THE TRADE REFORM ACT OF 1973

HEARINGS

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-THIRD CONGRESS

SECOND SESSION

ON

H.R. 10710

AN ACT TO PROMOTE THE DEVELOPMENT OF AN OPEN, NONDISCRIMINATORY, AND FAIR WORLD ECONOMIC SYSTEM, TO STIMULATE THE ECONOMIC GROWTH OF THE UNITED STATES, AND FOR OTHER PURPOSES

MARCH 4, 5, 6, 7, 21, 22, 25, 26, 27, 28, 29; APRIL 1, 2, 3, 4, 5, 8, 9, AND 10, 1974

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Communications

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STATEMENT OF HON. CLARENCE D. LONG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. Chairman, I thank the committee for the opportunity to comment on H.R. 10710, the Trade Reform Act of 1973.

As an early sponsor of the Jackson-Vanik amendment, I urge the distinguished Members of the Senate Finance Committee to include the complete Jackson-Vanik provision in the Trade Bill. The Jackson-Vanik provision (1) denies most-favored-nation status to the Soviet Union and (2) denies trade credits and credit guarantees—both until the Soviet Union allows free emigration. The second part of the provision—concerning trade credits and credit guarantees—is much more important to the Soviet Union and therefore, much more important as a tool for exacting political concessions from the Soviets.

Even if the Soviets decided to allow Jews and other minorities to emigrate freely, I would still oppose economic concessions to the Soviet Union unless that nation were to (1) end its race for military superiority, (2) participate with the United States in an agreement to limit military assistance and arms sales to countries in the Middle East, and (3) cease sponsoring or financing aggression—as in Korea, Vietnam, and the Middle East.

Consider the economic concessions that the United States has granted or is considering granting to the Soviet Union: (1) $750 million in grain credits granted in July, 1972; (2) $577 million in Export-Import Bank and associated private loans authorized since February, 1973, for industrial development, such as truck factories; and (3) possible financing of Soviet energy development in Siberia.

How have the Soviets responded to our concessions?

First, the Soviets have accelerated their attempts to attain superiority over the United States in strategic missiles and naval forces. Our $1.3 billion in economic aid has subsidized this military buildup by enabling the Soviets to avoid shifting domestic resources away from military expenditures to their crying needs in agriculture and industrial development.

Second, the Soviets supplied massive amounts of sophisticated weapons to Arab countries which made possible the 1973 Yom Kippur war. Since that war the Soviets have completely resupplied the Arabs armies, and Syrian tank forces are again threatening to attack. Our economic aid to the Soviets has enabled them to provide more arms and economic aid to the Arabs than they otherwise would have been able to do. Further, were it not for the Soviet's massive arms supplies to Iraq, our military would have no excuse to propose massive arms sales to Iran and multibillion dollar arms sales to other countries in the Persian Gulf, where an arms race is madness.

In proposing U.S. financing of Soviet energy development in Siberia, the Administration is relying on the Soviet's word that the United States will receive energy supplies when these projects are completed. Previous Soviet responses to our economic aid do not support the extension of trade credits and credit guarantees to the Soviet Union unless the Soviets change their aggressive policies toward the United States, in the Middle East, and in other parts of the world.

STATEMENT SUBMITTED BY WALTER B. WRISTON, CHAIRMAN, FIRST NATIONAL CITY BANK, NEW YORK

I respectfully urge prompt passage of the Trade Reform Act of 1973 so that our negotiators will have the legal authority needed to enable the United States to participate actively in the forthcoming multilateral trade negotiations.

We now face a period of extreme uncertainty with respect to international trade and economics. Our major trading partners are about to begin important multilateral trade negotiations which, in part at least, will try to provide solutions to these problems—decisions could be made which will vitally affect our economy, and the world's economy, for years to come. At present, however, our negotiators do not have requisite legal authority to participate in these trade negotiations. If the United States does not participate, one possibility is that the talks will collapse—and the free world will thereby forfeit this timely opportunity to try to solve some of the paramount problems facing it—and another possibility is that the negotiations will go forward without us and produce results not wholly reflective of our best interests.

America must trade if it is to maintain domestic prosperity and world leadership. The day is long past when we were self-sufficient in vital raw materials. Energy needs are only the most spectacular example of this.

These imports require exports because we have no other way to earn the large amounts of foreign exchange needed to pay for the imports.

Exports require reduction or removal of foreign tariffs and other trade barriers because, otherwise, our goods cannot compete.

Removal of tariff barriers requires that our negotiators have the flexibility and authority they need to enter into reciprocal agreements with our trading partners.

Thus, like the links of a chain, our need to import ineluctibly leads to the need for a bill, such as the Trade Reform Act of 1973, which continues our long standing policy of encouraging world trade.

The first three titles of the Trade Reform Act of 1973 are carefully drawn and delicately balanced provisions. They give our negotiators the flexibility needed for the complicated and unpredictable trade negotiations which lie ahead, yet Congress retains important controls and safeguards.

I recently had the honor to co-host a meeting between the New York Congressional Delegation and leading businessmen from all parts of New York, called to discuss the Trade Reform Act of 1973. Attached hereto, to be made part of the record, is the unanimous Joint Statement of these business leaders reflecting our conviction that the best interests of New York and the Nation will be served by prompt passage of the Trade Reform Act of 1973.

Attachment.

JOINT STATEMENT OF NEW YORK BUSINESS LEADERS MEETING WITH NEW YORK CONGRESSIONAL DELEGATION ON TRADE REFORM ACT OF 1973 (H.R. 10710)—OCTOBER 10, 1973

The best interests of New York and the Nation will be served by prompt passage of the Trade Reform Act of 1973 because it would continue America's long-standing policy of encouraging world trade and investment through reciprocal elimination of tariffs and other barriers to world trade.

International trade is a mainstay in New York's and the Nation's economy, accounting for about 10% of gross national product.

Literally hundreds of thousands of New Yorkers owe their jobs to international trade:

moving freight in the ports of New York (the nation's busiest), Albany and Buffalo, and at airports like Kennedy International;

manufacturing goods for export in such high-skill and high-technology areas as aerospace, computers and electrical and other sophisticated machinery where America's comparative advantage over foreign competitors is unrivaled; and

financing and otherwise facilitating both the movement of freight and manufacture of exports.

America's liberal foreign trade policies have been the basis for the growth of this international trade which now plays so major a part in our economy.

Every American has a vital stake in the continuation of these liberal trade policies because America must import if it is to maintain its world leadership abroad and high standard of living at home. Energy needs are only the clearest example of this. But, like the links of a chain, imports require exports to pay for them, exports require removal of foreign tariffs and other hindrances so that American exports can compete fairly, and removal of these trade barriers requires a law giving out negotiators the flexibility to bargain effectively with other countries for their removal.

Foreign trade serves our consumers by offering a fuller choice of goods.

The free movement of men, money and ideas across national boundaries is our best hope for closing the gap between the very rich and the very poor nations of the world and, thereby, for bringing improvement in social conditions.

Protectionist legislation, by contrast, would make a reversion to the jungle of economic nationalism. Far from protecting domestic employment, it would invite foreign retaliation which, utlimately, would threaten hundreds of thousands of jobs directly and indirectly growing out of foreign trade.

In summary, therefore, prompt passage of the Trade Reform Act of 1973 is urged because it would continue the traditional liberal foreign trade policies which are the basis for much of our current prosperity and which are essential for our future well-being.

CALIFORNIA CHAMBER OF COMMERCE,
Sacramento, Calif., January 10, 1974.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: The California Chamber of Commerce wishes to submit by means of this letter its position on HR 10710, the Trade Reform Act of 1973, as modified and passed by the House of Representatives on December 11, 1973.

We ask that the Chamber's views on HR 10710 be included as testimony in the hearings record. Copies of this letter have been sent to the other members of the Finance Committee and to Senators Cranston and Tunney.

The California Chamber of Commerce is pleased to note that almost all of the recommendations it made to the House Ways and Means Committee during its consideration of HR 6767 have been incorporated into HR 10710. Thus, the Chamber unequivocally supports Title I, II, III, V and VI of the bill. The Chamber believes that these measures will give the President: (1) full freedom, flexibility and leverage in negotiating trade agreements with foreign nations, (2) the ability, when required, to extend adequate adjustment assistance to workers and firms, (3) the needed power to curb unfair foreign trade practices and to restrict imports whose rapid growth seriously disrupts or threatens to disrupt the U.S. market, and (4) the ability to assist the developing countries by permitting duty free entry of certain of their products into the United States market.

In addition, the California Chamber of Commerce supports the amendment proposed by Senator Mondale and carried on pages S21683 thru S21686 of the December 3, 1973 Congressional Record. The Mondale amendment, co-sponsored by Senator Ribicoff, would update the Trade Reform Act of 1973 to deal with the pressing need to assure equitable access to supplies of food, raw materials and manufactured goods which we and other nations need to support our growing economies. The events of the past few months have clearly demonstrated the importance, in an increasingly interdependent world, of equitable access to essential raw materials. Certainly if the developed countries of the world have an obligation to help the developing countries increase their economic growth, the countries that have valuable resources have an obligation to use them in ways which, for a fair return, will benefit rather than injure the other nations of the world.

The California Chamber, however, looks with disfavor upon Title IV of HR 10710—Trade Relations With Countries Not Enjoying Non-discriminatory Treatment—as modified by the Vanik amendment and passed by the House of Representatives. The Chamber believes that passage of Title IV into law would be counter-productive and thus urges its deletion from HR 10710. In the Chamber's opinion there are four major reasons why Title IV should be deleted from the bill.

1. The humanitarian intent behind the tying of the extension of non-discriminatory tariff treatment, credits and credit and investment guarantees to the freedom to emigrate is commendable. However, passage of Title IV into law is likely to increase Soviet resentment and thus, increase the difficulties faced by the Jews and other minorities in the Soviet Union. The Soviets do not need trade with the United States enough to acquiesce in our interference in their affairs just as we, if the situation were reversed, do not need Soviet raw materials enough to permit their interference in our affairs. Instead of changing the nature of their society for increased trade, there is a good possibility that the Soviets, confronted with Title IV, may adopt even more repressive policies. This could include further, perhaps indirect, harassment of minorities or even an outright prohibition of emigration altogether. Clearly, the passage of Title IV into law is not worth the risk of increasing Soviet repression and/or provoking a decision to cut back on Jewish emigration now occuring at a rate of more than 3,000 a month.

2. Much of the recent improvement in U.S.-Soviet relations has been brought about through persuasion and quiet diplomacy. This type of slowly developed

and fragile detente, possible in large part because of the Soviet desire for increased trade, is needed more than ever today, especially in view of the explosive Middle East situation. The passage of Title IV into law would be a step away from a policy of detente—progress through private diplomacy—and would force the U.S. and the U.S.S.R. back into a policy of confrontation. Such an undermining of U.S. efforts to bring about changes in internal Soviet policy through persuasion and cooperation would not be in the interest of the United States nor would it be in the interest of Israel.

3. The elimination of credits and credit and investment guarantees would reduce the substantial growth which has occurred in recent years in U.S. exports of peaceful, non-strategic goods to the U.S.S.R., the Socialist Countries of Eastern Europe and the People's Republic of China. In 1973 U.S. exports to these countries were well over 2½ billion dollars while imports were some 500 to 550 million dollars, netting a U.S. trade surplus of some 2 billion dollars. A good measure of this growth has been due to the recent more realistic attitude of the U.S. Government towards the improveemnt of East-West trade. This demonstration of interest in trade, including the elimination of unnecessary export controls and the ability to extend credits in certain well-warranted cases, has encouraged the Socialist countries. It has also encouraged U.S. businessmen to make major long term commitments in funds and personnel which are required to develop these complex and difficult markets. U.S. businessmen will not continue long-range efforts of this type if our Government adopts restrictive policies or an "on and off" attitude. Passage of Title IV into law would put the United States into an "off" position, discourage U.S. businessmen, and once again, effectively deliver much of the sizeable and growing Socialist market to our West European and Japanese competitors, all of whom are in business for the long haul and none of whom restrict themselves on matters of credit.

4. Title IV is a serious judgment on the morality of another country and such an expression should not be handled as an amendment to legislation permitting the President to improve U.S. trade.

In summary, the California Chamber of Commerce believes, along with the House Ways and Means Committee, that prohibiting the extension of nondiscriminatory tariff treatment to countries restricting emigration would adequately indicate to the Soviets and the rest of the world the importance the United States places on human rights.

In the case of Title IV as passed by the House, however, the additional far reaching restrictions on credits and credit and investment guarantees would have a limiting effect on U.S. foreign policy and U.S. trade, delaying and frustrating the solution of many of the world's deep seated problems for many years to come. Clearly, it would be better to strike Title IV from HR 10710 and hold it in abeyance until such time as hearings can be held to study and weigh its possible effects on the Socalist Countries and on the United States, and especially until we have had a chance to see what progress detente and quiet diplomacy will make in the Middle East talks.

Senator Long, we appreciate this opportunity to make our views known and wish to comend you for giving high priority to the hearings of the Trade Reform Act of 1973.

Sincerely,

JOHN T. HAY,
Executive Vice President.

STATEMENT OF THE AMERICAN CYANAMID CO., WAYNE, N.J., SUBMITTED BY JAMES G. AFFLECK, PRESIDENT, MARCH 5, 1974

SUMMARY OF COMMENTS AND RECOMMENDATIONS

1. While the President should be given broad powers to negotiate on behalf of the United States, he should be required to do so within criteria set by Congress and be accountable to the Congress consistent with the constitutional obligation of the Congress to regulate foreign commerce.

2. Current laws and practices governing the taxation of foreign source income should be retained without change to avoid penalizing American business by placing it at a competitive disadvantage with respect to foreign companies in both foreign and domestic markets.

3. The authority for the President to extend most-favored-nation treatment to Eastern European nations should be granted since it offers new markets to U.S. business and represents a step toward achieving a stable and peaceful world.

4. The proposed Act should recognize that environmental control standards of the United States and other countries from which products would be imported into the United States must be a factor in determining international tariffs and trade policy between the United States and other nations. Higher capital investment and production costs resulting from required environmental controls are definite factors in competitive trade.

5. The Executive branch of government should be required to seek and use the advice of expert representatives of American business, industry, labor and agriculture in the preparation for and in the forthcoming trade and tariff negotiations. The proposed Advisory Committee for Trade Negotiations can serve as a desirable and useful mechanism in this regard. It is vital that negotiations of both tariff and non-tariff barriers be truly reciprocal in contrast to the outcome of past negotiations.

American Cyanamid Company (Cyanamid) is a diversified company which operates in f ur major segments: consumer, medical, agricultural and chemical.

Cyanamid sales in 1973 were approximately $1.46 billion. While our principal market is the United States, there has been a continuing demand for Cyanamid products and technology throughout the world. As a result, some 32 percent of our sales were made in more than 125 countries abroad.

Cyanamid employs more than 39,000 persons. We operate 64 domestic plants and 64 sales offices in 29 states.

Outside the United States, we have 43 manufacturing plants in 20 countries and 51 sales offices and research laboratories in 32 countries. We manufacture and market overall some 2,500 products.

Over the past 15 years, the dollar flow to the United States as a result of Cyanamid's export sales and the dividends, royalties and interest received by Cyanamid from foreign sources was in excess of $1.2 billion. During this same period foreign operations have contributed more than $327 million to Cyanamid's net after tax earnings.

Our direct foreign investment has had a strong pulling effect on Cyanamid's exports which in 1973 were in excess of $90 million, some two-thirds of which were sent to the company's subsidiaries abroad in the form of intermediates and raw materials. Jobs for 1,200 U.S. production workers are provided by these foreign sales along with an additional 800 management positions in the United States, including jobs in research and development. Our foreign operations are staffed primarily by local personnel. In fact, Cyanamid employs only 28 U.S. citizens in its international subsidiaries.

Cyanamid's involvement in domestic and international business and the knowledge and experience gained therefrom make it clear that there is a vital need at this time for negotiations of both tariff and non-tariff barriers to be truly reciprocal if they are to benefit the United States and the other nations involved.

This can be accomplished only if both sides come to the negotiating table with a willingness to recognize the realities of doing business and a readiness to participate in hard and mutually fruitful bargaining.

The United States must be ready to make concessions, but only in return for equal benefits to this nation and its people. Past experience has demonstrated that our national policy of free trade has not led to fair trade for the United States, and, in some respects, may have been detrimental to U.S. businesses, individual citizens and labor.

Cyanamid endorses in principle the proposed Trade Reform Act. This is especially so with respect to those provisions that seek to maintain and not impair the competitive position of American industry in the world market place. It is in that spirit and to that effect that Cyanamid offers some comments and recommendations on particular aspects of the proposed Trade Reform Act and suggested related legislation.

NEGOTIATIONS—THE PRESIDENT AND CONGRESS

Cyanamid believes in the importance of and supports international discussions aimed at improving our trading system. While the President should be given broad discretionary powers to negotiate trade arrangements on behalf of the United States, he should do so within the criteria established by Congress and be accountable to the Congress. The constitutional authority to regulate foreign commerce is vested within the Legislative Branch. Accordingly, the proposed Congressional participation as official advisors to the U.S. negotiators is consistent both with the Constitution and the President's invitation to Congress to "set up whatever mechanisms it deems best for closer consultation and cooperation to ensure that its views are properly represented as trade negotiations go forward."

We also wish to emphasize the valuable experience and knowledge acquired by U.S. business in its international role. For that reason, we are pleased to note provisions for the transmittal of advice from selected industry groups concerning national negotiating objectives and bargaining positions in specific product sectors prior to entering into a trade agreement. Cyanamid supports, therefore, the proposed Advisory Committee for Trade Negotiations, with representatives from industry, labor and agriculture.

To demonstrate Cyanamid's interest in serving in an advisory capacity, we can note the active participation of our personnel with the Trade Advisory Task Forces of the Office of the Chemical Industry. Mr. John Ludden, President of Cyanamid's Pigments Division, is a member of the group's Policy Committee, and other Cyanamid experts are serving on task forces for medicinals, dyes, rubber process chemicals and pigments.

In developing the guidelines for trade negotiations through passage of enabling legislation, the Congress should be mindful that while nations may become trading partners, the individual trading units of those nations, i.e., the business corporations, are severe competitors. Even as the negotiating nations seek an increase in overall trade through elimination of barriers through common agreement, the negotiators must obtain a hard and reciprocal agreement based on the hard facts of existing and anticipated competition.

TAXATION OF FOREIGN INCOME

Although we recognize that the subject is not yet an integral part of the proposed legislation, we anticipate that the Finance Committee will be asked to consider tax revisions on U.S. foreign investment, and therefore, we would like to comment on this matter.

American foreign investment has produced beneficial results for the United States. It has improved the U.S. balance of trade and overall balance of payments at a time of heightened foreign competition, generated additional and enhanced job opportunities for American workers and generally strengthened the U.S. economy. Moreover, the benefits of U.S. overseas investment transcend this nation; they have been positive contributors to developed and developing countries all over the world.

In Cyanamid's case, foreign operations have contributed more than $327 million to net after tax earnings over the last 15 years. More than half of our subsidiaries' earnings have been returned to the United States as dividends, and, importantly, both U.S. and foreign income taxes have been paid on these dividends. Our subsidiaries retain a portion of their earnings as working capital and for additional plant facilities to permit their business activities to grow and to ensure a strong competitive position for Cyanamid's products in foreign markets.

Cyanamid and other U.S. enterprises operating overseas currently pay heavy income taxes to their host countries. We have had to invest abroad in order to remain competitive with foreign companies. The competition we face is such that if we are restricted in our ability to make foreign investments, we foresee our competitors exploiting this situation to our very real detriment.

For example, our studies indicate that if the U.S. tax laws were changed to impose tax currently on the entire unremitted earnings of foreign subsidiaries, Cyanamid's additional tax payments would approximate $4 million annually. Of this amount, it is estimated that approximately $2 million would be paid to foreign governments as withholding taxes and only $2 million would be paid as additional U.S. taxes. This is because sound business practice for Cyanamid (and presumably for other companies similarly situated) would undoubtedly dictate that the entire earnings of foreign subsidiaries actually be distributed as dividends in order to satisfy in full the ultimate liability for both foreign and U.S. taxes on such earnings rather than pay penalty taxes to the United States on unremitted earnings.

Payment of the dividends and the increased foreign and United States taxes on those distributed earnings would necessitate additional methods of financing foreign operations or, alternatively, the financial condition of foreign subsidiaries would deteriorate to the extent that they would lose their ability to maintain or expand market positions.

As a result, we disagree with the Treasury proposal to add a new section 951(a)(1)(c) to the Internal Revenue Code so as to tax currently the U.S. shareholders of so-called "Foreign Tax Haven Manufacturing Companies." While this would be a limited exception to the tax principle that unremitted earnings of foreign subsidiaries are not taxed currently, it does involve an unwarranted tax penalty. It impinges on the determinations by foreign governments of the appropriate level and method of taxation within their geographical boundaries and could well induce them to raise the income and withholding taxes paid by U.S. interests.

The proposal also would include as tax incentives foreign countries' provisions for accelerated depreciation and investment allowances as well as grants for plant construction. These are widely accepted provisions in the tax laws of many countries to modify the burdensome corporate tax rates otherwise applicable generally in the foreign jurisdiction and not to attract plant investment without regard to the business purpose and necessity of such project.

Application of such a provision to foreign tax incentive operations will constitute a penalty on U.S. companies with foreign-owned subsidiaries which will benefit from such tax incentives. Other countries recognize the basic international taxation principle that the country where income is earned has the primary right to levy the appropriate tax on income earned within its borders. We submit that it is unreasonable for the United States to place a tax penalty on U.S. companies operating in tax incentive countries. To the extent that such a provision discourages foreign subsidiaries from using foreign tax incentives, there will be both short-term and long-term reductions in United States tax revenues from distribution of dividends from subsidiaries. There would be a weakening in the competitive posture of American firms vis-a-vis others operating in tax incentive countries, with a secondary negative impact on U.S. trade and domestic employment.

The United States system for taxing foreign source income has been developed over a period of some 50 years in an attempt to achieve equity, consistency with principles of international taxation and to serve as a sound base for a pattern of double taxation conventions with other countries. We are concerned that the current proposal to extend taxation on unremitted earnings would introduce an inequity into our system of taxing foreign income and impair the tax relationship with other countries.

The President's statement of April 10, 1973, in submitting the Trade Reform Proposal should be given the fullest emphasis in connection with any consideration of changing the United States system for taxing foreign income:

"Our existing system permits American-controlled businesses in foreign countries to operate under the same tax burdens which apply to its foreign competitors in that country. I believe that system is fundamentally sound. We should not penalize American business by placing it at a disadvantage with respect to its foreign competitors."

BROADENING OF INTERNATIONAL TRADE

As a business enterprise operating in a multipolar world, Cyanamid has traditionally supported appropriate bilateral and multilateral governmental efforts toward international negotiation and cooperation, rapprochement and equilibrium. We have always believed that man's best hope for prosperity remains a stable world in which nations seek peace and accommodation. Such a climate can broaden international commerce and permit industry to accomplish what it does best: innovate, create, manufacture, market and distribute. This activity, we feel, stimulates social progress and engenders prosperity, both here and abroad.

The proposed authority for the President to extend most-favored-nation (MFN) treatment to Communist nations represents, to us, a step toward achieving a stable and peaceful world. Moreover, it presents U.S. business with new markets, enabling us to increase production and employment, meet foreign competition more effectively, and contribute to the domestic economy.

We would support the safeguards in the proposed legislation that (1) provide for import relief measures to be imposed by the President resulting from Tariff Commission findings of "marketing disruption and material injury;" (2) protect industrial rights and manufacturing processes, trademarks and copyrights; (3) arrange for the settlements of commercial differences; and (4) promote trade. Moreover, we note that the national interest is further protected by the provisions, which we support, of a three-year limit on the initial extension of MFN treatment and suspension at any time for national security reasons.

Cyanamid recognizes that Congressional failure to pass this legislation places the government of the United States in the position of abrogating international agreements already negotiated, thus weakening the premises on which world trade is conducted, and denies U.S. companies business opportunities currently available to their foreign competitors.

Therefore, we recommend enactment of the MFN provisions of the original Trade Reform Act of 1973 as proposed by the Administration and containing the safeguards previously discussed. We would also recommend that Congress suggest additional trade and financial criteria to the President concerning the initial extension of MFN treatment and either its renewal or withdrawal through the Advisory Committee on Trade Negotiations.

Currently, Cyanamid is also concerned by proposals to restrict American exports of raw materials. Restrictions imposed by the United States would be counterproductive, we feel, because they would inevitably lead to retaliation by other countries. We recommend that Congress make a separate study of this situation to determine if special legislation is warranted, and we caution against sweeping and precipitate measures which could exacerbate rather than remedy the problem.

ENVIRONMENTAL CONTROL STANDARDS A FACTOR

Cyanamid believes that until international standards are developed with regard to environmental control related to manufacturing processes, individual nations will impose varying degrees of restrictions on local industry.

Pollution control has received heavy emphasis in the United States during the past few years and U.S. industrial organizations are having to bear greater financial burdens than many of their overseas competitors. Higher capital investment and production costs resulting from required pollution controls are becoming definite factors in competitive trade. For example, Cyanamid through 1972 made capital expenditures for pollution control equipment on a cumulative basis of $69 million and we expect to commit $34 million more through 1974. The annual costs of operating this equipment and of Cyanamid's pollution-control research were $11 million. And, large expenditures for pollution control will continue. These factors will become more significant during the life of the trade agreements to be negotiated at the next GATT round. As some nations place more emphasis on this facet of the quality of life than others, there will be differences between production processes and costs of companies operating in different countries.

We believe that in drafting trade legislation, Congress should indicate that marked disparities between pollution control standards and resultant costs should be considered and allowances therefor made to bring about comparative equity between the foreign and domestic producers. We believe that this will also encourage other countries to upgrade their own pollution control standards.

BUSINESS/GOVERNMENT COOPERATION

Cooperation between industry and government within the member nations of the GATT demonstrated clearly the effectiveness of the foreign negotiating teams in past sessions of the GATT. This was in contrast with the lack of such a relationship on the part of the United States.

This mistake cannot be repeated. Government agencies concerned with the negotiations nad preparation therefore should be required under the proposed Act to actively seek and use the advice of expert representatives from business, labor and agriculture on the several tariff and trade subjects and products to be considered for negotiation at the GATT. Certainly the kind of body envisioned in the proposed Advisory Committee on Trade Negotiations would be a most useful mechanism for this purpose.

Until now, U.S. government responsibility in foreign commerce has been widely spread among a number of government agencies: the Departments of State, Commerce and Agriculture, the President's Special Trade Representative and others. Federal effort is aimed largely at promoting exports with little attention to foreign investment except for restrictions.

Government policy, attitudes and mechanisms are for the most part still tuned to the world of trade at it was 25 years ago.

The need for a change is becoming critical. Foreign governments, economic blocs and international agencies and forums are beginning to study the multinational company. U.S. multinationals are increasingly finding themselves in a defensive position, because international forums have every appearance of becoming a tug of war between nations with the MNC's in the middle. Unfair, unwarranted restrictions will not only be detrimental to the MNC's, but also threaten negative economic consequences for the U.S. economy.

U.S. government delegates to these agencies and forums must be supported by a firm U.S. policy which recognizes that the export of capital and technology in exchange for profits is equally as important to our economic well-being as the export and import of products.

In summary, Cyanamid appreciates the opportunity of submitting its views and recommendations to the Finance Committee. The central philosophy underpinning our comments is a belief in the efficacy of the private enterprise system in promoting material and social benefits. We are keenly interested in continuing our business overseas, and desire only equity in our dealings with our own government and the governments of the nations in which we operate. We are ever mindful that our success in delivering essential products for human, animal and plant health on a global basis depends on our ability to compete with foreign companies. The record shows, we believe, that our success yields manifold benefits to the United States and the world community. It is for this reason that we trust the Committee will give due consideration to this subject which is of vital concern to our economy and our company.

STATEMENT OF THE GLASS WORKERS' PROTECTIVE LEAGUES OF ILLINOIS-WISCONSIN, INDIANA, OHIO, PENNSYLVANIA, AND WEST VIRGINIA BY HUBERTA M. PATTERSON, SECRETARY, WEST VIRGINIA LEAGUE

The Illinois-Wisconsin, Indiana, Ohio, Pennsylvania, and West Virginia Glass Workers' Protective Leagues, representing members of the American Flint Glass Workers Union of North America and Glass Bottle Blowers Association, not only in the above mentioned States,. but throughout the entire Country, wish to present the following brief statement to the Senate Finance Committee.

This is not the first time these Leagues have entered testimony before Committees. We have been heard on Capitol Hill for more than twenty (20) years. Our organization was one of the first to lobby for higher tariffs, import quotas and anti-dumping laws. We opposed the old Reciprocal Trade Agreements Act and the Trade Expansion Act. We have made personal contracts with the members of the United States Congress, in an effort to protect our job opportunities. We have not been successful. The Government seems to be more interested in helping other Countries than it is in protecting the American wage earner.

We want it clearly understood that we are not against imports. Our opposition is towards excessive imports.

We have been concerned for all these years, but today our concerns are even greater. The imports continue to rise, employment continues to decline. The cost of living is constantly climbing. Now we have the energy crisis. It is becoming increasingly more difficult to maintain our standard of living. If this trend continues the welfare roles will soar. We prefer to earn a decent living, rather than be forced to accept charity.

Within the past few Months our concerns have deepened. Soda ash, which is one of the most important ingredients in glass making, is in short supply. Too much of the domestic supply of soda ash is being exported to foreign countries. The American glass industry is being faced with curtailment of operations, due to the shortage, while foreign plants continue to operate. The products of said foreign plants are being shipped into this country, thus adding more injury.

Another source of concern is the legislation being introduced into State Legislatures, with regard to banning and/or taxing non-returnable containers. In States where the law has been passed, the rate of unemployment has risen. By passage of this legislation, the bottle branch of our industry will be placed in greater jeopardy.

There is growing fear in the hearts of all Organized Labor. The outlook for the future grows darker. Our glass plants are all working below one hundred percent (100%) of productivity. We cannot begin to compete with the low wages of plants in other countries. As pointed out in previous testimony, excessive unemployement is not conducive to a stable economy.

The House Ways and Means Committee reported out a Trade Bill, 151 pages in length. It bears little relation to the Burke-Hartke proposal. If passed into law, the future of the glass industry and many other industries could be placed in the obituary column.

We reiterate, we are not against imports, for we realize that our economy demands trade. We ask for a fair shake. We have labored for too many years building our standards. We would hope to maintain them.

The American glassworker is a skilled craftsman who cannot compete with the low wage craftsman of other Countries. We truly believe that our circumstances require the taking of a hard look at the trade situation.

We recommend that the Senate Finance Committee consider the provisions of the Burke-Hartke proposal, so that over a million Americans can be put back to work. We further recommend that Congress retain control over foreign commerce as provided by the Constitution.

Action is long past due. We cannot survive much longer if this Country continues to give away our job opportunities to low wage workers in other countries. Foreign countries are protecting their industries while we, the American worker has become the forgotten man.

In conclusion, we, the glassworkers of America, urge you, the members of the Senate Finance Committee, to construct a fair trade bill, along the lines of the Burke-Hartke proposal. A bill that will insure the American worker from becoming the Sacrificial Lamb. Thank you.

Statement Submitted by the Florida Fruit & Vegetable Association, Orlando, Fla.

FOREWORD

The purpose of this statement, prepared by the Florida Fruit & Vegetable Association, 4401 East Colonial Drive, Orlando, Florida, a trade association representing growers who produce more than a majority of the fruits and vegetables grown in the State of Florida, is to submit the views of the Florida Fruit and Vegetable Industry concerning foreign trade and tariff matters. The nature and economic importance of Florida agricultural enterprises will be briefly explained. Comments will be made concerning increasing imports from Mexico and other Latin American countries and the effects these imports have on American labor. An attempt will be made to document the efforts of the Association to remedy unfair competition in past years and, finally, information will be filed stating the position of the Florida Fruit and Vegetable Industry concerning the "Trade Reform Act of 1973" and the "Fresh Fruits and Vegetables Market-Sharing Act of 1973" as contained in S. 1110.

PREFACE

There is a great need for a new United States foreign trade policy that is reasonable, fair and dynamic. It must not be based on the selfish aspirations of any particular area or industry but, instead, must serve to protect the jobs of Americans whose source of livelihood is removed or threatened by foreign competition.

For many years, the Nation has been experimenting with the strange philosophy of inviting progressively greater volumes of assorted alien commodities to be marketed in this country, irrespective of their effect on this Nation's employment situation and irrespective of our balance-of-payments position. The free trade doctrinaries have prevailed because they have been able—through the masquerade of promise and concession—to divide industry against industry and section against section each time that opportunity for enactment of sensible trade legislation is in the making.

As a consequence, steadily increasing imports have forced a number of domestic producers out of business, taking a steady toll of jobs across the country which, in turn, has stunted the growth of new manufacturing and processing businesses that otherwise would hold great potential in communities where unemployment now abounds. For the sake of this country's present and future economy, a sane foreign trade policy is imperative.

Our present foreign trade policy is somewhat confusing since the United States, a relatively new but very successful nation, is trying to change the policies of other older nations who are far more experienced in the field of foreign trade, regardless of their economic stature. We favor and should strive for truly reciprocal trade with the proper restaints necessary to prevent serious injury to our national industries, just as other nations have been doing and are doing today.

The value of our foreign export trade in 1970 was no more than four percent of our Gross National Product, far less than that of other nations. The Florida Fruit and Vegetable Industry is not impressed by the worn-out cliche of those who fall within this volume of business, that any trade restrictions, though reasonable they may be, will bring about mass retaliation from our foreign trading partners and create a trade war of catastrophic proportions. Sensible regulation of our foreign trade certainly will not lead to this end. Past experience has shown us that other countries will buy from us only that which they want and need.

It is our desire that the Finance Committee of the U.S. Senate will take a hard look at "The Trade Reform Act of 1973" and will also receive and analyze testimony from representatives of all industries detrimentally affected by import competition. Not only agriculture but the shoe, domestic petroleum, steel, textile, machine, tool, glass, pottery and the multitude of other industries suffering under the impact of cheap foreign competition must unite together if the situation is ever to be corrected.

The present tariff schedules are not sufficient to protect American industry in too many instances—yet, many of these will be further reduced or eliminated if free trade advocates have their way. The United States is the greatest nation in the world, even with all of its foreign give-away programs. However, it is time that consideration be given to the American producer. The Florida fruit and vegetable producer cannot compete with imports from countries that have very low wage rates. The great technological advantages once enjoyed by American producers are disappearing because we share them with our competitors at the expense of the American taxpayer. Unfortunately, the producer cannot operate on a deficit budget like the federal government. He must pay his debts or go out of business. In order to pay his debts, he must be able to market his products at a reasonable profit. It has reached the point where this can be done only with protective tariffs or implementing an import quota or market-sharing type program that will assure him of a market for his commodity.

Current policies of the federal government seem to be inconsistent and, therefore, place the agricultural producer in an impossible position. On the one hand, every attempt seems to be to force the producer to increase his production costs. This phase includes the imposition of higher wages and taxes, stricter laws and administrative policies concerning labor and use of insecticides, the payment of more and more welfare and unemployment—which depletes the available work force—and the position taken by the Department of Labor restricting the use of off-shore or bracero workers for harvest purposes. On the other hand, attempts are constantly being made to reduce or remove present duties and tariffs, forcing the American producer to compete with foreign countries which have substandard levels of living as compared with the United States.

If the producer of food materials stops producing, the United States could rapidly lose its position as the best-fed nation in the world and citizens could actually starve to death in the "land of plenty." Many people who depend on agriculture for their livelihood will be out of employment, not to mention the serious effects that further imports would have on our balance of payments, or the fact that in due course of time, the American people's dependence on many important food items would be at the mercy of the frivolities or caprice of foreign governments.

The present fuel shortage in this country is an excellent example of what can happen if you depend too heavily on imports. The Washington Post on Thursday, April 19, 1973, quoted Sheikh Ahmad Zahi Yamani, one of Saudi Arabia's most influential leaders as saying his country will not significantly expand its present oil production unless Washington changes its pro-Israeli stand in the Middle East. You can park your automobile and walk if you are forced to; but what will happen if the present trend continues and we end up depending on foreign countries to supply our food and we run out of fresh fruits and vegetables in this country? You can't very well stop eating!

Cheap labor and relief from high taxes will lure American producers to foreign countries if imports continue to increase from countries that have sub-standard levels of living as compared to the United States. The technological advantages that prevailed in the United States in past years are quickly diminishing, largely due to educational programs sponsored or supported by our own government, not to mention the United States capital and technicians that have been sent abroad. A close check of our land-grant colleges will reveal many foreign students majoring in agricultural-oriented fields. Hardly a month passes that the Florida Fruit & Vegetable Association is not called upon by some branch of government to entertain foreigners interested in our methods of production and marketing. The information obtained by research projects at both the state and federal level is also readily available to our foreign competitors.

NATURE OF FLORIDA AGRICULTURE

Florida has a diversified agriculture, including the production of a wide variety of fruit and vegetable crops as well as livestock and sugar cane. The Florida Department of Agriculture reports that one out of every three people who work in Florida derive at least a part of their income from agriculture. Florida is known as the "Nation's Winter Vegetable Bowl," as well as the Nation's Citrus Center, since there are several months of each year during which Florida is the sole domestic supplier of many fruits and winter vegetables. It is important to realize that vegetable and fruit producers in Florida claim a share of the produce market in the United States solely because of Florida's geographical location.

During any period or season when vegetables can be produced in abundance in areas to the north of Florida, it rapidly becomes unprofitable to produce commercial vegetables in Florida. Our farmers, therefore, find themselves with productive seasons based on the climatical limitations of other areas within the United States. To permit an increasing volume of foreign fruits and vegetables to be imported during our season will eliminate the only productive period available to Florida producers and, in turn, cause many people to become unemployed. A large majority of them are unskilled and would experience difficulty in obtaining other employment.

The production and marketing costs for our products are relatively high and the risks which include weather hazards are great. Labor is the largest single cost item involved in producing and marketing our crops. Obtaining an adequate supply of capable harvest labor and meeting competition of imports from foreign countries who have an abundance of cheap labor have rapidly become two of the greatest problems facing most producers. The availability of cheap labor has encouraged foreign producers, primarily producers in Mexico, to ship more produce into this country.

Appendix A shows the United States imports (for consumption) from Mexico (by months) for strawberries and selected fresh vegetables for the past thirteen years. This information was obtained from the Foreign Agriculture Service, Fruit and Vegetable Division, Commodity Analysis Branch, U.S. Department of Agriculture, and reflects the tonnage of beans, cucumbers, eggplants, melons, onions, peas, peppers, squash, strawberries and tomatoes brought into the United States in direct competition with Florida products.

A careful study of these figures reveals tremendous increases in imports in most commodities. Figures for the 1973–74 season are only available through January; therefore, statistics for the 1972–73 season will be used to illustrate examples of the tremendous increases in imports from Mexico in the past five to ten years.

The increased imports listed in Appendix A become more meaningful when you compare these tremendous increases with the production figures for the same Florida products for the past five or ten years. Appendix B shows the acres planted and harvested, the production, the average unit price and the total value of several selected commodities. The source of this information is Florida Agricultural Statistics, Vegetable Summary, Florida Crop & Livestock Reporting Service, Florida Department of Agriculture, 1222 Woodward Street, Orlando, Florida 32803. Appendix C is a booklet entitled "Florida Shipments 1972–73 Seasons, Fruit and Vegetable," from the Federal-State Market News Service, P.O. Box 19246, Orlando, Florida 32814.

A careful study of Appendices B and C reveals that Florida production has remained relatively stable for the past ten years. Some commodities are off slightly, others are up slightly, but most have rather constant production figures. This in itself reflects a sick industry. A healthy industry should at least reflect increases to meet the increased demand created by the increase in population.

It is true that per capita consumption of fresh fruits and vegetables remains rather constant but it is also true that the population of the United States is increasing rapidly. This in itself should increase the demand. The Florida producer feels that this increase in demand should be supplied by the Florida producer and not by a country that places numerous trade blockades on the United States.

Domestic producers and shippers are subjected to high labor costs, including workman's compensation, social security, and other prevailing benefits for laborers which are costly and frequently nonexistent in foreign countries. These items have a "multiplier" effect upon high wages in the United States while foreign countries compete for the most part free of these obligations and with fractional wage levels as compared to our own. It is unreasonable to impose on the domestic producer fixed and escalating labor costs created mainly by governmental authority without the benefit of some protection against foreign imports. American producers' laborers and, ultimately, the consumer are certain to be the victims of such an inconsistent policy.

Florida's agriculture brings in market receipts of more than one billion dollars per year to agricultural producers. If you consider the total agri-business complex, it amounts to more than five billion dollars annually which far surpasses tourism, the State's supposedly number one commodity. Thousands of jobs are created by the production, harvesting, processing, handling and marketing of Florida agricultural products, and this employment figure is multiplied by agribusiness firms dealing in services and supplies.

Florida's total agricultural picture includes a citrus crop which provides more than 75 percent of the total United States consumption; winter vegetable supplies which are vital to the Nation's health and welfare; important dairy, beef cattle, poultry and egg industries; field corps and nursery products; a large number of producers of tropical fruits and plants; a dynamic sugar cane industry; as well as other important agricultural industries.

