in that category was increased by \$5,000,000.

7. Advise that the NCBFAA has been working and plans to continue working with the Commissioner and his key associates to assist in appropriate ways to help in bringing about further efficiencies and effectiveness in the Customs Service for the least number of dollars—to the benefit of the importing community and to the consumers of this country.

STATEMENT

Mr. Chairman and members of the Subcommittee, my name is William R. Casey. I am President of the National Customs Brokers & Forwarders Association of America, Inc., and Chairman and Chief Executive Officer of my own firm. The Myers Group, Inc. In addition, I am a member of the Customs Policy Committee of the American Importers Association and former chairman of its Customs Committee.

We desire to comply with Chairman Ribicoff's statement that the Subcommittee urges all witnesses who have the same general interest in a subject to refrain from reiterating similar views and details. Thus, as we are quite familiar and agree with the explanation about specific aspects involved in the collection of customs duties as set forth in the testimony of the American Importers Association (AIA), as well as with the more detailed memorandum attached to the AIA statement, we shall merely endorse those views at this time and will not dwell on these matters in this statement. My remarks will be limited to a brief presentation of some pertinent points which we believe to be important with respect to your evaluation of the proposed fiscal year 1981 budget for the U.S. Customs Service.

At the outset, I should like to provide you with relevant background information about the National Customs Brokers & Forwarders Association of America, Inc. Our Association is the only nationwide organization that is composed of licensed customs brokers and ocean/air freight forwarding firms. A nonprofit organization, the original group was incorporated on March 22, 1897. Currently, the National Association has 23 regional and local affiliated associations of brokers and forwarders. They are located in every major U.S. port of entry. We maintain close liaison between the national, regional and local associations. We estimate the total number of licensed

customs brokers in this country, many of whom are employed by our members or affiliates, at more than 3,000 individuals. Through our combined membership we handle most of the general cargo imported into, and exported from, this country.

In view of the fact that representatives of our National Association have testified recently before the House Ways and Means Subcommittee on Trade on matters that focuses primarily on our opposition to a proposal advanced by the Office of Management and Budget to establish a 3-day payment of customs duties, I shall not burden you with a restatement of that testimony nor by repeating the testimony the Director of our Washington Office presented to the House Ways and Means Committee on March 10th.

I should like to bring to your attention, however, that I have had an opportunity to study the facts and data contained in the line items in the appendix to the Administration's Budget for fiscal year 1981 and the funds needed for the Customs Service. Thus, a principal purpose of mine is to provide the members of the Senate Subcommittee on International Trade with several observations which pertain to those items and to express our support for the \$472,000,000 set forth in the proposed budget.

It should be made clear, however, that we strongly object to the type of duty payment proposal advanced by OMB and more recently presented in a modified form to the House Ways and Means Committee by the Treasury Department. Our concern is with the method proposed to achieve the cash flow objective.

Thus it should be made equally clear that we fully support the need for practical, realistic and cost-effective measures to improved cash management practices of the Federal Government.

In this regard, we believe that all who are interested in improve cash flow should be heartened by the result of actions taken by the Customs Service since enactment of Public Law 95-410, the Customs Procedural Reform and Simplification Act. We who are daily on the "firing line" with respect to the impact of increased efficiencies and earlier cash payments know at first hand that much has been accomplished. As we have stressed in our testimony before the House Ways and Means Committee, these benefits to the government's cash flow have resulted from:

- (1) Stripping of checks for duties from the entry summaries and depositing then immediately without waiting for examination of the entry summaries.
- (2) transferring funds electronically to speed up the deposit of funds.
- (3) Making sure that all receipts that day are deposited that day.

We also are aware of the fact that Commissioner Chasen is taking additional steps which will bring about even greater efficiency and faster cash flow. Our National Association has met with the Customs Commissioner and his principal associates in efforts to be of assistance in the continuing development of practical, business-like methods to improve cash flow for the Customs Service. Moreover, we shall continue to work in all appropriate ways to help achieve the type of realistic objectives we all seek.

The type of efficiencies that are already in place, as we have pointed out, have brought about remedial benefits. Any advocates of moving the duty payment procedure back from its present 10-day status, must be mindful of the huge administrative costs that would be borne not only by the Customs Service, but also by the brokers, importers, and consumers of this country. Adoption of the OMB type of proposal, as we have emphasized to the House Ways and Means Committee and wish to reiterate to you, would surely bring about wideranging and very injurious abuses to business operations.

We have noted with particular interest that the House Subcommittee on Trade, in its recommendations to the Ways and Means Committee, expressed its strong opposition to the change proposed by OMB—stating in Committee Print WMCP: 96-9 that it "would be in direct contradiction to the goals and legislative history of the Customs Procedural Reform Act of 1978." In addition, Hearing Report 96-62 of the Ways and Means Committee, dated March 21, 1979, stated in italics "that it will not accept any alternative collection scheme which violates the spirit of Public Law 95-410." It is our sincere and earnest wish that the Senate Finance Committee will determine that these views and these concerns are correct and that they merit your supportive action.