Efficient vegetable production in Florida depends upon a more or less continuous operation during the fall, winter and spring seasons with the tropical fruit industry taking up the slack in the summer. Each season or period is an integral and vital factor in the overall vegetable operation within the State as there is an interdependence of one season upon the other for labor, equipment, marketing specialists and efficient farm operators. If you remove or weaken one season or period in Florida by creating a situation that encourages imports of certain commodities which, in turn, limits our production, it has a direct bearing and influence on the activity and success of the preceding, as well as the succeeding season, the effects being clearly reflected in employment and levels of earnings.

The production of agricultural products, particularly fresh fruits and vegetables, is quite different from any other industry. For some commodities, the seasons are very short. The producer has only a few weeks to market his product and due to the high perishability of most items, storage is out of the question. This prevents him from averaging his profit or loss over long periods of time. If he is placed in a position to compete unfairly, then he has no chance of recovering later.

Also, this Committee should be reminded of the fact that the very nature of agricultural production does not lend itself to long periods of stable prices. Producers not only need, but are entitled to, higher prices at certain times in order to compensate for losses due to disasters, weather conditions, market gluts, etc. If imports prevent these peak prices at times, it places the producer in an unrecoverable position.

Practically all of Florida's agricultural commodities currently have some tariff protection, although the tariff in most cases is not enough to provide adequate protection. Any further lowering of tariff rates would encourage a greater influx of foreign products which are already undermining the marketing picture at the expense of Florida producers. To reduce or remove tariffs on fruit and vegetable commodities imported from Mexico and the Caribbean would certainly undermine and possibly destroy Florida's leading industry.

Unlike agricultural producers in many states, Florida producers have relied very little on federal assistance in the form of price supports. Instead, the various commodity groups have organized within each specialty field and have raised money from their own ranks to actively expand markets and promote the consumption of their products. These groups have spent large sums of money on advertising and promotional material. Continued foreign imports at present levels undoubtedly will disrupt market channels recently created as a result of these promotional activities.

Several commodity groups have used and are presently using state and federal marketing agreements or orders as an effective tool in stabilizing the market. In all cases, attempts are made to satisfy the needs of the consumer as well as to assure the producer of a fair price for a quality product. The costs of these programs have been paid entirely by the commodity groups involved. Continued heavy influx of imports will destroy these successful programs, creating in many cases chaos which will lead to heavy unemployment and abandonment of farming operations by many producers.

A good example is the Florida Tomato Industry which is presently operating under a federal marketing order. One provision of this order permits the tomato producer to impose grade and size restrictions on his product in an effort to improve quality and assure the customer of a better product. Section 8(e) of the Agricultural Marketing Agreement Act of 1937 (as amended) provides for the same restrictions to be placed on imports from foreign countries.

Mexican producers, under the guise of Arizona importers, have fought this section of the Act in one federal court after another for the past several years, preventing the Florida tomato grower from using this marketing aid. Also Mexican tomatoes that do not meet the requirements of Section 8(e) are permitted to be transported across the United States and sold in Canada. The Florida producer cannot sell his off-grade tomatoes and the Mexican shipments to Canada have destroyed a valuable market for the better quality tomatoes that Florida producers once shipped to Canada.

The tropical fruit industry of Florida is comprised of a wide variety of fruits—many being classified as minor or semicommercial—based on the total value received from marketing the individual crops. Our three most important tropical fruit crops are avocados, limes and mangos. We are very concerned with the competition which we face from increasing quantities of fruit being imported from Mexico and the Caribbean areas, such as the Dominican Republic, Haiti, Honduras, etc.

The principal fruit which is being imported in ever increasing quantities is the mango. During the past several years, Mexico has planted heavily with the intentions of exporting this crop to the United States. Also the quantities being imported from Haiti on almost a year-round basis indicate that the Haitian plantings have increased considerably.

Prices received for avocados during the past couple of seasons have encouraged larger imports from the Dominican Republic. Not only do the wages paid in the Caribbean area place the Florida producer in an unfavorable position, but they are also able to take advantage of low cost air transportation rates on a return basis from the Dominican Republic direct to the New York area. We have a duty of 7.5¢ per pound on avocados from offshore but this represents a reduction of 50 percent from the 15¢ per pound duty which we had in past years. The original rate of 15¢ was set when local costs were considerably lower and when local production was considerably smaller. In view of today's increasing production, labor, transportation and marketing costs, the old rates of duty would not even give the Florida producer an opportunity to compete on an equal basis.

The lime industry of Florida is also facing problems created by imports of fresh and processed lime products. Both acreage and production of limes have increased in Florida in recent years. During the 1972–73 season, 778,694 fifty-five pound units were shipped on the fresh market, representing 89 percent of the U.S. market supply. Efforts have been and are being made to increase sales to fresh outlets; however, to date, the demand for fresh limes consumes only 850 to 875 thousand bushels a year.

The remainder of the lime crop, which in 1972–73 was 981,306 fifty-five pound units must go into processed form and this is where we confront tremendous competition from imports from low-wage and low-cost areas such as Mexico, Ghana, Tanzania and the Island of Dominica as well as Jamaica, St. Lucia, Trinidad, etc. We also must compete with lemon juice produced locally and imported from foreign sources.

Lime juice is presently being imported into the United States; however, the Florida tropical fruit growers are capable of supplying the domestic demand for lime juice, lime oil, etc. An increase in the duty on lime juice would have very little effect on the retail price to the American consumer but it would aid the Florida producer.

NATURE OF MEXICAN AGRICULTURE

A group of representatives of the Florida Fruit & Vegetable Association visited Mexico during the early part of March 1973, and again in January, 1974. In addition to attending the Annual Meetings of the Union Nacional de Productores de Hortalizas where they visited with a number of producers, the group also toured several of the major production areas. They saw thousands of acres of safflower, peppers, squash, tomatoes, beans and other items under production and vast areas of land being cleared and prepared for future production.

Information obtained in Mexico indicates the costs of production on tomatoes up until time of harvest is about $200 per acre. This compares with over $600 per acre in Florida. With an average yield, the Mexican producer needs $3.25 to $3.50 per 30# box at Nogales, Arizona to break even. The Florida farmer must obtain about $5.25 to $5.50 F.O.B. in order to break even.

Mexican vegetables and melons produced for export to the United States come mainly from the West Coast where they have been grown for a number of years. Principally involved are areas in the States of Sonora and Sinaloa as far south as Culiacan. Output of tomatoes, the main vegetable grown, has been moving upward repidly and, in recent years, has decidedly shifted to the stake-grown vine-ripened product.

Mexican production continues to increase in other production areas with expansion in crops other than tomatoes. A sharp upward trend has taken place in acreage, production and exports to the United States of practically all winter vegetables. (See Appendix A.) With attempts by Yucatan to produce winter vegetables for export, we can look forward to increasing imports of citrus, strawberries, tropical fruits and winter vegetables in future years.

The following statistics using figures from Appendix A show imports in pounds for selected commodities for the 1972–73 season and the percentage increase over the past five and ten years.

Tomatoes, fresh:	
1972–73 imports (pounds)	745, 146, 000
Percentage increase over 1967–68 season	107. 6
Percentage increase over 1962–63 season	215. 9
Strawberries, fresh:	
1972–73 imports (pounds)	36, 807, 000
Percentage increase over 1967–68 season	49
Percentage increase over 1962–63 season	1, 400
Beans, fresh:	
1972–73 imports (pounds)	16, 505, 000
Percentage increase over 1967–68 season	148
Percentage increase over 1962–63 season	125
Cucumbers, fresh:	
1972–73 imports (pounds)	174, 145, 000
Percentage increase over 1967–68 season	198
Percentage increase over 1962–63 season	793
Eggplant, fresh:	
1972–73 imports (pounds)	39, 407, 000
Percentage increase over 1967–68 season	307
Percentage increase over 1962–63 season	1, 234
Peppers, fresh:	
1972–73 imports (pounds)	84, 619, 000
Percentage increase over 1967–68 season	242
Percentage increase over 1962–63 season	455
Squash, fresh:	
1972–73 imports (pounds)	38, 893, 000
Percentage increase over 1967–68 season	403
Percentage increase over 1962–63 season	2, 293
Watermelons, fresh:	
1972–73 imports (pounds)	166, 097
Percentage increase over 1967–68 season	171
Percentage increase over 1962–63 season	164

With the present tariffs, the Florida producer cannot remain competitive with the Mexican competition he is receiving today. For instance, the average prevailing wage for farm labor in Mexico is approximately $4.00 per day for a ten-hour day. This compares with the Florida agricultural wage rate of $3.30 per hour for all piece rate workers in October, 1973. (Source: USDA, Statistical Reporting Service, Orlando, Florida). Additionally, foreign employers are not required to carry insurance or supply many more of the so-called fringe benefits that are now considered normal operating procedure in the United States. Broader means of controls must be considered if agriculture is to maintain its economic contribution to Florida.

The American consumer cannot distinguish between a Florida produced or Mexican produced tomato, cucumber, bean, etc. She also cannot determine different cultural practices distinguishing the types of fertilizer, spray materials or packing-house conditions between two countries. It is obvious there are differences since Mexico has fought efforts of the Florida Fruit & Vegetable Association to have fresh fruits and vegetables labeled as to their country of origin. They produce the same varieties that we do in Florida, but they are not willing to have them identified as Mexican products.

All members of the group visiting Mexico were cautioned by the travel agency, the agricultural attache of the American Embassy, and others not to eat any fresh fruits or vegetables. It seems somewhat of a mystery that Americans visiting Mexico are instructed not to eat their produce, but the "good old U.S.A." opens its borders freely to the same commodities so American consumers can purchase them without warning.

The last stop of the group visiting Mexico before returning home was a visit to Nogales, Arizona and Mexico. A visit to the Agriculture Inspection Compound on the Mexican side of the border and the Customs Inspection Station on the United States side of the border revealed that both inspections were a total farce.

It was reported that the Agricultural Compound on the Mexican side of the border where all trucks are inspected by U.S.D.A. personnel before entering the United States has thirty-three inspectors employed, and with time off, etc., works about twenty-eight inspectors daily. The compound is open from 8:00 A.M. to 4:00 P.M. and runs inspection on over 300 trucks daily during peak periods plus pigs (T.O.F.C.). The group witnessed the inspection of more than fifty trucks and the biggest sample looked at was ten cartons from a load of over 1,300 packages. Almost every sample was taken from the right rear door of the truck with the left rear door not even being opened in most cases. The average inspection involved six to nine packages, all taken from the right rear of the truck. It was stated that you could put an elephant in the front of the truck and no one would ever know it.

This procedure was quite alarming since these trucks were all coming from the Culiacan district, reportedly the largest marijuana and drug traffic area in the world. Not only is this type of inspection unfair to the Florida tomato producers who are forced to have compulsory inspection under a federal marketing order, but it opens the door of our border for smuggling of about any type of contraband imaginable.

At the U.S. Customs office it was reported that it takes them less than three minutes to clear a truck-load of produce. Again all samples are taken from the right rear door and many loads passed through with no samnles being taken at all. It is quite interesting to note that it took each member of the group about thirty to forty minues to clear customs at Tucson, Arizona, with an average of two suitcases apiece and yet U.S. Customs at Nogales can clear a truck loaded with more than 1,300 thirty-pound cartons of persumably tomatoes in less than three minutes.

Upon returning from Mexico, the group made a formal complaint to the U.S.D.A. through the office of Senator Chiles stating that the total inspection system in Nogales was a farce and the produce was not being inspected as required by Section 8(e) of the Agricultural Marketing Agreements Act of 1937 (as amended). Rather than make any effort to correct the situation, the U.S.D.A. simply changed the regulation governing inspection procedures under a federal marketing order to appease the Mexicans.

In the latter part of March, 1973, several loads of Mexican produce were turned back at the border because they had detectable residues of the pesticide Monitor-4. An investigation revealed that Monitor-4 was used on peppers, cantaloupes, tomatoes and other items although it was not cleared for use on these commodities. To obtain label clearance for a pesticide on a new commodity is a very lengthy and costly procedure taking from three to five years and costing many thousands of dollars—(sometimes millions).

Apparently a tremendous amount of political pressure must have been applied because the Food and Drug Administration arbitrarily established a tolerance of .1 ppm of Monitor-4 on the commodity peppers and notified all states to accept these peppers released at the border containing detectable residues of Monitor-4. This was done even though the manufacturers of the chemical had not requested that it be used on peppers.

Here we have two excellent examples of special rule changes to appease importers of Mexican produce. Either of these two requests would have been flatly denied had they been requested by Florida producers.

It should also be pointed out to this Committee that Mexico imposes very strict regulations on imports into their country. It is impossible for Florida to ship fresh produce into Mexico during their season. It is difficult to explain to a Florida producer why our government continued to make concessions to Mexico, threatening his very livelihood, when Mexico in turn slams the door in his face.

HISTORY OF ASSOCIATION'S EFFORTS FOR FAIR TRADE

In December 1963, witnesses representing the Florida Fruit & Vegetable Association, Florida Vegetable Canners Association, the University of Florida, and the Florida Department of Agriculture appeared before the Tariff Commission requesting that a number of fruit and vegetable commodities be removed from the list of negotiable items to be considered in the so-called Kennedy Round. These statements contained facts and figures of the impact that these various commodities were experiencing due to excessive imports from low-wage foreign countries. At that time, it appeared that a status quo on the present tariff structure would supply the Florida producer with adequate protection to compete with our friendly neighbors to the south. Our efforts were successful to a large degree and the tariffs were reduced on only a few of the fruit and vegetable commodities. Since that time, production costs have increased sharply each year and the agricultural picture has changed rapidly in some of the competing countries, primarily Mexico and the Caribbean. Florida producers now find that the present tariffs are inadequate and for the past several years have consistently asked that the federal government give serious consideration to some type of import quota or market-sharing program.

It is very gratifying to have this fine and most important Committee of Congress resume its in-depth study and consideration of one of the most serious problems concerning our nation today. Many months have passed since you last considered the problem, but the elapsed time has not been a total loss since it has served the valuable purpose of adding substance and credence to the statements which were made in earlier Hearings before this Committee.

For the purpose of this record and in order to avoid duplication of information already available to this Committee, your attention is called to some of the statements and information submitted on behalf of our affected Florida fruit and vegetable industries. In this reference, we refer the Committee's attention to Part 10 of the record of the Hearings before the Committee on Ways and Means, House of Representatives on Tariff and Trade Proposals, commencing on page 4951, as follows:

Introductory and written statements of Honorable Paul G. Rogers, a Representative in Congress from the State of Florida,

Statement of J. Abney Cox, Past President and Chairman, Competition & Marketing Agreements Committee, Florida Fruit & Vegetable Association, including a statement on the views of the Fruit and Vegetable Industry of Florida submitted by the Florida Fruit & Vegetable Association,

Statement of Buford W. Council, Council Farm, Inc., and presently Vice-President of the Florida Fruit & Vegetable Association,

Statement of John S. Peters, General Manager, Florida Tomato Committee,

Statement of Robert W. Rutledge, Executive Vice President, Florida Citrus Mutual,

and commencing on page 5023,

Statement of Louis F. Rauth, Flavor Pict Cooperative.

These statements represented the problem, the issues and recommendations of the Florida Fruit and Vegetable Industry as related to our foreign trade policy, and we respectfully request that the Senate Finance Committee review them for the purpose of their deliberations on this subject at this time.

By way of updating the problem, Mr. Joffre C. David, Secretary-Treasurer and General Manager of the Florida Fruit & Vegetable Association, presented a statement before the Committee on Ways and Means, House of Representatives, in May of 1970. Attached to his statement as an exhibit was a special report on fruit and vegetable imports from Mexico prepared by the Federal-State Market News Service and dated May 19, 1970. This report stated that for the year ending June 1969 there were 73 different commodities imported from Mexico compared to only 46, nine years earlier. The increase was due mainly to domestic type vegetables and frozen fruits and vegetables. This demonstrated the inroads being made into our markets by foreign countries at the expense of our domestic producers. This trend has continued with Mexico being the principal contender for this exploitation of the United States market, but there are other countries who are doing likewise.

As a result of requests by the Association, the Fresh Fruits and Vegetables Market-Sharing Act was introduced in the 91st Congress by Senator Holland and Representatives Gibbons, Herlong and Rogers and again in the 92nd Congress by Senators Gurney and Chiles and Representatives Burke, Frey, Haley and Rogers. Similar legislation was introduced in 1973 by Senators Gurney and Chiles (S. 1110), Representatives Haley, Rogers and Bafalis (H.R. 5413), and Representative Frey (H.R. 1500).

This legislation is designed to permit a market-sharing arrangement with other countries which would allow foreign countries to export products to the United States and at the same time assure the American producer of a share of the market for his own commodity. The ultimate goal of this legislation is to assure the American producer of a chance to market his product—which increases the demand for labor—and stimulates the economy.

IMPORTS AND AMERICAN LABOR

The restrictive foreign labor policy of the Department of Labor since December, 1964 has been a great stimulant to the foreign competition problem, and the resultant impact on American farm workers' opportunities as well as upon the individual farm producer. National policy concerning imports cannot be totally separated from national policy concerning the amount of agricultural labor, both domestic and foreign, that is available to our industry.

According to the Statistical Reporting Service of the Department of Agriculture, farm employment in the United States during the week of July 22–28, 1973, was 5,256,700 as compared to 7,516,000 in July 1964, just prior to the start of the restrictive foreign labor policy.

The number of family farm workers during the last week of July of 1973 was 3,459,400 as compared to 4,969,000 in July 1964.

The number of hired farm workers during the last week of July 1973 was 1,797,300 as compared to 2,547,000 in July 1964.

The foregoing figures reveal that we have lost 1,509,600 family farm workers from the national farm labor force and 749,700 hired laborers during the nine years from July 1964 to July 1973.

Other official government data shows that full employment opportunities have existed for American farm workers throughout the above period; however, heavy losses of farm workers from the domestic labor force have occurred. These losses may not be easily associated with the problem of foreign competition. For example, it is a well-known fact that recent social changes and improved and more accessible training and educational programs have been responsible to some extent for the loss of farm manpower in this country. It may be questioned, therefore, whether the increase in foreign competition has had any effect at all upon the American farm worker. The answer is an emphatic "Yes" and should be readily understood. The American farmer would be able to offer much higher wages and provide a much higher standard of housing and working conditions for his farm employees if he did not have to face such tremendous competition from cheap labor countries. The average American farmer would like to offer wages comparable to the highest industrial wage paid in the United States if it were possible for him to do so and continue to operate his farm on a profitable basis.

One of the arguments advanced by the Department of Labor in support of their restrictive attitude towards the importation of supplemental agricultural workers was that a part of the wages earned by such workers went to foreign countries and the "balance of payments" problem was thus aggravated. However, when American production is restricted because of the farmer's inability to obtain sufficient workers to maintain his usual volume of production, many American workers in the agri-business complex are adversely affected. Furthermore, when cut-backs in American production and potential increases in production due to the increased demand are replaced by imported commodities, the American purchaser is sending the price of the full wholesale value to the foreign country of origin instead of a minor portion of the wages that might have been paid to produce that commodity in the United States. Thus, if we paid 25¢ to a Mexican national to harvest a lug of tomatoes, perhaps one-third of this would ultimately find its way to Mexico. Now that we no longer have Mexican workers in the abundance of previous years, we are sending approximately ten to twenty times this amount into Mexico for the lug of tomatoes that is being imported in competition with the American product. It is apparent that the "balance of payments" problem is more seriously aggravated by this increase in the flow of vegetable commodities and fruits from Mexico.

When Mexican imports are undermining our efforts to maintain a favorable balance of payments in international trade, the resulting inflationary effects are felt by every taxpayer in the country. When such imports undermine the American farmer's ability to compete with other American industries for an adequate domestic work force, and when Administration policies do not allow the American producer to obtain labor relief in the form of imported supplemental workers, it is apparent that every wage earner whose employment is wholly or partially dependent upon our agricultural output is being adversely affected. The Florida Department of Agriculture estimates that one out of every three people who work in Florida derive at least part of their income from agriculture.

It is the sentiment of the Florida grower that as a citizen of the United States he should be entitled to full priority when it comes to domestic marketing opportunities and that he and his employees should not be subjected to the adverse effects of foreign competition when their own productivity is adequate to meet the needs of the American people. The transfer of increasing numbers of farm operations and food processing operations to nearby foreign countries is evidence that we do not have an economic climate conductive to the continued expansion of our agricultural industry even though the population growth alone warrants and, in fact, will demand an increased production of food stuffs in the immediate years ahead.

"FRESH FRUITS AND VEGETABLES MARKET-SHARING ACT OF 1973"

The Florida Fruit & Vegetable Association sincerely feels that S. 1110 introduced by Senators Gurney and Chiles is legislation that will not only aid the agri-business of our Nation, but will also protect the consumers' welfare. Similar legislation, H.R. 5413 and H.R. 1500 has been introduced in the House by Representatives Haley, Rogers, Bafalis and Frey. This legislation marks a shift away from rigid protection of domestic industry by recognizing the claim of foreign countries to a fair share of our market. The bill is designed to establish a ceiling over imports while permitting them to participate proportionately in the domestic consumption of any product made subject to a ceiling.

The authority of the President under the Agricultural Act of 1956 to seek to obtain agreements with other countries—limiting the export from such countries and the importation into the United States of agricultural commodities—has not been exercised with respect to fresh fruits and vegetables. The Florida Fruit & Vegetable Association requested the President of the United States to enter into such an agreement with Mexico in July 1969—but our requests resulted in no action being taken. (See Appendix D).

During the intervening months and years, imports of certain fresh fruits and vegetables into the United States have increased to such extent as to disrupt the market for such commodities produced in the United States. This increase in imports has been caused in large part by lower costs of production in other countries, especially in the wages paid to agricultural employees, which it is the policy of the United States to maintain at relatively higher levels than other countries. Because of this unfair disparity in costs of production which exists in other countries by reason of the payment of substandard wages, it is practically certain that imports of fresh fruits and vegetables will continue to increase and further destroy the market for such commodities produced in the United States.

Access to the United States market for foreign produced fresh fruits and vegetables should be established on an equitable and orderly market-sharing basis consistent with the maintenance of a strong and expanding United States production of fresh fruits and vegetables. It should be designed to avoid the disruption of United States markets and unemployment of the United States agricultural worker.

The Association is aware of the fact that in order to export we must import; however, it does not follow that we must submit our industries to highly destructive imports. The United States is a better market for imports when it is in a prosperous state. A good marketing situation is not created by driving some of our major industries to stagnation by unrestricted imports that undersell our own products.

The standard of living enjoyed by citizens of the United States did not come about by accident. Our economy is geared to high wages, etc., but the chain is broken when you force the American producer to pay high wages and then bring in goods produced in low-wage countries to compete with his commodity on the open market. We have aided the foreign countries by supplying them with technology and education. The Vice President for Agricultural Affairs at the Institute of Food & Agricultural Sciences at the University of Florida stated recently that there were students from 45 nations studying agriculture at the University of Florida, and most of them are sponsored or subsidized by our own government.

Many professors from the University of Florida have been sent to foreign lands, again at the expense of our government, to teach proper methods of production and marketing of their commodities. This is fine if the intent is to train them so they can provide some of their own needs in terms of meeting their particular food requirements. But this is not the case. As soon as production methods are learned, they turn around and flood our markets with the commodities we taught them how to produce.

We are hopeful that this Committee will be able to come forth with recommendations that will provide the necessary protection to our producers and to the employees whose livelihood is dependent upon industries which are vulnerable to foreign competition from low-wage countries. We feel that legislation as contained in S. 1110 will accomplish this objective.

PROTECTION IN ADDITION TO TARIFFS

There is a definite need for some type of import control other than the present tariff structure. The volume of fresh winter vegetables and melons imported from Mexico into the United States has increased rapidly since the late fifties. (See Appendix A). The present tariff rates are not sufficent to protect the domestic producer.

The controls needed cannot be implemented administratively since representatives from the Foreign Agriculture Service have informed the Florida Fruit & Vegetable Association on numerous occasions that present legislation, such as Section 22 of the Agricultural Adjustment Act and Section 8E of the Agricultural Marketing Agreement Act, are no longer adequate to assist the farmer in most cases.

Their phrase "no longer adequate" to assist the farmer is rather amusing. If you read the findings and recommendations under the so-called "escape clauses", you will see that they never were "adequate" to assist the farmer.

The free trade advocate continually preaches that there are adequate "escape clauses" to protect the American producer from unfair competition. This is a farce. Anyone interested in seeing just how badly the American producer has been "sold down the drain" should find the following publications quite interesting reading:

(1) Investigations under Section 332 of the Tariff Act of 1930 (covers 1/1/52 to 7/1/63) TC Publications 97.

(2) Investigations under Section 336 of the Tariff Act of 1930 (covers 1/1/46 to 8/1/63) TC Publication 105.

(3) Investigations under Section 22 of the Agricultural Adjustment Act. (all investigations to 5/1/68) TC Publication 246.

(4) Investigations under the Escape Clause of Trade Agreements (1951 to 10/11/62) TC Publication 116.

(5) Summary of Investigations under Section 301 of the Trade Expansion Act of 1962. Dated December 1967.

Copies of the above listed publications can be obtained from Mr. Kenneth R. Mason, Secretary, U.S. Tariff Commission, Washington, D.C. 20436.

We urge the Committee on Finance of the U.S. Senate to recommend legislation designed to regulate the flow-to-market of goods from foreign countries by use of quantitative controls, such as import quotas, etc. Strong consideration should be given to legislation that will provide for import quotas or market-sharing arrangements that will protect the American producer and consumer. The end result should not be designed to gouge the consumer, but should be designed to assure the American housewife of an adequate supply of fresh fruits and vegetables at a reasonable price and give the American producer the right to supply these commodities during our seasons of production.

EXPORT-IMPORT STATISTICS

We have chosen not to fill the record with a lot of bulky testimony concerning the need for a change in our methods of compiling export and import statistics. It is a well-known fact that our balance of payments figures are very misleading, since our foreign aid and other give-away programs are considered to be exports. This subject was quite adequately covered by Florida Fruit & Vegetable Association briefs and witnesses' testimony presented to the Trade Information Committee at its hearings on the Future of U.S. Foreign Trade Policy, April 23, 1968, in Washington, D.C. Copies of our testimony should be readily available to this Committee, if they are needed.

TRADE REFORM ACT OF 1973

The "Trade Reform Act of 1973" must be referred to as a sweeping delegation of power from Congress to the President to do almost anything he wants to do. It gives the President the authority to get rid of existing trade barriers and also to erect new ones. He could move toward the free trade side or he could use his new power in a highly protective way. While some of these provisions are certainly desirable, the Act would strip Congress of its clear constitutional function and give the White House dictatorial powers over trade regulations.

The President certainly needs additional bargaining power in future trade negotiations since our delegates at trade conferences in the past have been badly out-traded. Obsessed with a blind zeal for free trade, they expended their ammunition without obtaining equal concessions from other countries in return.

This leaves the United States with very little bargaining power left. Certainly the President should be rearmed, but why leave Congress out. The regulation of foreign commerce and the establishment of duties is one of the clearly enumerated powers of Congress. Under this Act the Congress would divest itself of this power and be placed in a position of vetoing actions of the President instead of the reverse.

The Act futher grants the President the right to delegate the power, authority, and discretion conferred upon him to the heads of such agencies as he may deem appropriate. Also the head of any agency performing functions under this Act may authorize the head of any other agency to perform any of such functions.

In other words, the Congress of the United States would delegate power to the President to do almost anything he wanted to concerning foreign trade. The President could then delegate this power to the head of an agency who could then authorize the head of any other agency to perform functions under the Act. If an affected party or industry objected to an action under the "Trade Reform Act of 1973", there would be no recourse by law. The only recourse would be to petition for a hearing and any relief would depend strictly on political power. The size of the party or industry affected would be the decisive consideration and medium or small industry groups would be at the mercy of the President's pleasure since they would have no rights under law providing them the least amount of leverage.

Under the provisions of this Act, the President could increase any tariff without limit, or reduce or eliminate it altogether. The Congress would thus relinquish all guidelines which have been provided for in all previous trade agreement legislation. Tariff reductions with only few exceptions have been limited to 50 percent of any existing rate and could not be raised beyond a specified level. Under this Act, the President would have no such guidelines.

The Act would relax the present harsh requirements for granting import relief. It would no longer be necessary to link any increased imports to a previous tariff reduction; nor need the increased imports be the "major" cause of the injury suffered, but a "primary cause" defined as the largest single cause. This is certainly a more realistic approach. Injury to an industry would be easier to prove, but what assurance would you have of any subsequent action being taken.

The Tariff Commission would continue to hold hearings and investigate possible injury to an industry. Their findings would be reported to the President but he would not be compelled to take any action. He could increase the duty, impose some other import restriction such as a quota, negotiate an orderly marketing agreement with other countries, a combination of these remedies or do nothing. Again, political pressures would depend on the size of the industry involved.

Adjustment assistance would no longer be available to any company or industry but only to workers. Not only would this represent discriminatory treatment, it would increase unemployment payments, further decreasing the already dwindling labor supply. This part of the Act would be administered by the Secretary of Labor and past history proves that the Florida agricultural industry has not fared too well in the past under similar arrangements.

The President would also be empowered to deal with balance of payments deficits or surpluses. He could impose a temporary duty surcharge or import quota, or reduce temporarily or suspend duties, or liberalize or suspend import quotas in the event of a trade surplus. Again the magnitude of the modification would be left to the President's discretion.

The Florida Fruit and Vegetable Industry favors many provisions of this proposed Act. It provides the President of the United States with the tools to meet competition head-on and to deal with unfair trade advantages as they develop. There should, however, be more guidelines established. For instance, why go through all of the expense of conducting a Tariff Commission hearing if the President is not compelled to follow the recommendations coming from such a hearing.

The Florida Fruit & Vegetable Association recommends that strong consideration be given to amending the "Trade Reform Act of 1973" or any other such legislation that might be recommended by the Committee on Finance of the U. S. Senate to include the provisions of the "Fresh Fruits and Vegetables Market-Sharing Act of 1973". This would go a long way toward providing for orderly trade in fresh fruits and vegetables by insuring a market for Florida produced products and at the same time allowing imports to share our market with us.

SUMMARY

Realizing that the world trade picture is currently in a state of flux, and that changes and adjustments in marketing circumstances undoubtedly will occur in future years, the Florida Fruit & Vegetable Association would like to go on record as firmly opposing any action that would encourage more foreign agricultural products being imported into the United States from low-wage countries without adequate protection.

Such a move at the present time would be at the direct expense of agricultural interests in Florida and the United States, and any temporary economies which might possibly be realized by the consumer would be more than off-set by increased costs of another nature, including the displacement of persons now employed in the agri-business complex.

This country's foreign trade policy is lacking in firmness and practicality, both as to the problems of foreign imports competing with our domestic production and the export outlook for some of our crops. Every country with whom we do business seems to have a well-tailored foreign trade policy which fits their particular needs regardless of what our wishes might be.

In recent years we have been out-traded by other countries with whom we do business and have nothing to show for our efforts to bring about freer world trade. The efforts of our government to achieve reasonable business agreements with our trading partners have been largely unproductive. Our own experience with government negotiations with Mexico to draft an agreement regulating the importation of tomatoes turned out to be a fiasco. Such agreements could be successful if they were backed by governmental policy and authority as set forth in S. 1110 which makes it clear that an effective import policy would be put into operation if an equitable agreement could not be reached.

The decline in our fruit and vegetable production as a direct result of foreign competition means a loss to the State of Florida which will run into the hundreds of millions of dollars if this problem is not properly contained by appropriate Congressional action. We, as an important agricultural state, cannot afford this economic loss and neither can the Nation.

What is needed is a national policy that is comprehensive in its scope and fully coherent—one that does not work against the interests of the American employee or his employer. Adjustments of national policies must be made, both with respect to the importation of foreign goods and with respect to our needs to expand our agricultural labor force by one means or another.

Our Nation's greatest asset is her agricultural productive capacity. As an economic segment, agriculture receives less than its fair share of our national wealth. Any program which encourages increased imports of foreign food items at this time will seriously undermine our national agricultural well-being and the economy of this great Nation.

We strongly urge favorable consideration of legislation similar to S. 1110. This will assure the domestic producer of a chance to market his product and, at the same time, it will permit foreign countries to share our market. American consumers and domestic labor will benefit, which in turn, will be beneficial to the total economic position of the United States.

We are grateful to the Committee on Finance of the U.S. Senate for its consideration of the serious problem which confronts us in the area of foreign trade policy, and are hopeful that the information we have submitted together with that of other similarly concerned industries will provide the Committee with sufficient assistance to shape up a legislative proposal which can resolve our problems as well as provide a sane and respected foreign trade policy for our Nation.

APPENDIX A

U.S. Imports (for Consumption) From Mexico

Strawberries and Selected Fresh Vegetables

(Foreign Agricultural Service, Fruit and Vegetable Division, Commodity Analysis Branch, March 1974)

TABLE OF CONTENTS

STRAWBERRIES, FRESH: U.S. Imports from MEXICO

Season	October	November	December	January	February	March	April	May	June	July	August	September	TOTAL
	1,000 pounds												
1960-61	---	---	23	26	10	305	19	4	---	---	---	---	387
1961-62	---	13	201	187	150	329	72	14	---	---	---	---	966
1962-63	---	41	103	576	702	319	595	113	4	---	---	---	2,453
1963-64	---	394	708	210	538	1,357	354	233	---	---	---	---	3,794
1964-65	4	464	931	722	729	1,273	921	111	32	---	---	---	5,187
1965-66	---	746	1,256	1,945	1,849	2,279	1,519	176	---	---	---	---	9,770
1966-67	21	870	3,080	2,720	3,634	4,741	2,912	748	---	---	---	---	18,736
1967-68	22	982	4,730	6,851	6,439	3,205	2,390	57	15	20	---	---	24,711
1968-69	378	1,946	4,960	8,520	11,178	10,910	5,185	71	---	---	---	---	43,148
1969-70	31	1,229	7,093	9,269	13,124	14,297	3,264	---	---	---	---	---	48,307
1970-71	127	1,578	7,305	9,939	12,475	16,258	2,850	---	---	---	---	---	50,532
1971-72	6	1,365	6,355	6,675	13,182	14,066	2,712	22	---	---	---	---	44,383
1972-73	65	1,509	3,842	6,495	10,124	11,656	3,098	13	---	5	---	---	36,807
1973-74	205	1,086	4,941	7,008									

STRAWBERRIES, FROZEN: U.S. Imports from MEXICO 1/

Season	January	February	March	April	May	June	July	August	September	October	November	December	TOTAL
	--1,000 pounds--												
1960	152	1,448	626	6,681	8,042	3,521	2,088	614	905	499	192	249	25,017
1961	601	1,692	5,897	9,163	6,569	2,919	1,250	380	325	357	144	520	29,817
1962	318	996	6,463	8,745	5,297	5,958	1,368	1,289	608	658	369	212	32,281
1963	679	2,675	7,321	8,114	6,978	3,445	2,278	1,007	563	494	365	631	34,550
1964	669	1,788	12,963	9,563	5,626	4,233	2,761	825	640	82	237	333	39,720
1965	1,477	4,475	9,270	13,009	6,967	5,930	3,062	1,949	624	915	1,888	2,230	51,796
1966	2,166	6,227	12,662	22,055	15,002	7,333	5,165	3,291	2,507	1,665	2,526	2,227	82,826
1967	3,645	1,315	6,605	17,701	12,280	9,622	4,961	4,802	3,821	3,885	1,066	2,990	72,693
1968	6,768	7,911	7,517	8,312	14,240	8,494	4,994	2,028	567	1,459	2,565	3,344	68,199
1969	8,472	8,847	12,263	14,925	11,613	11,914	7,703	5,072	1,563	1,059	1,628	2,903	87,962
1970	7,236	9,658	15,436	20,470	14,835	13,347	5,386	3,824	3,183	3,028	2,604	2,512	101,519
1971	4,888	5,599	11,399	14,175	14,666	12,848	6,258	2,105	6,926	1,404	733	2,164	83,165
1972	3,423	5,813	12,603	14,262	14,894	13,829	5,553	3,181	1,144	1,391	1,808	3,256	91,157
1973	6,051	4,713	11,401	28,145	17,807	17,008	11,610	3,348	2,318	925	1,588	1,766	106,680
1974	6,844												

1/ Prior to September 1963, classified as "berries, frozen, NES." However, such classification believed to have consisted almost entirely of frozen strawberries.

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BEANS, FRESH: U.S. Imports from MEXICO

Season	October	November	December	January	February	March	April	May	June	July	August	September	TOTAL
	1,000 pounds												
1960-61	24	693	1,860	1,692	1,135	1,817	2,567	316	203	188	79	3	10,577
1961-62	---	170	1,216	1.002	1,395	901	1,293	630	475	285	147	---	7,514
1962-63	---	85	164	2,921	1,076	1,167	1,214	606	39	66	---	---	7,338
1963-64	---	173	1,244	1,701	1,033	690	1,719	676	63	72	3	---	7,374
1964-65	19	148	1,398	2,810	2,286	575	907	380	113	182	30	---	8,848
1965-66	3	---	968	1,696	799	738	536	123	105	31	5	8	5,012
1966-67	3	401	1,667	1,960	1,259	1,334	1,084	496	44	216	111	13	8,588
1967-68	---	159	486	2,206	1,462	844	853	379	120	120	3	20	6,652
1968-69	---	---	1,835	3,020	2,256	1,831	1,381	392	111	71	19	---	10,916
1969-70	24	30	1,845	2,767	2,127	3,667	1,605	263	55	61	3	23	12,470
1970-71	---	5	1,601	2,555	2,588	2,164	1,659	814	111	153	127	---	11,777
1971-72	---	13	1,796	3,416	6,048	2,346	2,232	413	206	113	14	---	16,597
1972-73	---	25	2,855	2,915	3,574	2,046	4,359	540	179	12	---	---	16,505
1973-74	23	18	1,055	4,121									

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CUCUMBERS, FRESH: U.S. Imports from MEXICO

Season	October	November	December	January	February	March	April	May	June	July	August	September	TOTAL
					1,000 pounds								
1960-61	---	757	2,477	3,903	2,532	1,557	810	19	---	---	---	---	12,055
1961-62	---	301	1,268	2,358	4,443	4,785	1,448	163	---	4	---	---	14,770
1962-63	---	---	2,635	7,556	4,544	3,039	1,562	160	---	---	---	---	19,496
1963-64	---	82	4,436	6,315	4,367	2,197	367	10	9	---	---	---	17,783
1964-65	---	237	3,725	9,788	14,833	452	1,959	80	9	57	20	---	31,160
1965-66	5	412	3,872	10,228	15,678	11,232	4,352	611	67	---	---	---	46,457
1966-67	---	1,015	4,892	12,885	16,438	15,151	9,868	297	15	---	---	---	60,561
1967-68	---	686	3,073	10,933	22,289	11,568	7,766	1,847	204	44	---	---	58,410
1968-69	---	---	5,225	22,657	33,770	22,624	8,760	3,554	53	---	8	---	96,651
1969-70	13	616	17,899	18,817	23,462	27,868	20,067	2,631	92	4	---	---	111,469
1970-71	---	223	28,996	31,450	45,936	21,354	22,681	5,121	341	5	---	---	156,107
1971-72	---	502	15,557	32,081	47,744	26,746	18,834	2,291	90	---	---	---	143,845
1972-73	77	1,270	24,932	36,878	35,361	24,650	40,905	6,943	2,561	449	55	64	174,145
1973-74	448	1,180	16,990	50,641									

EGGPLANT, FRESH: U. S. Imports from MEXICO

Season	October	November	December	January	February	March	April	May	June	July	August	September	TOTAL
	-----------	-----------	-----------	-----------	-----------	1,000 pounds	-----------	-----------	-----------	-----------	-----------	-----------	-----------
1960-61	---	7	153	503	398	596	231	34	---	---	---	---	1,922
1961-62	---	46	91	216	404	575	369	77	9	---	2	---	1,788
1962-63	---	62	424	791	684	419	337	237	---	---	---	---	2,954
1963-64	---	2	200	322	802	747	422	480	41	---	---	---	3,016
1964-65	---	15	556	869	920	864	521	530	9	14	---	---	4,298
1965-66	---	55	646	1,186	1,273	1,169	588	621	66	---	---	---	5,604
1966-67	---	15	768	1,291	2,604	972	689	1,051	197	---	---	---	7,587
1967-68	---	10	373	1,650	2,157	1,307	2,171	1,866	148	---	8	---	9,690
1968-69	6	76	1,042	2,662	4,506	2,832	2,343	2,022	547	3	---	---	16,039
1969-70	5	48	2,802	3,663	4,422	5,483	3,609	1,336	238	---	---	---	21,606
1970-71	---	61	2,773	3,692	6,782	4,042	2,336	1,818	1,148	---	6	---	22,658
1971-72	---	361	2,969	5,264	6,220	4,464	2,575	3,168	796	2	---	---	25,819
1972-73	22	1,796	4,499	7,366	6,654	5,066	7,958	3,764	2,093	185	4	---	39,407
1973-74	2	1,220	4,843	6,614									

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CANTALOUPES, FRESH: U.S. Imports from MEXICO

Season	October	November	December	January	February	March	April	May	June	July	August	September	TOTAL
	-------	-------	-------	-------	-------	1,000 pounds	-------	-------	-------	-------	-------	-------	-------
1960-61	307	316	---	2,479	2,074	9,836	29,416	32,555	2,828	37	---	---	79,848
1961-62	---	327	---	1,387	1,876	10,870	33,634	41,257	8,406	56	142	---	97,955
1962-63	58	---	110	423	1,277	11,804	43,595	50,784	1,961	409	174	---	110,595
1963-64	---	---	---	---	402	15,272	27,829	47,375	38,466	374	---	---	129,718
1964-65	12	---	332	431	732	9,190	51,097	64,170	19,694	357	108	55	146,178
1965-66	367	184	148	646	1,995	15,609	30,573	59,787	27,753	130	---	---	137,192
1966-67	---	15	---	---	259	9,014	38,401	54,332	14,899	287	18	---	117,225
1967-68	---	8	---	---	300	10,466	26,900	28,993	5,287	132	---	61	72,147
1968-69	---	---	7	---	359	17,423	47,095	37,838	15,064	487	---	---	118,273
1969-70	---	---	10	11	237	12,146	49,146	72,986	13,065	82	1	---	147,684
1970-71	---	---	117	29	65	29,438	49,342	73,441	25,664	628	---	---	178,724
1971-72	---	---	---	---	1,139	19,224	46,442	74,262	12,075	74	73	---	153,289
1972-73	---	13	179	179	1,871	26,184	52,148	44,592	30,899	382	15	---	156,462
1973-74	51	287	---	44									

WATERMELONS, FRESH: U.S. Imports from MEXICO

Season	October	November	December	January	February	March	April	May	June	July	August	September	TOTAL
						1,000 pounds							
1960-61	---	---	---	351	4,352	7,395	10,640	20,777	685	847	16	---	45,063
1961-62	---	---	---	588	2,077	6,159	8,374	25,286	3,630	3,216	140	---	49,470
1962-63	---	55	---	146	1,904	8,125	22,583	27,057	2,523	342	113	---	62,848
1963-64	---	---	---	560	1,484	6,689	8,095	13,789	25,110	1,151	46	---	56,924
1964-65	---	---	---	413	2,073	7,327	14,281	28,680	18,162	89	53	---	71,078
1965-66	---	---	333	1,688	3,428	8,325	12,328	26,505	8,915	---	136	---	61,658
1966-67	---	---	134	1,524	1,258	6,825	17,142	22,976	13,712	81	---	---	63,652
1967-68	---	---	560	1,116	4,287	8,244	13,496	24,238	9,112	167	---	---	61,220
1968-69	---	67	726	2,443	5,588	11,108	19,618	29,552	28,745	270	---	40	98,157
1969-70	---	---	223	667	4,464	11,705	23,061	39,559	36,548	1,044	23	---	117,294
1970-71	---	106	544	2,549	6,679	18,211	31,192	34,078	17,384	1,201	174	---	112,118
1971-72	---	---	60	1,297	7,569	22,092	43,196	66,223	17,911	350	104	---	158,802
1972-73	---	---	83	2,628	7,952	11,769	20,095	55,500	63,026	9,679	329	36	166,097
1973-74	168	1,110	578	1,223									

OTHER MELONS, FRESH: U.S. Imports from MEXICO

Season	October	November	December	January	February	March	April	May	June	July	August	September	TOTAL
	-----------------	-----------------	-----------------	-----------------	-----------------	1,000 pounds	-----------------	-----------------	-----------------	-----------------	-----------------	-----------------	-----------------
1960-61	---	50	6	---	169	1,320	398	5,214	2,205	193	---	---	9,555
1961-62	---	5	---	22	53	26	558	4,468	689	525	---	---	6,346
1962-63	---	---	---	---	---	149	1,023	2,966	167	93	18	---	4,416
1963-64	---	---	---	---	---	51	517	1,434	1,424	153	---	---	3,579
1964-65	---	1,424	---	---	---	---	370	3,745	669	64	---	14	6,286
1965-66	---	---	---	---	---	---	928	3,240	223	---	9	---	4,400
1966-67	---	---	---	49	---	---	520	3,721	190	23	---	---	4,503
1967-68	---	---	---	---	---	154	738	4,398	456	213	31	---	5,990
1968-69	---	---	88	---	---	287	2,703	4,551	699	642	---	---	8,970
1969-70	---	16	---	---	---	---	2,409	5,066	1,753	69	---	1	9,314
1970-71	16	---	80	---	---	668	6,300	7,358	1,029	62	---	---	15,513
1971-72	---	---	---	---	31	692	4,586	9,064	1,525	207	---	---	16,105
1972-73	---	---	---	---	77	2,162	11,335	9,598	1,179	863	---	---	25,214
1973-74	---	---	96	28									

ONIONS, FRESH: U.S. Imports from MEXICO

Season	October	November	December	January	February	March	April	May	June	July	August	September	TOTAL
						1,000 pounds							
1960-61	15	602	2,592	5,162	6,242	12,771	1,415	---	16	---	---	---	28,815
1961-62	525	1,948	1,629	3,186	9,769	23,828	1,171	1,146	---	---	---	---	43,202
1962-63	---	110	3,002	7,892	6,043	11,771	614	---	5	---	15	---	29,452
1963-64	300	2,244	6,436	8,998	5,306	13,198	2,084	---	---	---	---	---	38,566
1964-65	---	476	1,902	6,118	10,047	9,902	4,331	2,122	1,330	131	164	---	36,523
1965-66	59	1,513	3,593	8,477	7,981	11,766	7,010	3,053	543	147	---	---	44,142
1966-67	474	5,051	6,028	9,263	9,318	12,390	1,712	310	---	---	---	---	44,546
1967-68	400	2,398	5,616	14,218	11,981	16,406	17,693	1,815	---	---	---	---	70,527
1968-69	---	1,909	6,310	10,093	8,690	10,277	4,606	2,434	5	16	122	88	44,550
1969-70	354	5,996	8,567	8,666	8,433	20,176	13,825	2,141	1,186	185	45	302	69,876
1970-71	251	2,663	3,935	7,413	10,284	11,575	3,022	1,276	823	705	594	775	43,316
1971-72	695	2,008	1,940	6,181	14,038	14,293	5,013	2,804	1,264	775	685	832	50,528
1972-73	1,186	2,670	7,563	16,217	17,780	36,249	26,056	7,620	2,498	1,519	847	1,147	121,352
1973-74	1,415	4,981	7,799	17,481									

2374

PEAS, FRESH: U.S. Imports from MEXICO

Season	October	November	December	January	February	March	April	May	June	July	August	September	TOTAL
	-----	-----	-----	-----	-----	1,000 pounds	-----	-----	-----	-----	-----	-----	-----
1960-61	---	---	325	1,273	1,572	1,208	---	---	---	---	---	---	4,378
1961-62	---	---	790	1,707	1,701	602	48	5	---	---	---	---	4,853
1962-63	---	---	73	1,428	1,587	1,221	522	---	---	---	---	---	4,831
1963-64	---	---	540	1,216	1,721	1,422	393	20	---	---	---	---	5,312
1964-65	---	---	314	1,317	1,456	1,384	258	67	1	1	---	---	4,798
1965-66	---	---	217	428	2,088	2,195	635	7	---	---	---	---	5,570
1966-67	---	106	308	1,362	2,262	1,092	65	21	---	1	---	---	5,217
1967-68	5	---	40	884	1,856	702	289	7	---	---	---	---	3,783
1968-69	---	27	209	1,177	1,850	1,749	640	255	217	---	102	34	6,260
1969-70	10	1	129	1,196	2,332	1,686	226	57	5	---	---	---	5,642
1970-71	---	---	263	1,417	1,356	1,313	860	9	---	48	21	---	5,287
1971-72	---	---	292	1,034	1,869	1,877	217	72	16	1	---	---	5,378
1972-73	---	---	170	1,273	2,720	1,740	1,087	56	---	1	---	---	6,447
1973-74	1	15	142	2,256									

2375

PEPPERS, FRESH: U.S. Imports from MEXICO

Season	October	November	December	January	February	March	April	May	June	July	August	September	TOTAL
	------------	------------	------------	------------	------------	1,000 pounds	------------	------------	------------	------------	------------	------------	------------
1960-61	---	637	3,996	5,123	2,475	2,036	1,137	513	234	73	30	---	16,254
1961-62	---	107	1,124	4,658	3,787	3,189	2,841	1,975	365	49	97	13	18,205
1962-63	10	109	188	3,420	4,220	2,584	2,844	1,376	358	57	91	1	15,258
1963-64	---	184	1,107	1,959	3,256	3,293	1,242	827	266	69	57	29	12,289
1964-65	18	496	1,566	4,885	4,826	3,232	1,705	916	245	123	35	51	18,098
1965-66	23	175	1,456	4,334	6,965	5,167	3,976	652	401	86	43	127	23,405
1966-67	47	320	2,473	6,328	6,998	5,082	3,975	1,434	408	253	25	164	27,507
1967-68	138	337	2,656	5,414	6,950	4,023	2,391	1,495	550	300	219	283	24,756
1968-69	226	300	2,277	8,175	11,273	9,956	6,197	1,093	845	231	243	241	41,057
1969-70	142	200	2,066	8,074	13,252	17,257	10,967	5,435	1,383	274	299	393	59,742
1970-71	176	739	5,697	12,093	24,787	15,424	10,602	3,252	2,412	465	314	216	76,177
1971-72	188	756	3,808	8,381	22,692	13,297	7,399	3,606	1,492	458	244	153	62,474
1972-73	244	502	2,482	10,094	23,755	19,851	16,193	6,899	2,691	776	607	525	84,619
1973-74	686	928	5,357	20,814									

2376

SQUASH, FRESH: U.S. Imports from MEXICO

Season	October	November	December	January	February	March	April	May	June	July	August	September	TOTAL
						1,000 pounds							
1960-61	---	6	56	137	172	70	22	84	110	---	---	---	657
1961-62	29	81	371	453	322	249	59	96	---	---	2	---	1,662
1962-62	---	---	76	431	721	109	195	72	10	11	---	---	1,625
1963-64	---	---	276	448	488	428	469	147	177	98	---	---	2,531
1964-65	51	---	257	1,467	1,897	1,176	451	148	147	104	---	---	5,698
1965-66	5	16	113	872	1,494	1,011	474	215	148	---	---	---	4,348
1966-67	3	30	809	2,537	4,573	2,524	803	135	128	6	---	4	11,552
1967-68	37	88	294	2,182	2,570	1,274	745	321	213	3	---	---	7,727
1968-69	---	154	2,015	5,243	4,594	4,030	2,539	319	105	---	4	16	19,019
1969-70	---	85	2,008	5,051	6,351	6,758	2,953	1,832	516	12	---	---	25,566
1970-71	---	---	2,577	4,577	9,801	6,326	4,033	1,437	138	40	---	---	28,929
1971-72	9	31	2,595	7,048	14,410	7,575	2,310	735	180	46	45	70	35,054
1972-73	20	79	4,294	8,444	9,558	6,804	6,985	2,001	682	---	---	26	38,893
1973-74	142	293	3,764	11,540									

2377

TOMATOES, FRESH: U.S. Imports from MEXICO

Season	October	November	December	January	February	March	April	May	June	July	August	September	TOTAL
	1,000 pounds												
1960-61	166	3,233	29,589	28,156	33,033	44,650	32,163	7,658	716	1,468	1,502	127	182,461
1961-62	92	1,582	4,922	44,155	46,656	48,687	56,384	23,606	3,371	329	287	26	230,097
1962-63	43	270	9,404	37,254	61,223	52,379	51,547	22,218	1,132	219	227	---	235,916
1963-64	2	3,416	10,347	32,103	51,910	52,834	53,522	34,708	8,985	691	363	335	249,216
1964-65	159	1,139	9,373	37,052	44,563	57,726	55,869	40,942	10,660	606	299	121	258,509
1965-66	642	4,271	12,709	40,324	70,864	68,799	80,759	51,328	7,964	1,233	909	256	340,058
1966-67	1,870	10,645	23,791	51,956	72,100	66,745	69,015	60,190	21,517	4,650	3,343	284	386,106
1967-68	1,083	2,494	8,978	49,124	81,191	56,656	60,494	69,537	21,953	4,046	2,323	1,141	359,020
1968-69	2,720	10,698	27,518	72,206	79,180	84,112	76,546	70,502	32,816	2,182	2,125	713	461,318
1969-70	1,497	5,647	18,713	77,745	104,869	122,267	151,675	98,469	38,200	3,570	2,373	1,804	626,829
1970-71	1,993	7,464	30,587	58,533	120,497	87,834	120,869	108,452	35,468	4,280	2,278	2,028	580,283
1971-72	3,160	8,166	18,714	39,398	154,577	79,236	126,312	111,989	29,027	1,212	3,023	2,347	577,170
1972-73	5,200	16,211	13,753	59,433	131,164	110,551	195,393	115,183	81,594	8,983	5,412	2,329	745,146
1973-74	4,809	17,511	16,820	83,723									

2378

APPENDIX B

FLORIDA AGRICULTURAL STATISTICS

Snap Beans: Acreage, Production, and Value, Florida
Crop Years 1960-61 through 1971-72

Crop Year	Acreage Planted	Acreage Harvested	Production 1,000 Bu.	Value per Bushel Dollars	Total Value 1,000 Dollars
1960-61	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1961-62	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1962-63	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1963-64	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1964-65	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1965-66	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1966-67	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1967-68	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1968-69	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1969-70	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1970-71	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1971-72	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Cucumbers: Acreage, Production, and Value, Florida,
Crop Years 1960-61 through 1971-72

Crop Year	Acreage Planted	Acreage Harvested	Production 1,000 Bu.	Value per Bushel Dollars	Total Value 1,000 Dollars
1960-61	16,400	15,300	3,142	[illegible]	8,420
1961-62	17,400	15,800	3,000	3.38	10,319
1962-63	16,800	15,500	3,354	3.24	10,883
1963-64	18,100	15,200	3,705	3.00	11,303
1964-65	17,500	16,000	3,621	3.08	11,143
1965-66	17,000	15,900	3,644	3.32	12,082
1966-67	16,400	15,000	3,159	3.30	12,187
1967-68	17,500	16,200	3,506	3.40	12,062
1968-69	18,300	17,000	2,902	4.30	12,507
1969-70	17,200	15,000	2,812	3.43	10,248
1970-71	16,800	14,100	2,852	4.12	11,850
1971-72	15,900	14,500	3,355	4.31	15,412

Eggplant: Acreage, Production, and Value, Florida,
Crop Years 1960-61 through 1971-72

Crop Year	Acreage Planted	Acreage Harvested	Production 1,000 Bu.	Value per Bushel Dollars	Total Value 1,000 Dollars
1960-61	2,900	2,700	1,000	2.17	2,170
1961-62	2,800	2,600	1,164	1.91	2,219
1962-63	2,750	2,550	1,064	1.89	2,007
1963-64	2,400	2,200	1,024	2.27	2,323
1964-65	2,700	2,500	1,161	1.94	2,250
1965-66	2,400	2,250	1,100	2.39	2,633
1966-67	2,250	2,200	1,170	2.29	2,700
1967-68	2,200	2,100	976	3.19	3,116
1968-69	2,200	2,200	961	3.39	3,255
1969-70	2,050	2,000	752	3.62	2,722
1970-71	1,950	1,870	955	2.81	2,684
1971-72	1,800	1,750	1,085	3.12	3,385

Green Peppers: Acreage, Production, and Value, Florida,
Crop Years 1960-61 through 1971-72

Crop Year	Acreage Planted	Acreage Harvested	Production 1,000 Bu.	Value per Bushel Dollars	Total Value 1,000 Dollars
1960-61	14,100	13,200	4,746	2.77	13,161
1961-62	13,200	12,400	4,960	3.02	14,985
1962-63	14,300	12,600	4,849	2.89	14,012
1963-64	13,900	13,100	5,036	3.47	17,498
1964-65	16,500	14,900	5,025	3.19	16,007
1965-66	17,900	16,800	5,386	3.54	19,056
1966-67	17,000	15,900	5,775	3.52	20,332
1967-68	17,100	16,200	6,571	3.92	25,790
1968-69	17,900	16,700	5,679	3.71	21,050
1969-70	15,700	12,800	3,064	6.25	19,164
1970-71	15,400	13,600	4,071	4.37	17,772
1971-72	14,100	12,800	4,968	4.58	22,772

Squash: Acreage, Production, and Value, Florida,
Crop Years 1960-61 through 1971-72

Crop Year	Acreage Planted	Acreage Harvested	Production 1,000 Bu.	Value per Bushel Dollars	Total Value 1,000 Dollars
1960-61	12,000	10,800	1,317	2.87	3,783
1961-62	11,300	9,800	1,221	3.05	3,719
1962-63	12,500	11,000	1,331	3.03	4,031
1963-64	10,800	9,600	1,189	3.36	3,997
1964-65	11,600	10,100	1,281	3.59	4,601
1965-66	11,000	10,000	1,355	3.47	4,702
1966-67	8,700	8,300	1,205	4.25	5,127
1967-68	9,200	8,800	1,417	4.31	6,103
1968-69	8,200	7,800	1,371	4.57	6,261
1969-70	9,400	8,400	1,103	5.08	5,602
1970-71	9,800	8,700	1,266	4.75	6,012
1971-72	10,400	8,900	1,352	5.54	7,488

Strawberries: Acreage, Production, and Value, Florida,
Crop Years 1960-61 through 1971-72

Crop Year	Acreage Planted	Acreage Harvested	Production 1,000 Flats	Value per Flat Dollars	Total Value 1,000 Dollars
1960-61	1,900	1,800	960	3.20	3,075
1961-62	2,000	1,900	1,499	3.47	5,197
1962-63	2,100	2,000	1,747	3.37	5,893
1963-64	2,600	2,500	2,322	3.46	8,044
1964-65	3,300	3,200	2,498	3.23	8,064
1965-66	2,400	2,300	2,039	3.39	6,918
1966-67	2,100	2,000	1,717	3.37	5,790
1967-68	1,900	1,900	1,483	2.95	4,378
1968-69	1,600	1,600	1,561	3.34	5,216
1969-70	1,800	1,800	1,405	3.01	4,234
1970-71	1,600	1,600	1,717	3.58	6,142
1971-72	1,600	1,600	1,951	3.24	6,320

Tomatoes: Acreage, Production, and Value, Florida,
Crop Years 1960-61 through 1971-72

Crop Year	Acreage Planted	Acreage Harvested	Production 1,000 Cartons Total	Production 1,000 Cartons Fresh	Production 1,000 Cartons Proc.	Value per Carton Fresh	Value per Carton Proc.	Total Value 1,000 Dols.
1960-61	45,500	41,300	25,266	21,193	4,073	2.36	.34	51,349
1961-62	43,300	42,200	26,107	22,817	3,290	2.40	.37	56,006
1962-63	46,500	44,300	25,757	22,600	3,157	2.36	.36	55,445
1963-64	46,400	43,700	28,593	24,500	4,093	2.81	.37	70,363
1964-65	54,300	50,500	28,440	24,227	4,213	2.97	.38	73,566
1965-66	53,800	51,400	30,043	25,400	4,643	2.75	.44	71,927
1966-67	49,200	46,600	29,677	24,317	5,360	2.98	.55	75,326
1967-68	47,800	47,000	28,330	23,757	4,573	3.79	.48	92,158
1968-69	49,100	47,500	22,517	20,410	2,107	3.97	.45	81,916
1969-70	52,800	47,400	17,630	15,460	2,170	3.67	.49	57,822
1970-71	43,000	40,700	21,797	19,437	2,360	4.01	.52	79,181
1971-72	44,400	43,600	23,597	21,693	1,904	4.80	.51	105,201

Watermelons: Acreage, Production, and Value, Florida
Crop Years 1960-61 through 1971-72

Crop Year	Acreage Planted	Acreage Harvested	Production 1,000 Cwts.	Value per Cwt. Dollars	Total Value 1,000 Dollars
1960-61	67,000	65,000	8,450	1.65	13,942
1961-62	64,000	61,000	6,388	1.95	12,457
1962-63	61,000	58,000	8,983	1.40	12,576
1963-64	59,000	56,000	8,400	2.10	17,640
1964-65	63,000	60,000	9,300	2.05	19,065
1965-66	62,000	59,000	10,030	1.90	19,057
1966-67	60,000	57,000	8,265	2.10	17,356
1967-68	61,000	56,000	7,560	2.10	15,876
1968-69	59,000	53,500	6,955	2.49	17,318
1969-70	50,000	47,500	6,888	2.55	17,564
1970-71	52,200	50,100	7,515	2.72	20,441
1971-72	61,200	56,100	6,732	2.42	16,291

APPENDIX D

LETTER TO HONORABLE CLIFFORD M. HARDIN

FLORIDA FRESH FRUIT AND VEGETABLE INTERSTATE SHIPMENTS
Carlot and Carlot Equivalents

SOURCE OF SHIPMENT DATA: The U. S. D. A., Fruit and Vegetable Market News Branch in Washington tabulates the rail information from reports which were furnished by the various originating rail lines, and was the source of the rail data. Citrus truck shipments were from the certified records of the Florida Citrus Inspection Service. Vegetable truck shipments shown here were collected through the help of the Florida Road Guard Inspection Stations at check points strategically located along the St. Mary's River and Suwanee River. Mixed rail carlot analysis was made by the U. S. D. A., Florida Crop Reporting Service.

Reported crop year in this publication extends from September 1 through August 31. Truck conversion factors are shown in the notes on page 10-11.

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FEDERAL-STATE MARKET NEWS SERVICE
P.O. Box 19246
ORLANDO, FLORIDA 32814
October 23, 1973

U. S. Department of Agriculture
Agricultural Marketing Service
Fruit and Vegetable Division

Florida Department of Agriculture
and Consumer Services
Division of Marketing

FLORIDA FRESH FRUIT AND VEGETABLES FOR TEN SEASONS
TOTAL AIR, BOAT, RAIL AND TRUCK INTERSTATE SHIPMENTS

Includes Data in Mixed Car Analysis and Estimate of a few Fruit and Vegetable Commodities not Officially Reported During the Season.

Commodity	1963-64	1964 65	1965-66	1966-67	1967-68	1968-69	1969-70	1970-71	1971-72	1972-73
	Carlot or Carlot Equivalent									
Oranges	17,960	24,543	27,204	33,873	31,380	23,365	25,638	26,633	22,946	27,536
Grapefruit	25,721	27,814	26,231	30,990	25,460	24,761	25,271	26,634	30,747	31,480
Tangerines	4,328	4,712	4,914	5,130	3,683	4,114	4,280	4,634	5,362	4,717
Mixed Citrus (Rail & Express)					Converted					
Total Citrus	47,999	57,069	58,349	68,993	60,523	52,240	55,189	57,901	59,045	63,733
Avocados	967	776	120	445	883	687	819	1,026	1,036	980
Limes	537	610	575	651	827	746	607	860	946	960
Mangoes	137	143	105	81	168	124	118	201	179	322
Cantaloups	117	232	114	310	68	52	66	90	74	73
Peaches	--	--	11	--	--	--	--	27	63	64
Strawberries	1,300	1,302	1,036	844	651	590	460	362	340	319
Watermelons (Regular Type) 1/	27,218	22,993	23,124	18,154	16,323	14,817	14,871	15,119	13,421	15,499
Watermelons (Icebox Type)	--	--	--	--	--	--	--	--	--	--
Other Miscellaneous Fruits 2/	--	56	60	34	66	237	271	41	58	91
Total Miscellaneous Fruits	30,275	26,200	25,145	20,419	18,996	17,253	17,212	17,715	16,406	18,298
Beans & Limas	6,829	6,223	6,172	5,720	5,684	4,904	3,407	3,748	4,014	4,297
Broccoli (Rail)	--	--	7	2	--	3	--	--	--	--
Cabbage	8,501	7,783	9,889	10,785	13,144	13,281	9,366	10,727	11,241	11,129
Carrots 3/	--	9	12	80	52	43	92	868	1,055	1,362
Celery	11,326	11,522	11,506	11,082	10,424	10,871	9,718	10,187	9,882	10,168
Chinese Cabbage 4/	--	498	520	504	495	499	461	436	481	507
Corn, Green	10,532	12,220	11,888	13,361	11,917	12,786	11,372	12,842	13,065	14,536
Cucumbers 5/	6,458	6,234	6,361	5,078	6,129	4,694	4,418	3,913	4,906	4,939
Eggplant	1,306	1,461	1,340	1,406	1,005	1,036	782	1,068	1,162	1,139
Endive-Escarole	3,211	3,061	3,482	3,340	3,140	3,214	3,157	3,311	3,487	3,595
Greens (All types-Rail)	18	364	346	281	418	427	319	343	365	440
Lettuce-Romaine	746	741	1,226	1,063	1,084	1,323	1,076	1,309	1,523	2,124
Okra (Truck) 6/	--	268	230	242	197	225	207	174	210	236
Peppers	6,203	6,236	6,455	6,867	7,869	6,689	3,497	4,326	5,310	6,244
Potatoes	9,858	11,547	11,017	8,175	11,879	12,910	10,376	8,366	7,874	9,432
Radishes	1,946	2,506	1,788	2,006	2,336	2,328	2,145	2,830	2,565	3,025
Southern Peas (Truck)	418	311	272	187	177	134	177	127	143	148
Squash	1,586	1,695	1,642	1,479	1,668	1,587	1,207	1,421	1,521	1,704
Tomatoes 7/	21,747	21,361	19,874	19,170	18,428	15,462	11,576	13,465	14,895	15,076
Other Vegetables (Truck) 8/	2,425	2,206	2,491	2,709	2,762	2,983	3,171	3,038	2,572	3,065
Other Vegetables (Rail) 9/	260	253	194	227	235	148	87	91	76	58
Mixed Vegetables (Rail)					Converted					
Total Vegetables	93,454	96,499	95,712	94,443	99,143	95,545	76,611	82,353	86,336	93,100
Total Vegs. & Misc. Fruits	123,729	122,699	120,857	114,862	118,139	112,798	93,823	100,068	102,441	111,398
Total Fruits and Vegetables	171,728	179,768	179,206	183,855	178,652	165,038	149,012	157,969	161,486	175,131

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AIR SHIPMENTS

Commodity	1963-64	1964-65	1965-66	1966-67	1967-68	1968-69	1969-70	1970-71	1971-72	1972-73
	Carlot or Carlot Equivalent									
Strawberries	76	52	64	36	31	9	3	--	--	--
BOAT SHIPMENTS										
Oranges	168	307	73	959	83	164	91	116	249	394
Grapefruit	454	431	46	138	87	257	182	80	1,797	4,661
Tangerines	--	149	--	--	--	3	4	4	--	10
Celery	--	--	--	174	234	149	85	--	--	--
Total Boat	622	877	119	1,271	374	573	362	200	2,046	5,065
EXPRESS SHIPMENTS										
Mixed Car Citrus (Gift Fruit) 10/	1,920	2,067	2,003	2,099	1,475	1,386	1,713	902	979	1,038
Strawberries (REA)	39	20	10	2	--	--	--	--	--	--
Total Express (Frts. & Vegs.)	1,959	2,087	2,013	2,101	1,475	1,386	1,713	902	979	1,038
RAIL-TRUCK (PIGGY-BACK) SHIPMENTS										
Oranges	1,737	3,475	4,394	6,576	6,799	4,244	3,909	4,050	3,063	2,506
Grapefruit	1,628	3,232	3,578	6,525	4,724	4,494	3,554	4,219	5,167	2,815
Tangerines	130	277	501	695	509	357	425	364	422	323
Mixed Citrus	262	757	1,491	2,161	1,918	1,131	1,086	1,124	906	760
Total Citrus	3,757	7,741	9,964	15,957	13,950	10,226	8,974	9,757	9,578	6,404
Lemons	--	--	--	--	--	--	--	3	2	24
Peaches	--	--	11	--	--	--	--	--	--	--
Strawberries	--	--	--	--	--	--	--	--	--	--
Watermelons	1,610	2,309	4,766	5,224	3,925	3,760	3,071	2,911	2,470	2,372
Total Miscellaneous Fruits	1,610	2,309	4,777	5,224	3,925	3,760	3,071	2,914	2,472	2,396
Beans	1	2	26	56	117	132	82	49	30	10
Broccoli	--	--	4	--	--	--	--	--	--	--
Cabbage	5	3	53	104	262	674	290	426	497	246
Carrots	--	--	--	36	22	10	29	2	12	19
Celery	9	22	201	517	497	583	637	736	780	624
Corn, Green	4	162	520	957	922	1,195	657	806	1,000	434
Cucumbers	102	4	62	119	305	319	220	163	269	161
Escarole	--	1	3	27	61	64	67	64	91	36
Lettuce	--	--	--	2	6	11	7	2	5	20
Onions, Dry	--	--	--	4	--	--	--	--	--	--
Peppers	1	17	88	92	318	357	40	148	173	59
Potatoes	205	197	81	24	183	465	304	305	303	414
Radishes	--	153	261	444	534	637	667	1,072	751	1,186
Tomatoes	804	993	2,064	2,611	3,835	2,720	2,063	2,615	3,061	1,709
Mixed Vegetables	27	56	251	423	609	699	444	494	569	362
Total Vegetables	1,158	1,610	3,614	5,315	8,041	7,868	5,497	7,053	7,531	5,362
Total Vegs. & Miscl. Fruits	2,768	4,000	8,391	10,539	11,966	11,628	8,568	9,967	10,003	7,758
Total Fruits & Vegetables	6,525	11,750	18,365	26,496	25,916	21,854	17,542	19,724	19,581	14,262

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RAIL FREIGHT SHIPMENTS

Commodity	1963-64	1964-65	1965-66	1966-67	1967-68	1968-69	1969-70	1970-71	1971-72	1972-73
	Carlot or Carlot Equivalent									
Oranges	1,884	2,478	2,247	1,600	1,111	521	515	272	175	383
Grapefruit	3,194	3,648	2,494	2,433	1,373	1,267	834	381	196	180
Tangerines	441	582	440	346	97	91	74	21	21	18
Mixed Citrus	938	1,000	1,976	870	685	376	271	139	131	93
Total Citrus	6,457	7,608	7,157	5,319	3,244	2,255	1,694	813	513	681
Watermelons	973	402	172	29	1	--	1	--	--	--
Cantaloupe	--	--	--	--	--	--	--	--	--	--
Other Fruit	--	--	--	1	2	5	--	--	--	--
Total Miscellaneous Fruits	973	402	172	30	3	5	1	--	--	--
Beans & Limas	467	441	413	282	102	60	10	15	5	2
Broccoli	--	--	3	2	--	3	--	--	--	--
Cabbage	1,013	759	1,524	1,583	1,574	1,330	291	336	225	109
Carrots	--	9	12	42	30	33	63	38	41	64
Celery	4,077	4,276	4,493	4,060	3,140	3,065	1,840	1,886	1,533	1,309
Corn, Green	3,760	4,312	4,485	3,518	2,600	2,503	1,813	1,345	1,030	744
Cucumbers	975	910	780	579	460	146	157	29	15	12
Endive-Escarole	486	591	659	498	373	216	136	144	125	136
Greens (All types)	18	39	20	50	36	18	11	2	9	16
Lettuce-Romaine	17	22	42	15	6	6	7	3	1	4
Peppers	904	916	963	721	445	328	13	64	2	1
Potatoes	4,667	6,176	5,936	4,414	5,516	5,289	3,486	1,925	994	885
Radishes	167	42	21	9	9	16	3	5	7	3
Tomatoes	5,499	4,709	4,153	3,075	1,724	1,008	557	149	43	176
Other Variety Vegetables 11/	--	--	2	--	--	2	--	--	--	--
Mixed Car Vegetables	4,045	4,896	4,869	4,292	3,358	2,536	1,582	1,518	1,192	927
Total Vegetables	26,075	27,898	28,383	23,140	19,342	16,667	9,973	7,459	5,222	4,478
Total Vegs. & Miscl. Fruits	27,048	28,300	28,555	23,170	19,345	16,672	9,974	7,459	5,222	4,478
Total All Fruits & Vegetables	33,505	35,908	35,712	28,488	22,611	18,927	11,668	8,272	5,735	5,159

RAIL EXPRESS AND FREIGHT SHIPMENTS

ESTIMATE OF ITEMS NOT OFFICIALLY REPORTED

RAIL EXPRESS										
Avocados (Estimate)	57	54	12	25	16	--	--	--	--	--
Limes (Estimate)	32	34	36	37	27	--	--	--	--	--
Mangoes (Estimate)	18	19	13	6	4	--	--	--	--	--
RAIL FREIGHT STRAIGHT CARS										
Chinese Cabbage (Estimate)	--	34	30	20	--	--	--	--	--	--
Eggplant (Estimate)	37	48	23	13	2	9	2	10	24	2
Squash (Estimate)	46	47	92	83	2	33	11	15	21	24

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INTERSTATE TRUCK SHIPMENTS

Commodity	1963-64	1964-65	1965-66	1966-67	1967-68	1968-69	1969-70	1970-71	1971-72	1972-73
	Carlot or Carlot Equivalent									
Oranges	12,718	16,509	17,864	21,499	21,519	17,218	19,641	21,177	18,491	23,274
Grapefruit	18,948	18,844	17,706	19,329	17,421	17,334	19,365	20,969	22,690	22,964
Tangerines	3,577	3,423	3,536	4,068	2,722	3,397	3,538	4,074	4,748	4,217
Total Citrus	35,243	38,776	39,106	44,916	41,662	37,949	42,544	46,220	45,929	50,455
Avocados	900	721	108	420	867	687	819	1,026	1,036	980
Limes	506	876	539	614	800	746	607	859	946	960
Mangoes	119	123	92	75	164	124	118	201	179	222
Cantaloups	117	232	114	210	68	52	66	90	74	73
Peaches 12/	--	--	--	--	--	--	--	27	82	54
Strawberries	1,194	1,320	962	804	820	581	457	352	340	319
Watermelons (Regular Type) 1/	24,635	20,192	18,186	12,901	12,307	11,049	11,799	12,808	10,951	13,127
Watermelons (Icebox Type)	--	--	--	--	66	--	--	--	--	--
Other Fruits	--	56	60	33	64	232	271	38	66	67
Total Miscellaneous Fruits	27,470	23,220	20,061	15,057	15,046	13,471	14,137	14,801	13,633	15,932
Beans (Fresh)	6,249	5,069	4,353	4,734	4,767	4,506	3,192	3,579	3,706	3,689
Beans (Processed)	772	400	144	470	477	92	97	70	182	530
Limas 12/	103	--	--	--	--	--	--	--	--	--
Cabbage	7,177	6,797	7,857	8,678	11,002	11,000	8,629	9,827	10,380	10,676
Carrots 3/	--	--	--	--	--	--	--	628	1,002	1,179
Celery	6,119	6,033	6,451	5,067	5,348	6,102	6,506	6,919	7,106	7,816
Chinese Cabbage 4/	--	351	361	387	390	411	404	389	436	476
Corn, Green	6,279	7,037	6,263	8,146	7,657	8,525	8,560	10,227	10,812	13,185
Cucumbers 5/	5,234	5,087	5,310	4,856	5,151	4,149	4,008	3,690	4,559	4,709
Eggplant	1,200	1,319	1,262	1,349	1,043	1,004	774	1,072	1,113	1,120
Endive-Escarole	2,023	1,732	1,863	1,952	2,014	2,336	2,542	2,727	2,957	3,185
Greens 14/	--	325	326	231	382	409	308	341	346	424
Lettuce	626	632	968	898	934	1,207	991	1,198	1,463	2,059
Okra 6/	--	268	230	242	197	225	207	174	210	235
Peppers	5,000	4,882	5,107	5,824	6,909	5,862	3,407	4,070	5,013	6,099
Potatoes	4,969	5,162	4,989	3,731	6,173	7,151	6,584	6,033	6,874	8,131
Radishes	1,556	2,011	1,187	1,243	1,505	1,462	1,328	1,604	1,691	1,747
Southern Peas	418	311	272	187	177	134	177	127	142	148
Squash	1,490	1,589	1,494	1,354	1,634	1,533	1,191	1,402	1,477	1,665
Tomatoes 7/	15,428	15,630	13,643	13,578	12,854	11,729	8,966	10,701	11,795	13,107
Other Vegetables 8/	2,487	2,208	2,491	2,769	2,762	2,983	3,171	3,038	2,572	3,065
Total Vegetables	66,138	66,861	63,571	65,696	71,586	70,819	61,042	67,816	73,538	83,234
Total Vegetables & Miscl. Fruits	93,608	90,081	83,632	80,753	86,632	84,290	75,179	82,617	87,171	99,136
Total All Fruits & Vegetables	128,851	128,857	122,738	125,669	128,294	122,239	117,723	128,837	133,100	149,591

MIXED RAIL FREIGHT, PIGGY-BACK AND GIFT FRUIT (EXPRESS AND TRUCK)

SHIPMENT ANALYSIS OF SOME FLORIDA PRODUCE

MIXED CITRUS ANALYSIS										
Mixed Citrus (Actual)	3,120	3,824	5,470	5,130	4,078	2,893	3,070	2,169	2,016	1,891
Oranges	1,443	1,778	2,626	2,170	1,868	1,218	1,495	1,019	948	889
Grapefruit	1,497	1,765	2,407	2,565	1,855	1,409	1,336	976	907	851
Tangerines	180	281	437	395	355	266	239	174	161	151

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MIXED RAIL FREIGHT, PIGGY-BACK AND GIFT FRUIT (EXPRESS AND TRUCK)
SHIPMENT ANALYSIS OF SOME FLORIDA PRODUCE (Continued)

Commodity	1963-64	1964-65	1965-66	1966-67	1967-68	1968-69	1969-70	1970-71	1971-72	1972-73
	Carlot or Carlot Equivalent									
RAIL FREIGHT AND PIGGY-BACK										
Mixed Vegetables (Actual)	4,045	4,752	5,120	4,715	4,047	3,236	2,026	2,012	1,761	1,289
Beans & Limas	237	302	236	177	161	106	26	35	91	66
Cabbage	306	224	435	420	306	268	156	130	130	96
Carrots	--	--	--	--	--	--	--	--	--	--
Celery	1,121	1,191	1,361	1,264	1,075	972	650	648	461	330
Chinese Cabbage 4/	--	111	129	97	106	88	57	46	45	31
Corn, Green	480	709	620	740	529	473	342	374	223	173
Cucumbers	147	233	200	124	123	80	33	31	63	47
Eggplant	60	93	55	63	44	23	6	6	25	17
Endive-Escarole	723	737	957	843	793	506	412	384	314	386
Lettuce-Romaine	103	87	216	168	148	99	71	66	54	41
Peppers	298	431	297	230	197	142	32	36	122	85
Potatoes	11	12	12	6	7	5	2	3	3	2
Radishes	323	300	319	310	288	311	147	149	116	89
Squash	50	59	56	42	32	21	5	4	23	15
Tomatoes	16	20	14	6	5	6	--	--	6	4
Other Variety Vegetables	261	253	193	225	235	146	87	91	76	65

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SHIPMENTS
FLORIDA FRESH FRUITS AND VEGETABLES BY MONTHS, 1972-73 SEASON
TOTAL AIR, BOAT, RAIL AND TRUCK INTERSTATE SHIPMENTS

Includes Data in Mixed Car Analysis and Estimate of a few Fruit and Vegetable Commodities not Officially Reported During the Season.