In that regard, we noted that, at the mark-up session of the House Subcommittee following its February 21st hearing, two important votes were taken that passed unanimously for inclusion in the statute concerning the use by Customs of appropriations the agency receives. We strongly agree with each of them and hope that the Senate Finance Committee will agree with and lend its support to these important provisions:

- (1) Under a caption stating that no part of a sum to be appropriated is to be used for certain purposes, one was that "no monies are to be expended to

implement any procedures relating to the time of collection of estimated duties that shortens the maximum 10-day deferment procedure in effect on January 1, 1980."

(2) The other one was that more on-the-line Customs inspectors are needed and the allocation in that category was increased by \$5,000,000.

A few words of explanation are in order about why we are so surprised to see the basic thrust of the OMB proposal that surfaced again in testimony by two Treasury officials on February 26th. The surprise and, indeed, amazement is based on the face-to-face discussion that the Director of our Washington Office and I had with the Domestic Reorganization Coordinator of OMB last Spring and another talk which we had with an Assistant Secretary of the Treasury. Both of these men had policy responsibilities in this area and both, in our judgment, reacted favorably to the facts presented and accepted our belief that the OMB proposal would not prove cost-effective.

Before concluding this statement, it should be emphasized that the customs brokerage and international freight forwarding industry is composed almost entirely of small businessmen. Therefore, the impact of a major and ill-advised shortening of the time for payment of customs duties would fall upon a portion of the business community unable to bear the brunt of such a requirement. As would be likely to happen under such an impractical situation, the small businessman would have to assume the role of a banker by advancing funds on behalf of importers prior to his receipt of the funds from the importers.

The small customs broker is not in a position to assume such an insurmountable burden, nor could he be able to borrow the \$5,000,000 to \$10,000,000 that we estimate would be involved for the small broker to finance his importers under such a procedure. An accelerated duty payment program of this sort would be untenable for the small businessman and would place him in a cruel, unmanageable squeeze. Moreover, it could have a catastrophic impact upon the importing community of this country.

It may be of particular relevance to you, as it has been to members of the Committee on Ways and Means, and to customs brokers throughout the United States, that several Congressmen on the House Subcommittee on Trade who served on a task force and devoted a considerable amount of time traveling to various parts of this country in order to see for themselves at first-hand how the Customs Service, brokers and others handle the imports into this country have been in the forefront of those members of the House of Representatives who most vigorously have spoken out against the impractical recommendation advanced by OMB and presented in modified form by Treasury officials at the February 26th hearing.

One or two final matters should be mentioned. As a National Association that is 83 years old this month, we are proud of our heritage and adherence to high standards of performance. Also, we are keenly aware of and applaud Commissioner Chasen's goals of streamlining and modernizing the Customs Service. We have noted his accomplishments in these areas while, at the same time, placing needed emphasis upon fiscal restraint. It is clear that it is his desire for this country to have a Customs Service that works efficiently and effectively for the least number of dollars that such an objective requires. Our National Association has a committee that has been working with the Commissioner and his key associates to assist in whatever appropriate ways we can because we have found the Commissioner's goals and ours to be similar.

On behalf of the hundreds of members and affiliates of our National Association, I want to express our appreciation for the opportunity to present these views. We are grateful for the care which the Senate Finance Subcommittee on International Trade is giving to matters of significance to our membership, to the importing community, and to the consumers of this country.

Thank you.

Senator RIBICOFF. The committee will stand adjourned.

[Whereupon, at 12:05 p.m. the subcommittee recessed, to reconvene at the call of the Chair.]

[By direction of the chairman the following communications were made a part of the hearing record:]

AMERICAN
FOOTWEAR
INDUSTRIES
ASSOCIATION

F. A. MEISTER, PRESIDENT

March 13, 1980

Mr. Michael Stern
Staff Director
Committee on Finance
Room 2227
Dirksen Senate Office Bldg.
Washington, D.C. 20510

Dear Mr. Stern:

Enclosed please find a copy of the testimony we submitted to the Subcommittee on Trade, Committee on Ways and Means, pertaining to FY 1981 authorization for the Customs Service, U.S. International Trade Commission, U.S. Trade Representative, and trade functions of the Department of Commerce.

Our testimony stresses the importance of each of these agencies to the domestic footwear industry, and their consequent need for adequate funding to carry out their responsibilities.

We believe this information will be of interest to the Senate Finance Subcommittee on International Trade in its deliberations on FY 1981 authorization of appropriations for the U.S. Customs Service, ITC, and USTR.