Commodity	1972 Sept.	Oct.	Nov.	Dec.	1973 Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Total
	- - - - - -	- - - - - -	- - - - - -	- - - - - -	- - - - - -	Carlot or Carlot Equivalent	- - - - - -	- - - - - -	- - - - - -	- - - - - -	- - - - - -	- - - - - -	- - - - - -
Oranges	28	1,861	2,722	4,749	4,068	4,217	3,428	2,461	2,266	1,526	507	173	27,536
Grapefruit	433	3,114	3,210	3,251	3,854	4,283	4,794	4,173	3,046	1,121	167	34	31,480
Tangerines	6	248	752	1,771	872	410	467	143	32	9	7	--	4,717
Mixed Citrus (Rl & Ex)						Converted							
Total Citrus	467	4,823	6,684	9,771	8,814	8,910	8,689	6,777	5,364	2,656	771	207	63,733
Avocados	136	199	219	160	96	18	--	--	--	--	53	99	980
Limes	79	84	54	82	62	51	47	48	83	144	137	119	960
Mangoes	26	1	--	--	--	1	3	9	21	88	101	72	322
Cantaloupe	--	--	--	--	--	2	1	--	24	44	2	--	73
Peaches	--	--	--	--	--	--	--	--	43	11	--	--	54
Strawberries	--	--	--	1	50	80	145	41	2	--	--	--	319
Watermelons (Regular Type) 1/	--	--	2	2	--	--	--	97	3,859	8,956	2,582	1	15,499
Other Fruits 2/	10	28	9	6	5	8	6	6	7	3	--	4	91
Total Miscellaneous Fruits	251	282	284	251	213	160	202	200	4,039	9,246	2,875	295	18,298
Beans	--	144	663	470	416	348	636	919	594	96	1	1	4,297
Broccoli	--	--	--	--	--	--	--	--	--	--	--	--	--
Cabbage	--	2	116	1,040	1,840	1,582	2,346	2,578	1,412	206	6	1	11,129
Carrots 3/	--	3	7	82	130	194	292	292	206	45	--	--	1,262
Celery	--	31	593	1,252	1,436	1,450	1,772	1,647	1,301	670	26	--	10,168
Chinese Cabbage	1	8	43	56	71	78	107	93	49	1	--	--	507
Corn, Green	18	883	1,010	767	526	600	974	2,018	3,970	3,368	401	1	14,536
Cucumbers 5/	6	420	1,123	513	186	107	187	612	1,428	332	13	--	4,929
Eggplant	2	93	180	127	81	48	80	117	167	182	62	2	1,130
Endive-Escarole	--	63	378	428	488	625	671	582	388	4	--	--	3,595
Greens (All types-R & T)	--	1	8	18	95	141	117	45	14	1	--	--	440
Lettuce-Romaine	--	21	139	289	254	252	487	536	99	4	--	--	2,124
Okra (Truck)	2	21	23	14	21	15	23	25	44	34	10	3	235
Peppers	--	25	439	859	740	477	802	870	1,522	700	10	--	6,244
Potatoes	--	--	2	1	58	188	836	2,330	4,572	1,441	3	1	9,432
Radishes	11	224	312	367	364	382	484	456	401	23	1	--	3,025
Southern Peas (Truck)	4	4	6	1	--	--	1	16	81	30	3	3	148
Squash	9	127	214	227	173	121	232	318	244	33	2	4	1,704
Tomatoes 7/	--	41	1,917	2,368	1,762	882	1,393	1,842	3,559	1,553	8	--	15,376
Other Vegetables (Truck) 8/	85	123	315	289	315	348	777	852	114	57	38	42	3,055
Other Vegetables (Rail) 9/	--	--	11	11	4	3	11	8	7	--	--	--	55
Mixed Vegetables						Converted							
Total Vegetables	135	2,253	7,406	9,288	8,972	7,776	11,708	15,880	20,265	8,680	583	58	93,100
Total Vegs & Miscl. Fruits	386	2,535	7,700	9,538	9,185	7,939	11,610	16,080	24,304	17,926	3,458	353	111,398
Total Fruits & Vegetables	856	7,158	14,464	19,310	17,598	16,845	20,565	22,857	29,668	20,582	4,229	560	175,131

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AIR SHIPMENTS

Commodity	1972 Sept.	Oct.	Nov.	Dec.	1973 Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Total
	Carlot or Carlot Equivalent												
Strawberries	--	--	--	--	--	--	--	--	--	--	--	--	--
BOAT SHIPMENTS													
Oranges	--	1	7	14	42	12	33	82	74	65	55	9	394
Grapefruit	4	404	444	179	490	753	1,070	877	414	25	1	--	4,661
Tangerines	--	--	2	2	1	--	3	1	1	--	--	--	10
Celery	--	--	--	--	--	--	--	--	--	--	--	--	--
Total Boat	4	406	453	196	533	765	1,106	960	489	90	56	9	5,067
EXPRESS SHIPMENTS													
Mixed Citrus (Gift Fruit) 10/	--	--	66	418	153	175	113	94	19	--	--	--	1,038
Strawberries (REA)	--	--	--	--	--	--	--	--	--	--	--	--	--
Total Express (Frts. & Vegs.)	--	--	66	418	153	175	113	94	19	--	--	--	1,038
RAIL-TRUCK (PIGGY-BACK) SHIPMENTS													
Oranges	5	22	136	262	340	347	307	241	348	331	185	82	2,606
Grapefruit	8	119	228	404	367	418	296	327	295	251	74	28	2,815
Tangerines	--	1	16	161	82	17	25	18	3	--	--	--	323
Mixed Citrus	1	15	43	188	114	80	97	79	81	3	58	1	760
Total Citrus	14	157	423	1,015	903	862	725	665	727	585	317	111	6,494
Lemons	6	13	3	--	--	--	--	--	--	--	--	2	24
Peaches	--	--	--	--	--	--	--	--	--	--	--	--	--
Watermelons	--	--	--	--	--	--	--	28	1,044	1,206	94	--	2,372
Total Miscellaneous Fruits	6	13	3	--	--	--	--	28	1,044	1,206	94	2	2,396
Beans	--	--	1	1	1	--	4	3	--	--	--	--	10
Broccoli	--	--	--	--	--	--	--	--	--	--	--	--	--
Cabbage	--	--	4	33	42	44	52	30	39	--	--	--	244
Carrots	--	--	--	3	5	7	3	--	1	--	--	--	19
Celery	--	--	16	66	130	127	140	74	53	18	--	--	624
Corn, Green	--	18	35	21	2	5	3	22	112	211	5	--	434
Cucumbers	--	15	99	12	4	--	--	7	24	--	--	--	161
Endive-Escarole	--	--	1	3	12	13	4	4	1	--	--	--	38
Lettuce	--	--	3	2	1	1	11	2	--	--	--	--	20
Onions, Dry	--	--	--	--	--	--	--	--	--	--	--	--	--
Peppers	--	--	12	18	9	1	1	1	14	3	--	--	59
Potatoes	--	--	--	--	8	1	17	23	290	75	--	--	414
Radishes	6	116	114	144	143	159	106	183	155	--	--	--	1,126
Tomatoes	--	1	264	300	316	151	132	163	280	113	--	--	1,720
Mixed Vegetables	--	12	47	47	60	60	46	38	45	8	--	--	362
Total Vegetables	6	163	596	710	733	569	578	560	1,016	428	5	--	5,362
Total Vegs. & Miscl. Fruits	12	175	599	710	733	569	578	587	2,060	1,634	99	2	7,758
Total All Fruits & Vegetables	26	332	1,022	1,725	1,636	1,431	1,303	1,252	2,787	2,219	416	113	14,252

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RAIL FREIGHT SHIPMENTS 16/

Commodity	1972 Sept.	Oct.	Nov.	Dec.	1973 Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Total
	Carlot or Carlot Equivalent												
Oranges	--	1	7	34	14	10	17	62	130	100	6	2	383
Grapefruit	--	--	2	24	4	11	12	38	60	38	--	--	189
Tangerines	--	--	--	15	--	1	--	--	--	--	--	--	16
Mixed Citrus	--	2	8	19	2	4	7	18	30	3	--	--	93
Total Citrus	--	3	17	92	20	26	36	118	220	141	6	2	681
Watermelons	--	--	--	--	--	--	--	--	--	--	--	--	--
Cantaloups	--	--	--	--	--	--	--	--	--	--	--	--	--
Other Fruits 3/	--	--	--	--	--	--	--	--	--	--	--	--	--
Total Miscellaneous Fruits	--	--	--	--	--	--	--	--	--	--	--	--	--
Beans	--	1	--	--	--	--	--	--	1	--	--	--	2
Broccoli	--	--	--	--	--	--	--	--	--	--	--	--	--
Cabbage	--	--	--	7	2	6	22	21	60	1	--	--	100
Carrots	--	--	--	4	4	5	13	23	15	--	--	--	64
Cauliflower	--	--	--	--	--	--	--	--	--	--	--	--	--
Celery	--	--	19	166	180	214	270	293	313	44	--	--	1,399
Corn, Green	--	46	44	28	10	17	23	117	310	142	7	--	744
Cucumbers	--	--	1	1	--	--	--	2	8	--	--	--	12
Endive-Escarole	--	--	7	16	28	33	23	17	12	--	--	--	136
Greens (All Types)	--	--	1	4	--	--	3	5	3	--	--	--	16
Lettuce-Romaine	--	--	--	--	1	1	1	1	--	--	--	--	4
Peppers	--	--	--	--	--	--	--	1	--	--	--	--	1
Potatoes	--	--	--	--	--	32	154	258	433	8	--	--	885
Radishes	--	--	--	2	--	--	--	1	--	--	--	--	3
Tomatoes	--	--	8	4	--	--	--	11	119	34	--	--	176
Other Variety Vegetables	--	--	--	--	--	--	--	--	--	--	--	--	--
Mixed Car Vegetables	--	1	56	111	114	138	158	179	149	21	--	--	927
Total Vegetables	--	48	136	343	339	446	667	929	1,313	250	7	--	4,478
Total Vegs. & Miscl. Fruits	--	48	136	343	339	446	667	929	1,313	250	7	--	4,478
Total All Fruits & Vegetables	--	51	153	435	359	472	703	1,047	1,533	391	13	2	5,159

RAIL FREIGHT SHIPMENTS

ESTIMATE OF ITEMS NOT OFFICIALLY REPORTED

RAIL FREIGHT STRAIGHT CARS													
Chinese Cabbage (Estimate)	--	--	--	--	--	--	--	--	--	--	--	--	--
Eggplant (Estimate)	--	--	1	--	--	--	--	--	--	--	1	--	2
Squash (Estimate)	--	--	2	3	3	2	4	4	4	2	--	--	24

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INTERSTATE TRUCK SHIPMENTS

Commodity	1972 Sept.	Oct.	Nov.	Dec.	1973 Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Total
	- - - - - - - - - -					Carlot or Carlot Equivalent					- - - - - - - - - -		
Oranges	23	1,233	2,538	4,168	3,874	3,706	2,962	1,900	1,677	1,026	207	9	23,274
Grapefruit	420	2,879	2,463	2,374	2,585	2,993	3,318	2,838	2,204	806	78	5	22,964
Tangerines	6	246	724	1,509	756	381	420	122	28	9	7	--	4,217
Total Citrus	449	4,058	5,725	8,061	7,215	7,082	6,700	4,940	3,909	1,840	292	56	50,455
Avocados	136	190	219	160	96	18	--	--	--	--	83	99	900
Limes	79	54	54	82	62	51	47	48	83	144	127	119	960
Mangoes	26	1	--	--	--	1	3	9	21	88	101	72	322
Cantaloupe	--	--	--	--	--	2	1	--	24	44	2	--	73
Peaches	--	--	--	--	--	--	--	--	43	11	--	--	54
Strawberries	--	--	--	1	50	80	165	41	2	--	--	--	319
Watermelons 15/	--	--	2	2	--	--	--	69	2,815	7,750	2,488	1	13,127
Other Fruits	4	15	6	6	5	8	6	5	7	3	--	2	67
Total Miscellaneous Fruits	245	260	281	251	213	160	202	172	2,995	8,040	2,781	293	15,908
Beans (Fresh)	--	112	488	463	402	336	608	812	427	30	1	1	3,680
Beans (Processed)	--	31	100	7	1	--	14	91	180	87	--	--	530
Cabbage	--	2	111	992	1,779	1,512	2,254	2,498	1,317	206	5	1	10,676
Carrots (Fresh)	--	3	7	75	127	158	228	194	169	30	--	--	1,000
Carrots (Processed)	--	--	--	--	3	24	48	75	23	6	--	--	179
Celery	--	30	543	884	1,079	1,060	1,306	1,226	1,075	497	26	--	7,815
Chinese Cabbage	1	8	42	63	64	70	101	87	47	1	--	--	416
Corn, Green	18	814	916	704	502	566	934	1,848	3,492	3,001	380	1	13,188
Cucumbers (Fresh)	6	406	882	480	177	100	165	587	1,283	306	7	--	4,347
Cucumbers (Processed)	--	19	136	12	1	1	--	37	123	27	6	--	362
Eggplant	2	93	177	124	78	42	78	115	167	181	61	2	1,120
Endive-Escarole	--	61	337	444	418	440	500	524	350	3	--	--	3,186
Greens	--	1	7	14	96	141	114	40	11	1	--	--	424
Lettuce (Iceberg)	--	1	7	119	73	88	166	236	31	3	--	--	724
Lettuce (Other)	--	19	123	160	174	200	301	231	66	1	--	--	1,336
Okra	2	21	23	14	21	15	23	25	44	34	10	3	235
Peppers	--	25	436	832	715	454	587	858	1,500	886	10	--	6,009
Potatoes	--	--	2	1	48	156	665	2,049	3,840	1,368	3	1	8,131
Radishes	5	104	188	306	212	200	304	259	234	23	1	--	1,747
Southern Peas	4	4	5	1	--	--	1	16	61	30	3	3	148
Squash	9	127	212	222	167	115	226	312	236	31	2	4	1,665
Tomatoes 7/	--	40	1,645	2,034	1,444	720	961	1,600	3,151	1,406	8	--	13,107
Other Vegetables (Fresh)	20	54	143	184	193	196	241	219	114	57	36	42	1,510
Other Vegetables (Processed)	86	69	172	106	122	152	236	333	--	--	--	--	1,948
Total Vegetables	132	2,043	6,761	8,232	7,897	6,762	10,459	14,388	17,932	8,000	570	58	83,234
Total Vegs. & Miscl. Fruits	377	2,312	7,042	8,483	8,110	6,922	10,661	14,560	20,927	16,040	3,351	351	99,136
Total All Fruits & Vegetables	826	6,370	12,767	16,534	15,325	14,004	17,270	19,500	24,836	17,880	3,743	436	149,591

MIXED RAIL FREIGHT, PIGGY-BACK, AND GIFT FRUIT (EXPRESS AND TRUCK)

SHIPMENT ANALYSIS OF SOME FLORIDA PRODUCE

MIXED CITRUS ANALYSIS													
Mixed Citrus (Actual)	1	17	117	625	260	250	217	191	131	6	58	1	1,891
Oranges	--	4	44	271	118	142	136	96	57	4	44	--	899
Grapefruit	1	12	63	270	118	196	98	93	73	2	14	1	861
Tangerines	--	1	13	84	33	11	13	2	--	--	--	--	151

Continued

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MIXED RAIL FREIGHT, PIGGY-BACK, AND GIFT FRUIT (EXPRESS AND TRUCK)
SHIPMENT ANALYSIS OF SOME FLORIDA PRODUCE (Continued)

Commodity	1972 Sept.	Oct.	Nov.	Dec.	1973 Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Total
	Carlot or Carlot Equivalent												
RAIL FREIGHT AND PIGGY-BACK													
Mixed Vegetables (Actual)	--	13	103	158	174	198	203	217	194	29	--	--	1,289
Beans (Snap)	--	--	5	8	12	12	10	13	6	--	--	--	66
Cabbage	--	--	1	8	17	20	18	20	14	--	--	--	98
Celery	--	1	15	36	47	59	57	54	50	11	--	--	330
Chinese Cabbage	--	--	1	3	5	8	6	6	2	--	--	--	31
Corn, Green	--	5	15	14	12	12	14	31	54	14	--	--	173
Cucumbers	--	--	5	8	7	6	2	9	10	--	--	--	47
Eggplant	--	--	2	3	3	4	2	2	--	1	--	--	17
Endive-Escarole	--	2	31	35	30	30	45	37	25	1	--	--	236
Lettuce-Romaine	--	1	6	8	5	2	8	9	2	--	--	--	41
Peppers	--	--	1	9	16	22	14	13	8	2	--	--	85
Potatoes	--	--	--	--	2	--	--	--	--	--	--	--	2
Radishes	--	4	10	13	9	14	14	13	13	--	--	--	89
Squash	--	--	--	2	3	4	2	2	2	--	--	--	15
Tomatoes	--	--	--	--	2	2	--	--	--	--	--	--	4
Other Variety Vegetables	--	--	11	11	4	3	11	8	7	--	--	--	55

Truck conversion factors, 1956-57 to 1964-65 - Citrus 500 1-3/5 bushel units, Avocados, Limes, Mangoes, 28,000 lbs., Cantaloups 400 crts., Strawberries 1400 - 12 pt. pkgs., Watermelons 28,000 lbs., after October 1, 1964 factor 34,000 lbs., Icebox Watermelons 570 crts., Other Fruits 500 pkgs., Beans 650 bu., Limas/Butterbeans 650 bu., Cabbage 520 crts., Cauliflower 420 crts., Celery 580 crts., Chinese Cabbage 560 crts., Corn 600 crts., Cucumbers 620 bu., Eggplant 750 bu., Escarole-Endive-Chicory 750 1-1/9 bu. crts., Green 750 bu., Lettuce 750 small crts., Okra 650 bu., Peppers 750 bu., Potatoes 860 - 50# sks., Radishes 1600 pkgs., Southern Peas 650 bu., Squash 650 1-1/9 bu., Tomatoes 750 - 40# pkgs., Bunched Vegetables 1000 doz., Other Vegetables 700 pkgs.

Truck conversion factors beginning 1965-66 to 1969-70 - Citrus 500 1-3/5 bushel units, Avocadoes, Limes, Mangoes after January 1, 1969 36,000 lbs., Cantaloupe - Other Fruits 500 pkgs., Strawberries 1400 - 12 pt. flats, Watermelons 41,000 lbs., Beans 750 bu., Cabbage 550 crts., Celery 640 crts., Chinese Cabbage 640 crts., Corn 725 crts., Cucumbers 650 1-1/9 bu. crts., Eggplant 775 bu., Escarole-Endive-Chicory 850 1-1/9 bu. crts., Greens 850 bu., Lettuce 900 crts., Okra 750 bu., Peppers 775 bu., Potatoes 1000 - 50 lbs. sks., Radishes 2800 - 12 qt ctns., Southern Peas 750 bu., Squash 750 1-1/9 bu., Tomatoes 900 - 40 lbs. ctns., Other Vegetables 800 pkgs.

Truck conversion factors beginning 1970-71 - Citrus 500 1-3/5 bushel units, Avocadoes, Limes, Mangoes 36,000 lbs., Cantaloupe 49,200 lbs., Peaches 1350 - 1/2 bu., Other Fruits 600 pkgs., Strawberries 1400 - 12 pt. flats, Watermelons 45,000 lbs., Beans 850 bu., Cabbage 600 crts., Carrots 1000 - 50 lbs. sks., Celery 700 crts., Chinese Cabbage 640 crts., Corn 725 crts., Cucumbers 700 1-1/9 bu. crts., Eggplant 775 bu., Escarole-Endive-Chicory 850 1-1/9 bu. crts., Greens 850 bu., Lettuce 925 crts., Okra 850 bu., Peppers 850 bu., Potatoes 1000 - 50 lbs. sks., Radishes 2800 - 12 qt ctns., Southern Peas 850 bu., Squash 750 1-1/9 bu., Tomatoes 1000 - 40 lb. ctns., Other Vegetables 800 pkgs.

NOTES:

1/ Watermelons include West Florida movement.
2/ Other Fruits - Rail: lemons; Truck: blackberries, papayas, peaches, pineapples, etc.
3/ Carrot truck reported beginning October 1, 1970.
4/ Chinese Cabbage included with other vegetables prior to October 1, 1964.
5/ Cucumbers include Florida produce, fresh and processed stock, and West Indies and Central America imports moving through the State.
6/ Okra truck shipments included with other Vegetables prior to October 1, 1964.
7/ Tomato figures include West Indies and Central American imports moving through the State.
8/ Other Vegetables (truck) include those packed in containers such as lima beans, beets, broccoli, carrots, cauliflower, dill, parsley, English peas, green peanuts, sweet potatoes, process greens, and watercress.
9/ Other Vegetables (rail) include commodities moved by mixed cars for which no analysis is made, and straight cars. These mixed car items include broccoli, cauliflower, parsley, watercress, etc.
10/ Rail Express movement of gift citrus prior to September 1, 1969, after that date rail express and truck gift citrus movement combined.
11/ Other Variety Vegetables include beets, onions (dry), topped turnips, etc., in straight rail cars.
12/ Lima truck shipments included with other vegetables beginning October 1, 1964.
13/ Peach truck reported beginning spring, 1971.

NOTES: (Continued)

14/ Greens truck shipments included with other vegetables prior to October 1, 1964.
15/ Actual check at twelve Road Guard Truck Stations September 1, 1972 - August 31, 1973, except for a large quantity of watermelons shipped from points West of the Road Guard check points along the Suwannee River. Watermelons monthly totals include West Florida truck movement June - 620 and July - 930 carlot units.
16/ Mechanical Refrigerator shipments included in Rail Freight totals for 1969-70 through 1972-73. Data courtesy Fruit Growers Express.

MECHANICAL REFRIGERATOR SHIPMENTS, 1969-70 THROUGH 1972-73 CROP YEARS

Year or Commodity	Sept. 1972	Oct.	Nov.	Dec.	Jan. 1973	Feb.	Mar.	Apr.	May	June	July	Aug.	Total
	Carlot or Carlot Equivalent												
1969-70	--	8	30	80	66	47	40	48	191	120	--	--	656
1970-71	--	16	29	91	61	32	7	12	63	36	--	--	347
1971-72	--	2	12	77	11	16	15	20	31	14	--	--	198
1972-73	--	--	14	60	10	15	49	280	489	226	4	--	1,147

MECHANICAL REFRIGERATOR SHIPMENTS IN CARS 46 FEET AND UNDER, 1972-73 CROP YEAR

Year or Commodity	Sept. 1972	Oct.	Nov.	Dec.	Jan. 1973	Feb.	Mar.	Apr.	May	June	July	Aug.	Total
	Carlot or Carlot Equivalent												
Oranges	--	--	2	8	1	--	2	35	87	73	3	--	211
Grapefruit	--	--	1	16	2	9	9	32	45	33	--	--	147
Tangerines	--	--	--	1	--	--	--	--	--	--	--	--	1
Mixed Citrus	--	--	1	26	3	6	6	26	37	5	--	--	110
Cabbage	--	--	--	--	--	--	4	4	5	--	--	--	13
Carrots	--	--	--	--	--	--	--	5	--	--	--	--	5
Celery	--	--	--	--	--	--	--	23	5	4	--	--	32
Corn, Green	--	--	--	--	--	--	--	14	64	67	1	--	146
Cucumbers	--	--	--	--	--	--	--	1	4	--	--	--	5
Endive-Escarole	--	--	--	--	--	--	--	2	--	--	--	--	2
Peppers	--	--	1	--	--	--	--	2	--	--	--	--	3
Potatoes	--	--	--	--	--	--	27	82	78	5	--	--	192
Tomatoes	--	--	7	4	--	--	1	11	111	30	--	--	164
Other Vegetables	--	--	--	1	4	--	--	39	29	7	--	--	80
Total All	--	--	12	56	10	15	49	276	465	224	4	--	1,111

MECHANICAL REFRIGERATOR SHIPMENTS IN CARS OVER 46 FEET, 1972-73 CROP YEAR

Year or Commodity	Sept. 1972	Oct.	Nov.	Dec.	Jan. 1973	Feb.	Mar.	Apr.	May	June	July	Aug.	Total
	Carlot or Carlot Equivalent												
Oranges	--	--	--	1	--	-	--	4*	3*	1*	--	--	9
Grapefruit	--	--	--	1	--	--	--	--	5	--	--	--	6
Tangerines	--	--	--	--	--	--	--	--	--	--	--	--	--
Mixed Citrus	--	--	--	2	--	--	--	--	6	--	--	--	8
Cabbage	--	--	--	--	--	--	--	--	--	--	--	--	--
Carrots	--	--	--	--	--	--	--	--	--	--	--	--	--
Celery	--	--	--	--	--	--	--	--	--	--	--	--	--
Corn, Green	--	--	--	--	--	--	--	--	3	1	--	--	4
Cucumbers	--	--	--	--	--	--	--	--	--	--	--	--	--
Endive-Escarole	--	--	--	--	--	--	--	--	--	--	--	--	--
Peppers	--	--	--	--	--	--	--	--	--	--	--	--	--
Potatoes	--	--	--	--	--	--	--	--	--	--	--	--	--
Tomatoes	--	--	2	--	--	--	--	--	7	--	--	--	9
Other Vegetables	--	--	--	--	--	--	--	--	--	--	--	--	--
Total All	--	--	2	4	--	--	--	4	24	2	--	--	36

* Note: Cars of approximately 120,000 pounds of bulk oranges.

APPENDIX C

FLORIDA SHIPMENTS 1972-73 SEASON

FLORIDA FRUIT & VEGETABLE ASSOCIATION

A NON-PROFIT CO-OPERATIVE ASSOCIATION

4401 E. COLONIAL DRIVE
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July 14, 1969

The Honorable Clifford M. Hardin
Secretary of Agriculture
United States Department of Agriculture
Washington, D.C. 20250

Dear Secretary Hardin:

This Association, on behalf of its producer members of Tomatoes, Fresh Citrus, Peppers, Beans, Watermelons, Cucumbers, Tropical Fruits, Squash, Strawberries, and Eggplants, respectfully requests through you that the President, under the authority contained in Section 204 of the Agricultural Act of 1956, seek to obtain agreements with Mexico and other countries limiting the export from such countries and the importation into the United States of the above-named agricultural commodities in their fresh state, whose domestic producers are adversely affected by increased and excessive imports from foreign sources.

During recent years imports of certain fresh fruits and vegetables into the United States have increased to such an extent as to disrupt the market for such commodities produced in the United States. This increase in imports has been caused in large part by lower cost of production in other countries, especially in the wages paid to agricultural employees, which it is the policy of the United States to maintain at relatively much higher levels than in other countries. Because of this unfair disparity in cost production which exists in other countries by reason of the payment of substandard wages, it is practically certain that imports of fresh fruits and vegetables will continue to increase and further destroy the market for such commodities produced in the United States.

This problem has been well documented in recent years and is known to the United States Department of Agriculture, the United States Tariff Commission, the Trade Information Committee, the Committee on Ways and Means before whom pending legislation entitled "The Fresh Fruits and Vegetables Market-Sharing Act" has been heard, and other responsible officials and groups who have been concerned with it. It is therefore not our intention to burden this formal request with evidence of a problem which is already a matter of record.

We further respectfully suggest and recommend, however, that before initiating such agreements with the foreign countries that those authorities in government who will be empowered to effectuate these negotiations seek the advice and counsel of our industry and those affected by

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A MEDIUM FOR CO-OPERATIVE UNITY OF EFFORTS BY PRODUCERS, SHIPPERS, PACKERS AND PROCESSORS OF FLORIDA FRUITS AND VEGETABLES IN THEIR NEGOTIATIONS WITH PUBLIC AND PRIVATE AGENCIES

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these imports in arriving at fair and just terms to provide orderly trade in fresh fruits and vegetables, including the quantitative limitation of any fresh fruits and vegetables into the United States necessary to avoid injury or threat of injury to our domestic producers and the economy of such American areas of production as a result of the competition of foreign producers in our markets.

We urge that this request be given immediate and favorable consideration since any further delays in appropriate action on the part of our government to resolve this problem could be disastrous to the affected segments of our agricultural economy.

Respectfully yours,

/s/ Joffre C. David

Joffre C. David
Secretary-Treasurer

JCD/ak

MACHINERY AND ALLIED PRODUCTS INSTITUTE,
Washington, D.C., January 18, 1974.

Hon. RUSSELL LONG,
Chairman, Senate Committee on Finance, Dirksen Office Building, Washington, D.C.

DEAR CHAIRMAN LONG: We appreciate the opportunity to present our views on H.R. 10710, the proposed "Trade Reform Act." As you may know, the capital goods and allied equipment manufacturers represented by the Institute have a vital stake in foreign trade. To take but one measure, these industries' exports in 1972 were some $17 billion, about one-third of total U.S. exports.

Our comments concerning the bill are divided into two parts: (1) trade relations with countries not enjoying nondiscriminatory treatment (Title IV) and (2) tariff negotiating authority and other authorities with respect to modifying import restrictions and extending import relief.

We recommend that Title IV be deleted from H.R. 10710 and considered separately. These provisions relating to trade with Communist countries are not central to the bill's purposes of providing the President with negotiating authority for major multilateral trade negotiations and other authorities related to imports and their effects on domestic industries and workers. More importantly, the denial of U.S. Government (e.g., Export-Import Bank) financing to Communist countries probably would have an immediate adverse impact on U.S. exports of capital goods since they are highly sensitive to changes in the cost and availability of export credit. While we appreciate the concern of Title IV proponents over the Soviet Union's foreign policy and the rights of its citizens, in the absence of a concerted effort by the major industrial nations we believe that the prohibitions on U.S. Government financing contained in Title IV will not result in the denial of any significant number of products needed by the Soviet Union and other Communist countries but only the replacement of U.S. suppliers by suppliers from other industrialized nations and the loss of income and employment that would otherwise have been available to American workers. In 1972, the most recent year for which comparable data are available, the United States supplied only 4 percent of East European imports of machinery and transport equipment from the industrial nations of the West.

While the immediate adverse effect of the bill's provisions which would prohibit the extension of most-favored-nation (MFN) tariff treatment to the Communist countries is less clear, since such treatment is of great symbolic importance to the Communist countries and further withholding of such treatment through legislative action could result in some type of retaliation against U.S. companies.

We support without major qualifications the other provisions of the bill which would provide the President with authority to negotiate concerning tariff and nontariff barriers and the provisions dealing with import relief, adjustment assistance, a generalized system of preferences, and relief from unfair trade practices by foreign countries. We applaud in particular the provisions added by the House which would (1) provide a statutory basis for an industry-government institutional framework for consultations concerning the forthcoming multilateral negotiations and (2) permit the President to suspend the application of items 806.30 and 807.00 of the Tariff Schedules of the United States[1] *only* when the Tariff Commission has determined in the course of and investigation that serious injury (or the threat thereof) results from the application of these items.

TRADE RELATIONS WITH COUNTRIES NOT ENJOYING NONDISCRIMINATORY TREATMENT

Since it is our understanding that none of the Communist countries recognizes the right of emigration, Title IV of H.R. 10710 as passed by the House would *deny*:

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[1] Items 806.30 and 807.00 of the Tariff Schedules of the United States permit U.S. companies which send products abroad for processing to pay duty, when the item is returned to the United States, only on the amount of value added in the foreign country.

U.S. Government financing for any Communist country except Yugoslavia and Poland; and

Most-favored-nation (MFN) tariff treatment to any Communist country except Yugoslavia and Poland.

Thus, if the bill is enacted in its present form, it would *reverse* the Administration's actions in extending (1) the Export-Import Bank's export credit and insurance programs to the Soviet Union and Romania and (2) the Overseas Private Investment Corporation's investment insurance program to investments by U.S. companies in Romania. In addition, it would prevent the Administration from extending MFN tariff treatment to imports from any of the Communist countries, except Poland and Yugoslavia whose imports already enjoy such treatment. Since the provision concerning U.S. Government financing programs was adopted by the House without any opportunity for the public to offer views concerning the measure, we particularly welcome the opportunity to offer our views on the possible economic impact of that proposal.

Recommendation for Deletion of Title IV

We endorse the President's recommendation that Title IV be deleted from H.R. 10710 and considered separately. These provisions are not central to the bill's purposes of providing the President with negotiating authority for major multilateral trade negotiations and with other authorities related to imports and their effects on domestic industries and workers. We appreciate that some of the congressional support for these provisions reflects concern over such fundamental questions as the direction of U.S.-Soviet Union relations and the extent to which U.S. foreign policy can broaden the rights of citizens in Communist countries. However, it must also be recognized that a further interruption in the normalization of relations with the Communist countries could—and quite possibly would—result in an immediate loss of trading opportunities and in a re-orientation of attitudes toward trade on the part of those countries and U.S. businessmen that could take years to reverse.

Impact of Denial of U.S. Government Financing

The provision which would deny U.S. Government financing to countries which do not recognize the right of emigration would, we believe, have an immediate adverse impact on U.S. exports of capital goods since they are highly sensitive to the cost and availability of export credit. In our view, the public discussion of the financing provision and certain related aspects of trade with the Communist countries of Eastern Europe has reflected some misunderstanding of the issues involved and we would like to offer the following comments:

1. With respect to the capital goods and allied equipment industries, withdrawal of Export-Import Bank participation in sales to Eastern Europe would not result in the denial of any significant number of products important to the Soviet (and other East European) economies but would result in the replacement of U.S. suppliers to those countries by supplier from the industrial countries of Western Europe and Japan. (As discussed below, the Senate Committee on Banking, Housing and Urban Affairs also reached this conclusion in its 1971 review of this question which resulted that year in the removal of the Export-Import Bank Act's absolute prohibition on Bank activities in most Communist counttries.)

2. The rate of interest and other items of Export-Import Bank export financing to the Soviet Union and the other eligible countries of Eastern Europe do *not* constitute "aid;" they are the same terms offered to borrowers in other countries. Credit is no less a sales tool in Eastern Europe than in other areas and the government-supported export credit facilities in our major competitor nations support sales to Eastern Europe in the same manner as to non-Communist countries.

3. Trade with the Soviet Union and the other countries of Eastern Europe is of significant interest to U.S. firms of varying sizes and product lines. For example, over the past year or so a number of firms which produce machine tools and other equipment for the automotive industry have received substantial orders from the Soviet Union. While these firms are not "small businesses" in the legal sense of the term, they generally have annual sales of less than $100 million. Many of these companies could not finance

the transactions themselves and it is extremely unlikely that financing on competitive terms could be obtained from U.S. commercial banks.

The limited role of the United States as a supplier of capital goods to East European countries and the Export-Import Bank's lending policies are discussed in more detail below.

U.S. share of capital goods exports to Eastern Europe by leading industrial nations.—As noted earlier, the termination of Export-Import Bank operations in the Soviet Union and Romania would adversely affect the capital goods industries because the products of those industries are customarily sold on medium-term credit *and* such sales are customarily supported by government export financing facilities in the major industrial countries.

Table I appended to this statement shows the *volume* of exports of machinery and transport equipment accounted for by the U.S. and other members of the Organization for Economic Cooperation and Development (OECD), which includes all of the leading industrial nations, to the Communist countries of Eastern Europe. Table II shows the *market share* for exports of machinery and transport equipment accounted for by the U.S. and other OECD members to Eastern Europe. In brief these data show that:

Although U.S. exports of machinery and transport equipment to Eastern Europe, including the Soviet Union, more than tripled from $29 million in 1968 to $98 million in 1972, the U.S. share of capital goods exports to the area only doubled, and then from a low base, from 2 percent to 4 percent. (By way of comparison, the U.S. share of OECD exports of capital goods to *all* countries was more than 20 percent in both years.)

U.S. exports of capital goods to the *Soviet Union* increased from $14 million in 1968 to $61 million in 1972, but the U.S. share of OECD exports to that country in 1972 was still only 6 percent.[2]

The data concerning trade in capital goods between the United States and Eastern Europe show the slight dependence of the area on U.S. suppliers and, given the advanced state of industrial technology in Western Europe and Japan, there are few products which the Communist countries could obtain only from the United States. This view was also expressed by the Senate Committee on Banking, Housing and Urban Affairs in 1971 when it recommended the removal of the absolute prohibition on Export-Import Bank activity in Communist countries.

Views of Senate Committee on Banking, Housing and Urban Affairs in 1971 regarding restrictions on Bank activity in Eastern Europe.—It has been only a little over two years since the Congress removed the absolute prohibition on Export-Import Bank activities in most Communist countries. The report issued by the Senate Committee on Banking, Housing and Urban Affairs on the bill relaxing the prohibition included the following comments on the matter of restricting Export-Import Bank activties in Eastern Europe:[3]

* * * * * * *

Trade wth Eastern Europe comprises approximately 16 percent of total world trade. However, the U.S. share of this market is only 3 percent. Yet, the Eastern European marketplace is one of the fastest growing in the world. None of the allies of the United States similarly restrict themselves on export credit to Eastern Europe. They treat Eastern European business the same as all other business.

To retain this anachronistic restriction [on extensions of Eximbank support of exports to Eastern Europe] in view of all circumstances will only serve to

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[2] It should be noted that, as a result of the commercial agreements between the United States and the Soviet Union in October 1972 and the extension of Export-Import Bank financing to that country, U.S. exports of capital goods to the Soviet Union increased substantially during 1973. According to statistics compiled by the U.S. Department of Commerce which are roughly comparable to the OECD data cited above, U.S. exports of machinery and transport equipment to the Soviet Union during January–September 1973 totaled $136 million, more than doubling the level for all of 1972. Comparable data concerning 1973 capital goods exports to the Soviet Union by the other leading industrial nations are not yet available. However, even if the total volume of trade between the Soviet Union and the OECD countries remained at 1972 levels, the U.S. share of market would only be 13 percent.

[3] Report No. 92–51, U.S. Senate, 92d Cong., 1st Sess., March 31, 1971. pp. 8–9.

inhibit the growth of U.S. exports, penalize American business, and restrict improvement in our currently adverse balance-of-payments situation.

The restriction denies no product to Eastern Europe; the business merely goes elsewhere. . . .

* * * * * * *

That act [Export Administration Act] directed the Department of Commerce to encourage trade in peaceful, nonstrategic goods with the nations of Eastern Europe in order to strengthen political ties, to further weaken the dependence of the Eastern European nations upon the Soviet Union, and to make our own controls more consistent with those of our Western allies.

The full attainment of these positive goals in our relations with Eastern Europe is not possible so long as we absolutely prohibit Export-Import Bank assistance for exports to those countries. By giving the President the authority to permit Export-Import Bank assistance to those transactions which he finds will be in the national interest, we are giving him the flexibility necessary to vigorously pursue increased U.S. exports and at the same time fully protect the security of the Nation.

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As noted previously, we believe the Committee's observations are equally valid today.

The terms of Eximbank loans to Eastern Europe.—It is true that, when the Export-Import Bank's direct lending rate of 6 percent is below the cost of money to the Treasury, there is some element of "subsidy" in its operations. However, this is the Bank's rate for direct lending in *all* markets, non-Communist as well as Communist. The Bank has been directed by the Congress, through amendments to the Export-Import Bank Act, to provide export financing on terms fully competitive with the government-supported export financing provided by our major competitors. To meet the competition, the Bank's policy with respect to its direct lending activity is to lend one-half of the financed portion of a transaction (with a 10 percent down payment by the borrower, this is generally 45 percent of the sale price) at 6 percent interest; the other half of the financed portion must be obtained from private sources at the going commercial rate. The mixing of the Eximbank and private rates provides a rate to the customer well above the 6 percent charged on the Bank's portion of the loan but not so high as to price U.S. exporters out of world markets. (With a prime lending rate of 9.75, which is general now, and the additional charges associated with export financing, the mixed rate to a borrower on a medium-term transaction would be almost 8 percent.) The Bank adopted this approach because most of our major competitors, traditionaly more aggressive in pursuing export business, isolate export financing from domestic monetary policy through a rediscount system or other techniques which enable them to provide export financing in adequate amounts at interest rates below those prevailing domestically.

It also should be noted that loans to the Soviet Union do not constitute a large portion of total Bank lending, although these loans are largely responsible for the increase in capital goods sales registered in 1973 and will be critical in any future expansion. During the period January-November 1973 the Bank approved loans to the Soviet Union totaling $120.4 million, 4 percent of total loans of $2 .86 billion to *all* areas during this period.

Further implications of an interruption in Export-Import Bank financing of exports to Eastern Europe.—The development of trade relations between the United States and the countries of Eastern Europe was hampered for many years by government policies and attitudes. However, the publicity surrounding President Nixon's visits to Eastern Europe and pronouncements concerning "detente," the more positive attitude of the Congress toward trade with Communist countries reflected in the Export Administration Act and the 1971 amendments to the Export-Import Bank Act, the conclusion of commercial agreements with the Soviet Union last year, and the determination by the President that it is in the national interest for Eximbank to participate in transactions with the Soviet Union, Romania and Poland, convinced a number of capital goods companies which previously had been reluctant to commit the necessary resources to establish trade relations with those countries that our government's policy was finally committed to expanding such trade.

For most U.S. companies, and particularly for those in the capital goods industries, an effort to develop trade with the Communist countries represents a substantial commitment of funds and personnel. These countries pose unusual problems in terms of marketing research, establishing useful relationships with purchasers and users, and the length and complexity of contract negotiations. In many cases the successful completion of negotiations requires months and even years of effort for manufacturers of machinery and related equipment. The sales effort by such firms must also be accompanied by an expensive augmentation of parts and service facilities for customers. If the Congress were to deny Export-Import Bank participation in this trade, sales of U.S. machinery and other equipment would be lost and, perhaps more importantly for the long run, many companies whose products customarily are sold on medium-term credit would curtail their efforts in the Communist market and thus much of the momentum gained in the last few years toward U.S. penetration of these markets would be lost. The type of sustained effort necessary to establish a position in these markets which, for all practical purposes, are newly opened to U.S. companies, cannot be implemented if our government continues "stop and go" policies. "Stop and go" was our government's policy until very recent years and the result in terms of market share has been meager.

Impact of Denial of MFN Tariff Treatment

While the adverse effects on U.S. capital goods producers from the withholding of Export-Import Bank assistance are clearer than those which would result from the withholding of MFN status, one should not underestimate the importance of the latter with respect to the growth of U.S.-East European trade both for the near and long term. The interest of the Soviet Union and other East European countries in MFN status is impressed continuously upon U.S. businessmen by state trading officials in those countries. For the United States to remove the prospect of MFN tariff treatment—after agreeing to accord this status to the Soviet Union and indicating willingness to extend it to Romania—probably would result in some type of retaliation against U.S. suppliers. For the longer term, especially in view of the tendency of the East European countries to maintain trade balance with each of their Western trading partners, the prospects for increased two-way trade are not good in the absence of the extension of MFN tariff treatment.

TARIFF NEGOTIATING AUTHORITY AND OTHER AUTHORITIES WITH RESPECT TO IMPORT RESTRICTIONS AND IMPORT RELIEF

General Comments

This new legislative authority is, of course, primarily a response to a long-continued deterioration in the international trading position of the United States as reflected—until very recent months—in continuing and enlarging deficits in our international balance of payments. Aside from the worsening of our international competitive position attributable to overvaluation of the dollar, uneconomic labor rates, preferential trading arrangements, etc., the problem is intensified by the existence of a great diversity of nontariff barriers to trade and other unfair trade practices which both hamper American exports and facilitate foreign exports to the U.S. and third markets. A measure of the decline in our foreign trade position, from the standpoint of capital goods, is reflected in Table III, *Imports and Exports and Import-Export Ratios for Major Machinery Categories, 1963–1972.*

In our opinion H.R. 10710 strikes a reasonable balance between those who believe that the United States and other major trading nations should resume the dismantling of international barriers to trade and those who have become increasingly disturbed in recent years about what they consider to be the adverse impact of imports on U.S. industries, workers, and communities.

Our support for this legislation in general terms is based on our belief that broad negotiating authority is needed by the President to achieve the objectives of the legislation. As the President stated in his April 10 message to the Congress on the Trade Reform Act:

> The key to success in our coming trade negotiations will be the negotiating authority the United States brings to the bargaining table. Unless our negotiators can speak for this country with sufficient authority, other

nations will undoubtedly be cautious and non-committal—and the opportunity for change will be lost.

Negotiating Authority

As just noted, we believe the President should be armed with appropriate legislative authority to negotiate or renegotiate the terms of trade with other trading nations as a means of achieving basic fairness in our international commerce. In view of the magnitude and complexity of the tariff and nontariff barriers which will be subject to negotiation, broad negotiating authority—with respect to both tariff and nontariff barriers—is necessary to achievement of our goals.

As a result of successive tariff reductions on industrial products in recent decades, for a great number of product groups nontariff barriers now figure as importantly as tariffs as barriers to international trade and are expected to be a—if not *the*—major concern of negotiators in the coming round of General Agreement on Tariffs and Trade (GATT) negotiations. The provisions permitting the President to conclude agreements in this area—subject to congressional veto—represent an imaginative compromise between the needs of our negotiators for broad negotiating authority and the constitutional role of the Congress.

Consultation With Industry

In view of the experience gained during the "Kennedy Round" of GATT negotiations and the fact that the coming negotiations will involve trade barriers of great diversity and complexity whose impact is often difficult to measure by government negotiators and others outside of the specific industry concerned, we support those provisions of the House bill which would provide a framework for governmental cnsultation with businesses and other segments of the private sector concerning the negotiations. It is the general opinion of industry that European negotiators were more effective than U.S. negotiators during the "Kennedy Round" because of their closer consultation with their domestic industries. Although the Administration has initiated an impressive effort to establish an institutional framework for ongoing industry-government consultation in connection with the forthcoming multinational negotiations, we believe that a congressional mandate will be useful, particularly in terms of the assurance it provides to businessmen and others who might participate in the various advisory groups, in demonstrating that serious attention will be given to their views.

Import Relief From Fair Competition and Adjustment Assistance for Workers

We endorse the general thrust of the bill to ease the criteria for a finding of injury to an industry, individual firms, and to workers. We believe there is a broad consensus in our membership that existing statutory and administrative criteria governing such a finding are so rigorous as to fail in achievement of their broad purpose. Based on the experience of some segments of our membership which have undergone sudden and intense competition from foreign (notably Japanese) producers, we believe that the provisions enabling the President to extend import relief to an affected industry for a period of up to five years would give the industry time to adjust to the competition and would help to minimize import disruption to that industry, its workers, and communities. It appears that the several factors cited in the bill which the President must consider before extending *import* relief should ensure that there is not such a volume of successful applications that U.S. firms are constantly confronted by changing U.S. import duties or the prospect of foreign retaliation against their exports.

We approve of the order of preference for forms of import relief set forth in the bill and we applaud the improvements made by the House Ways and Means Committee in the Administration's proposal with respect to items 806.30 and 807.00 of the Tariff Schedules of the United States. It will be recalled that the Administration proposed that the President, after deciding that import relief is appropriate after an injury finding by the Tariff Commission, could elect to suspend the application of TSUS items 806.30 and 807.00 as well as taking other import restrictive actions. H.R. 10710 provides that import relief in the form of a suspension of the application of TSUS items 806.30 and 807.00 would be permitted only when the Tariff Commission has determined in the course of its investigation that serious injury (or the threat thereof) results from the application of these items. We believe this modification in the Administration's proposal is particularly appropriate in view of the fact that a detailed study by the Tariff Commission in 1970 concluded that repeal of those items: (1) would *not* markedly reduce the volume of imports of the articles that now enter the United States under these provisions, (2) probably would result in an adverse effect on the U.S. balance of trade, and (3) probably would result in only a modest number of jobs being returned to the United States and these jobs likely would be more than offset by the loss of jobs among workers now producing components for export and those who further process the imported products.

Generalized System of Preferences

We believe that, with the safeguards contained in the bill with respect to public hearings and advice from the Tariff Commission and other departments with respect to import-sensitive industries, the President should be empowered to extend preferences to imports from the less developed countries. In addition to the prospect the system offers of an increase in the rate of economic development in the less developed countries, we believe it would be damaging to U.S. economic relations with those countries for the U.S. not to introduce such a system after the European Communities, Japan, and several other industrial countries already have done so. While we have reservations about programs which attempt to divide the world along lines of developed and less developed areas and administration of a tariff preference system may prove to be difficult, we believe the effort should be made. Since preferences would not be extended to countries which extend "reverse preferences" to developed countries, the bill would provide the President with a measure of leverage in eliminating discrimination against U.S. exporters in those less developed areas, particularly the former colonial territories of European countries in Africa, which may become important U.S. export markets in the future. If this leverage can be used effectively and if we are able to reduce substantially the tariff and other import barriers of the European Communities, perhaps we can reduce the adverse impact on the United States and other countries (e.g., those of Latin America) of these regional preferences.

The provisions dealing with the conditions under which the President must withdraw beneficiary status from a country seem to us so restrictive that they may defeat the purpose of the bill to broaden the export base of the less developed countries. They also seem unduly restrictive in terms of the shortages existing in the U.S. economy. H.R. 10710 would require that preferential treatment not be applied to a particular article from a particular beneficiary developing country if that country has supplied (1) 50 percent or more of the total value of U.S. imports of the article or (2) $25 million of U.S. imports of the article, during the latest calendar year for which data are available, *unless* the President determines that continuing the preference would be in the national interest. In terms of the size of the manufacturing sector of some of the developing countries (e.g., Mexico, Brazil and India) which might be considered beneficiary countries and the scale of world trade today, a "quota" of $25 million might not be sufficient to induce local producers to establish—or expand—facilities to take advantage of the preferences because of uncertainty as to whether the $25 million might be "used up" by competitors. Both this limitation and the rule limiting imports of an article to 50 percent of total U.S. imports could be inappropriate when the items are in short supply in the United States. These limitations should be relaxed, at the least, to provide that they need not be invoked with respect to products on which duties have been reduced under the President's authority to suspend import barriers to restrain inflation because domestic supplies "are inadequate to meet domestic demand at reasonable prices."

Other Comments

There are other provisions of the bill in which our membership has less direct and immediate interest but on which we would also like to comment.

Relief from unfair trade practices.—With respect to the bill's provisions dealing with various unfair practices:

We support (1) the extension of the President's authority to retaliate against foreign import restrictions adversely affecting U.S. *nonagricultural* exports as well as agricultural exports, and (2) in principle the new authority to retaliate against foreign subsidies on sales to third markets which substantially reduce sales of competitive U.S. products to those markets.

These additional authorities for the President hopefully will deter foreign countries from taking such actions which would unfairly hinder U.S. exports. However, in view of the fact that certain U.S. products, notably in the agricultural sector, benefit from subsidies, the authority to retaliate against foreign subsidies must be used with care. Although we support in principle the authority to retaliate against foreign subsidies on sales to third markets, it appears to us that the exercise of this authority might best be withheld until an attempt is made within the GATT to work out international ground rules as to permissible subsidies.

We welcome the emphasis in the proposed amendments to the antidumping and countervailing duty laws on speeding up the resolution of cases. We believe this is in the interest of both importers and affected domestic producers. We also believe that the range of options which would be accorded the Secretary of the Treasury under the proposed amendments to the countervailing duty law would be a desirable change and could result in better use of that law to counter subsidies offered by foreign governments.

Balance-of-payments authority.—We support the provisions of H.R. 10710 which would empower the President to temporarily impose import restrictions to correct a serious balance-of-payments deficit and to reduce import barriers to correct a balance-of-payments surplus.

In recent years Presidents faced with emergencies involving our balance-of-payments position have taken actions of questionable legal validity and in some cases the actions are being challenged in the courts. Since there is evidence that the President probably needs authority to act in emergencies, it is better that this authority be provided explicitly by law and its limits spelled out. It can also be argued that having this kind of authority would give the President bargaining leverage in international negotiations to seek a currency realignment or other concessions that may be needed to correct a trade imbalance. (For example, if such authority had existed in 1971, the President might not have needed to impose the import surcharge.) Although these provisions represent an extraordinary grant ~~of authority~~ to modify import restrictions, the 150-day limitation on its use should ensure that the authority is not invoked for purely protectionist purposes or to avoid taking more politically difficult actions to restore the competitiveness of the U.S. economy.

With respect to the proposed authority for correcting a balance-of-payments *surplus*, we believe that the provisions permitting the President to exclude articles from tariff reductions or quota increases should be drafted so as to ensure that exclusions are made only when there is a prospect of injury to a domestic industry or for clear national security reasons. We also believe that it is unwise to leave these determinations solely with the President. While it probably would not be feasible to hold public hearings prior to taking such actions, we believe the exclusions should be determined by a nonpolitical body such as the Tariff Commission.

Authority to suspend import barriers to reduce inflation.—We believe that authority for the President to suspend or reduce import restrictions on articles "during a period of sustained or rapid price increases" could be a useful addition to the options available to a President to dampen inflation. As in the case of the balance-of-payments authority, we think the provisions should be drafted to ensure that economic considerations are paramount in their administration. Perhaps a "watch" system employing the resources of an organization outside of the Executive Branch could be used to identify these items, the supplies of which are "inadequate to meet domestic demand at reasonable prices" and to estimate the impact on domestic prices and the domestic industry of a reduction in import restrictions.

We greatly appreciate this opportunity to present our views on H.R. 10710, the proposed "Trade Reform Act."

Respectfully,

CHARLES W. STEWART, *President.*

TABLE I.—EXPORTS OF MACHINERY AND TRANSPORT EQUIPMENT TO EASTERN EUROPE BY THE UNITED STATES AND OTHER OECD MEMBERS, 1968 AND 1972

[In millions of dollars]

	Exporter															
	United States		West Germany		United Kingdom		France		Italy		Japan		Other OECD countries[1]		Total	
Importer	1968	1972	1968	1972	1968	1972	1968	1972	1968	1972	1968	1972	1968	1972[2]	1968	1972
Eastern Europe:[3]																
Machinery, other than electric[4]	$24.7	$86.6	$359.9	$813.8	$248.0	$215.4	$209.9	$226.0	$154.2	$239.6	$43.7	$216.5	$297.6	$116.3	$1,338.0	$1,914.2
Electrical machinery and apparatus[5]	4.4	11.4	59.7	127.6	16.2	36.5	29.3	61.3	26.6	33.7	12.8	37.3	70.0	68.4	219.0	377.2
Transport equipment[6]	.1	.1	2.6	6.0	8.5	3.1	1.4	82.7	5.4	.5	11.0	14.6	115.0	134.2	144.0	241.2
Total	29.2	98.1	422.2	947.4	272.7	255.0	240.6	370.0	186.2	273.8	67.5	268.4	482.6	319.9	1,701.0	2,532.6
Soviet Union:																
Machinery, other than electric[4]	11.9	53.5	36.1	326.7	121.2	79.0	4.2	88.9	3.8	109.4	36.1	138.0	379.7	38.5	593.0	834.0
Electrical machinery and apparatus[5]	2.4	6.9	8.2	34.0	6.1	13.4		24.0	.9	12.4	8.2	20.6	42.2	10.7	68.0	122.0
Transport equipment[6]	.1	.1	.6	1.0	.3	.2	1.5	.1			.6	22.8	91.9	36.4	95.0	60.4
Total	14.4	60.5	44.9	361.7	127.6	92.6	5.7	112.8	4.7	121.8	44.9	181.4	513.8	85.6	756.0	1,016.4

[1] Belgium-Luxembourg, Netherlands, Norway, Sweden, Denmark, Finland, Iceland, Austria, Switzerland, Portugal, Ireland, Spain, Greece, Turkey, Canada, and Australia.
[2] Annual totals extrapolated on basis of data compiled for 1st 6 months of 1972.
[3] Soviet Union, East Germany, Poland, Czechoslovakia, Hungary, Romania, Bulgaria, and Albania.
[4] SITC division 71.
[5] SITC division 72, less subdivision 724 (telecommunications apparatus) and subdivision 725 (domestic electrical equipment) which include primarily consumer durable goods.
[6] SITC division 73, less subdivision 732 (road motor vehicles) and subdivision 733 (road vehicles other than motor vehicles) which include primarily consumer durable goods.

Source: Organization for Economic Cooperation and Development.

TABLE II.—SHARE OF MACHINERY AND TRANSPORT EQUIPMENT EXPORTS TO EASTERN EURPOE OF THE UNITED STATES AND OTHER OECD MEMBERS, 1968 AND 1972

[In percent]

Importer	Exporter															
	United States		West Germany		United Kingdom		France		Italy		Japan		Other OECD countries		Total[1]	
	1968	1972	1968	1972	1968	1972	1968	1972	1968	1972	1968	1972	1968	1972	1968	1972
Eastern Europe	2	4	25	37	16	10	14	15	11	11	4	11	28	13	100	100
Soviet Union	2	6	6	36	17	9	1	11	1	12	6	18	68	8	100	100

[1] Detail may not add to totals due to rounding.

TABLE III.—IMPORTS AND EXPORTS AND IMPORT-EXPORT RATIOS [1] FOR MAJOR MACHINERY CATEGORIES, 1961–72

[Imports and exports in millions of dollars, ratios in percent]

	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972
Machinery, total:												
Imports	629	738	834	1,089	1,486	2,202	2,563	3,035	3,565	4,271	4,742	6,245
Exports	4,694	5,080	5,312	6,121	6,589	7,297	7,803	8,309	9,519	11,015	11,168	12,7
Ratio	13.4	14.5	15.7	17.8	22.6	30.2	32.8	36.5	37.4	38.8	42.5	49.0
Engine, turbine, and parts:												
Imports	35	28	49	136	195	331	383	517	603	782	957	1,242
Exports	558	694	660	666	829	932	1,021	1,123	1,213	1,358	1,523	1,798
Ratio	6.3	4.0	7.4	20.4	23.5	35.5	37.5	46.0	49.7	58.0	62.8	69.1
Agricultural machines and tractors:												
Imports	115	152	172	195	249	325	341	322	345	348	360	4977
Exports	541	558	644	826	860	860	843	873	917	931	875	1,075
Ratio	21.3	27.2	26.7	23.6	29.0	37.8	40.5	36.9	37.6	37.3	41.1	46.2
Office machines:												
Imports	75	85	98	104	136	191	225	256	372	505	566	700
Exports	310	324	362	434	471	557	707	747	1,052	1,547	1,521	1,623
Ratio	24.2	26.2	27.1	24.0	28.9	34.3	31.8	34.3	35.4	32.6	37.2	43.1
Metalworking machinery:												
Imports	34	41	48	40	63	135	203	204	183	164	107	140
Exports	391	435	347	408	332	338	339	334	343	396	405	410
Ratio	8.7	9.4	13.8	9.8	19.0	39.9	59.9	61.1	53.4	41.4	26.4	34.1

Textile and leather machinery:												
Imports	82	94	93	127	157	221	237	308	305	361	501	638
Exports	210	200	190	228	207	227	206	207	273	253	253	272
Ratio	39.0	47.0	48.9	55.7	75.8	97.4	115.0	148.8	127.6	132.2	198.0	234.6
Other nonelectric machinery:												
Imports	114	140	175	269	360	474	574	673	814	943	1,012	1,324
Exports	1,732	1,876	2,006	2,298	2,573	2,864	3,065	3,276	3,697	4,181	4,202	4,693
Ratio	6.6	7.5	8.7	11.7	14.0	16.6	18.7	20.5	22.0	22.5	24.1	22.2
Power machinery and switchgear:												
Imports	28	25	22	41	67	105	133	168	196	247	263	356
Exports	255	264	326	356	472	488	510	531	562	611	679	787
Ratio	11.0	9.5	6.7	11.5	14.2	21.5	26.1	31.6	34.9	40.4	38.7	45.2
Other electrical apparatus:												
Imports	146	174	177	177	259	419	467	587	746	922	976	1,348
Exports	696	730	776	905	843	1,031	1,111	1,218	1,497	1,728	1,710	2,077
Ratio	21.0	23.8	22.8	19.6	30.7	40.6	42.0	48.2	49.8	53.4	57.1	64.9
Machinery—nonelectric, total:												
Imports	455	540	635	871	1,160	1,677	1,963	2,280	2,622	3,103	3,503	4,541
Exports	3,743	4,087	4,209	4,860	5,274	5,778	6,181	6,560	7,460	8,686	8,779	9,871
Ratio	12.2	13.2	15.1	17.9	22.0	29.0	31.8	34.8	35.1	35.7	39.9	46.0
Electrical apparatus, total:												
Imports	174	199	199	218	326	524	600	755	942	1,169	1,239	1,704
Exports	951	994	1,102	1,261	1,315	1,519	1,621	1,749	2,059	2,339	2,389	2,864
Ratio	18.3	20.0	18.0	17.3	24.8	34.5	37.0	43.2	45.8	50.0	51.9	59.5

[1] Imports as a percentage of exports.

Note: "Other electrical apparatus" includes "domestic electrical equipment." "Agricultural machines and tractors" includes all types of tractors in addition to farm tractors.

Source: U.S. Department of Commerce.

STATEMENT ON BEHALF OF NATIONAL GRAIN AND FEED ASSOCIATION, SUBMITTED BY ALVIN E. OLIVER, EXECUTIVE VICE PRESIDENT, BEFORE THE SENATE FINANCE COMMITTEE

The National Grain and Feed Association has over 1,000 members representing every aspect of the grain and grain processing industry from the smallest country elevator to the largest grain and feed complex, including processors and exporters.

Advance authority to reduce tariffs is the key to the negotiations. Foreign governments will not embark on trade talks which will last more than two years and will entail a vast expenditure of time and energy unless they are confident that all major participants will implement the results without fail. The United States cannot give such assurances unless the Congress, which has the Constitutional power to regulate foreign commerce, grants the President, in advance of the negotiations, clear authority to cut tariffs.

At the outset we would like to express our support of the general provisions of H.R. 10710, the Trade Reform Act of 1973 with the exception of Title IV. The bill as passed by the House is long and complex. We appreciate the fact that many Congressmen and their staffs devoted hours of painstaking analysis and study to produce the bill. We will reserve comment for later on Title IV which does not meet with our approval in its present form. Before getting into our specific comments on the bill we would like to share with you our observations on the importance of American Agriculture in world commerce, particularly grains and oilseeds. We will, however, concentrate our remarks on Title I—Authority for New Negotiations; Title I—Trade Relations with Countries Not Enjoying Most Favored Nation Treatment; and Title V—Generalized Systems of Preferences.

IMPORTANCE OF U.S. AGRICULTURE IN WORLD COMMERCE

In fiscal year 1973, it is expected that U.S. agricultural exports will exceed agricultural imports by $5.6 billion. This significant accomplishment has been made possible by the availability of grains and oilseeds in this country in excess of domestic requrements. The remarkable export volume of U.S. agricultural commodities is being influenced by a major reduction of world food production in calendar year 1972. The very large reduction in cereal production last year in the Soviet Union, the People's Republic of China, Australia, South Africa, and Argentina, together with the almost complete absence of fishing in Peru and a major reduction in world peanut production, have been major factors in bringing about the unprecedented export of agricultural commodities by the United States.

During the year we have seen Japan, hailed only three years ago as our first billion-dollar country market, take more than $2 billion in U.S. agricultural products last fiscal year—the Soviet Union close to a billion; and we have seen the People's Republic of China, after 20 years of zero U.S. trade, import $207 million worth of U.S. corn, wheat, cotton and some other commodities.

With the gain in exports to Japan, the entry of China, and solid growth in exports to South Korea and the Republic of China on Taiwan, we have seen Asia equal Western Europe as a market for U.S. farmers—despite a 49 percent gain in shipments to West Europe in FY '73.

In fact, all major areas took more U.S. products in fiscal 1973 than they did the previous year, and the volume was at record levels in nearly all of them.

The result, as we all know, was a 60-percent increase in U.S. agricultural exports to the all-time high of $12.9 billion. It is expected that the value of agricultural exports may reach $19 billion in fiscal year 1974, although the energy crisis may reduce the amount.

While recognizing the present boom in exports has been greatly influenced by unfavorable conditions noted above, recognition must also be given to the changing dietary habits in the world's population. Of major importance are the decisions by political leaders in several countries to attempt to maintain caloric intake per person despite adversities or to improve the diets of their citizens. These will continue to be viable forces influencing commerce in agricultural commodities.

The United States is supplying more than one half of the feed grains and about 90 percent of the soybeans moving in world commerce. Furthermore, there has been an increase in demand for soybeans and feed grains year after year which reflects real market growth for these commodities.

The record volume of agricultural exports has resulted in record farm income and we have had in past recent years unused productive capacity. The agricultural sector of our economy is one area in which the United States continues to have a comparative production advantage over most other nations. It is one major sector that can be expected to earn more foreign exchange.

Because of the potential productive capacity and because of the opportunities to expand trade in agricultural commodities produced in the United States, it is important to achieve improved commercial relations with other nations of the world on a global basis.

Before leaving the description of the world's agricultural situation, it would be well to recognize that over the long run the world food supply situation is likely to improve. The U.S. is increasing acreage planted to grains and soybeans and other major food grain producers such as the Soviet Union, People's Republic of China and Australia are experiencing more normal weather and, thus, increased domestic production. We also will see an increase in world demand of food due to both increasing population and a rising level of consumer real income and food consumption. We are especially optimistic that the higher real income will cause some governments to place more emphasis on upgrading diets with more meat and livestock products. This portends a long run growth in demand for U.S. grains, especially feedstuffs.

There is a growing significance of its contributions to the nation's balance of trade. Agriculture has consistently shown a trade surplus—close to a billion dollars or more every year since 1961. Last fiscal year's exports produced a record agricultural contribution of $5.6 billion to the U.S. trade balance, at a time when non-agricultural trade was showing a deficit of more than $9 billion.

The agricultural surplus for the first 11 months of this calendar year was $8.1 billion, offsetting a non-farm trade deficit of $7.5 billion for that period. We expect our agricultural surplus to be around $9 billion for the calendar year, to put this country's total yearly trade balance in the black for the first time since 1970; and if the current trend continues, we will pile up an agricultural trade surplus in fiscal year 1974 of more than $10 billion.

World and U.S. trade policies cannot be separated or isolated from our domestic agricultural policies and programs. Trade policy is a vital part of our policy affecting and influencing total agricultural production in the United States. If the trade posture of this country can be structured to make it possible for the United States to become a greater factor in world commerce of agricultural commodities, our entire agricultural sector, including producers and all related businesses, will benefit. The agricultural trade surplus enables the U.S. to import needed and desirable goods and maintain a more healthy economy. However, the stress on oil supplies can curtail production and distribution of world food supplies and reduce U.S. exports of grains and oilseeds. Sufficient oil supplies are necessary to maintain the positive contribution of agricultural exports to both agriculture and the economy.

TITLE I—AUTHORITY FOR NEW NEGOTIATIONS

Comments on Title I will generally be confined to Section 102, Trade Reform Act of 1973—Non-Tariff Barriers to Trade.

This section provides for the negotiation of what is perhaps the most stubborn and difficult impediment facing the U.S. agricultural sector through negotiations, to improve the economic climate for increased trade between the European Economic Community and the United States, with specific reference to those commodities subject to the European Community (EC) Variable Levy System. The sales of agricultural commodities to the EC subject to the Variable Levy System have increased very little on a trend basis in the past ten years. On the other hand, the export of U.S. agricultural commodities to the EC not subject to the Variable Levy System has increased far in excess of 100 percent during the same period of time.

It is well understood that the Variable Levy System maintains the internal high cereal price system within the EC. The problem is difficult because the Variable Levy System has contributed to a more than normal increase in land values in the six and now the nine countries of the European Community. The higher land values, over time, have contributed abnormally to the cost of production. The high guaranteed prices have been a further incentive to increase cereal production in the six countries of the EC and, if continued, will act as a still further incentive to increase production in the three new members of the EC, particularly the United Kingdom.

What has been even more harmful to normal grain use expansion has been the manner in which high fixed prices have discouraged increased grain utilization in the EC. Livestock production has not kept pace with consumer demands, particularly for beef. While these facts are readily recognized by most agricultural experts here and in Europe, the policy is very difficult to change. One approach would be to recommend to our negotiators and in turn to the European Community that the Variable Levy System be supplanted by fixed tariffs. The resistance, because of political and social problems in moving away from the Variable Levy System to a fixed tariff structure, makes this goal very difficult to attain. While this situation poses a tough problem to negotiators with a mandate to lower barriers, it must be recognized that it is a key problem that must receive attention when and if trade negotiations get underway later this year.

It should also be noted that European consumers, over a period of time, will continue to apply pressure on their agricultural leaders to develop a policy that will better service the changing food requirements of Europeans.

It should also be recognized that the level of income that any nation or group of nations wishes to achieve or maintain for their agricultural producers is a matter that must be left to the governing body of each nation or group of nations. Having said this, it must also be recognized that internal agricultural policies in the European Community, Japan, the United States, and elsewhere cannot be isolated from policies affecting the flow of all goods and services involved in foreign trade, including agricultural commodities.

A starting point in negotiations with the European Community is the development of an understanding to minimize and, finally over a period of time, to do away with export subsidies and/or restitutions that through the years have been extremely disruptive to normal market forces.

In an improved trading world it must be recognized that tariff barriers or non-tariff barriers, of which the Variable Levy System is one, must be minimized so as to provide a reward for efficiency of production. Final results that do not meet this goal fall short of trade reform.

It is hard to visualize progress being made in agricultural negotiations without the European Community adopting a fixed tariff schedule for those items now subject to the Variable Levy System and eventually reaching a readiness to lower tariffs over a period of time.

It should be recognized that the United States is not free of guilt in the application of export subsidies and in the application of import quotas. Certainly, if negotiations are seriously aimed at making efficiently produced commodities available to an expanding number of people in the world, these restrictive practices on the part of the United States must also be negotiable and handled in a manner that least upsets the specific commodity areas affected.

TITLE IV—TRADE RELATIONS WITH COUNTRIES NOT ENJOYING MOST FAVORED NATION TREATMENT

This provision as originally drafted in the House bill would have enabled the President to extend Most Favored Nation (MFN) treatment where he considers it to be in the National interest. He also would have had the power, to suspend or withdraw this treatment, if necessary, to prevent market disruption. The extension of MFN, as then written in the proposal, could be vetoed by a majority vote of either the House or the Senate within a three-month period.

The bill as passed by the House now provides that MFN treatment and loans, credits, financial guarantees can be extended to communist nations only if the president finds that there is free emigration of the citizens of such nations. This is an invasion into the internal/domestic affairs of these nations. While free emigration is a laudable objective it should not be tied to trade negotiations or developments.

While it is very difficult to estimate the trade volume, particularly agricultural trade, that may take place between the United States, the Soviet Union, Central European countries, and the People's Republic of China, recent history indicated that U.S. agriculture may actually become more deeply involved in trade with these countries than other sectors of our economy. There is a need to more fully normalize trade relations between the United States and these countries.

As the members of this Committee are fully aware, the degree of economic normalization that has taken place between the Central European countries over the past thirteen years has varied a great deal. For example: Yugoslavia and

Poland do enjoy MFN with the United States. During calendar year 1972 which marked the beginning of more normal trade relations with the People's Republic of China and the Soviet Union, it has become quite evident that our agricultural sector may continue to supply a substantial volume of feed grains, oilseeds, wheat and other agricultural commodities to the countries mentioned. It has also become quite evident that the policy makers in several of these countries continue to channel resources itno expanding the production of meat, poultry, eggs, and dairy products. This development results in increased utilization of feed grains and other feedstuffs—the commodities in which the United States continues to enjoy some comparative production advantage over many major producing countries and other nations.

Over a longer period of time, sound economic relationships between these heretofore economically restricted countries and the United States will be dependent upon the U.S. granting MFN treatment to them. In the interest of improved economic relations and with a goal to expand commercial trade and specifically to maximize U.S. exports of U.S. agriculture commodities, this title should be enacted in its original form. It should be remembered that the granting of MFN treatment to any nation is not a concessional move on the part of the United States, it is an action providing for more normal economic relations.

We understand the settlement of the U.S.S.R. lend-lease debt is contingent upon the U.S. granting of MFN treatment to the Soviet Union. As the original language was written, the extension of MFN could be vetoed by a majority of either the House or the Senate. The retention of the Vanik Amendments in Legislation designed to improve relations between nations would have a negative effect on improved relations and expanded trade.

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

This title in the proposed Trade Reform Act of 1973, which would provide authority to the President to participate with other developed countries in granting generalized tariff preferences on imports of selected products from less developed countries has long been debated by the industrially developed countries.

This proposed title, properly administered by the United States and other developed countries, could and should work for the general welfare of the world, provided that proper safeguards and specific limitations become a part of the general understanding between the developed and less developed countries. The goal in granting generalized preferences to the less developed countries should be to assist them to graduate to the MFN category and we urge that this title be enacted.

No doubt other legislative suggestions and proposals will be submitted to your Committee for inclusion in the bill. Energy supplies and unilateral export controls must be involved in international trade negotiations. In our judgment the present bill represents an excellent start on trade legislation, with the exception of Title IV as referred to above.

CONCLUSION

The National Grain and Feed Association recognizing the importance of foreign trade on the well being of the agricultural sector of the economy and the importance of agricultural exports on our balance of payments situation recommends, with the suggested modification, the enactment of H.R. 10710, the Trade Reform Act of 1973.

Testimony Submitted by the American Soybean Association, Ralph T. Jackson, Executive Vice President

The American Soybean Association, which represents the sentiments and interests of American soybean farmers numbering over half a million and which advances the work of market development for over 200,000 American soybean farmers abroad, supports the Trade Reform Bill. We are most sensitive to the importance of foreign trade to the United States and to our own interests.

Soybeans are major contributors to the United States' balance of payments accounting for $2.5 billion dollars of U.S. exports. Soybeans are the most important U.S. farm export as well as the most important single commodity exported from the United States. U.S. soybeans account for most of the world trade of this commodity; the United States is the most important world exporter.

U.S. soybean exports have flourished to a great extent because world trade has had relatively liberal trade conditions aside from the fact that soybeans are a highly desired product. We would like to continue and enhance the favorable conditions that have fostered this trade. A world where barriers hinder trade would harm American farmers.

The objectives of the Trade Bill are to advance liberal trade conditions that would foster new trade by reducing obstacles and lowering tariffs. We hope that the Congress will adopt the Bill. The mechanisms for reducing tariffs and obstacles that would be set up by the Bill would help us specifically by making possible negotiations to remove obstacles to trade and soybeans where they exist. Passage of the Bill will also serve to stop erosion of the conditions of liberal trade that have made possible the expansion of U.S. soybean exports.

The world has become very conscious in the last year of commodity shortages and the importance of equitable access to raw materials. We in the soybean association are very conscious of this factor as a result of the embargo that was placed on exports of U.S. soybeans in the summer of 1973 and the resulting bitterness aroused in our principal trading partners because of their inability to have access to soybean supplies. The reduced access to petroleum supplies has caused considerable disruption in the economies of many countries and has hindered the movement of agricultural and other commodities in international trade. The American Soybean Association believes that access to supplies of raw materials and non-interference in their free flow is worthy of examination in the context of international trade negotiations because access is at the heart of world trade.

In the same spirit, the American Soybean Association supports the granting of Most Favored Nation treatment to the U.S.S.R. and opposes any effort to restrict granting credits to Eastern Europe. We welcome movement toward facilitating the flow of trade in all directions and hope that Most Favored Nation treatment and credits to Eastern Europe will be adopted. New Markets for soybeans in Eastern Europe is one of our most hopeful prospects and we look to the granting of credit to the U.S.S.R. as well as Most Favored Nation treatment as steps that would enhance our efforts.

The American Soybean Association supports the Trade Reform Bill and hopes that you will give it your support as in the interest of the United States, American farmers, and the world economy.

PARSONS & WHITTEMORE, INC.,
New York, N.Y., February 1, 1974.

Mr. MICHAEL STERN,
Staff Director, Committee on Finance, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. STERN: Please find enclosed a brief memorandum concerning the Treasury and Congressional proposals regarding taxation of foreign subsidiaries of United States corporations. I would appreciate your including this letter and the enclosed memorandum as my written statement for the record of the hearing on the Trade Reform Act of 1973.

As the American owner of a number of Canadian pulp mills which diliver their production to the American paper industry, my position can be summarized under two main headings:

First, we believe that it is counter-productive to the basic interests of the United States to have basic raw material producers such as pulp mills, metal producers and similar entities subject to the very restrictive provisions of either the Treasury proposals on runaway plants and tax holiday countries or the Congressional proposals regarding taxation of income which foreign subsidiaries of United States companies earn abroad.

Second, although the Treasury Department has clearly stated that companies such as ours are not intended to be placed under their proposals, it has, nevertheless, requested the discretionary power which would enable it to do so. We believe that Congress should not grant the Treasury Department such complete and powerful discretionary power because it cannot be predicted whether such power would be exercised wisely in the future.

Thank you for receiving my written testimony.

Very truly yours,

CARL C. LANDEGGER.

JANUARY 23, 1974.

MEMORANDUM

Re Summary of Position of Parsons & Whittemore, Inc., New York City, on the Treasury Department and Congressional Proposals Concerning Taxation of Income Earned by Foreign Subsidiaries of United States Corporations, As They Affect Basic Raw Material Industries Such As Its Pulp Mills Located in Canada.

Treasury Department Proposals

1. The Treasury Department has made the following two proposals:

(a) *Runaway Plant Rule*—Where a controlled foreign corporation (at least 50% of which is owned by a United States company) (i) is subject to a rate of tax which is less than 80% of the United States tax rate to which it would be subject if it were located here, (ii) has more than 25% of its gross receipts from the export of goods destined for the United States, and (iii) has a 20% expansion after April 9, 1973 in its manufacturing assets and facilities, then the controlled foreign corporation will be classified as a runaway plant and the United States shareholders would pay tax currently on the income of the foreign corporation.

(b) *Tax Holiday Rule*—If the Treasury Department were to classify a country as a tax holiday country based upon tax benefits, grants or other incentives given to companies which are located there, and if a controlled foreign corporation has a 20% expansion after April 9, 1973 in its manufacturing assets and facilities, then the United States shareholders would pay tax currently on the income of the controlled foreign corporation.

2. Subsequent to submitting these proposals, the Treasury Department issued a clarification stating that the purpose of these proposals is *only* "to deter tax motivated foreign investment." *Proposals for Tax Change*, page 161, Dep't of the Treasury, April 30, 1973. The Treasury concedes that, "in most cases, United States businesses invest abroad not because of an attractive tax situation, but because of business opportunities and marketing requirements." *Proposals*, page 161. The Treasury concludes that the purpose of its proposal is to act as a deterrent and not as a revenue-producing measure. *Proposals*, page 161.

3. Despite these disclaimers, the Treasury Department requests the authority to determine the tests for runaway plant and tax holiday status. This means that the Treasury would, *after the law has been enacted*, have the authority by regulation to determine which industry, raw material, or country should or should not be covered by the law.

Congressional Proposals

1. Chairman Wilbur Mills has suggested that 50% of the income which United States companies earn abroad should be subject to current United States income taxation.

2. Even more severe changes in the taxation of controlled foreign subsidiaries have been suggested by Congressman Vanik of the Ways and Means Committee and others.

It Is in the Interest of the United States that Companies Securing and Processing Basic Raw Materials for Use in the United States Be Exempt from these Proposals

1. Unfortunately, the United States is scarce in many resources and raw materials that are found in abundance in other parts of the world. Minerals, metals, and wood pulp are among the prime raw materials which the United States must import in order to feed its own industries.

2. Any inhibiting effect on United States ownership of plants processing these raw materials for use in the United States is, by its very nature, contrary to the interests of the United States.

3. Wood pulp is produced by a chemical treatment of wood to prepare it for the manufacturing of paper. As is the case with respect to the refining of iron ore, a wood pulp mill must be located adjacent to its source of wood. All of these industries invested abroad for the bona fide business motivation of being within economic reach of the raw material which they process, thereby enabling it to be shipped to United States Manufacturers.

4. Approximately 85% of the wood pulp required by the United States paper industry is produced in Canada, and about 60% of this production is owned and

controlled by American companies. The United States paper industry's need for pulp increases at a rate of 4% per annum, and it is clear that much of this needed commodity cannot be supplied from the forest resources available in the United States.

5. The wood raw material source to replace this Canadian-based industry has not historically existed, is not today, and will not in the foreseeable future exist, in the United States. In particular, this Canadian industry cannot be replaced by an increase in United States production. Therefore, any extra costs or other deterrent placed upon this industry will inevitably be passed on to the United States paper mill purchaser, who has no alternative but to rely on this raw material base.

The Interpretation of What Constitutes a Runaway Plant or a Tax Holiday Country Should Not Be Left To Future Administrative Decision of the Treasury Department, nor to Contingent Treaty Negotiations, but Should Be Clearly Limited and Prescribed by Congress

1. If the official Treasury assurances are accepted at face value, they still leave the Treasury Department with a larger discretionary power than it should have.

2. Future Administrations may not consider themselves bound by assurances offered by the current Administration to Congress, and they will be under no legal or moral obligation to adhere to these assurances. Clearly, an assurance, no matter how sincerely offered, is not meaningful; only clear limitations and specific provisions of the law can be relied upon by the raw materials industries.

3. If, in the future, exceptions to whatever law is enacted are to be expanded or contracted, then such expansion or contraction can be accomplished by a future Congress based upon the facts and economic condition of our country at such future time.

For the above Reasons, It Is Respectfully Requested that the Senate Finance Committee:

1. EITHER specifically exempt industries processing raw material for manufacturing industries in the United States from the effect of any law taxing earnings of foreign subsidiaries of United States companies;

2. OR, if a more specific exemption is deemed to be more appropriate, the Canadian pulp producing industry should be exempted from the provisions of any such law.

Respectfully submitted,

CARL C. LANDEGGER.

ARTHUR ANDERSON & CO.,
Chicago, Ill., January 8, 1947.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: As your Committee takes up the Trade Rerform Act of 1973 (H.R. 10710), there is one aspect to which I wanted to draw your attention, namely, the relatively slight emphasis being given in the bill itself to the international treatment accorded to services, as contrasted with trade in goods.

I make this observation based on the experiences which Arthur Anderson & Co. have had in our worldwide accounting practice—which involves 90 offices in 27 countries, serving 50,000 clients. The enclosed copy of our annual report shows the growth which has occurred in the accounting services area.[1] Of course, services include architectural and engineering as well as accounting services, plus transportation and tourism. All of these represent potential additional sources of income for the United States, sources we will need as our bill for imported raw materials grows; but there are many discriminatory practices in the treatment of services by many nations.

If Congress is going to give the Executive authority to negotiate for more equitable treatment of U.S. economic interests by other nations—and I think it should do so—then it is logical to include the service area explicitly because of its growing importance. I am therefore transmitting this letter as a written submission to

[1] The annual report was made a part of the official files of the committee.

the Committee in the hope that it will be helpful in your deliberations; please feel free to include it in the record of the hearings should this be appropriate.

The Congress first recognized the importance of service industry income in the U.S. balance of payments during consideration and passage of the Revenue Act of 1971. It was that Act which established the Domestic International Sales Corporation to help boost U.S. exports. While the Act was aimed primarily at the export of goods, two service industry areas were included by Congress—architectural and construction.

Again in October of 1973, the House of Representatives recognized the importance of service industries by including in the Trade Reform Act of 1973 (H.R 10710) direct and indirect reference to these vital areas. Section 163 of that bill directs the President to submit to the Congress an annual report on the trade agreements program. It calls on the President to report "the results of action taken to obtain . . . the removal of foreign practices which discriminate against U.S. service industries (including transportation and tourism) and investment; . . ." In addition, Title III of that bill gives the President the authority to obtain relief from unfair trade practices by suspending, withdrawing, or preventing the application of any benefits of trade agreement concessions, or by imposing duties or other import restrictions. Reference is made in this Title to any unjustifiable or unreasonable acts which burden or restrict the U.S. commerce.

In the House Report (#93-571) accompanying H.R. 10710, there is a definition of U.S. commerce to include the services as well as goods. The House Ways and Means Committee stated:

". . . it is much concerned over present practices of discrimination against U.S. service industries including, but not limited to, transportation, tourist, banking, insurance, and other services in foreign countries. It is the committee's intent that the President give special attention to the practical elimination of this discrimination by the use of authority under this provision to the extent feasible, as well as steps he may take under other authority. This intent is further indicated in the section 163 requirement that he report to Congress on the results of action to remove this discrimination in international commerce against U.S. service industries."

I would hope that as a matter of national interest, the Senate Finance Committee would retain the present language of Section 163 of H.R. 10710 and directly incorporate in the bill, under Title III, the definition of U.S. commerce now spelled out in the House Report pertaining to that Title. Finally, it would be beneficial to the accounting industry if "accounting" were specifically included along with the others listed under services.

The accounting field, which is naturally the one I know best, contains dozens of examples of lack of reciprocity and discrimination in disregard of the principles of national and reciprocal treatment of our professional citizens and enterprises in other countries. Some, including at least one European nation, prohibit certified accounts of their nationality from practicing with foreign accountants. This poses problems for the U.S. accounting industry when attempting to expand to serve a world market by bringing in foreign partners or associates. In addition, certain countries require that individuals must first become citizens of that country before becoming a certified accountant. There are also a number of countries which exert pressure on U.S. subsidiary firms to hire local accounting firms, even when the parent company and its other subsidiaries use a U.S.-based firm. This is not in the best interest of investors in the United States and can well lead to significant future problems. The need for investors in world companies (most of which are headquartered in the United States) to rely upon a multitude of local accounting firms for the financial information on which to base investment decisions will detract from the ability of world corporations to raise capital funds.