Sincerely,

F. A. Meister

F.A. Meister

Enclosure

FAM:cg

TESTIMONY OF
F. A. MEISTER, PRESIDENT
OF
THE AMERICAN FOOTWEAR INDUSTRIES ASSOCIATION
BEFORE THE TRADE SUBCOMMITTEE OF THE WAYS AND MEANS COMMITTEE,
U.S. HOUSE OF REPRESENTATIVES

THE IMPORTANCE OF ADEQUATE FUNDING FOR
THE U.S. TRADE REPRESENTATIVE, THE U.S. INTERNATIONAL TRADE COMMISSION,
THE CUSTOMS SERVICE, AND THE TRADE FUNCTIONS OF THE DEPARTMENT OF COMMERCE
TO THE NON-RUBBER FOOTWEAR INDUSTRY

FEBRUARY 28, 1980

2/28/80

THE IMPORTANCE OF ADEQUATE FUNDING FOR
THE U.S. TRADE REPRESENTATIVE, THE U.S. INTERNATIONAL TRADE COMMISSION,
THE CUSTOMS SERVICE, AND THE TRADE FUNCTIONS OF THE DEPARTMENT OF COMMERCE
TO THE NON-RUBBER FOOTWEAR INDUSTRY

SUMMARY

The American Footwear Industries Association (AFIA), whose members account for approximately 90% of domestic non-rubber footwear production and a substantial number of suppliers to the industry, requests that you provide sufficient funding and staffing levels in your recommendation on the Fiscal Year 1981 authorization for the U.S. Trade Representative, the U.S. International Trade Commission, the U.S. Customs Service, and the trade functions of the Department of Commerce.

All of the above cited agencies or departments are charged by the Congress with critical trade responsibilities, the prompt and effective implementation of which are especially vital to import-impacted industries such as the domestic non-rubber footwear industry.

It is safe to say that without adequate funding and staffing levels, these vital agencies will not be able to assist our industry and others as charged by law.

In particular, each of the above-mentioned agencies is involved integrally with President Carter's program to revitalize the footwear industry and to control shoe imports. The Office of the U.S. Trade Representative has the primary responsibility for proper implementation of the President's import control program. Also, as the chief trade negotiator, USTR is responsible for ensuring the elimination of unfair trade practices of other nations, which negatively impact domestic manufacturers. In the case of footwear, this currently involves negotiations to eliminate unfair restrictions on cattlehide exports.

Specific responsibilities of the International Trade Commission to the footwear industry include the continued monitoring of the health of the domestic industry as required under law. On a broader scale, the Trade Act of 1979 requires the ITC, for the first time, to determine injury in countervailing duty cases. This, in addition to the anticipated increase in anti-dumping investigations, surely will add to the agency's workload. Also, the ITC now is working on a major revision of the Tariff Schedules of the U.S. (TSUS). This immense task is important to develop meaningful import and export statistics, not only for footwear, but for every U.S. industry.

The U.S. Customs Service clearly is in the forefront of the trade area. The agency has virtually the sole responsibility for assuring proper classification of, and hence collection of duties on, all articles imported into the U.S. In the case of footwear, proper classification and timely duty assessments are absolutely crucial to prevent circumventions of the quota restrictions on Taiwan and Korea. In addition, Customs' monitoring of imports provides the raw data essential to evaluating the effectiveness of the import relief program.

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Continued application of sufficient resources within the Department of Commerce is vital to the revitalization efforts of the footwear industry. DOC has a key role in (a) monitoring footwear imports, (b) providing an early warning of control violations, and (c) developing a coordinated program of technical and financial assistance designed to enhance the competitive position of the industry. The Department of Commerce actively is involved in the industry's successful export promotion program, in the development of the American Shoe Center, and in the specialized Trade Adjustment Assistance Program for our firms.

KEY POINTS

The U.S. Trade Representative

The Office of the U.S. Trade Representative has the primary responsibility for proper implementation of the President's import control program for footwear.

This program consists of 1) negotiated restraints on imports from Taiwan and Korea for a period of four years (June 30, 1977 to June 30, 1981) and 2) assurances that other countries will not surge to make up for the rollback on Taiwan and Korea. (Indeed, such assurances, made both to the industry and to the Congress, were the key underpinning of our industry's acceptance of the Administration's program, rather than the global quotas for which we pressed.) Unfortunately, there has been virtually a complete failure of the import relief program. In 1978, Taiwan and Korea blatantly circumvented the OMA's through a dramatic switch into rubber/fabric footwear, which is virtually identical to non-rubber footwear, but is not subject to the quota restrictions of the OMA's. Then, in 1979, non-rubber footwear imports from "cap-controlled" countries (most notably Italy, Hong Kong, the Philippines, and Singapore) were permitted to surge to unprecedented levels. Last year, while non-rubber imports from Korea and Taiwan were down by 50.5 million pairs from 1976 levels (the base year for the OMA's), other countries increased shipments to the U.S. by 85.0 million pairs, thereby negating totally the rollback on Taiwan and Korea.