The service area is extremely important to the U.S. balance of payments. In 1972, it contributed $14.3 billion in foreign exchange (excluding income in direct investments). This was 11.2 percent greater than the $12.9 billion contributed in 1971, and represented almost 20 percent of all foreign exchange earned on the goods and services account in the U.S. balance of payments. Of course, these figures include transportation, tourism, income on royalties and fees, and all other services. This is why, as the present trade legislation is a "once in a decade" effort, I strongly urge that the area of services be specifically included in the negotiating authority given to the President.

There are other aspects of trade that have been neglected far too long. Accounting its supposed to be a mirror of economic reality. This is far from being the case in most of the world. The concept of most-favored-nation and fair-trade treatment breaks down in the absence of adequate and agreed-upon accounting standards, including cost accounting standards.

Arthur Andersen & Co. have been urging the development of worldwide accounting principles for both financial reporting and cost measurement because it is a vital underprinning of any system of international economic and business relationships. If we are to maintain our leadership as a nation in an expanding international economic world (which is now beginning to include socialist economies with entirely different legal, tax, and accounting systems), we must begin to address some of these problems more seriously, both within the various professions such as ours and on the part of governments. An explicit recognition in the Trade Reform Act that these problems are part of the overall trade and investment picture can only be helpful in working out solutions.

Very truly yours,

HARVEY KAPNICK.

Enclosure.

THE ESTIMATED COST OF ADJUSTMENT ASSISTANCE

(By Thomas E. Murray)

Ever since the 1962 hearings on the Trade Expansion Act, congressional committees have been asking witnesses who appear before them what an adequate adjustment assistance program would cost the taxpayers. These committees have received a wide variety of answers and non-answers. In hearings before the House Ways and Means Committee in 1972, for instance, cost estimates for this kind of program ranged from a low of about $300 million in the first year to a high in excess of $1 billion.

Most witnesses have simply been unwilling to hazard any guess at all. And who can blame them? Despite some few awards of adjustment assistance funds beginning in 1969, the program has never really been tried and there is little hard data to use as a basis for a cost estimate. As with many other new governmental programs, a firm cost estimate can hardly be expected until the program has actually been tried.

Nonetheless, there is a way of improving even on initial cost estimates of programs such as adjustment assistance. Most of the data that would affect such estimates are highly uncertain quantities. Consequently, the appropriate mathematical tool for such calculations is the mathematics of uncertain quantities.

Briefly, what is needed is a method for multiplying two uncertain quantities together to produce an uncertain result. First, each of the uncertain quantities is specified in terms of its distribution of probable values. This is typically done by estimating its lower extreme, lower quartile, median, upper quartile and upper extreme values. The two probability distributions are then multiplied together in a point-by-point fashion to give the probability distribution of the uncertain result. This multiplication process is conveniently carried out by computer.

Because of their importance later in this paper, allow me to explain the terms which I use to describe a probability distribution. When an uncertain quantity is specified in terms of its probable values, the median estimate divides the distribution in equal halves. The likelihood that the true value will fall below the median is 50%; the likelihood that it will fall above the median is also 50%. If one were compelled to give his best point-estimate for the uncertain quantity, in many cases the median value would be the one he should choose.

If the person making the estimate thinks there is only a 1% chance that the true value of the uncertain quantity could fall below a certain size, he assigns this as the lower extreme of the distribution. The upper extreme has a similar place at the high end of the probability distribution. The points that divide the upper and lower halves of the distribution. The points that divide the upper and upper and lower halves of the distribution in half once again are called the upper and lower quartiles. In other words, there is a 25% chance that the true value will fall above the upper quartile, and a 75% chance that it will fall below. The reverse is true of the lower quartile. A number of additional points may be estimated as an aid in specifying the distribution of probable values, but the ones explained here are the only ones I will use in this paper.

I have applied this technique in order to estimate the cost of the adjustment assistance program for workers, i.e. the cost of assistance to workers whose jobs are eliminated because of import competition. After estimating the total number of these workers, I divided them into three groups: (1) those who would quickly find new employment without government help and who would need, at most, some on-the-job training in their new ~~jobs and possibly relocation~~ allowances; (2) those who would need living allowances together with job training and possibly relocation allowances; and (3) those who would be 55 years of age or older and would in many cases choose early retirement rather than job training. I computed the cost of adjustment assistance for each group separately and added these costs to provide a total cost estimate for the program.

The results of this calculation are presented in Tables 1 and 2 below. In this calculation of costs, I was particularly indebted to the U.S. Chamber of Commerce for making available its report *Economic Adjustment to Liberal Trade: A New Approach*. Most of my median estimates for uncertain quantities were taken directly from that sudy. The probabiliy distributions about these medians reflects only my own best guesses.

Some explanation of these tables is in order. The cost of providing living allowances to workers in the second group depends on the fraction of the average manufacturing wage provided to each worker. For this reason I have made three cost estimates: one assuming that each worker receives 65% of the average manufacturing wage, as in the present law; one assuming that each worker receives 75% of the average manufacturing wage, as recommended by the Chamber of Commerce; and one assuming that each worker receives 90% of the average manufacturing wage, just for the sake of comparison.

TABLE 1.—TOTAL COST ESTIMATE FOR THE FIRST YEAR OF THE ADJUSTMENT ASSISTANCE PROGRAM FOR WORKERS, INCLUDING PROVISION FOR EARLY RETIREMENT

[In millions of dollars]

	65 percent	75 percent	90 percent
Lower extreme	39	48	62
Lower quartile	82	100	126
Median	118	141	175
Upper quartile	168	198	244
Upper extreme	368	429	520

TABLE 2.—TOTAL COST ESTIMATE FOR THE STEADY STATE OF THE ADJUSTMENT ASSISTANCE PROGRAM FOR WORKERS, INCLUDING PROVISION FOR EARLY RETIREMENT

[In millions of dollars]

	Percent		
	65	75	90
Lower extreme	113	123	137
Lower quartile	229	246	272
Median	317	340	374
Upper quartile	444	475	521
Upper extreme	961	1,022	1,113

The costs that enter into my estimates are for living allowances (to the extent that these exceed state unemployment insurance benefits), job training, relocation of displaced workers and their families, continuation of workers' health, life and other insurance payments, and early retirement provisions.

This last item, the possibility of early retirement by older displaced workers, is the reason for two tables of results. Each year after the first one, we must expect new early retirees, while some previously retired workers will reach the normal retirement age and pass out of this pogram. Assuming that displaced workers are evenly distributed throughout the 55 to 65 year age bracket, the number of those leaving the program would not equal the number retiring early until the tenth year. I have called the period starting in the tenth year of the adjustment assistance program "the steady state." No attempt has been made to take account of inflation, so that cost estimates for the steady state as well as for the first year are in 1973 dollars.

Permit me to briefly summarize some of the principal results of the cost estimate. Details of the calculation are given in the appendix, along with the computer program.[1]

For a 65% compensation level, I estimate the first year's median cost to be $118 million. For 75% compensation, it is $141 million. And for 90% compensation, it is $175 million.

For a 65% compensation level, I estimate the steady state median cost to be $317 million. For 75% compensation, it is $340 million. And for 90% compensation, it is $374 million. All estimated costs are in 1973 dollars.

Note, however, that all of the probability distributions for these uncertain costs are quite wide. In the case of a 65% compensation level, for example, the interquartile range of the first year's cost estimate ($86 million) is slightly larger than the median estimate ($82 million). This is a reflection of the considerable amount of uncertainty which pervades the entire calculation. Firmer estimates of the quantities which enter into the calculation would lead to narrower distributions in the final results.

Now that the computer program for handling this estimation process has been written, it will be easy to improve the cost estimate as better data become available. The improved data simply have to be entered into the appropriate places in the computer program. Aware, as I am, that the probability distributions in the calculation are largely the result of my own best guesses, I would be happy to re-calculate the cost of adjustment assistance to workers using any better data that might become available.

Finally, on the basis of the cost estimates presented in this paper, what amount of money would have to be appropriated to cover the anticipated cost of adjustment assistance? Naturally, this kind of estimating procedure does not provide any single answer. The answer depends on how certain one wants to be that the appropriation will cover program costs.

If the median amount of money is appropriated, the probability that it will cover all program costs is only 50%. This follows from the definition of the median given earlier.

If the upper extreme amount is appropriated, one can be quite certain that all program costs will be covered. But this amount seems unnecessarily high. Even a very cautious person would not ordinarily wish to appropriate so large an amount that there is only a 1% chance of the true cost's exceeding the appropriation.

It seems to me that an appropriation somewhere between the median and the upper extreme cost estimates would be sufficient. Perhaps the upper quartile would do. If the upper quartile amount were appropriated, the probability of the true cost falling below the appropriation would be three out of four. The probability that the true cost would exceed the appropriation would be only one out of four.

For a 65% compensation level, the first year's upper quartile cost of adjustment assistance to workers is estimated to be $168 million. For 75% compensation, it is $198 million. And for 90% compensation, it is $244 million.

For a 65% compensation level, the steady state upper quartile cost is estimated to be $444 million. For 75% compensation, it is $475 million. And for 90% compensation, it is $521 million.

APPENDIX

This technical appendix presents the calculation of estimated costs of adjustment assistance for workers whose jobs would be eliminated by import competition. The first few steps in the calculation will be explained in considerable detail. Subsequent ones will be done in more summary fashion. The computer program used to carry out the calculation is at the end of this appendix.

As stated in the summary paper, after estimating the total number of these workers, I will separate them into three groups: (1) those who would quickly find new employment without government help and who would need, at most,

[1] The computer printout material was made a part of the official files of the committee.

some on-the-job training in their new jobs and possibly relocation allowances; (2) those who would need living allowances together with job training and possibly relocation allowances; and (3) those who would be 55 years of age or older and would choose early retirement rather than job training. I will compute the cost of adjustment assistance for each group separately and then add these costs to provide a total cost estimate for the program.

I begin by estimating the number of workers who will be unemployed next year and looking for full-time work. This number has varied between 2.14 and 3.95 million over the eight year period from 1965 to 1972 inclusive, with the largest numbers occurring in the last two years reported. [A1] It seems reasonable to expect this number to continue its slow rise, especially if the United States makes trade concessions to our trading partners. I estimate the number of workers who will be unemployed and looking for full-time work by the cumulative probability distribution of Fig. A1. The median estimate is 4.2 million; the lower extreme, 2.0 million; and the upper extreme 6.0 million.

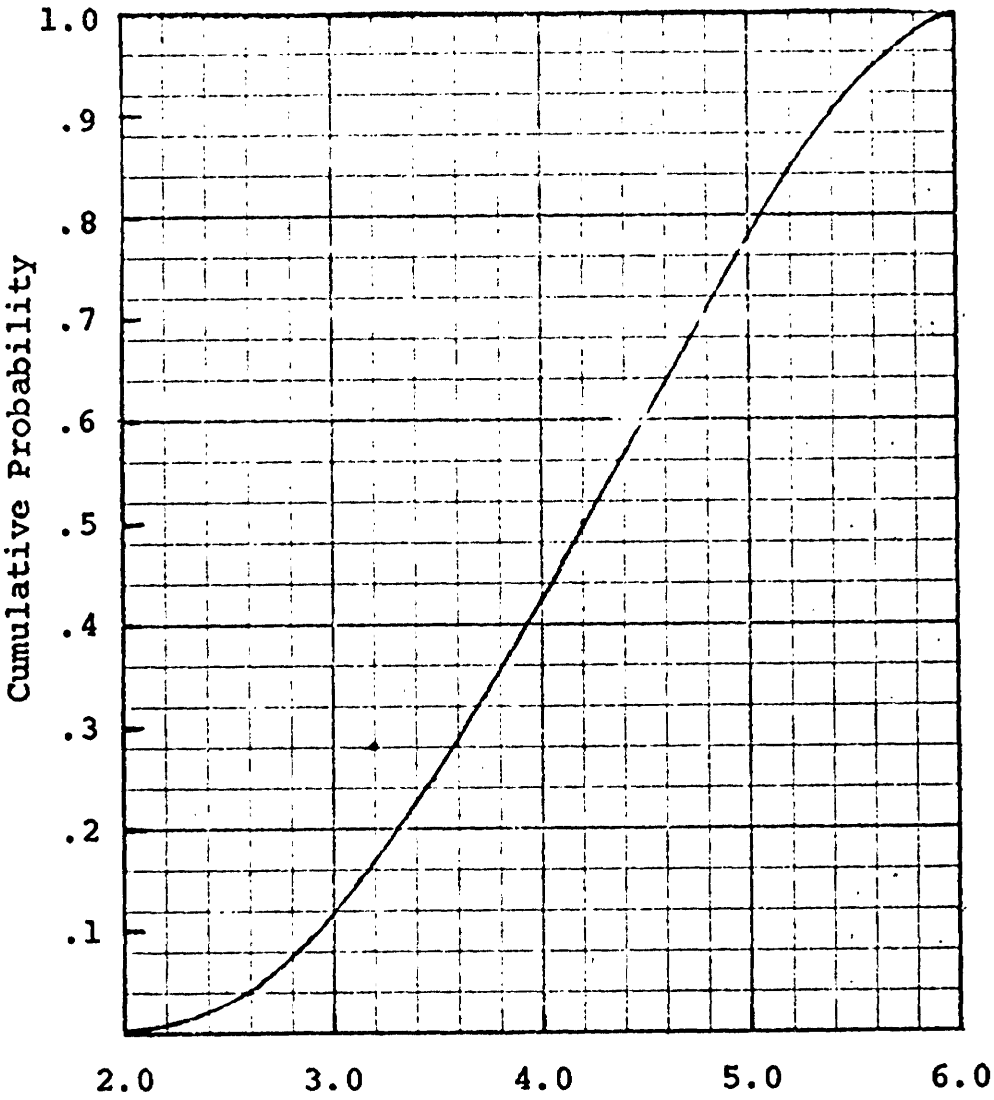

FIGURE A1.—UNEMPLOYED WORKERS LOOKING FOR FULL-TIME WORK (IN MILLIONS)

There is simply no historical or other data to indicate what fraction of these unemployed workers would be able to qualify for adjustment assistance. It appears unreasonable to think that the number would be less than one percent or greater than six percent. I have accordingly assumed the probability distribution shown in Fig. A2 for the fraction of unemployed workers looking for full-time work who would qualify for assistance. I assume a median of two percent, a lower extreme of one percent and an upper extreme of six percent.

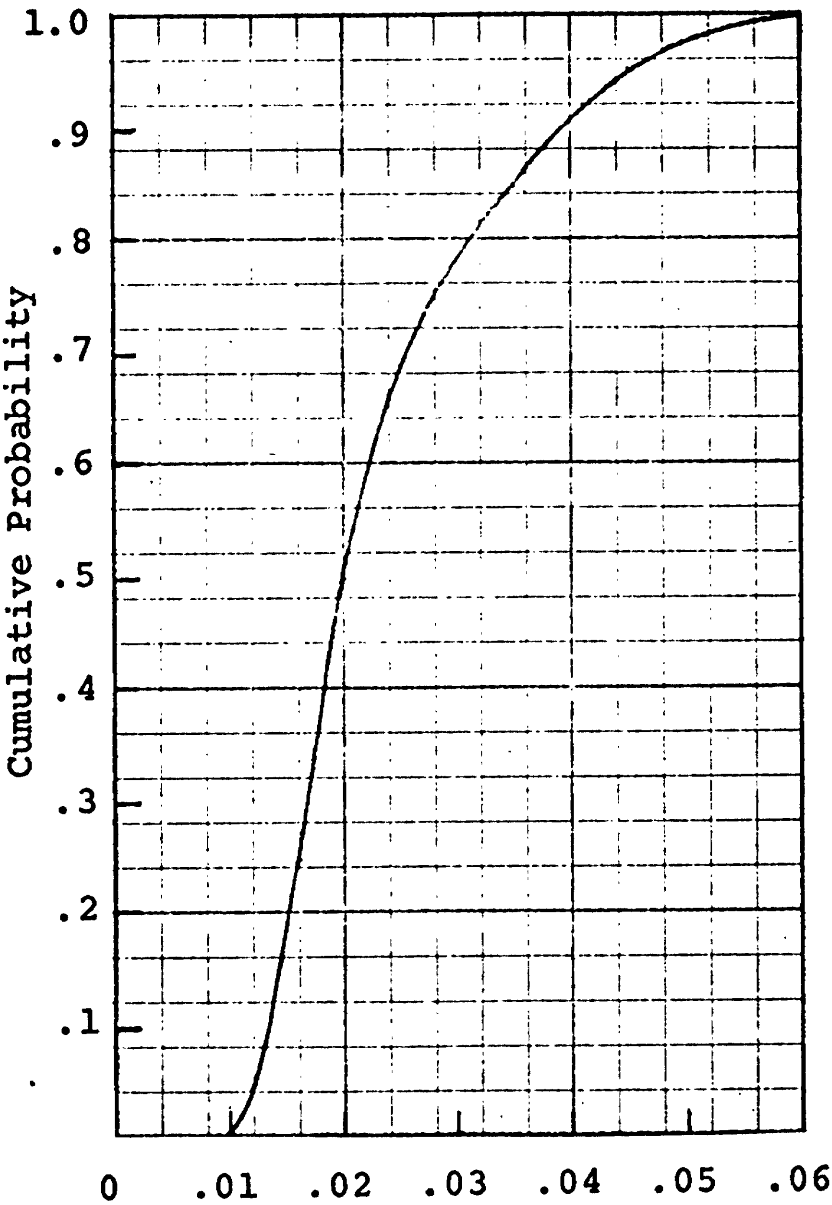

FIGURE A2.—FRACTION OF UNEMPLOYED WORKERS LOOKING FOR FULL-TIME WORK WHO WOULD BE EXPECTED TO QUALIFY FOR ADJUSTMENT ASSISTANCE BENEFITS

The number of workers estimated to be eligible for adjustment assistance benefits is equal to the product of the two probability distributions given in Fig. A1 and Fig. A2. This product distribution is shown in Fig. A3. The median number is 84,000 with a lower extreme of about 32,000 and an upper extreme of about 253,000. This median estimate of 85,000 agrees closely with the 80,000 estimated by the U.S. Chamber of Commerce.

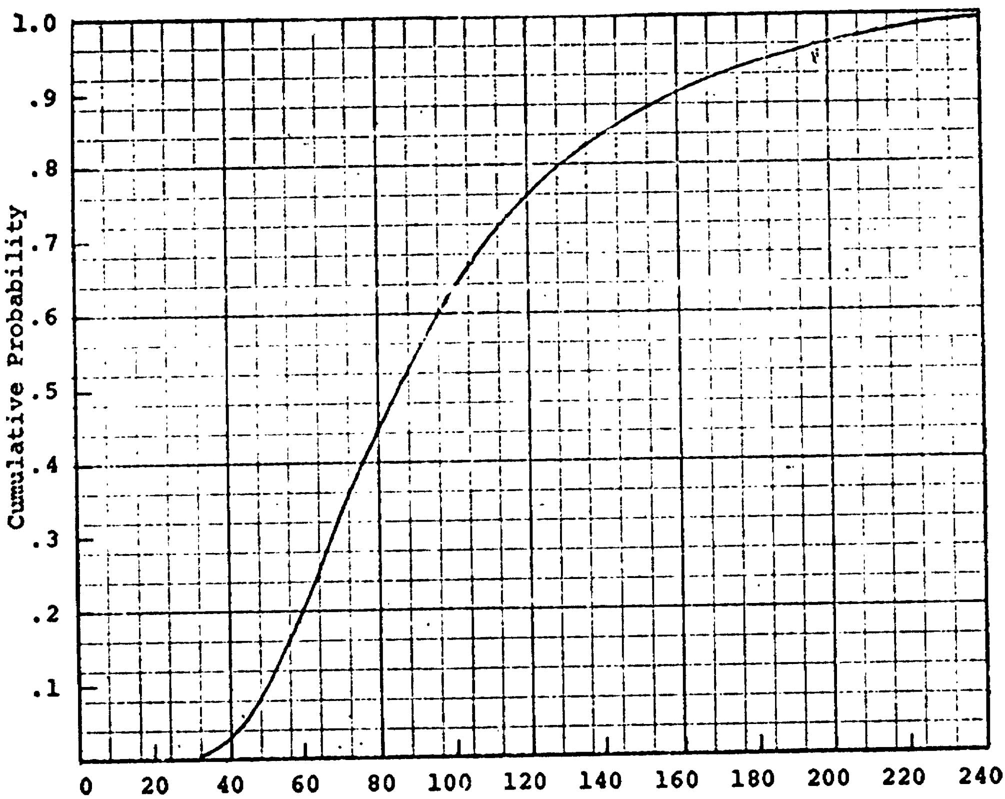

FIGURE 3A.—NUMBER OF WORKERS ESTIMATED TO BE ELIGIBLE FOR ADJUSTMENT ASSISTANCE (IN THOUSANDS)

In *Economic Adjustment to Liberal Trade: A New Approach*, the Department of Labor estimated that 17.5% of the workers qualified for adjustment assistance could quickly find new jobs without government help. In Fig. A4 I estimate this quantity as a probability distribution, taking 17.5% as the median, 5.0% as the lower extreme, and 35.0% as the upper extreme.

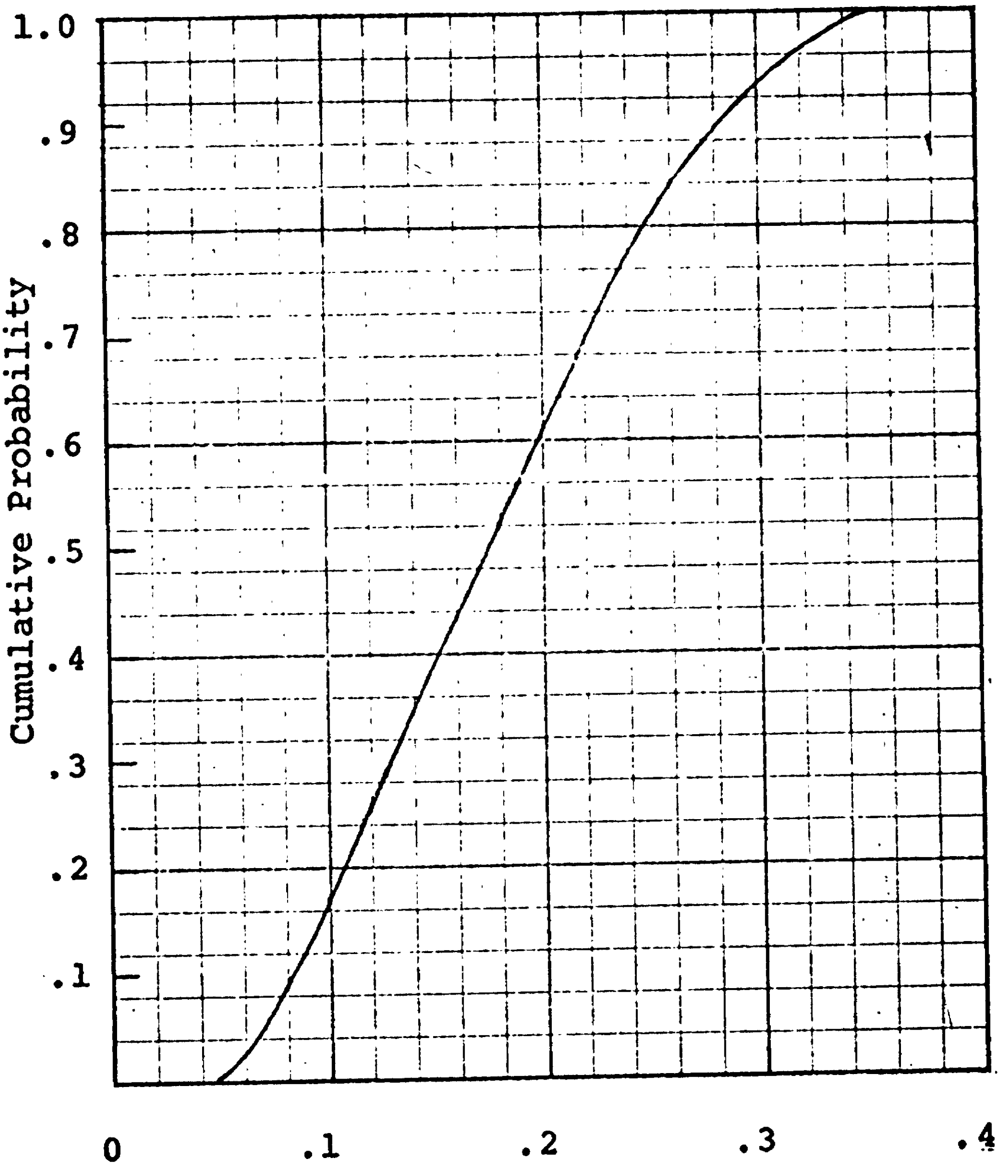

FIGURE A4.—FRACTION OF THOSE ELIGIBLE FOR ADJUSTMENT ASSISTANCE WHO ARE EXPECTED TO BE QUICKLY RE-EMPLOYED WITHOUT GOVERNMENT HELP

The estimated number of workers who would be eligible for adjustment assistance but could be expected to quickly find new jobs without help from any government agency is the product of the two probability distributions given in Fig. A3 and A4. This product distribution is shown in Fig. A5. The median number is 14,000, with a lower extreme of about 3,000 and an upper extreme of about 61,000. These workers constitute the first group described earlier.

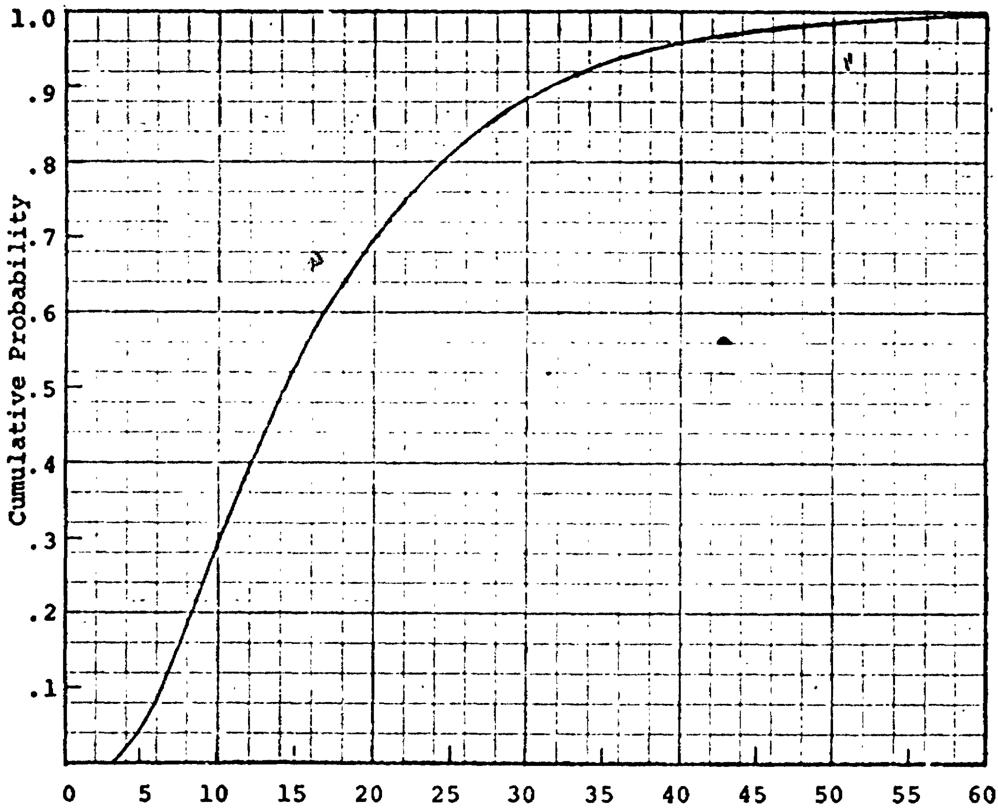

FIGURE A5.—NUMBER OF WORKERS ELIGIBLE FOR ADJUSTMENT ASSISTANCE WHO COULD QUICKLY FIND NEW JOBS WITHOUT GOVERNMENT HELP (IN THOUSANDS)

It is foreseeable that a significant part of this group of workers would need some on-the-job training in their new jobs. I have assumed that the fraction needing this kind of training is distributed as shown in Table A1, with a median value of 55%, a lower extreme of 25%, and an upper extreme of 85%.

TABLE A1.—*Fraction of workers who would quickly find new jobs without government help but who would need on-the-job training in their new jobs*

Lower extreme	0.25
Lower quartile	.44
Median	.55
Upper quartile	.66
Upper extreme	.85

The number of workers who would need this on-the-job training is the product of the two probability distributions shown in Fig. A5 and Table A1. This product distribution is shown in Table A2. The median number is 7,400 with a lower extreme of about 1,600 and an upper extreme of about 29,000.

TABLE A2.—*Number of workers who would quickly find new jobs without government help but who would need on-the-job training in their new jobs*

Lower extreme	1,600
Lower quartile	4,700
Median	7,400
Upper quartile	12,000
Upper extreme	29,000

If the government compensated their new employers at an average rate of $60 per week for an average of 26 weeks, the cost of this on-the-job training would be as shown in Table A3. The median cost estimate is $11.6 million, with a lower extreme of $2.5 million and an upper extreme of about $45.4 million. This would be the only cost associated with the first group of workers, except for possible relocation costs considered below.

TABLE A3.—*Estimated cost of providing on-the-job training at an average cost of $60 per week for an average of 26 weeks*

	Millions
Lower extreme	$2.5
Lower quartile	7.3
Median	11.6
Upper quartile	18.8
Upper extreme	45.4

Next I estimate the number of workers who would be eligible for adjustment assistance and would fall in the second group (those who will need living allowances together with job training and possibly relocation allowances) and the third group (those who are 55 years of age or older and who will choose early retirement rather than job training). As mentioned in *Economic Adjustment to Liberal Trade: A New Approach*, the Department of Labor estimates that 20% of all affected workers will be 55 years of age or older. Assuming that approximately one-half of them would choose early retirement in preference to job training, the size of group 3 is equal to 10% of the probability distribution shown in Fig. A3. This number is shown in Table A4.

TABLE A4.—*Estimated number of workers who would be 55 years of age or older and who would choose early retirement in preference to job training*

Lower extreme	3,200
Lower quartile	6,300
Median	8,500
Upper quartile	11,800
Upper extreme	25,300

Group 2 would be made up of all the workers who are eligible for adjustment assistance and who are not included in groups 1 or 3. The probability distribution for this number is shown in Table A5. The median number of these workers is 62,500, with a lower extreme of about 25,600 and an upper extreme of about 167,000.

TABLE A5.—*Estimated number of workers who would need living allowances together with job training and possibly relocation allowances*

Lower extreme	25,600
Lower quartile	47,300
Median	62,500
Upper quartile	84,400
Upper extreme	167,000

The cost of providing living allowances for the workers in group 2 depends, of course, on the fraction of the average manufacturing wage provided to each worker. In 1973 the average manufacturing wage was $140 per week. Based on this amount, I will make three cost estimates for this part of the program: one assuming that each worker receives 65% of the average manufacturing wage, as in the present law; one assuming that each worker receives 75% of the average manufacturing wage, as recommended by the U.S. Chamber of Commerce; and one assuming that each worker receives 90% of the average manufacturing wage, just for the sake of comparison.

Whatever fraction of the average manufacturing wage is paid as a living allowance, the federal government will not have to pay the full amount. State unemployment insurance benefits average $62 per week, so that the federal government's cost would be reduced by this amount for each worker and for each week of benefits. If the worker is guaranteed 75% of the average manufacturing wage, for example, the federal government would only have to contribute $43 per worker per week.

The cost of providing living allowances is shown in Table A6, on the basis of 26 weeks of unemployment. At 65% compensation, the median cost would be about $47.2 million; at 75% compensation, about $69.9 million; and at 90% compensation, about $104 million.

TABLE A6.—TOTAL YEARLY COST OF PROVIDING LIVING ALLOWANCES FOR 26 WEEKS OF UNEMPLOYMENT WITH COMPENSATION AT 65 PERCENT, 75 PERCENT, AND 90 PERCENT OF THE AVERAGE MANUFACTURING WAGE

[In millions of dollars]

	65 percent	75 percent	90 percent
Lower extreme	19.3	28.7	42.7
Lower quartile	35.6	52.8	78.6
Median	47.2	69.9	104.1
Upper quartile	63.6	94.4	140.5
Upper extreme	125.9	186.6	277.8

Now to estimate the fraction of workers in group 2 who will be able to benefit from job training programs. The Department of Labor thought that approximately 13% of all displaced workers would be able to benefit from training; so the percentage should be somewhat larger for this particular group. I assume the probability distribution shown in Table A7, with a median of about 17.5%.

TABLE A7.—*Fraction of the workers in group 2 who would be able to benefit from job training programs*

Lower extreme	0.0
Lower quartile	.110
Median	.175
Upper quartile	.240
Upper extreme	.400

The number of workers in group 2 who would be expected to benefit from job training programs is the product of the two probability distributions in Table A5 and Table A7. This product distribution is shown in Table A8. It indicates a median of about 8,900 workers which is about 10% smaller than the Chamber of Commerce's estimate of 10,000.

TABLE A8.—*Number of workers in group 2 who would be expected to benefit from job training programs*

Lower extreme	1,000
Lower quartile	4,700
Median	8,900
Upper quartile	13,800
Upper extreme	37,400

At an expected average cost of about $2,000 per worker for job training, the expected cost of this part of the adjustment assistance program would have the probability distribution shown in Table A9. The estimated median cost is $17.9 million.

TABLE A9.—*Cost of job training programs at an average cost of $2,000 per worker*

	Millions
Lower extreme	$2.0
Lower quartile	9.4
Median	17.9
Upper quartile	27.6
Upper extreme	74.7

The Department of Labor estimates that about 20% of the workers qualified for adjustment assistance would have to relocate in order to find jobs. In place of this point estimate, I have used the probability distribution shown in Table A10.

TABLE A10.—*Fraction of workers eligible for adjustment assistance who would have to relocate in order to find jobs*

Lower extreme	0.00
Lower quartile	.08
Median	.15
Upper quartile	.21
Upper extreme	.30

The estimated number of workers who would have to relocate in order to find new jobs is the product of the two probability distributions shown in Fig. A3 and Table A10. The product distribution is shown in Table A11, with a median of about 11,700.

TABLE A11—*Number of workers who would have to relocate in order to find new jobs*

Lower extreme	1,300
Lower quartile	6,300
Median	11,700
Upper quartile	18,900
Upper extreme	52,800

At an average relocation cost of $250 per worker, the total cost of relocation would be distributed as shown in Table A12. The median cost estimate for this purpose is $2.9 million.

TABLE A12.—*Cost of relocation of workers, based on an average cost of $250 per worker*

	Millions
Lower extreme	$0.3
Lower quartile	1.6
Median	2.9
Upper quartile	4.7
Upper extreme	13.2

TABLE A14.—*Steady state yearly cost of the early retirement provision of the adjustment assistance program*

	Millions
Lower extreme	$83
Lower quartile	163
Median	222
Upper quartile	307
Upper extreme	659

Total estimated costs for the adjustment assistance program for workers are the sums of the costs shown in Tables A3, A6, A9, A12 and A13. To this amount I have added $10 per week for 26 weeks for each worker who receives a living allowance; this is to provide for government takeover of these workers' health, life and other insurance payments. As before, the cost of the entire program would depend on the compensation level for displaced workers; and I have calculated total costs for compensation levels of 65%, 75% and 90% of the average manufacturing wage. First year costs are shown in Table A15; steady state annual costs, in Table A16.

TABLE A15.—TOTAL COST ESTIMATE FOR THE 1ST YEAR OF THE ADJUSTMENT ASSISTANCE PROGRAM FOR WORKERS, INCLUDING PROVISION FOR EARLY RETIREMENT

[In millions of dollars]

	Percent—		
	65	75	90
Lower extreme	39	48	62
Lower quartile	82	100	126
Median	118	141	175
Upper quartile	168	198	244
Upper extreme	368	429	520

TABLE A16.—TOTAL COST ESTIMATE FOR THE STEADY STATE OF THE ADJUSTMENT ASSISTANCE PROGRAM FOR WORKERS, INCLUDING PROVISION FOR EARLY RETIREMENT

[In million of dollars]

	Percent—		
	65	75	90
Lower extreme	113	123	137
Lower quartile	229	246	272
Median	317	340	374
Upper quartile	444	475	521
Upper extreme	961	1,022	1,113

LAND O'LAKES, INC.,
Minneapolis, Minn., January 7, 1974.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: We understand that the Senate Finance Committee will be holding hearings and deliberating on a new Trade Reform bill very soon. While we may not give testimony we are deeply concerned over trade legislation and believe you should be aware of our position on this important legislation.

As you know, there was considerable preparatory work done by the Administration for the upcoming trade negotiations in Geneva. The effort in the agricultural sector was largely culminated in the so-called "Flanigan Report" and later in a separate report by the Atlantic Council. These reports are remarkably similar in their proposals and arguments, but both suffer from the same superficial analysis and inadequate understanding of the major industries within the complex agricultural sector.

Serious shortcomings and oversights in these reports prompted us to solicit expert analysis and opinion from two distinguished agricultural researchers, Dr. Truman Graf, University of Wisconsin and Dr. Fred Koller, University of Minnesota. Both of these researchers have spent over 20 years researching a variety of agricultural problems and each has distinguished himself in research on the interworkings and economics of the dairy industry, an industry singled out in these two reports. Their analyses, we believe, are objective, comprehensive and enlightening. They are included here in their entirety for your review along with our own analysis of the Atlantic Council Report.

Our purpose in bringing together these views on trade and the various proposals already advanced is to provide a balanced and objective viewpoint, one that examines the dangers along with the benefits. We, for one, certainly cannot object to the benefits of expanded and freer trade. This is a sound objective consistent with the national interests and worthy of granting the President sufficient negotiating authority to make the Nixon Round fruitful.

We do take exception, however, to the planned negotiating strategy for achieving the announced objectives. Although the Administration has denied that the controversial Flanigan Report (which makes the U.S. dairy industry the sacrificial lamb for achieving increased exports of feed grains, soybeans, and other livestock to the European Economic Community) reflects their basic position on agricultural trade policy, they have been systematically implementing its recommendations through emergency proclamations throughout 1973. A flagrant disregard for existing legislation (Section 22 of the Agricultural Adjustment Act of 1949, as amended) and countervailing duty provisions was exhibited time after time during the past year when massive amounts of subsidized manufactured dairy products (butter, cheese, milk powder) were imported for the expressed purpose of lowering domestic prices despite the dairy sector showing the smallest increase in retail prices of any major agricultural sector.

These imports not only undermined domestic markets and reduced domestic production incentives but caused milk supplies to shrink rapidly. Although much of the imported product was subsidized by European exporting countries, the Administration has steadfastly refused to collect countervailing duties as required by law.

These repeated violations of congressional intent and existing law leave us suspicious of trade legislation that would grant greater authority to the President and permit highly subsidized dairy products from the EEC to enter the U.S. and disrupt domestic markets. If this were allowed to continue we would soon become dependent upon foreign supplies for an important family of perishable food products. We only need to recall 1971 to see how shortsighted this policy would be.

As recently as 1969, Western Europe was inundated with over 1 billion pounds of surplus butter stocks. But shortly thereafter their production declined and by 1971 a shortage occurred resulting in some foreign customers such as the United Kingdom not being able to obtain butter. At that time, the U.S. stepped in and supplied 128 million pounds to them simply because Europe and other exporting countries did not have adequate supplies. And now, again, by mid-1973, Western Europe had over 800 million pounds of surplus butter stocks, almost as much as the entire U.S. produced in 1973. And, again, butter is being sold in world markets at heavily subsidized prices far below production costs.

We do not believe the American consumer wants to be dependent upon an erratic supply and be subjected to the high and volatile prices that would result for important dairy products such as cheese, butter, and nonfat dry milk. Todays lessons from inadequate domestic supplies of energy and other raw materials should not go unheeded. We not only have ample capacity to produce adequate supplies of milk and milk products, but we are one of the more efficient in the world according to the analyses of Graf and Koller.

According to the Flanigan Report and the Atlantic Council's Report, however, the U.S. should be willing to sacrifice the market for manufactured dairy products to European countries in exchange for increased exports of our grains in the coming trade negotiations. They come to this highly tenuous conclusion largely because in their opinion Europe is more efficient. Researchers in this country, however, strongly disagree and evidence from feed and price relationships confirm our greater productivity and efficiency. But regardless of the economics, the Administration proposes a policy be implemented that would do irreparable damage to a basic food manufacturing industry and thousands of dairy producers.

A major oversight of this policy is the mistaken notion that producers in the heavy milk producing regions of the upper midwest can shift to the production of other crops and livestock. Much of the land in this area, however, is not suited for other enterprises and dairying is the only logical enterprise and is by far the best use of the land.

The states of Minnesota, Wisconsin and Iowa produce 62% of the U.S. cheese, 50% of the butter, and 52% of the nonfat dry milk, which indicates where the direct impact of such a policy would be felt the greatest. The manufactured dairy products industry is vital to the economy of each of these states, particularly Minnesota and Wisconsin. We do not feel it would be economically prudent, either from a regional or a national standpoint, to jeopardize this supply source or employment and rural income base merely in hopes of achieving greater exports of other agricultural products which are already in precariously tight supply.

By the Administration's own estimates such a trade-off would lower milk production from 120 billion pounds to 104 billion. Other estimates have indicated production would decline to 80–85 billion pounds. This decline would occur most noticeably in the Minnesota-Wisconsin area, the lowest cost producing area in the U.S., due to a high proportion of the milk being used for the manufacture of butter, cheese, and nonfat dry milk. But the effect also would be felt in virtually every state since milk produced for bottling is directly tied to these manufactured products markets.

If this direction in our trade policy were allowed to go unchallenged and unchecked we believe some dire consequences would result which would be felt by consumers and producers of dairy products alike for a long time to come. Furthermore, it is both unwise and economically indefensible to create serious resource adjustment problems at a time when the domestic dairy industry has balanced supplies with market demand and, in the process, eliminated government surplus purchases. We feel this is a desirable position to maintain and one that should not be disturbed by making trade-offs and unnecessary concessions in the international area.

We have carefully reviewed the Trade Reform Act of 1973 recently passed by the House and believe that with appropriate safeguards it can be a positive step toward freer and more equitable trade. Although in general agreement with most of the provisions of this legislation, we feel strongly that:

1. The countervailing duty provision as written is so weak that it is not an effective mechanism for bringing about fair and orderly trade. Most injury and disruption in agricultural markets are immediate and delaying the determination and collection of countervailing duties for 12–16 months, as proposed in the House passed version, largely invalidates the entire process.

2. Section 22 of the Agricultural Adjustment Act of 1949, as amended, must be upheld and shielded from repeated artificial emergency proclamations as announced in 1973, unless a genuine emergency, in fact, exists. The House passed version upholds Section 22 but would permit emergency proclamations to be used to correct balance of payment problems.

3. American consumers must be assured that imported products are produced under disease-free conditions comparable to those in the U.S. and that health sanitation standards during the manufacturing process meet domestic standards. (Currently, some imported product declared unfit for animal feed purposes can be used in human foods.)

Therefore, we would propose the following provisions and safeguards in new trade legislation:

1. Section 22 of the Agricultural Adjustment Act of 1949, as amended, be upheld and Presidential proclamations be limited strictly to instances when actual emergency conditions exist as determined by a U.S. Tariff Commission investigation.

2. Countervailing duties be levied and paid in all cases except when imports are covered under Section 22 and are within specified limits. U.S. Treasury should make determination of whether subsidy, bounty or grant is being paid or bestowed by exporting country and the approximate amount *within 30 days* after the question is raised. Imposition of duty should commence immediately upon positive determination and be refunded only if a finding of the Tariff Commission within 60 days proves no injury was caused. Failure to pay duty would result in immediate suspension of sale of product pending Tariff Commission finding.

3. Require imported food products be produced and processed under health and sanitation standards and disease-free conditions comparable to U.S. manufacturing standards for the protection of consumers against contaminated and unhealthy foods.

4. Require imported food products of a perishable nature to possess a date of manufacture to insure adequate and safe shelf life as required by U.S. law and custom.

These provisions in new trade legislation would allay much of our concern over the Trade Reform Act of 1973 as passed by the House and, simultaneously, insure minimum disruptions to domestic markets and supplies of basic foodstuffs. We believe the incentive to produce and the capacity to process basic food supplies must be preserved if we are to ensure ourselves of adequate and dependable foodstuffs in the future. Trade legislation that affords this opportunity will be in the best long term interests of both producers and consumers.

We genuinely hope this background and these recommendations will be useful in giving direction to trade legislation and the deliberations of the Senate Finance Committee. I apologize for the length of this discourse but this entire subject is critically important to us and, unfortunately there is no easy way to treat this matter in a shorter and simpler way. If we can provide you with additional information beyond that contained here and in the enclosed papers by Drs. Graf and Koller, we will be most happy to do so.

We appreciate your generous consideration and efforts on these important issues before us.

Respectively yours,

D. H. HENRY, *President.*

Enclosure.

ATLANTIC COUNCIL REPORT AND DAIRY TRADE POLICY

The recent Atlantic Council Report has suggested some sweeping agricultural policy reforms as a means of reducing government expenditures and enhancing world trade negotiations. These recommendations, advanced by the Council's agricultural steering committee, deserve agriculture and business's careful analysis and consideration. The ramifications from these proposals cannot be accurately predicted, but they obviously are far-reaching and debatable.

Chapter V of the committee report states that . . . "agricultural commodities which the U.S. either imports or would import in substantial volume except for stringent import controls . . . is the most difficult trade-related agricultural policy problem facing the U.S. in 1973." Milk is cited as a commodity that fits this situation. However, it should be understood that milk is somewhat unique because of its highly perishable nature and its multiple uses in the production of manufactured dairy products. For this reason, a marketing and pricing system has operated to determine value and allocate supplies that unfortunately is complex and poorly understood by most observers.

The Atlantic Council Report suffers from not fully understanding and appreciating this method of price discovery and the connection between milk consumed in the liquid state and milk further processed into cheese, butter, milk powder, etc. They contend there are two distinct milk markets which can be treated separately in formulating policy and price support procedures. In fact, though, these two major uses of milk (fluid-bottling milk and manufactured dairy products) are inextricably linked not only in the sense of milk usage but also in determining price.

The entire operation of the Federal Milk Marketing Order system, authorized in the Agriculture Marketing Agreement Act of 1937, is based upon the interrelationship between milk used for fluid consumption and that used for manufactured milk products. The price of milk eligible for bottling (packaging) is derived from a blend of supply-demand forces operating in each use category. This is necessary since over 50% of the manufactured products (cheese, butter, dry milk, etc.) are made from the excess Grade A milk not utilized in packaged milk. Much of this excess milk results from weekend supplies and the sharp seasonality of milk production. It must be processed immediately when not used for packaged milk.

Therefore, the price for milk used in packaged form should be, and is, reflective of market conditions for manufactured products. When the price changes for milk used in manufactured products, the price of milk for packaged milk must change, under the terms of Federal Market Orders, indicating how they are inextricably tied together. To ignore this relationship, as suggested by the Council, would go against the intent of Congress and lead to disorderly and chaotic milk prices and disruptive manufactured product markets. We believe this is not in the best interest of either consumers or American farmers.

The Council Report also incorrectly states that the U.S. maintains a high level of protection for manufacturing milk equal to the average European price support level for all milk. But, in the most recent marketing year, 1972–73, all milk in the U.S. was supported at $4.93 cwt. compared to $5.76 in European countries. This difference does not suggest that our milk prices have been unusually high compared with other countries. In fact, if European countries were required to meet the strict U.S. sanitation and quality standards their prices undoubtedly would be even much higher than what they are today.

Indicative of these prices are those reported in the November 1, issue of *Forbes* magazine for selected products in various countries.

	Butter (1 lb)	Milk (1 qt)
United States	$0.87	$0.31
Britain	.56	.25
France	1.56	.32
Germany	1.30	.47
Sweden	1.12	.37
Switzerland	1.27	.38

The Council Report also advances a proposal of guaranteeing both a price for packaged milk for drinking purposes and supporting the price of milk for manufacturing purposes. Currently, only the milk used for manufactured dairy products is supported. Adding a guaranteed price for packaged milk is not only unnecessary but contrary to the idea of permitting market forces to operate whenever possible and when in the best interest of orderly marketing. Furthermore, an assured price would likely lead to boom-and-bust production cycles and a high cost to the government if not set at precisely the proper level. It is difficult to understand how either consumers or producers would benefit under such a program.

Reference also is made to the . . . "trend toward fewer dairy farms and dairy cattle . . . in the former specialized manufacturing milk producing areas of Minnesota, Wisconsin, and Michigan." The impression is left that these states would not be greatly affected by sacrificing the manufactured products industry in trade negotiations and even if they were, compensation would be made. Much of the milk production from this region, however, occurs in areas where there are few alternatives. Land is rough and not well suited for grains, but it makes good forage and pasture. These conditions, along with abundant feed grains in the midwest, make it the lowest cost milk production area in the U.S. When Minnesota and Wisconsin alone produce 54% of U.S. butter, 60% of U.S. cheese, and 53% of the nonfat dry milk, it is very misleading to say adjustments would be minor. Also, the authors mistakenly lump Michigan with Minnesota and Wisconsin in their statement although Michigan is not one of the ten leading states in cheese or nonfat dry milk production and only ranks sixth in butter production.

The statement indicating dairy farms are declining in number clearly is not followed to its logical conclusion. This being that those remaining in the business are much larger, more modern and efficient, more productive, and with a substantial investment in their operations. This is precisely the manner in which agricultural researchers depict the U.S. dairy industry. Unfortunately, the Atlantic Council Report leaves one with quite a different impression—one that may have been valid 10–20 years ago but certainly not today.

These oversights and lack of understanding exhibited in the Council's Report causes considerable consternation among people familiar with the dairy industry. Therefore, we think it would be unfortunate and unjust for policymakers or lawmakers to make recommendations, form opinions, or make decisions based upon this type of misleading information.

Instead, we would recommend that an indepth study be conducted by the U.S. Department of Agriculture including qualified dairy researchers as called for in the recently enacted Agriculture and Consumer Act of 1973, to determine the impact that more imported dairy products would have upon the domestic industry. The findings of this study would be reported to Congress in 1974, as called for in the bill. We feel strongly that this type of investigation and analysis must be completed before constructive proposals and realistic changes can be made in our trading policies effecting dairy.

The Atlantic Council's Report, though descriptive and thought-provoking, does not, in our opinion, provide the balanced and comprehensive analysis of existing policies and policies under consideration necessary to develop sound and workable trade policies.

Observations on International Dairy Trade Policy

(By E. Fred Koller [1])

American dairy farmers, and especially upper Midwest producers, are deeply concerned about the outcome of the widely publicized GATT trade meetings (General Agreements on Tariff and Trade) planned for the period just ahead. In these international trade negotiating sessions one phase of the discussion will focus on the idea of reducing or eliminating agricultural trade barriers. One of the most disturbing points of emphasis in the preliminary discussions is a recommendation that the U.S. should increase or eliminate its dairy import quotas in a trade that would supposedly permit export of more U.S. feed grains, soybeans

[1] Professor of agricultural and applied economics, University of Minnesota, St. Paul, Minn.

and beef. This trade policy is intended to expand U.S. farm exports, improve our international balance of payments, and strengthen the position of the U.S. dollar.

Agricultural trade policies along these lines have been proposed and discussed in recent major trade policy papers such as the Flanigan Report, USDA's Young Executives Report, and the Atlantic Councils Report. In general, these reports argue that the U.S. has a large economic advantage in the production of commodities such as feed grains, corn and soybeans slated for increased export. On the other side of the record, it is contended that our trading partners in the European Economic Commodity (EEC) can produce dairy products more economically than we can, and therefore they should do so while we concentrate on what we can do best.

Dairy leaders, producers and many economists take exception to the premise that European dairy farmers and processors have an economic advantage over U.S. dairy farmers in producing milk and dairy products. The trade policy papers cited above offers no pervasive evidence in support of their contention. It appears that their case is being built on relatively old data and information. The dairy trade picture they assume may have been valid 10 to 20 years ago, but not in the 1970's.

In the last 20 years, and especially the last 10, the producer, processor and marketing sectors of the U.S. dairy industry have undergone major changes in market structure, technology and methods of operation. These changes have had highly desirable effects in the direction of increased efficiency, reduced costs, and other economic advantages. Today the industry has a much stronger economic base and is more keenly competitive than it was even a few years ago.

A major point of this paper is that our dairy trade policy consultants and negotiators should take another very careful and studied look at the present day evidence in the international dairy trade case before they act. There are many changes and new developments that need to be weighed into the considerations. Too much is at stake, especially for our increasingly progressive dairy farmers and the related dairy marketing firms, for our trade negotiators to make decisions without a more accurate U.S. dairy industry picture before them.

Briefly outlined below are some of the factors, changes and developments in the dairy production, processing and marketing sectors of the industry which our trade negotiators should consider before they proceed.

THE DAIRY PRODUCTION PICTURE

The recent dairy production picture in the U.S. is one of significant changes, innovations and improvement in the direction of greatly increased productivity and efficiency. The dairy trade analyst should take a good look at the widespread adoptions of various improved methods and practices in the breeding, feeding and management of livestock on the American dairy scene, especially in recent years.

For instance, the rapidly widening use of artificial insemination has been a major factor in increased and efficient dairy production. Today about one-half of American dairy cattle are artificially bred as compared with only a few in 1941, and the trend is still upward. Our progress here is abreast and in some cases well ahead of countries in the EEC.

Likewise, the trends in production testing (DHIA, etc.) have been moving forward rapidly and in many cases equaling and surpassing similar experience in the European countries. Our dairy cattle feeding and nutrition programs are making great strides forward and contributing to the increased productivity and efficiency of the U.S. herds. Forage production efficiency has been vastly improved here in recent years.

A rapid structural change from relatively numerous and small dairy farms to many fewer and larger ones is contributing significantly to increased production efficiency. In this process of change, the management of dairy farms is shifting from relatively weak to stronger hands which promotes more efficient operation.

The overall result of the foregoing changes is reflected in rapidly increasing production of milk per cow in the U.S. to levels substantially ahead of *all* major dairy producing countries in the world.[2] Measured in production per hour of dairy farm labor, we are likewise distinctly ahead. Our unit costs of milk production also compare quite favorably, and current trends in this regard are more favorable here than they are in Europe. Recent inflation and large wage rate increases are adding to European production costs more rapidly than in the U.S. A really

[2] Hoard's Dairyman, June 25, 1973, p. 778.

careful economic analysis in light of recent developments and data would very probably show substantial production and cost advantages in favor of American dairy farmers.

DAIRY PROCESSING AND MARKETING

The productivity and efficiency of American dairy processing and marketing has advanced at a dramatic rate in recent years. This has been particularly true in the processing of the hard dairy products such as butter, dry milk and cheese.

First, major structural changes in the dairy manufacturing industry have made better economic results possible. There has been a rapid shift toward many fewer and much larger dairy plants especially in the large Midwest dairy manufacturing area of the U.S. in the last 20 years. This trend has been accelerated by widespread mergers in the last 10 years. Our University of Minnesota research studies show very large economies to scale and reduced unit costs as this significant restructuring of the dairy manufacturing industry has proceeded.[8]

As dairy plant volumes increased the application of many significant cost reducing technologies became feasible. Illustrative of this development was the rapid introduction of very large volume continuous churns, high-speed butter printers, high-temperature-short-time pasteurizers, cleaning-in-place systems, automated cheese making equipment, and so on. Again the research results show large labor savings and substantial cost reductions resulting from these technological applications in U.S. dairy plants.

The combination of large volume plants and new technology is giving the American dairy industry efficiency, cost and other economic advantages that are ahead of most areas of the dairy world. These are economic achievements that should be carefully recognized in any studied trade negotiations. The economic position of such an industry should not carelessly be "traded away".

OTHER CONSIDERATIONS NEED STUDY

Another economic consideration that appears to be neglected in the agricultural trade negotiation studies referred to above, is the large additional cost incurred in manufacturing dairy products which could meet American Health Standards. These studies seem to presume that foreign dairy imports are not to be required to meet the same health standards as required of domestic products. There can be no justification for allowing nonrestricted international trade of dairy products if those imported into this country are not required to meet the same sanitary standards required of our producers and processors.

Our American dairymen and dairy plants have been required to spend vast amounts of money to bring their facilities and practices up to levels demanded by our American consumers, Food and Drug Administration, and other regulatory agencies. Since current European requirements are considerably *below* our levels in this regard their producers and processors would certainly incur large additional costs in making products which could meet American standards. These costs would greatly reduce their ability to compete in the domestic American market.

Still another problem that needs further consideration in our dairy trade negotiations, is the European dairy products are heavily subsidized and protected from imports. The EEC countries maintain dairy prices well above those in the U.S. Heavy surplus production has resulted. To eliminate the surpluses, products such as butter and dry milk are sold at distress prices in international markets. To illustrate, butter supported by the EEC at 96.3 cents a pound recently has been sold to Russia at 19 cents a pound. International sales of EEC dry nonfat milk have been made at prices 5.5 cents below their support prices, and so on.

If the U.S. were to agree to increase or eliminate its dairy import quotas as suggested by the trade studies described above, there should also be a firm requirement that subsidies be eliminated on export sales of dairy products by the EEC countries. If this were done, American dairymen could compete in a freer international market. This would be particularly true if all the products traded were required to meet American sanitary and health standards.

Another point, the Atlantic Council Report on agricultural policy (pp. 97–98) refers to the need of compensation for dairy producers if a large segment of the dairy manufacturing industry were to be phased out because of the new trade arrangements. Again, the inference is that is would involve the investment in only a few marginal rundown dairy farms. That may have been the picture 30 and 40 years, but most of those farms were phased out in the last

[8] Author will supply studies upon request.

30 years. In Minnesota for instance, the number of dairy farms declined from 110,000 in 1940 to about 30,000 at the present time. The capital investment in the remaining dairy farms is very large, as they are loaded with modern equipment to meet American sanitary standards.

In addition, these gentlemen neglect to mention the need for compensation for the large cooperative (farmer-owned) dairy manufacturing plants that would need to be closed in a trade program of this kind. In this case, we are not speaking of an investment of $100,000 in each of a few obsolete plants. America's manufactured dairly products are processed largely in modern sanitary plants each costing five to fifty million dollars. The total compensation bill, if injustice and hardship is to be avoided, will be a large one.

In summary, the information presented in the widely publicized reports mentioned above on international agricultural and dairy trade policies, are grossly inadequate for the purpose at hand and leaves an inaccurate picture of the U.S. situation. Our Congress and our trade negotiations need more adequate and reliable information before making decisions affecting the interests of such an important and viable sector of the American econmy. Such important decisions should not be made on such as inadequate information base.

Analysis of "Atlantic Council" Plan To Increase U.S. Dairy Imports

(By Truman F. Graf, Department of Agricultural Economics, University of Wisconsin, Madison, Wis.)

Foreword

The report being analyzed was authored by Professor D. Gale Johnson of the University of Chicago, consultant to President Nixon's Council on Internationual Economic Policy; and Dr. John A. Schnittker, former Democrat under Secretary of Agriculture in the Johnson Administration, and was prepared for the Atlantic Council, an influential group of private citizens in Europe and North America. The Schnittker-Johnson dairy international trade plan is similar to the U.S. Administration's "Flanigan Report" which has been receiving so much attention in recent months, focusing on trading off increased imports of manufactured dairy products, mainly for increased exports of grains and oil seeds.

Although these two reports are disclaimed as representing official Administration policy, nevertheless there are strong indications the controversial Flanigan Report and Atlantic Council Report are being unofficially implemented through Presidential proclamations for increased imports of cheese, skim milk powder, and butter. In the past year these totaled 265 million pounds of skim milk powder (import quota 1.8 million pounds) 64 million pounds of cheese (increase of quotas of 50 percent) and butterfat equivalent to 84 million pounds of butter (import quota 707,000 pounds). Furthermore, there is concern in the dairy industry that dairy international proposal recommendations in the "Flanigan Report and Atlantic Council" program will be pushed by the Administration in the Tokyo international trade conference and Congressional hearings. Thus, there is need for analysis of the "dairy import plan" in the Atlantic Council Report, which as indicated above is similar to the dairy proposals in the "Flanigan Report". This paper makes such an analysis.

Introduction

The Atlantic Report argues for increased imports of manufactured dairy products as a way of increasing exports of grains and oil seeds. Major arguments cited in support of this position are:

(*a*) The U.S. comparative advantage for manufactured dairy products is low contrasted to countries that could ship these products to us if we did not produce them ourselves—U.S. comparative efficiency is low.

(*b*) U.S. dairy price support costs are viewed as "production subsidies" rather than contributing to public welfare world-wide by maintaining legitimate reserves, as is the case for grains.

(*c*) The U.S. dairy price support program maintains prices for manufacturing milk at too high a level—as high as the European price support level for all milk, thus encouraging production which might otherwise be imported from Europe or other dairy exporting countries.

(*d*) The U.S. dairy price support program should be changed to provide guaranteed price levels for milk for fluid (drinking purposes) but with a gradual reduction in the price support level for manufacturing milk, to serve as a disincentive for the production of manufacturing milk. The authors contend manufacturing milk production has been maintained at high levels in the U.S. by high price support levels designed to "insure plentiful supplies so as to avoid a greater reliance on imports". Therefore, reducing price supports on manufacturing milk could reduce production, and make possible the importation of more dairy products from abroad.

(*e*) Continuing trends towards fewer dairy farms and dairy cattle, and major adjustments in farming practices will naturally result in decreased production of manufacturing milk. Thus, the objectives of the authors—increased imports of manufactured dairy products—can be achieved without much adverse effect on dairy farmers.

(*f*) Increasing import quotas for manufactured dairy products would provide leverage for U.S. negotiators in obtaining more favorable terms for the exportation of other U.S. agricultural commodities, because other nations could "see tangible benefits to their producers". The authors propose the United States move from the present level of 1.5 percent of its dairy products imported to 10 percent imported by 1980, and contend this increase in U.S. dairy imports would be an important addition to the exports of "efficient milk producing countries."

An analysis of each of these "justifications" for increasing U.S. imports of manufactured dairy products as a way of increasing of exports of grains and oil seeds follows.

"LOW EFFICIENCY" IN U.S. DAIRY INDUSTRY

Farm Situation.—The average farm size in Common Market countries is approximately 28 acres, with only 3 percent of the farms larger than 2½ acres attaining the size of 125 acres or more, and with only three-fourths of all farms employing more than ¾ the working time of one man.

In contrast to this, the average size of farms in the U.S. is approximately 390 acres, and in Wisconsin (a major dairy manufacturing state), 183 acres.

Farms in the Common Market countries are only a fraction of the size of farms in the U.S., and Common Market countries conclude this is a negative factor in terms of their agricultural efficiency. In an attempt to rectify the situation, they have set up a long-term reform program—Common Agricultural Policy (CAP), with its major objective to increase average size of agricultural holdings. They view the large number of small farms as their major farm problem. The long range objective of the CAP program in Common Market countries is to encourage small farmers to either retire from agriculture, or retrain for non-farm jobs, thereby permitting the consolidation of small farms into larger, more efficient units. CAP goal, in fact, is to transfer 5 million small farmers out of agriculture by 1980.

Common Market structural problems in agriculture stem from ancient inheritance laws and the village system of farming dating back for centuries, which has led to successive splitting of family farms from generation to generation. This has resulted in a situation where 80 percent of the farmers in the Common Market countries have incomes of no more than ⅔ that of industrial workers, 50 percent are over 55 years of age, and ⅔ of these have no successor on their farms. They conclude that low agricultural income in European countries tends to be associated with small scale dairy and grassland farms, and that the disparity between farm and non-farm incomes can only be narrowed by reducing the number of farms, and expanding the size of those remaining.

Common Market programs to attack the problem of low efficiency in agriculture include:

(*a*) Consolidation and enlargement of farms.

(*b*) Pensions to farm operators 55 to 65 years old who withdraw from agriculture.

(*c*) Lump sum payments to farm operators of any age depending upon how much land they release.

(*d*) Annual pensions to farm families and wage earners 55 to 65 years old who work on a farm being withdrawn from production.

(*e*) Education and training to facilitate transfers to better occupations.

(*f*) Programs to help modernize farms, contributions to mutual assistance farm groups, and payments for record keeping.

The seriousness with which Common Market countries view their "agricultural inefficiency" is illustrated by the situation in the Netherlands where authorities conclude it'll take 20 to 25 years to complete the program, and only ⅛ of the farms in the Netherlands will be viable even by 1980.

Thus, Common Market countries conclude their agriculture is inefficient because of small farms. But the critical question is whether U.S. dairying is even more inefficient than dairying in foreign countries, as a basis for the Atlantic Report proposal for importing dairy products into the U.S.

Data in Table 1 below does not substantiate the Atlantic Report thesis, but instead indicates greater agricultural efficiency in the United States, than in foreign countries prominent in dairying.

TABLE 1.—EMPLOYMENT IN AGRICULTURE IN RELATION TO AVAILABILITY OF FARM LAND AND GROSS DOMESTIC PRODUCT PER ACRE AND PER PERSON EMPLOYED IN AGRICULTURE IN SELECTED COUNTRIES, 1969[1]

Country	Share of labor force employed in agriculture (percent)	Area cultivated per person employed in agriculture (acres)	Gross per capita domestic product per person employed in agriculture
Belgium	4.8	11.6	$5,797
Netherlands	7.2	6.4	5,794
Germany	9.0	8.4	2,402
France	14.0	16.6	2,845
Italy	19.6	9.1	2,294
Denmark	11.9	19.5	3,676
Ireland	27.5	9.4	2,359
United Kingdom	2.9	28.9	5,248
United States	4.4	121.1	7,424

[1] Source: Foreign Agriculture, p. 10, USDA, F.A.S., July 17, 1972.

Data in Table 1 reveals area cultivated per person employed in U.S. agriculture is 4 to 20 times as great as that in European dairy countries gross domestic product per person employed in U.S. agriculture is over twice as great as in the European countries, and the share of labor force employed in agriculture is about ⅛ as large in the United States as it is in European countries. Based on these factors, "agriculture efficiency" appears higher, not lower, in the U.S. than in European dairy countries. The Atlantic Report argues "lower dairy efficiency in the U.S.".

Table 2 indicates U.S. milk production per cow is considerable higher than in other major dairy countries, and in fact in 1970 was 47 percent above the average for the four countries cited in the Atlantic Report as "efficient milk producing countries"—New Zealand, Australia, Denmark, and Ireland.

TABLE 2.—COWS' MILK: PRODUCTION AND UTILIZATION IN SPECIFIC COUNTRIES, AVERAGE 1961-65, ANNUAL 1969 AND 1970[1]

[In pounds]

Country	Production per cow		
	Average, 1961-65	1969	1970
Canada	6,283	7,402	7,397
United States	7,778	9,166	9,388
Austria	6,010	6,789	6,752
Belgium	8,461	8,107	8,118
Denmark	8,202	8,722	8,859
France	5,756	6,869	6,861
Germany, West	7,753	8,332	8,615
Greece	2,671	2,546	2,774
Ireland	4,704	4,908	4,786
Italy	5,959	5,397	5,889
Netherlands	9,073	9,234	9,460
Norway	6,426	9,092	9,245
Sweden	7,158	8,772	8,729
Switzerland	7,328	7,648	7,615
United Kingdom	5,900	6,043	6,109
Japan	8,335	10,279	9,841
Australia	4,779	6,136	6,351
New Zealand	6,130	6,348	5,511

[1] Source: Foreign agricultural circular FD-4-71, p. 3, USDA, FAS, September 1971.

To the extent production of milk per cow is any indicator of "efficiency", the U.S. is again far more "efficient" in milk production than most foreign countries.

Dairying in Finland typifies the situation in Europe. Thus, a comparison between dairy efficiency in the U.S. and Finland indicates comparative efficiency between the United States and European countries generally.

Approximately 11 percent of the dairy farms in Finland have only 1 milk cow, and only 3 percent have 10 or more milk cows, as contrasted to 87 percent in the United States. Average herd size in Finland is 4 cows, less than ⅓ the average herd size in the United States (Tables 3 and 4).

TABLE 3.—SIZE OF DAIRY HERDS, FINLAND, 1967 [1]

Number of milk cows per farm	Percentage of dairy farms
1	10.8
2	17.6
3	18.6
4	16.6
5 to 6	22.7
7 to 9	10.9
10 to 14	2.4
15 and over	.4

[1] Source of data: "The Importance of Dairy Farming to Finnish Agriculture," by Matias Torvela and Juahni Rouhiainen Agricultural Economics Research Institute, Rukkila, Helsinki, July 20, 1970, p. 10.

TABLE 4.—*Size of dairy herds in the United States, 1964*

Number of milk cows per farm:	*Percentage of dairy farms*
1 to 9	13.3
10 to 19	15.3
20 to 49	43.9
50 to 99	11.2
100 and over	11.2

Source of data: "Dairy Producer Highlights, 1969," National Milk Producers' Federation, p. 11.

The effect of small farm size on profitability in Finland is illustrated by the fact that Finnish farms of 12½ to 25 acres sustained a yearly loss of $89 in 1967 (.7 percent of their net capital) while farms with 75 to 125 acres had annual profits of $2,925 (6.4 percent of their net capital). Finnish authorities conclude that Finnish farms must increase in size and efficiency if satisfactory financial returns to farmers are to be realized.[1]

The U.S. has considerably larger dairy herds than other countries. Doubling milk production per farm, and herd size reduces cost of production approximately 10 percent—45–49¢ per hundredweight (Tables 5 and 6). Thus, the U.S. with larger dairy herds than most other countries, also realize production efficiencies, others do not.

TABLE 5.—COSTS OF PRODUCTION ASSOCIATED WITH FARM SIZE, 1970 WISCONSIN GRADE A AND GRADE B FARMS [1]

Milk produced per year	Cost production per hundred weight: Grade A farms	Cost production per hundred weight: Grade B farms
400,000	$5.03	$4.90
500,000	4.85	4.71
600,000	4.73	4.57
700,000	4.65	4.48
800,000	4.58	4.41

[1] Source: Peterson, G.A. and Cook, H.L. "Size and Cost of Production on Wisconsin Farms Producing Grade A or Grade B Milk," University of Wisconsin, Department of Agricultural Economics, staff paper series 52, October 1972.

[1] "Investigations on the Profitability of Agriculture in Finland, Business Year 1968", Agricultural Economic Research Institute, Rukkila, Helsinki, Bulletin 18, April 1970, pp. 66.

TABLE 6.—TOTAL PRODUCTION COST PER HUNDREDWEIGHT OF MILK PRODUCED: WISCONSIN DAIRY FARMS, 1968

Herd size group	1979	1967
Less than 30 cows	$5.18	$4.89
30 to 55 cows	4.67	4.62
More than 55 cows	4.69	4.44

Source: Kimball, N. D., and Saupe, W. E. "Cost of Producting Milk on Selected Wisconsin Dairy Farms," University of Wisconsin College of Agriculture and Life Sciences, research report 61, May 1970.

Dairy Plant Situation.—Although the number of dairy plants in Finland has declined over 30 percent in the past two decades and the number of dairy farmers per plant more than doubled, the daily volume of milk per plant in 1969 still averaged under 60,000 pounds, and the daily volume received per dairy farmer averaged only 87 pounds (Table 7).

TABLE 7.—MILK VOLUME, DAIRY FARMERS, AND DAIRY PLANT NUMBERS, FINLAND, 1950–69

Year	Number of dairy plants	Number of dairy farmers per dairy plant	Average daily milk volume received per dairy plant (pounds)	Average daily milk volume received per dairy farmer (pounds)
1950	462	312	16,300	52
1955	435	429	23,700	55
1960	382	637	40,600	63
1965	344	637	52,500	75
1966	339	688	52,800	77
1967	327	688	53,500	78
1968	312	701	57,800	82
1969	310	678	59,200	87

Source of data: "Statistical Yearbook of Agriculture," New Series 65th, Central Statistical Office, Helsinki, p. 90; and Agricultural Economics Research Institute, Rukkila, Helsinki.

This compares with a 1969 average of about 750 pounds per farmer per day in the United States. In U.S. federal milk-order markets, the 1969 range was from 736 pounds per day in Duluth-Superior to 17,946 pounds per day in southeastern Florida, with 55 of the 67 markets having over 1,000 pounds of milk per day per farmer. Average daily milk volume per plant in the United States was about 50,000 pounds for cheese, 83,000 pounds for butter, 160,000 pounds for evaporated milk, and 178,000 pounds for nonfat dry milk plants in 1968.[2]

Thus, Finland is plagued with the problem of dairy plants receiving relatively small volumes of milk from a large number of small dairy farmers. As indicated in Table 8, this has hurt their dairy marketing efficiency.

Average total costs to Finnish dairies, including both fluid bottling and manufacturing costs, varied from 75 cents to $1 per hundredweight during the 1965–1969 period. The highest cost of $1 existed in 1969. These costs are high by U.S. standards. Processing costs in the major U.S. milk sheds averaged about 54 cents per hundredweight for butter and skim-milk-powder plants and 48 cents per hundredweight for cheese plants in 1965.[3] The low volume of milk received by Finnish dairies, as well as the low volume received per farmer, drives up processing costs and reduces money available to pay farmers for milk.

TABLE 8.—TOTAL PROCESSING COSTS PER HUNDREDWEIGHT TO FINNISH COOPERATIVE DAIRIES, AVERAGE FOR MILK FOR ALL USERS, 1965-69[1]

Year:	Cents
1965	74.7
1966	77.7
1967	73.6
1968	95.4
1969	99.9

[1] Source of data: "Osuusmeijerien, Liiketilasto, Toimittanut," Valio, LXV, 1968, p. 154 and LXVI, 1969, p. 156.

[2] "Dairy Producer Highlights, 1969," National Milk Producers' Federation, p. 15, with standard conversion ratios applied.

[3] "Analysis of Manufacturing Grade Milk Prices in Minnesota and Wisconsin and Various Measures of Manufacturing Milk Values," T. F. Graf and J. W. Hammond, Staff Paper Series No. 23, July 1968, Dept. of Ag. Econ. Univ. of Wisconsin, Madison, p. 68.

Cooperative dairies handled virtually all the milk in Finland. Their data, therefore, reflect average costs for the entire country.

The above data indicates greater "efficiency" in both producing and processing milk in the U.S. than in European countries. The Atlantic Council Report premise that the U.S. should import dairy products because of lower dairy efficiency here than abroad is not borne out by these facts.

Common Market countries view their agricultural problem as being one of having too many small inefficient farms. Yet the Atlantic Council Report argues for greater imports of dairy products into the U.S. on the basis of "low efficiency" for the U.S. dairy industry. The Report apparently has not taken into consideration the relatively low farm and dairy plant efficiency in Common Market countries, but instead argues for increased imports from countries that are themselves concerned about their "low efficiency" in the dairy industry. The authors' contention that U.S. efficiency in dairy products is low compared to other exporting countries is not substantiated in fact. Therefore, the Atlantic Council Report argument that U.S. dairy product imports should be increased because relatively efficiency of dairying is low in this country does not square with the evidence. Sending feed grains abroad for use in producing milk there and then importing this milk, would further decrease the "efficiency" of the products to U.S. consumers.

RESERVE SUPPLIES

The Atlantic Council Report indicates maintaining substantial reserves of grains contributes to public welfare world-wide, and expenditures for maintaining legitimate reserves can't be looked upon as production subsidies or protection costs.

Using this rationale argues for a *continuation*, rather than *termination* of the present U.S. dairy price support program and import restrictions. (the Atlantic Council Report calls for termination). These programs do exactly what the Atlantic Council Report says the grain programs do, namely "protect the country from short supplies, high prices, and help maintain our interest in world markets when production drops". On the average since 1960 approximately 5½ percent of the butterfat, and 8 percent of the solids-not-fat, has been removed from the commercial market by USDA programs and was available as a reserve to "contribute to public welfare world-wide" (Table 9).

TABLE 9.—PERCENT OF DAIRY MARKETINGS REMOVED FROM THE COMMERCIAL MARKET BY USDA PROGRAMS [1]

Year [2]	Butterfat	Solids not fat
1960-61	3.0	8.6
1961-62	9.5	13.3
1962-63	7.5	13.2
1963-64	6.4	11.9
1964-65	6.9	12.2
1965-66	2.6	8.7
1966-67	2.4	4.4
1967-68	6.2	7.0
1968-69	4.4	6.0
1969-70	4.1	3.9
1970-71	6.6	4.9
1971-72	5.9	5.0
1972-73	4.5	2.8

[1] Source: "Dairy Situation," DS-345, May 1973, USDA, ERS. p. 24.
[2] Marketing years, Apr. 1-Mar. 31.

Thus, to argue for a revision in U.S. dairy programs, to encourage lower U.S. production of dairy products and increased imports, is to argue against the very rationale the Atlantic Council Report uses in supporting the grain programs—"maintaining legitimate reserves". The Atlantic Council program would force the U.S. to substantially rely on other countries for our dairy needs, rather than maintaining our own legitimate reserves. Our recent experiences with oil indicate how dangerous a policy this can be, in terms of national interest.

LEVEL OF PRICE SUPPORT

The Atlantic Council Report contends the U.S. maintains too high a level of protection for manufacturing milk, "equalling the average European price support level for *all* milk". They use this as the basis for arguing that U.S. price supports and protection for manufacturing milk should be decreased, so more manufactured products could be imported.

The argument of high price support in the U.S. for manufacturing milk, relative to European price support for all milk is inaccurate. In fact, the current U.S. price support level for manufacturing milk is $5.61 per hundredweight as contrasted to the European support level of $6.79 per hundredweight in all countries, except for Belgium, Luxemburg, West Germany, and The Netherlands where the support level is $6.70 per hundredweight.

Thus, the U.S. support level is from $1.09 to $1.18 per hundredweight lower than the European support level, completely contrary to the Atlantic Council Report statement that our level for manufacturing milk is as high as the European price support level for all milk.

Until August 1973 the market prices paid for U.S. manufacturing milk were within 30¢ per hundredweight of the U.S. support price. Since August 1973, the market price for U.S. manufacturing milk has shot up to and above the European support price for all milk. However, this happened because of reduced U.S. production and not because of increases in U.S. price supports.

Adopting the Atlantic Council program, resulting in reduced U.S. production of manufactured dairy products and greater imports, would likely result in the same situation, namely increased prices for U.S. consumers. Thus, neither the U.S. dairy industry nor the U.S. dairy consumer would gain under the Atlantic Council program.

Furthermore, Common Market countries have exported subsidies of up to 9¢ per pound on skim-milk-powder, 28¢ per pound on processed cheese, 34¢ per pound on Swiss cheese, 34¢ per pound on dried whole milk, and 60¢ per pound on butter. Their import levies are up to 16¢ per pound on processed cheese, 38¢ per pound on cheddar cheese, 47¢ per pound on Swiss cheese, and 71¢ per pound on butter. Thus, if the U.S. is forced to buy manufactured dairy products from Common Market countries as proposed under the Atlantic Council program, it would be buying them from a heavily protected market. This could be further bad news for the U.S. consumer.

GUARANTEED PRICES FOR FLUID MILK—REDUCED PRICES FOR MANUFACTURING MILK

The Atlantic Council Report recommends guaranteed higher prices for fluid milk, but lower prices for manufacturing milk. They justify this by contending guaranteed higher fluid prices would apply to "slightly more than 75 percent of all the milk produced in the U.S.", thus implying U.S. dairy farmers would still be relatively well off under this program.

Unfortunately for the U.S. dairy farmer, the Atlantic Council proposal would *not* apply to 75 percent of the milk produced as is claimed. Instead it would apply to only 48 percent of the milk. This is because Schnittker-Johnson have confused Grade A milk with Class I (fluid-drinking) milk. It is true that in 1972, 77 percent of all the milk in the U.S. was Grade A. However, only 62 percent of the Grade A milk was used for fluid drinking purposes, resulting in a total of only 48 percent of milk in the country used for fluid-drinking purposes. The other 52 percent was used for manufactured products (including the 23 percent manufacturing Grade milk, plus the Grade A milk that is not needed for fluid-drinking purposes).

The Atlantic Council proposal would therefore result in far less protection for the U.S. dairymen than is contended, applying to only 48 percent of the U.S. milk rather than 75 percent as claimed. Furthermore, it would likely result in *increased* rather than *decreased* U.S. government costs.

For example, in 1972 the average farm price for manufacturing Grade milk was $5.08 per hundredweight, and for Class I bottling milk $7.26 per hundredweight. Under our present government price support program, only milk used in manufactured products is supported, whereas under the Atlantic Council proposal only milk used for bottling purposes would be supported, with manufacturing milk prices being allowed to drop to world levels. Thus, the present U.S.

price support program applies to 52 percent of the milk used in manufactured products (with a 1972 farm price of $5.08 per hundredweight). Under the Atlantic Council proposal, 48 percent of the milk (used for fluid drinking purposes) would be supported (at a 1972 price of $7.26 per hundredweight). Supporting 48 percent of the milk at $7.26 per hundredweight could be one-third more expensive than supporting 52 percent of the milk at $5.08 per hundredweight as is done under the current dairy program.

The Atlantic Council proposal supports only about ⅔ as much of the U.S. milk as they contend, and could cost U.S. government one-third more. Dairy farmers who could not find fluid markets and had to put their milk into manufactured dairy products would be penalized relative to fluid producers. This would likely cause irreparable divisions between farmers, and completely chaotic marketing conditions, as "scrambles" for Class I markets would result and probably destroy the classified pricing system—turning the clock back to the 1920's. Under the present program manufacturing prices are used as a basis for pricing Class I fluid milk, so supporting manufacturing and not fluid milk has been beneficial to both groups. This would not be the case if fluid and not manufacturing milk were supported, as recommended in the Atlantic Council Report.

Furthermore, under the Atlantic Council Report, manufacturing milk farmers in the U.S. would be penalized at the expense of producers in Common Market and other exporting countries, whose policies are themselves highly protective. The U.S. dairy industry naturally questions the logic of such a situation.

"HIGH" PRICE SUPPORT LEVEL FOR MANUFACTURING MILK

The Atlantic Council Report states that "manufacturing milk production has been maintained at high levels in the U.S. in recent years only by virtue of substantial increases in price support levels designed to avoid a greater reliance on imports". If this were the case, price support levels should be as high, if not higher than actual U.S. farm milk prices.