After more than 24 years of a "relief" program, it is clear that the domestic footwear industry still has not received the relief to which it is entitled under the Trade Act. We are, however, working closely on this vital issue with the Office of the U.S. Trade Representative, in an effort to remedy the situation. We have found Ambassador Reubin Askew and his new staff to be understanding of our need for a more effective import control program. They have been amenable to meetings and discussions with the industry and our unions, and finally appear to be working with us to improve the program. We expect to continue to work very closely with USTR throughout 1980 and 1981, particularly in view of the possibility of an extension of the import relief program beyond mid-1981.

USTR also is deeply involved in another matter of critical importance to the domestic footwear industry - the freeing up of the world supply of cattlehides. USTR recently negotiated an agreement with the Government of Argentina, lifting that country's embargo on cattlehide exports, and now is working with us to assure proper implementation of the agreement. USTR is pursuing similar agreements with the Governments of Brazil and Uruguay.

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USTR must continue to give high-level attention to the hide problem. Without more hides freely traded in the world market, we could witness a reoccurrence of the disastrous price increases, market volatility, inflationary impact and inequitable U.S. export level we suffered in 1979.

The International Trade Commission

Pursuant to the President's import relief program for footwear, the International Trade Commission has been delegated responsibility for monitoring the health of the domestic industry. The ITC must spend considerable time and resources to develop meaningful questionnaires, and then to interpret the data received, to evaluate the status of the industry on a quarterly and an annual basis. This information is vital to assess the success of the relief program and the industry's revitalization efforts.

We also are working closely with ITC officials on a proposed revision of the Tariff Schedules for footwear. This major undertaking should result in much-needed schedule changes to enhance the comparability between domestic production and import data, which is essential to improve the industry's ability to analyze better the total U.S. footwear market, and gear its own production and marketing efforts accordingly.

Further, we are working with the ITC to develop more meaningful export statistics, which now are provided only in the very broadest terms. This will provide us with more complete and accurate information that can be correlated to import and production data so that trade patterns in the industry can be analyzed more accurately, and additional export markets can be explored.

In addition, under the Trade Act of 1979, ITC injury findings will be required, for the first time, before countervailing duties can be assessed. This new responsibility of the ITC can be expected to increase substantially its workload. In this area, too, the domestic footwear industry is involved, for we have long been fighting against unfair foreign subsidies on footwear. As a result of our efforts, there currently are countervailing duties on footwear from Brazil, Spain, Argentina, Korea and India; new cases may be filed, as necessary. (It should be noted that one of the first countervailing duty injury cases to come before the ITC this year was that concerning footwear uppers from India. This case was initiated by the domestic footwear industry, and required an extensive investigation by the ITC prior to the hearing before the Commission on February 4. We have filed pre-hearing and post-hearing briefs, and a decision on this case now is pending.)

Clearly, generous resources are necessary to carry out the vast responsibilities of the International Trade Commission.

The U.S. Customs Service

The U.S. Customs Service also plays a major role in international trade. It is this agency which has virtually the sole responsibility for classification of articles entering the United States and for timely collection of proper duties. Further, the agency gathers the import statistics which are critical in monitoring import trade.

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For the footwear industry, timely and accurate collection of import statistics is critically important in measuring the effectiveness of the import control program. Moreover, the importance of classifying footwear which enters the United States as quota or non-quota cannot be overemphasized; proper classification is crucial to prevent circumvention of our Orderly Marketing Agreements. In 1978, for example, we petitioned Customs to reclassify lasted leather uppers as finished footwear when it became evident that Taiwan and Korea were increasing shipments of these substantially completed shoes, which entered outside the quota restrictions. Customs ultimately supported our position, and as a result, a major loophole in the Orderly Marketing Agreements was closed.

We also are in almost day-to-day contact with Customs on the issue of American Selling Price (ASP). When it became evident that Taiwan and Korea were increasing shipments of rubber/fabric footwear to avoid the quota restrictions, we accelerated our efforts with Customs to assess duties based on American Selling Price wherever appropriate. The success of our efforts with Customs is evident from the fact that in 1979 rubber/fabric imports plummeted sharply from the disastrous 1978 levels.

Customs also is involved in the analysis of dumping and subsidy margins necessary to determine proper duties in anti-dumping and countervailing duty cases. Given the expected increase in the number of dumping cases, and the complexity of countervailing duty cases under the new Trade Act, Customs' work in this area can be expected to increase correspondingly, and so must resources for Customs.

The Department of Commerce

The Department of Commerce (DOC) has a major and critical role in the revitalization of the domestic footwear industry. When the President announced his determination to negotiate Orderly Marketing Agreements in April, 1977, he also directed the Commerce Department to develop a program to enhance the competitive position of the domestic industry. To that end, we have been working very closely with DOC officials on a broad variety of programs.

The footwear industry, with DOC assistance, has undertaken a major export promotion program. Thus far, 72 U.S. companies have exhibited their footwear in three major export events, consisting of Trade Missions and Trade Shows, throughout Europe. A fourth export trip is planned for March, 1980 with a complement of 20 additional firms. The success of the joint DOC/industry effort is apparent from the increased level of footwear exports in 1979. Last year, a record 9.3 million pairs of made-in-USA shoes were sold abroad, compared to only 5.5 million in 1977, and 6.9 million pairs in 1978. In December, 1979, for the first time, more than 1 million pairs were exported. In addition, the export trend is increasing; 1979 exports were 33.5% above 1978, which were already 28% above the 1977 mark.

To a very great extent, the future of the export program will depend on the amount of funding we are able to secure from DOC. In the hopes that such funding will be available, we now are pursuing with DOC research studies on the Latin America/Caribbean market. This market area, which is our largest both in terms of pairs and dollars, could represent another area of potential export expansion.

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Given the increased recognition of the importance of expanding U.S. exports, it is only consistent with government policy objectives that adequate funding be made available to DOC to insure that it is able to carry out an aggressive export expansion program. This is particularly important to help footwear and other import-impacted industries compete in world markets.

Another area of importance is trade adjustment assistance, which is administered by DOC's Economic Development Administration (EDA). The domestic footwear industry has made extensive use of the technical and financial benefits available under this program in its efforts to modernize and revitalize. As of January 20, 1980, exactly 2 1/2 years after the onset of the DOC footwear industry revitalization program, 121 firms had petitioned for certification for trade adjustment assistance benefits. Ninety-four firms have been certified. During this period, footwear firms have received a total of nearly \$56 million in loans and loan guarantees.

A major shortcoming of the Trade Adjustment Assistance provisions of the Trade Act of 1974, however, is that firms supplying import-impacted industries are not eligible to receive trade adjustment assistance benefits. Because of the interdependency of footwear manufacturing firms and their suppliers, the health of one frequently affects the health of the other. Therefore, our industry long has supported expansion of trade adjustment assistance benefits to supplier firms, as provided for in H.R. 1543. This legislation, which came out of this Committee, now is awaiting a vote in the Senate. Adequate funding must be available to EDA to help our supplier firms, as well as our manufacturers, revitalize through TAA benefits.

Our industry also has been working very closely with DOC's Office of Science and Technology on the establishment of an American Shoe Center. The purpose of the Center is to provide vital manufacturing and technology expertise to our industry. We are now in the final stages of negotiating with DOC on the establishment of the Shoe Center, which is expected to open this year. Adequate monies must be made available to DOC to assure that the required start-up funding is available.

DOC also must be able to maintain its current level of funding for special data now being collected by the Bureau of Census from our industry on key indicators of the industry's level of economic activity and health. We understand that DOC may eliminate funding for these special Census studies. Compared to other government agencies which compile data on the industry, only the Bureau of Census has complete coverage of the industry in its surveys. It is, therefore, vital that Census continue to be given DOC monies to continue this monitoring function.

In addition, DOC has been a very strong supporter of the necessity for an effective import relief program to provide the footwear industry with a breathing space in which to revitalize.

Under the new Trade Act, DOC will have major responsibility for the administration of countervailing duty and anti-dumping cases, previously handled by the Treasury Department. As discussed earlier, our industry has had extensive involvement in countervailing duty cases. It is essential to the many industries that seek

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redress from unfair foreign trade practices that an adequate level of funding be provided to enable DOC to carry out these new functions in a more timely and effective manner than they were handled at Treasury.

Finally, the Department of Commerce requires resources to assist all segments of the footwear industry -- manufacturers, suppliers and retailers -- in the industry's efforts to provide consumer education on footwear. The industry-supported Footwear Council, located in New York City, provides our only industry-wide source of consumer education. In the upcoming year, the Council will work with the Department of Commerce to explore the possibility of DOC assistance to this important effort.

CONCLUSION

The foregoing indicates the extensive involvement of the domestic footwear industry with the U.S. Trade Representative, the U.S. International Trade Commission, the U.S. Customs Service, and the Department of Commerce. We work closely with these agencies, on a day-to-day basis, on numerous and extremely critical programs. The programs administered by each of these agencies exert a considerable influence on the domestic footwear industry, and to a very large extent, will determine its future. Our industry is only one of many; these agencies clearly have a major stake in all others involved in international trade.

Given the increased recognition of the importance of international trade, effective public policy dictates that sufficient levels of funding and staffing be provided to each of these agencies so that they can carry out most effectively their responsibilities and meet our domestic and international obligations.

THE JOINT INDUSTRY GROUP
U. S. CHAMBER OF COMMERCE
WASHINGTON, D. C.

DAVID J. ELLIOTT, ACTING CHAIRMAN
P. O. BOX 599, CINCINNATI, OHIO 45201

STATEMENT OF
THE JOINT INDUSTRY GROUP
TO THE
SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE
UNITED STATES SENATE
SENATOR ABRAHAM A. RIBICOFF, CHAIRMAN
FY 1981 APPROPRIATION AUTHORIZATION
U. S. CUSTOMS SERVICE

Air Transport Association
American Electronics Association
American Importers Association
American Retail Federation
Chamber of Commerce of the United States
Cigar Association of America
Computer and Business Equipment Manufacturers Association
Council of American Flag Ship Operators
Electronics Industries Association
Foreign Trade Association of Southern California
Imported Hardwood Products Association
Motor Vehicle Manufacturers Association
National Committee for International Trade Documentation
Scientific Apparatus Manufacturers Association
U.S. Council of the International Chamber of Commerce

THE JOINT INDUSTRY GROUP
U. S. CHAMBER OF COMMERCE
WASHINGTON, D. C.

STATEMENT OF THE JOINT
INDUSTRY GROUP

This statement is respectfully submitted by the Joint Industry Group on behalf of the following associations and the businesses they represent:

1. The Air Transport Association of America, which represents nearly all scheduled airlines of the United States.
2. The American Electronics Association, which has over 900 high technology and electronics companies. Its members are mostly small to medium in size, with two-thirds of its members employing less than 200 employees.
3. The American Importers Association, representing over 1,100 companies, mostly small to medium in size, plus 150 customs brokers, attorneys and banks.
4. The American Retail Federation, an umbrella organization encompassing thirty national and fifty state retail associations that represent more than one million retail establishments with over 13,000,000 employees.
5. The Chamber of Commerce of the United States, representing 89,000 companies, 1,293 trade associations, 2,600 state and local Chambers of Commerce and 43 American Chambers of Commerce overseas.
6. The Cigar Association of America, which includes 95% of all U.S. cigar sales and major cigar tobacco leaf dealers.

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7. The Computer & Business Equipment Manufacturers Association, including nearly forty members with 750,000 employees and \$45 billion in worldwide revenues. Members range from the smallest to the largest in the industry.
8. The Council of American-Flag Ship Operators, which represents the interests of the American Liner industry.
9. The Electronics Industries Association, its 287 member companies, which range in size from some of the very largest American businesses to manufacturers in the \$25-50 million annual sales range, have plants in every State in the Union.
10. The Foreign Trade Association of Southern California, which represents 450 firms in Southern California in the import-export trade.
11. The Imported Hardwood Products Associations, an international association of 250 importers, suppliers and allied industry members. Members handle 75% of all imported hardwood products and range in size from small private businesses to the largest in the industry.
12. The Motor Vehicle Manufacturers Association, whose eleven members produce 99% of all U.S.-made motor vehicles.
13. The National Committee on International Trade Documentation, which includes many of the major U.S. industrial and service companies.
14. The Scientific Apparatus Makers Association, manufacturers and distributors of scientific, industrial and medical instrumentation and related equipment.
15. The U.S. Council of the International Chamber of Commerce, a business policy-making organization which represents and serves the interests of several hundred multi-national corporations before relevant national and international authorities.

Summary

The Joint Industry Group is supportive of efforts to improve the efficiency of the United States Government, including cash management projects that achieve positive net results. Nevertheless, the JIG is deeply concerned that the proposal to accelerate the collection of Customs duties contained in the 1981 Budget will be counterproductive, creating a net reduction in Federal revenues rather than the paper increase projected. We also fear that the proposal will result in a deterioration in performance by U.S. Customs; brokers and importers have a significant negative impact on the commerce of the United States and an inflationary impact on the consumer.

We understand that a variety of ways of accomplishing accelerated cash flow are being contemplated, but specific details of these proposals are not available. The concepts we have heard expressed do not appear to meet the needs of the broad diversity of businesses, markets and transactions that underlie the 4 1/2 million importations per year into the United States. The potential for unintended economic damage to the private sector is sufficiently great that the United States Customs Service should not implement this change by regulation, but should submit the detailed proposals to the United States Congress for their approval.

Background

To understand the basis for these viewpoints it is necessary to have some understanding of the background of the present system. Until the late 1960's, it was standard procedure for duties to be paid in order to obtain release of goods from Customs' custody (only perishable goods could be released promptly from Customs custody, with duty payments to be made within the next ten days). Unfortunately, this "cash on the barrelhead" system could not cope with the increasing flow of goods from abroad that were needed in the United States market. The result was serious delays in releasing goods at marine, air, and land ports of entry. Seasonal goods missed their markets, factories lost production time for lack of raw materials, interest costs of financed importations increased without justification. The delays in releasing goods from Customs' custody caused profit losses, thereby reducing the taxes on such profits and also reducing the jobs they both create. The results are believed by those involved in the problem, to have exacerbated the serious cargo theft problem that then existed at Kennedy International Airport and elsewhere by increasing the amount of uncleared cargo. To resolve these difficulties, U.S. Customs extended the "immediate delivery" system in place for perishable goods to the great majority of importations into the United States. Under this system goods are released from Customs' custody on the basis that the required complete documentation and estimated duties be deposited within 10 days. While not an especially modern system compared with those in use in other countries, it has by and large eliminated the problem of backlogged cargo.

The Customs Procedural Reform and Simplification Act of 1978 (Public Law 95-410) confirmed the legislative authority for the current procedure. It further provided Customs with the flexibility to develop a more modern duty collection system, particularly to change the collection of duties from a shipment-by-shipment basis to a periodic "charge account" approach. At the time of consideration, the particular concept under most active consideration was the so-called Automated Merchandise Processing System ("AMPS"). It was envisioned that "AMPS" would not only offer cost advantages for importers, but more importantly would reduce the Customs Service's clerical work load and enable it to enhance the quality of its duty assessment, statistical reporting and inspection procedures. We believe that the Congress' particular interest in approving a payment delay longer than 10 days was to enable Customs to achieve these benefits, which it believed would be of significant value.

Analysis

It appears that the federal revenue benefits of the "Three Day Money" proposal will be significantly less than predicted, if indeed any are actually achieved. This occurs in significant measure because Customs duties are a tax-deductible business expense. It is unlikely that much if any of the increased revenue costs can be passed back by importers to their foreign suppliers; rather, they will in large measure incur it as an additional business expense. To the extent that importers' profits are lowered, this will result in diminished federal profits taxes--probably reducing the forecast revenue increase by over 35%. (It is likely that importers will try to pass on the increased costs to their customers consistent with market economics. To the extent they can do so, the result will be to reduce consumer incomes, thereby reducing income tax payments and increasing transfer payments. We are unable to estimate this impact, but believe that its effect on the revenue estimate for the duty acceleration proposal would be at least as great as if it were borne by the importer as a profit-reducing cost. Therefore, in this statement our calculations will be on the conservative basis of profits tax losses.)

While the preceding are important, the Joint Industry Group's fundamental concern is the impact of the accelerated duty collection proposal on the resources of the United States Custom Service and upon the flow of the international commerce of the United States. Based upon experiences prior to initiation of current procedures, and in Canada where a three day payment period is the norm, the Custom Service would have to process a significant increase in the number of entries where a different duty amount is due than is initially deposited. We understand that at present approximately 70% of all entries are liquidated with no change in estimated duties; it appears that this would be reduced to 55% or less with the accelerated collection procedure. Even if the additional cost were only \$20.00 additional per changed entry, at the present rate of 4 1/2 million entries per year, the additional cost to the government on 15% of those entries would be almost \$14 million dollars annually. Additional costs would also have to be borne by the business community to handle these corrections. Even with a periodic billing system, the accuracy of the changes have to be determined, documents submitted to brokers and the Customs Service and payments approved by a variety of internal systems. It would be a serious error to assume no more is involved than simply a bank deposit charge or the cost of typing the check. It is our best judgement that this cost is at least \$50.00 per occasion--possibly significantly higher. It appears that these costs to the private sector would be in excess of \$34,000,000, thereby reducing profits taxes by over \$10,000,000 annually.

At a time of serious pressures on the Budget, it is unlikely that Customs personnel would be increased to handle the additional duty collection needs created by this proposal. We are most concerned that the real result would be to reduce the quality of work in the duty collection process, with an accompanying reduction in the quality of our international trade statistics, rather than the required improvement. Another possibility is a diversion of resources from the inspection of imported merchandise. If the latter result were to occur, we could face a repetition of the situation which existed in the late 1960's; goods becoming backed up at ports of entry, with a correlary increase in cargo thefts, lost marketing opportunities in the United States and factory shutdowns for lack of raw materials.

It is difficult if not impossible to estimate the total impact of this proposal on the economy or the federal revenue. However, additional costs for the U.S. business community (importers, customs brokers, stevedores, warehousemen, truckers, manufacturers, wholesalers, retailers, etc.) will clearly arise. Even if the impact is as little as 1/1000th (0.1%), and assuming that these costs were borne by business and not passed onto the consumer, federal profit taxes would be reduced by several times the estimated \$10,000,000 average annual interest cost savings projected in the fiscal 1981 budget. Assuming an average \$150 billion annual level of total imports, a 1/1000th increase in the cost would amount to \$150,000,000. These costs would reduce profits by a like amount; assuming an average profit tax rate of 35%, there would be a reduction in profits tax collections of over \$50,000,000 annually.

In conclusion, we believe that the United States Customs Service, the Treasury Department, and the Office of Management Budget should reconsider this particular cash management proposal. We respectfully suggest they redirect their efforts towards suitable automation of the duty collection process as was proposed during consideration of the Customs Procedural Reform and Simplification Act of 1978.

The Joint Industry Group sincerely appreciates the opportunity to submit its views on the subject of the duty collection process and is prepared to provide all the support it can to the development of a system that will benefit the cost efficiency of the United States government and the international commerce of the United States.

1980 MAR 10 PM 1:49

The Honorable John W. Warner
United States Senate
Washington, D.C. 20510

MAR 1 1980

Sir:

My husband is a dedicated and conscientious employee of the U.S. Customs Service. Since the advent of the Carter Administration in 1977, we have witnessed a steady deterioration of the Customs Service under Jimmy Carter's Commissioner of Customs, Robert E. Chasen.

The first notable change came early with the relaxation and discontinuance of the Nixon-Ford drug enforcement and interception programs. Withdrawal of funds and the ending of undercover operations by the Customs Patrol effectively hamstring that organization.

A former Customs official of the Nixon-Ford era stated that Customs Inspectors were being burdened with clerical work and were not performing the tasks and duties for which they were intended, namely enforcement of Customs laws and regulations.

This deterioration of the enforcement aspect of Customs began with a concentrated effort by Commissioner Chasen in early 1979. First was the attempt to remove Customs Inspectors from all oil importation duties. This would have left all imported oil statistics and verifications in the hands of the oil companies. Only a sustained effort by Congress, unions and consumer groups blunted this attempt.

Commissioner Chasen then continued his assault on Customs inspections by distributing to Congress horrendous stories of Customs Inspectors who were paid outlandish sums for overtime work. He neglected to state that these sums were paid to a minority of inspectors (one being, of all places, Atlanta, Georgia) and that in all cases the excessive overtime was caused by Customs management policies, notably lack of sufficient personnel. Overtime has been effectively used by Customs management to deny proper grade levels and quality step increases to deserving Customs Inspectors.

If an inspector was evaluated against other positions in government service, with the knowledge he is required to have of a myriad of laws and regulations, plus the responsibilities, he would be graded at the GS-12 level. Inspectors are exempt from the provisions of FSLA in that they must act independently in the decision making process. One of the most consistent statements of the U.S. Customs Service is, we enforce over 200 laws for over 40 agencies.

On more than one occasion, personnel of Customs management have stated that inspectors do not need quality step increases, despite their qualifications, as they were earning overtime compensation.

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Due to the lack of sufficient personnel, it has been the policy of Mr. Chasen to relax and discontinue most inspection and enforcement activities. Examination and inspection of containerized cargo, necessitated by cost and volume, is predicated at one back door examination per entry. This is all well and good but there no longer are any follow up 100% inspections conducted at importer's premises on a random basis. This 100% inspection was a major deterrent of cargo fraud.

Inspectors have been assigned clerical duties, many from other areas, which have effectively taken them away from being physically present at piers and airports where cargo is being unladen and crewmembers disembarking.

Now Mr. Chasen is embarking on his drive for "General Supervision." His rationale is, if you don't do it from 8 to 5, why do it any other time? Of course, not doing it from 8 to 5 was initiated and demanded by management. For example, one inspector is now being required to observe three large ships unloading cargo while examining merchandise at a warehouse over one-half mile away. This is the end of enforcement and the beginning of the end of Customs itself. The laws enacted by Congress have not changed, just the way Mr. Chasen interprets and applies them.

One of Mr. Chasen's pet projects is the Headquarters Quality Assurance Survey Team. This team meets, supposedly, with members of the business community and decides new interpretations of laws and regulations. One of these decisions, upon receipt of an entry, is to release all imported merchandise with the exception of the examination package, immediately, without a request to do so from the importer or broker. This change in procedure has no basis in present regulations. A recent revelation at a Customs training school disclosed that this was not being uniformly applied within the Customs Service.

As a concerned citizen, with children, I am afraid that if present trends continue, the U.S. Customs Service as the first line of defense against importations of drugs and other merchandise harmful to this country will cease to be an effective entity.

Is this a portent of the future? A return to the days of the Collector of Customs, one man generally supervising the importation of all merchandise for the entire Hampton Roads area. My sincere hope is that you are aware of these trends and that you will want to reverse them. Thank you.

Sincerely,

Barbara C. Ocker