TABLE 10.—COMPARISON BETWEEN U.S. PRICE SUPPORT LEVEL, AND AVERAGE FARM PRICE OF MANUFACTURING MILK PER HUNDREDWEIGHT, 1960-73 [1]

Price support year [2]	Price support level	Average farm price	Difference (+ farm price higher)
1960-61	$3.15	$3.31	+.16
1961-62	3.40	3.38	−.02
1962-63	3.11	3.19	+.08
1963-64	3.14	3.24	+.10
1964-65	3.15	3.30	+.15
1965-66	3.24	3.45	+.21
1966-67	3.88	4.11	+.23
1967-68	4.00	4.07	+.07
1968-69	4.28	4.30	+.02
1969-70	4.28	4.55	+.27
1970-71	4.66	4.76	+.10
1971-72	4.93	4.90	−.03
1972-73	4.93	5.21	+.28
Average			+.12

[1] Source: "Dairy Situation," DS-345, May 1973, USDA, ERS, p. 11.
[2] Marketing years, Apr. 1-Mar. 31.

Data in Table 10 indicates that in 11 of the past 13 years, the U.S. farm milk price for manufacturing milk has been higher than the price support level, averaging 13¢ per hundredweight above the price support level. The largest amount the farm price was above support levels was 28¢ per hundredweight and the largest amount that it was below price supports was only 3¢ per hundredweight.

Thus, to argue as the Atlantic Council Report does that "high price supports" for manufacturing milk has induced increased production, as a way of avoiding dairy imports is to ignore the fact that farm prices have been above support levels 85 percent of the time since 1960. Furthermore, with the milk feed price ratio at 1.4 for September 1973—the lowest for that month in 10 years—it is difficult to see how it can be argued either that farm milk prices or price support levels are so high as to encourage milk production. Again their argument that price supports should be lower as a way of discouraging production does not appear to square with the facts.

INCREASED DAIRY PRODUCTION EFFICIENCY

The Atlantic Council Report contends the trend toward fewer dairy farmers and dairy cattle, and major adjustments in the type of farming practices, in manufacturing milk areas such as Minnesota, Wisconsin, and Michigan would allow the "desired" decreases in manufacturing milk production without having any substantial adverse impact on dairy farmers. In other words, they contend milk production will be decreasing anyway, so their program of cutting back on U.S. prices of manufacturing milk as a way of decreasing production, to increase manufactured dairy product imports, wil not be much different, than the situation that will occur anyhow.

Again, this does not square with the facts as indicated in Tables 11 and 12.

TABLE 11.—WISCONSIN PRODUCTION PER COW, VARIOUS HERD SIZES[1]

Herd size group	1968	1977	1966
Less than 30 cows	11,222	11,142	10,974
30 to 55 cows	11,729	11,333	11,066
More than 55 cows	11,635	11,304	11,183

[1] Source: Kimball, N. D. and Saupe, W. E. "Cost of Producing Milk on Selected Wisconsin Dairy Farms", U. W. College of Agriculture and Life Sciences, Research Report 61, May 1970.

TABLE 12.—MILD SOLD PER COW, 1971 WISCONSIN DAIRY FARMS[1]

Herd size:	Number
Less than 30 cows	11,370
30 to 55 cows	12,345
More than 55 cows	12,421

[1] Source: "Wisconsin Farm Business Summary", A2415, cooperative extension programs, University of Wisconsin Extension, University of Wisconsin, Madison 1972.

Data in these tables clearly indicates that as herd size increases, so does production per cow. For example, in 1971 production per cow in Wisconsin herds of more than 55 cows was over 1,000 pounds higher (9 percent) than in herds of less than 30 cows.

To argue as the Atlantic Council Report does that fewer and larger dairy farms will result in less production, does not follow from the facts. Instead, there is every likelihood that as herd sizes increase and farm numbers decrease, the pressure will be for increased rather than decreased production.

Therefore, to argue that a gradual reduction in production will follow from the production adjustments currently taking place, resulting in a situation where reduced prices and increased dairy imports will not adversely affect the U.S. manufacturing dairy industry again does not stand up. The forced program of reduced production as a way of increasing imports, such as proposed by the Atlantic Report could hurt the U.S. dairy industry badly because this magnitude of reduction in production (8¼ percent in the next 10 years) will not occur naturally. Increased production per cow associated with the increaseed herd sizes will discourage it.

DAIRY IMPORT PROTECTION IN FOREIGN COUNTRIES

The Atlantic Council Report thesis is that U.S. dairy import restrictions on dairy products should be reduced as a way of providing leverage for U.S. negotiators in getting reductions on foreign import barriers so we could move other agricultural products. This thesis would be valid if U.S. import restrictions on agricultural products were as severe as those of countries from which the Atlantic Council Report recommends we buy dairy products from, by reducing our import restrictions, as a way of getting them to reduce theirs.

Unfortunately, this is not the case. The United States is among the most liberal in the world in its agricultural import policies, and U.S. farmers have far less protection from competitive imports than do farmers from practically all other countries (Table 13).

TABLE 13.—PROPORTION OF DOMESTIC AGRICULTURAL PRODUCTION PROTECTED FROM OUTSIDE COMPETITION BY NONTARIFF IMPORT CONTROLS, 1962[1]

United States	26	Denmark	87
United Kingdom	37	Austria	91
Canada	41	West Germany	93
Australia	41	France	94
Italy	63	Switzerland	94
Belgium	76	Norway	97
Japan	76	New Zealand	100
Netherlands	79	Portugal	100
Greece	82		

[1] Source: "Agricultural Protection By Nontariff Trade Barriers," USDA, ERS–FAS, September 1963.

Although the data in Table 13 is for the year 1962, the relative position of U.S. versus other country import restrictions has not improved in U.S. favor in the last decade, and the disparity that existed a decade ago still exists today.

The Atlantic Council Report argues for importing more dairy products from such countries as "New Zealand, Australia, Denmark and Ireland" by making our import restrictions less severe. Yet data in Table 13 indicates the United States protected only 26 percent of its domestic agricultural production from outside competition, whereas Australia protected 41 percent, Denmark 87 percent, and New Zealand 100 percent.

It is inconsistent to argue the United States should reduce its import restrictions as a way of getting other countries to reduce theirs, when ours are already far less severe. Since our agricultural import restrictions are already less restrictive than theirs, the U.S. manufactured dairy product industry is naturally appalled that it should be partially sacrificed as a way of getting other countries to cut their agricultural import restrictions.

SUMMARY

The Atlantic Council Report argues for reduced farm prices on manufacturing milk as a way of cutting production, permitting an increase of dairy imports, on the basis of the following:

(*a*) Lower dairy production efficiency in the U.S.

(*b*) Inadequate provisions for maintaining reserves in the public welfare in U.S. dairy policy.

(*c*) Too "high" price supports for manufacturing milk in the U.S.

(*d*) Shifting emphasis from supporting manufacturing milk to supporting fluid milk in the U.S.

(*e*) Natural adjustments occurring in the U.S. dairy industry will permit lower manufacturing milk prices without an adverse effect on the U.S. dairy industry.

(*f*) The U.S. should reduce its dairy import restrictions as a way of getting other countries to reduce their agricultural import restrictions.

Errors in fact, and consistency, for each of these propositions has been demonstrated in this analysis. The Atlantic Council Report seems to have been looking for some U.S. agricultural industry to "trade off" as a way of selling more grains and oil seeds abroad, and selected the U.S. manufacturing milk industry, without particular regard to the specific facts.

STATEMENT OF ATALANTA CORP. CONCERNING TITLE IV OF H.R. 10710 AND THE ADVISABILITY OF ENACTING A WORKABLE PROVISION TO ENABLE THE GRANTING OF MOST-FAVORED-NATION (MFN) STATUS TO THE SOCIALIST COUNTRIES

Atalanta Corporation appreciates this opportunity to submit to the Committee its views on Title IV of the Trade Reform Act of 1973 (H.R. 10710). Favorable Congressional action on the Most-Favored-Nation (MFN) question is considered by Atalanta to be vital and in the best interest of this country.

Testimony by Atalanta was presented to the Committee on Ways and Means in support of the language of Title V of H.R. 6767, which language is considered by Atalanta to be far preferable to the language of Title IV of H.R. 10710 which this Committee is now considering. It is our position that the granting of MFN status and the granting of credits should not be tied to the emigration policies of a country and, therefore, it is the hope of Atalanta that a compromise can be found between the original language of H.R. 6767 and Section 402 of H.R. 10710, commonly referred to as the Jackson-Vanik Amendment. Romanian President Nicolae Ceausescu placed this problem in its proper context while visiting the United States in December of last year when he asked: "How would you regard the possibility of other countries introducing legislation which would condition their economic relations on the way in which internal problems are being solved in the United States?"

While supporting the granting of MFN status to the socialist countries as a whole, our statement will primarily focus on the importance of granting MFN treatment to Hungary and Romania. In regard to Romania, Atalanta was pleased to see the introduction of S. 1085 by Senator Mondale (D., Minn.) and Senator Brooke (R., Mass.) and S. 2783 by Senator Hartke (D., Ind.) which would authorize the President to grant MFN to Romania.

Before discussing the merits of Atalanta's position, we would like to provide the Committee with some background information regarding Atalanta, which indicates the company's wide experience in East-West trade and which explains our interest in presenting this testimony to you today. It should be pointed out that the chairman of Atalanta's Board of Directors and immediate past president, Mr. Leon Rubin, was on April 4 of 1973 presented a Certificate of Appreciation from the City of New York for his "efforts on behalf of East-West trade," which span over a period of time exceeding twenty-five years to the benefit of our United States economy.

Atalanta is a marketing organization for high quality food items that are imported into the United States from 44 countries. Its home office is in New York with sales outlets in Atlanta, Boston, Chicago, Dallas, Indianapolis, Los Angeles, Miami, Milwaukee, Raleigh, and San Francisco.

During 1972, Atalanta enjoyed sales of its products totaling $149.6 million and approximately $200 million in 1973. The percentage of these sales for each food product sold by Atalanta in 1972 was as follows: canned ham and other canned pork products (57.6%), seafood products (21%), cheese products (7.1%), frozen beef (11.1%), and miscellaneous canned foods and exports (3.2%).

For almost twenty-five years Atalanta has been the exclusive sales outlet of canned hams and other pork products from Poland, a country already enjoying "MFN" status. Atalanta's import of Polish hams amounts to over 50% of Poland's total exports to the United States. Since 1969 and 1970, Atalanta has had a similar relationship with Hungary and Romania, and is the major importer of these countries' food products. Atalanta, therefore, maintains a leading role in doing business with these Eastern European countries.

Doing business with the Eastern European countries has been profitable for Atalanta and, in turn, our economy in general. Likewise, it has been profitable for the East, with dollar earnings being utilized for the purchase from the United States of manufactured goods and agricultural products.

We have been particularly pleased with the warming of relations with Eastern European countries and feel that the granting of MFN is essential to a future increase of trade with this part of the world.

It is of importance to note that England and Denmark's entry into the Common Market has had a negative effect on traditional markets previously enjoyed by Romania and Hungary. During the GATT negotiations, Hungary, Romania, the United States and various other countries objected to the Common Market's protective tariff system in favor of its members. Because of this protective tariff system, United States business interests are now in a position to gain new markets from Hungary and Romania previously enjoyed by certain Common Market countries.

The conditions and factors which led to the enactment of Section 5 of the Trade Agreements Extension Act of 1951 denying MFN to "the Union of Soviet Socialist Republics and the imports from any nation or area dominated or controlled by the foreign government or foreign organization controlling the world communist movement," have changed greatly over the last twenty years. The changes in the last three years have been dramatic.

In the case of Romania, the signing of an agreement providing for partial restitution of United States property claims in 1960 marked the beginning of an era of increased contacts and friendly relations. The United States revised its export licensing procedures for Romania in 1964; legations in both countries in 1964 were elevated to embassies: exchange of cultural and economic delegations become commonplace in the mid-1960's; in 1969, President Nixon visited Romania and became the first President since the Second World War to visit an Eastern European country; in 1970 when Romania was hard hilt with a series of floods, the United States Government and private individuals responded with generous aid; in 1970 President Nicolae Ceausescu visited the United States and met with President Nixon; in 1970, 1971, and 1972 Romania received numerous government officials at the very highest levels of their government; and in 1972 William P. Rogers became the first United States Secretary of State ever to pay an official visit to Romania and negotiated and signed a Consular Convention to facilitate the protection of United States citizens and property in Romania. Again in 1973 President Nicolae Ceausescu visited the United States and during his visit a civil air trannsport pact, a fisheries agreement, and a tax convention were signed as well as a 13-point guideline for promoting bilateral economic relations.

While these events were taking place, Romania joined GATT; obtained membership in the International Monetary Fund and the World Bank; negotiated agreements for Export-Import Bank credits; and the facilities of the Overseas Private Investment Corporation (OPIC) were made available for investments in Romania.

With respect to Hungary, it is important to note that on March 7, 1973, the United States and Hungary signed an agreement resolving past war debts. The agreement is viewed as a first and important step to normalization of relations and the eventual granting by both Hungary and the United States of MFN treatment to each other.

There are a number of other events which have taken place that have resulted in improved relations between the United States, Hungary, and Romania. Hungary and Romania now permit United States investment up to 49% in joint venture enterprises. There has been an increased number of visits by high ranking government officials and Members of Congress in both countries as well as an increase in educational, scientific and cultural exchanges with the United States.

Hungary became a member of GATT on September 9, 1973. The United States and Hungary have recently signed a Consular Convention and both have embassies within each country.

Taking these facts into consideration, it becomes apparent that the 1951 reasons for withdrawing MFN are no longer valid. If national security were still the predominant issue, then the retention of rigid export controls, rather than the relaxation that took place in 1969 and 1971, would have been the appropriate action.

The denial of MFN to these countries in no way contributes to our national security. Therefore, it is understandable why the denial of MFN is viewed in Eastern Europe as a discriminatory trade practice towards the East. This economic fact results not only in hindering the effectiveness of United States foreign policy, particularly since virtually every major Western trading country has established MFN relations with these countries, but also causes damage to our economy since these countries must be able to sell to the United States if they are to buy more from the United States.

Atalanta believes that there have been sufficient changes in our relations with Eastern Europe and the Soviet Union to justify a change in United States policy to reflect the economic, rather than solely the political, aspects of trade with these countries. The economic factors clearly ind.:ate that it is in our best interest not to discriminate against these countries with respect to trade, but to place them on an equal footing with our other trading partners by the granting of MFN.

A a time when we are concerned about balancing our trade, the broadening of trade with countries, with whom we have traditionally experienced a favorable balance, is to our advantage. The figures on our balance of trade with these countries are as follows:

U.S. TRADE WITH THE U.S.S.R. AND EASTERN EUROPEAN COUNTRIES[1] 1966-73 (NOVEMBER)

[In thousands of dollars]

Year	Exports	Imports
1966	197,737	171,022
1967	195,258	171,228
1968	215,054	196,621
1969	249,286	190,763
1970	353,320	215,505
1971	384,225	223,107
1972	816,463	319,736
1973	1,670,600	46,800

[1] Based upon U.S. Department of Commerce statistics.

With regard to the trade statistics incorporated in this statement, which are entirely derived from our Department of Commerce, it should be noted that United States exports to the socialist countries are actually greater than shown. For example, we know that significant United States exports of soybeans to Switzerland were sold by the United States company's Swiss subsidiary to Hungary. In the case of the socialist conutries, sales to intermediate third countries, and often to United States subsidiaries therein, are not uncommon. However, in the example just mentioned our Department of Commerce statistical reporting service would show an export of soybeans to Switzerland, not Hungary.

Nevertheless, when the Department of Commerce reported trade figures regarding Romania and Hungary are considered, the balance in favor of the United States, over the years, is impressive. In fact, since 1920, the United States has had a favorable trade balance with Romania in every year but five, and four of these years were from 1952-1955 inclusive. Therefore, during the last 53 years, there has been a favorable trade balance for the United States in 48 of those years.

The balance in most years has also been in our favor in regard to trading with Hungary. Figures furnished by the Department of Commerce indicate that prior to 1951, and with the exception of the war years when there was very little or no trade at all between the countries, the United States had a favorable trade balance with Hungry. Since 1963 the balance in favor of the United States has been overwhelmingly in our favor.

The figures for United States trade with Romania and Hungary are as follows:

[In thousands of dollars; November 1966-73]

Year	U.S. trade with Romania[1]		U.S. trade with Hungary[1]	
	Exports	Imports	Exports	Imports
1966	27,057	4,655	10,053	2,985
1967	16,796	6,176	7,570	3,884
1968	16,680	5,553	11,194	3,848
1969	22,394	7,966	7,252	4,077
1970	66,399	13,425	28,263	6,224
1971	52,532	13,774	27,873	7,751
1972	69,051	31,411	22,404	12,274
1973	103,800	49,600	30,200	14,800

[1] Based upon U.S. Department of Commerce statistics.

All economic factors indicate that our sales to Romania and Hungary will show further significant increases for the last quarter of 1973 and for 1974. Boeing has announced the sale of three 707-320C jets to Romania. With spare parts and related equipment this purchase amounts to approximately $20 million. The joint venture agreement between Control Data Corporation and General Tire International involving equipment and services from the United States in excess of $35 million should also insure rather significant increases in our trade with Romania. The General Electric Co. recently announced a memorandum of understanding with Romania that would lead to G.E.'s entry into a number of electrical products fields in the country. Other United States business interests such as Atalanta have also recently entered into new trade with Romania as well as Hungary. Other United States corporations actively involved in dealing in Hungary are John Deere, International Harvester, FMC, Cargill, Cessna Aircraft, and Central Soya, to name but a few.

This is not to suggest that trade with Romania and Hungary, or with the Eastern European countries as a whole, will, from a percentage standpoint, necessarily be a significant part of United States trade. Prior to 1951 and the denial of MFN, our trade with these countries represented less than 3 percent of our total exports or imports. After 1951 it fell to approximately one percent and has, in recent years, begun to rise again.

A report prepared by the staff of the United States Tariff Commission in 1972 entitled, "United States East European Trade", analyzed the prospects for expanded East-West trade. At pages 3 and 4, we find the following comments:

"Expanding trade with Eastern Europe is, therefore, increasingly viewed as a means of improving, at least on a modest scale, our balance-of-payments position."

"Past experience, the level of economic activity in the United States, the development in Eastern Europe suggest that a considerable potential for trade expansion exists. Merely to have achieved the same degree of importance that existed prior to World War II, for example, U.S. trade with Eastern Europe in 1970 would have had to amount to about $1.3 billion in exports and $1.0 billion in imports, or about 5 times the volume actually realized."

As indicated earlier, most economists and trade experts believe that our export potential is far greater than Eastern Europe's import potential. It would, therefore, appear that an increase of East-West trade, at least to the levels of pre-World War II, would be highly desirable to the United States economy and specifically to our balance of trade position.

However, it is not reasonable nor fair to expect the Eastern European countries to continue to increase their trade with the United States if discrimination in the form of the denial of MFN continues. In the Tariff Commission report, mentioned earlier, it is estimated that in 1970 more than 40 percent of Eastern Europe's imports "were subject to substantial discrimination". Because of the nature of their United States imports, the denial of MFN has resulted in varying degrees of discrimination. The Tariff Commission report indicated that Hungary and Romania experienced over 40 percent substantial trade discrimination concerning their exports to the United States. Thus, it is obvious why the denial of MFN is viewed as being punitive, and much more than a psychological trade barrier, especially with respect to Hungary and Romania.

Romania, with a population in excess of 20 million people, is the third most populous country in Eastern Europe. It is approximately the size of Oregon, and, next to Poland, is geographically the largest country in Eastern Europe. Hungry, about the size of Indiana, has a population in excess of 10 million people.

In a report issued in March of 1973, the Department of Commerce reported that during 1971 Romania's total imports amounted to $2.04 billion. United States products composed only 2.2 percent of this market, while West Germany's share was 17 percent, Japan's 16 percent, Italy's 12 percent, while the major socialist suppliers accounted for over 30 percent of this market. Romania's principal imports in 1971 were fuels, raw materials, and semifinished products (50%); machinery and equipment (40%); foodstuffs (5%); and consumer goods (5%). During this time, Romania's total imports from the United States (2.2% of her total imports) were as follows: wheat (37.1%); cotton (15.3%); cattlehides (8.3%); rolling mills and parts for metal working (7.4%); chemical woodpulp (5.8%); electron and proton accelerators (3.3%); and air and gas compressors (3.1%).

During 1971, Romania exported $2.1 billion of goods with less than one percent entering the United States marketplace. The Socialist countries received the largest percentage of these imports, while West Germany received 8 percent and Italy 4 percent. Romania's principal exports are fuels, raw materials, and semi-finished goods (43%); machinery and equipment (23%); consumer goods (18%); and foodstuffs (16%). To the United States, Romania exported residual and distillate fuel oils (21.3% of United States exports); footwear (15.8%); furniture (9.2%); glass and glassware (9.1%); clothing (9.0%); toluene and xylene (7.6%); and cheese (5.6%). The Department of Commerce further reports that Romanian exports to the United States of tractors, fish products, distilled fuel oil and unwrought zinc rose in 1972.

Hungary, in 1971, imported a total of $3 billion of goods. The socialist countries were the chief suppliers with the USSR accounting for 31.1 percent of this market; East Germany 10.4 percent; Czechoslovakia 7.9 percent. The United Kingdom accounted for 3.7 percent; France 2.1 percent; and the United States 1.1 percent. Hungary's chief imports were crude oil, rolled steel, coal, coke, iron ore, passenger cars and trucks, tractors, and railway freight wagons. The United States market of 1.1 percent was composed of soybeans and products (58.6%); aluminum oxide (12.8%); nonelectric machinery (11.9%); agricultural machinery (6.4%); and hides and skins (5.0%). The Department of Commerce further reported that Hungarian imports of agricultural machinery and ovens, furnaces, kilns and burners rose significantly in 1972.

Hungarian total exports in 1971 amounted to $2.5 billion (f.o.b.) with the USSR receiving 34.9 percent of this market; East Germany 9.4 percent; Italy 5.5 percent; and the United States only 0.4 percent. Chief exports were alumina, rolled steel, machinery and machine tools, transportation equipment, packaged medicaments, live animals, processed foods, footwear, and wine. Specifically, to the United States Hungary shipped canned hams (42.9% of the 0.4% reported above), cereals and cereal preparations (8.5%); glassware and pottery (11.4%); organic chemicals (4.5%); and fabrics and clothing (4.3%).

The following two charts, recently released by the Department of Commerce, reveal United States trade with the USSR and Eastern Europe for 1972. Again, these statistics do not reveal the sale of goods destined for the socialist markets but exported to an intermediate source in a third country. These charts are categorized, both for imports and exports, by commodity groupings.

The Committee will note that in 1972 the United States enjoyed a favorable balance of trade with respect to direct trade with Hungary of $10.130 million and with Romania of $37.559 million. The Committee will also observe that with respect to our overall trade with Eastern Europe and the USSR that the United States, in 1972, had a positive balance of trade of $496.727 million. For 1973 these figures are even more impressive with a positive balance of over $1.2 billion through November with respect to our overall trade with Eastern Europe and the USSR and $54.200 million and $15.400 million with Romania and Hungary respectively.

Indications are, with a continuation of improved relations, that this trade will increase over the coming years with an even more favorable balance of trade to the benefit of the United States. The granting of MFN is essential for this to occur.

CHART I.—1972 U.S. EXPORTS TO EASTERN EUROPE/U.S.S.R.

[In millions of U.S. dollars]

SITC	Bulgaria	Czechoslovakia	East Germany	Hungary	Poland	Rumania	Total, Eastern Europe	U.S.S.R.	Total Eastern Europe/U.S.S.R.
0	0.816	20.926	10.741	7.490	39.210	16.621	95.804	370.097	465.901
1	.050	.474	.450	------	2.557	.001	3.532	.[illegible]9	4.091
2	.754	18.259	.749	3.082	31.457	32.532	86.833	71.209	158.042
3	.022	.050	.411	.022	.254	1.329	2.088	------	2.088
4	------	.155	------	------	8.830	------	8.985	1.701	10 86
5	.575	.827	.358	2.953	6.266	.911	11.890	20.976	32.866
6	.099	1.657	.586	.591	5.579	5.814	14.326	10.189	24.515
7	.712	4.804	1.218	7.678	15.128	10.938	40.478	62.030	102.508
8	.165	1.491	.256	.510	1.932	.791	5.145	9.148	14.293
Subtotal	3.193	48.643	14.769	22.326	111.213	68.937	269.081	545.909	814.990
9	.011	.240	.014	.078	.313	.114	.770	.703	1.473
Total	3.204	48.883	14.783	22.404	111.526	69.051	269.851	546.612	816.463

Source: Office of East-West Trade Analysis, Bureau of East West Trade, Department of Commerce.

CHART II.—1972 U.S. IMPORTS FROM EASTERN EUROPE/U.S.S.R

[In millions U.S. dollars]

SITC [1]	Bulgaria	Czechoslovakia	East Germany	Hungary	Poland	Romania	Total, Eastern Europe	U.S.S.R.	Total Eastern Europe/U.S.S.R.
0	1.558	.787	.026	5.097	62.588	4.880	74.966	.535	75.501
1	.006	.144	.001	.397	.511	.049	1.108	.177	1.285
2	.385	.82	.171	.157	3.582	1.101	5.578	17.963	23.541
3			1.328		.170	8.753	10.251	7.464	17.715
4					.249		.249	.001	.250
5	.774	.345	.316	1.438	10.475	.443	13.791	1.250	15.041
6	.034	10.253	2.404	2.079	41.982	6.474	63.226	63.621	26.847
7	.022	7.950	3.570	1.030	3.713	2.547	18.832	.447	19.279
8	.083	8.089	2.381	2.431	15.430	7.164	35.584	3.163	38.747
Subtotals	2.868	27.750	10.197	12.629	138.700	31.411	223.555	94.621	318.176
9	.003	.222	.139	.095	.201	.081	.741	.819	1.560
Totals	2.871	27.972	10.336	12.274	138.901	31.492	224.296	95.440	319.736

Source: Office of East-West Trade Analysis, Bureau of East West Trade, Department of Commerce.

[1] SITC categories: 0—Food and live animals; 1—Beverages and tobaccos; 2—Crude materials excluding fuels; 3—Minerals and fuels; 4—Animal and vegetable oils and fats; 5—Chemicals; 6—Basic manufactures; 7—Machinery and transport equipment; 8—Miscellaneous manufactured articles; 9—Miscellaneous articles, NEC.

Hungary and Romania's recent export and import trade picture reveals, among other things, that the United States is but a minute element in these two markets, and that we are significantly behind other Western countries in this specific trade.

Like the United States, Hungary has a tariff system which provides for lower duties on imports from countries that extend to them MFN status. The only trading country with which Hungary does not enjoy MFN treatment is the United States, and Hungary trades with over 100 nations.

With respect to Hungary, the Department of Commerce has reported that future United States trade prospects are encouraging for electronic equipment, computers, agricultural machinery and parts, chemicals, cattle and hides, and soybean products. Commerce further reports that United States trade prospects with Romania center on our capital equipment and technological know-how in the chemical, steel metallurgy, electronics, machine tools, shipbuilding, and tourist industries.

The fact that Romania is a less developed country and that it has few dollar holding makes it necessary that we give her the opportunity to sell in our markets on an equal footing with other countries of the world. In 1969, President Nixon made a promise to Romania to place her on equal footing with our other trading partners. Numerous members of both the House and the Senate, including several members of this Committee, have proposed and favored legislation to grant MFN for Romania. Hungary is, also, deserving of MFN treatment by the United States.

It is important to note that neither Romania nor Hungary discriminate against Jews who wish to emigrate to Israel or elsewhere. Romania has enjoyed and enjoys friendly economic and political relations with Israel. After the June 1967 Middle East conflict, Romania did not break diplomatic relations with Israel. On the contrary, in 1968, the relations were raised from legation status to embassy status. It is publicly known that Romania, since 1967, using different forums including the United Nations, has tried to constructively assist in bringing a peaceful solution to the problems existing in the Middle East. Romania has been active in this regard in recent months.

Hungary freely allows emigration to Israel also without discriminatory restrictions.

In conclusion, we feel that the granting of "MFN" to countries such as Romania and Hungary makes good business sense for the United States economy, and specifically to our balance of trade problem. Furthermore, it is justified on the basis that nondiscriminatory business practices towards these countries may prove to be the best and most effective method of further reducing the tensions between the East and West, thus enhancing the possibilities for a lasting world peace. It should be remembered that the granting of MFN does not favor these socialist countries, but merely places them on an equal trade basis with our other trade partners in the world.

Again, on behalf of Atalanta Corporation; the opportunity to present this statement is appreciated. We will be happy to supply the Committee with any additional facts which may prove helpful to the consideration of H.R. 10710.

THE INTERNATIONAL CENTER OF NEW ENGLAND, INC.,
Boston, Mass., January 11, 1974.

Mr. MICHAEL STERN,
Staff Director, Committee on Finance, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. STERN: The International Center of New England, Inc. is a private, non-profit membership organization whose objective is to contribute to the growth of its members and the New England region's economy. As illustrated by the accompanying papers, we have over 1,000 members including manufacturers, exporters, importers, universities, banks, etc., all of whom stand generally for the principles of free trade. In the interests of our membership, we are submitting this letter as our written presentation of the views of the International Center on the Trade Reform Act of 1973 (H.R. 10710). We are not requesting to testify orally.

During the House debate on the Trade Bill, the International Center contacted most of the New England Congressional Delegation to support the adoption of the Trade Bill. With almost no exceptions, our membership supported the Bill as written with the exception of Title IV. Our membership supported the grant of Most Favored Nation treatment of Eastern Bloc countries. The requirement that certain standards relating to emigration be a condition to that treatment was not generally supported by our membership and they were virtually unanimous in deploring the credit restrictions of the Vanik Amendment.

At a seminar held by the International Center on December 12, 1973 on "Doing Business With the U.S.S.R." sentiment among panelists and participants was unanimous in support of the necessity of passage of the Trade Bill but deploring the inclusion of MFN restrictions.

A study conducted by one of our members, The First National Bank of Boston, indicates that some 10 percent of the manufacturing population of New England depends on international trade. The port of Boston is finally reviving from a disastrous period of low volume and desperately needs continued expanding trade free of restrictions to revive and once again provide traditional services and employment in the area. During the House debate, the following telegram was sent to the Massachusetts Congressional Delegation. It indicates unprecedented singleness of view among shippers, shipping agents, the Port, and longshoremen and other unions.

> Boston union labor, management and associated maritime interests unite in urgently requesting your support of the H.R. 10710 Trade Reform Act of 1973. Notwithstanding that our port is becoming increasingly competitive in attracting major container steamship lines, the container revolution has seriously reduced manhours worked and earnings of all waterfront crafts. Additionally dollar devaluation heavily affects imports with further work reduction. No further trade restricting tariffs beyond present H.R. 10710 provisions are needed. New Business Boston includes four recent Russian flag cargo vessels. Your help is needed to insure Boston's continued port progress. Please support H.R. 10710.
>
> Signed:
>
> Arthur Lane, President, the Boston Shipping Association; Edward Dalton, Vice President, International Longshoremen's Association; Robert Calder, President, the Propeller Club of the U.S. Port of Boston; John Wylde, President, Patterson, Wylde & Company, Inc.; Edward Callahan, Business Agent, ILA Local No. 799, Charlestown; William Hankard, Business Agent, ILA Local No. 805, East Boston; James Noonan, Business Agent, ILA Local No. 800, South Boston; William McNamara, Business Agent, ILA Local No. 1066; John Rago, President, ILA Local No. 1604.

In our view, New England is not protectionist. There are areas here where unemployment in some traditional industries is high which tend unfairly to blame imports for the unemployment. Even these people understand that free trade gives the consumer far lower prices over a far wider choice of options than a protectionist policy. They also understand that the Bill, as written, provides the means for protection for those industries unable to adjust quickly to certain types of foreign competition. It would be hard to show that historically the growth in international business in this area has more than offset the difficulties experienced by some of our traditional industries. We strongly believe, however, that this has been true since World War II. Over the last year since the devaluation of the dollar, since the appearance of LNG business creating substantial shipbuilding employment in Massachusetts, and since the higher rate of inflation abroad and at home (although inflation at home also requires the maintenance of free trade as an anti-inflationary device) manufacturing for export has started to increase dramatically. In future years, this growth will far exceed the loss of employment in traditional businesses. This dramatic growth is creating new employment and generating the ability to import products and materials not produced or found in the United States at prices advantageous to the U. S. consumer. The only cloud on the horizon is a re-birth of protectionism or increased economic extortion. The attempt to dictate social, political or other policies by one nation in another by withholding economic benefits in order to accomplish those international goals appears to us as clearly out of place in a most favored nation treaty and fully as bad as withholding energy supplies.

The International Center strongly urges that the Committee pass a Trade Bill which either includes a Title IV extending MFN treatment unconditioned with social concerns or one which eliminates Title IV completely.

The Center appreciates the opportunity it has had to submit this letter and hopes that if the Committee wishes any information with relation to the business of its members or of the New England region, it will contact us.

Very truly yours,

WALTER F. GREELEY,
President.

Enclosures.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 5, 1973.

Mr. HARRY HULL,
Executive Director, The International Center of New England, Inc., Boston, Mass.

DEAR MR. HULL: Thank you for your letter expressing your support for the Administration's proposed trade reform legislation which has been reported out of the House Ways and Means Committee. I was extremely pleased to receive your views on this important issue.

The "Trade Reform Act," H.R. 10710, would provide the President with greater flexibility in dealing with trade matters by expanding his authority in gaining access to foreign markets for our exports. Supporters of this legislation contend that the "Trade Reform Act" will contribute significantly toward the creation of economic peace among nations.

Because trade reform legislation is so critically important to our domestic economy and because our trade policies are so intricately linked with our balance of payments, I am carefully evaluating all legislation in this area. You may be assured that when trade reform proposals are brought before the House floor for a final vote, I will have your views in mind.

Thank you for taking the time to write concerning this critical subject. I appreciate knowing your views on legislation affecting our trade policies.

Sincerely yours,

MARGARET M. HECKLER.

[Wire Message]

CABOT CORP.,
Boston, Mass., October 19, 1973.

Hon. THOMAS P. O'NEILL, Jr.,
Majority Leader,
House of Congress,
The Capitol,
Washington, D.C.:

I am concerned at failure or Rules Committee to adopt modified closed rule for trade bill. Essential they act favorably October 24 to enable trade bill to be debated October 30. Urge you to use your influence with Rules Committee to obtain modified closed rule of the October 24 trade bill as recommended by Congressman Ullman.

Signed:

WALTER F. GREELEY,
Vice President.

CALIFORNIA AVOCADO ADVISORY BOARD,
Newport Beach, Calif., February 11, 1974.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee,
U.S. Senate, Washington, D.C.

DEAR SENATE LONG: It is the understanding of the California and Florida avocado industries that we may submit a brief on avocado tariff as pertinent information to the Senate Finance Committee's hearing on the Trade Bill.

We prepared the attached report for Ambassador William D. Eberle's office and are supplying your committee with a copy so that you may be aware of the position of the United States avocado industry as it relates to the importation of foreign produced avocados.

We respectfully request the consideration of the Senate Finance Committee to support the position taken by the states of California and Florida, who are the major producing states of avocados in the continental United States.

Sincerely,

RALPH M. PINKERTON,
Executive Vice President.

To: The Honorable Russell B. Long, Chairman, Senate Finance Committee, Washington, D.C.
From: U.S. Avocado Industry as represented by:
1. The California Avocado Advisory Board
2. The Florida Avocado and Lime Administrative Committee
Subject: Tariffs, Avocados. Material developed for review and recommendation by the U.S. Tariff Commission prior to the 1973 Geneva Conference.

TARIFF

The combined avocado industries of the states of California and Florida, representing some 9800 producers, the majority of whom are dependent upon avocado culture for their livelihood, respectively submit that it is in the best interests of the United States that tariff levels on avocados, amended to 7.5¢ per pound from 15¢ per pound by the 1948 Geneva Trade Agreement, be preserved at the present rate for the following reasons:

1. Present tariff rates on foreign produced avocados are within acceptable levels compatible with U.S. agriculture policy and do not place an undue burden on foreign producers exporting to this country as evidenced by the expected growth in importation from the Dominican Republic. (See Exhibit 7, particularly Page 3)

2. A small amount of foreign imports dumped on the domestic market at cheap prices disastrously affects the return to U.S. growers, with little benefit to the economy of the exporting country. Foreign imports can easily disrupt domestic marketing by oversupplying large eastern metropolitan areas such as New York City, where Florida ships the major portion of their crop.

3. While Cuban imports have been denied access to this country since February 7, 1962, it is important to note the restrictive effect on grower returns resulting from imports of this magnitude arriving in this country duty free during the period June 1 to September 30 inclusively. (See Paragraphs 2 and 3, Page 8)

4. While domestic avocadoes were once in shorter supply during the summer months, changes in varietal structure have produced a sharp upsurge in summer maturing avocados, thus providing a stable year around supply of domestic avocados capable of meeting consumer demand. (See Exhibit 3)

5. The phenomenon producing a catastrophic short crop in California during the 1971–72 season will not be repeatable in the foreseeable future due to a vast increase in domestic plantings in both California and Florida, indicting maximum capabilities to supply the demand within this country. Plantings are already in the ground in California that will increase production by at least 40% within the next 5 years. Extensive new plantings are continuing so it may be assumed that 10 years from now domestic production will double. (See Exhibit 11)

6. The investment and planning required by domestic producers who must plant and finance trees for 6 to 8 years even to reach the break even point plus millions of dollars in investment advertising and promotion should not be threatened by foreign imports from nations who have not participated in the cost of such market development.

7. The volume of avocados exported from this country to any other country except Canada is incidental and the opportunity for increased consumption of U.S. avocados is negligible due to the tremendous growth in production in Israel, Mexico, and certain Caribbean nations. (See Exhibits 5, 6, & 7) Today both Israel and Mexico are competing for Canadian markets with U.S. producers. Thus domestic growers must depend increasingly on the U.S. market.

8. While quarantines presently deny Mexico access to the U.S. market, the impressive growth indicated in Exhibit 6 linked with rapidly improving techniques in the control of those insects preventing importation of Mexican fruit is a realistic threat to U.S. producers. (See Exhibit 12)

9. We anticipate that Israel may well negotiate at the forthcoming Geneva conference for exemption from or repeal of U.S. avocado tariffs. It should be emphasized that the Israeli avocado industry is strongly supported by government subsidy and competes with a free enterprise U.S. avocado industry which does not enjoy nor has ever requested farm subsidies.

These conclusions take into consideration agriculture policy, employment, creation of additional U.S. jobs and consumer and environmental values.

AGRICULTURE POLICY

It has long been national policy to encourage the small farmer and discourage the farmer's dependence on subsidies. Avocado production scores high on both counts.

There are an estimated 9800 avocado growers in the United States. The largest known grove is about 350 acres. The average grove is no more than 5 acres. There are only a handful of large corporate growers. Much of the crop is handled and marketed by farm cooperatives.

The avocado industry has never received or requested farm subsidies.

The avocado industry ideally meets important national agricultural objectives.

EMPLOYMENT

An important national goal is to provide stable employment, particularly to minority agricultural workers.

Currently, the avocado industry employs approximately 20,000 people in non-supervisory jobs. It is estimated that 70% of the workers in this industry are of Latin American descent.

Typically, these people are able to secure year-around employment in a given geographic area, thereby reducing seasonal unemployment and/or levels of migratory labor.

The high farm wages paid in California, the nation's highest, have importantly improved the lot of domestic workers. It is not in the national interest to jeopardize their livelihood by allowing avocados produced with cheap foreign labor to be imported duty free. This is particularly important to national goals because continued new plantings and a healthy growth in the industry have provided ample volume for California and Florida to supply avocados year around for the domestic market.

CREATE ADDITIONAL U.S. JOBS

There is increasing concern over the movement of U.S. capital and technological know-how to foreign countries, thereby competing with rather than developing American production and employment.

The development of the avocado industry in Israel is a case in point, although certainly not an isolated example.

We have supported the technological development of Israel's avocado industry by exporting government employees with expertise and by cooperating fully with visiting Israeli growers and experts. Today Israel avocado acreage is comparable to Florida's. Israeli exports are already competing with U.S. producers for eastern Canadian markets. At the present time, Canada offers the only volume export market to domestic producers, thus the threat from Israel is foreboding.

Projected growth of avocado acreage in Israel over the next ten years could well attract Israeli exporters to major U.S. markets where avocado demand is being developed by considerable grower investment in advertising and promotion. Government subsidies offered Israel avocado producers could easily neutralize the deterrent of present avocado tariffs. *The U.S. avocado industry respectfully submits that any request from Israel to lower existent avocado tariffs should be opposed as a serious threat to the stability and growth of the domestic industry.*

We have thousands of Cuban refugees in Florida. Many are employed on Florida avocado farms. They are acquiring the technical capacities to compete effectively from Caribbean and Central American countries. U.S. growers are watching carefully. It is entirely within the realm of reason to anticipate the development of Central American, Mexican, and Caribbean production financed by U.S. capital and managed by U.S. farmers in the next decade if there is not a realistic tariff policy.

Today, quarantines and foreign policy exclude most of this production. However, the technology is present to overcome many of the quarantine problems, and foreign policy is certainly in flux. (See Exhibit 12)

A realistic tariff policy will encourage U.S. production, not encourage the flight of U.S. capital and technology to foreign countries.

Summarizing, the maintenance and development of the U.S. avocado industry is very much in our national self interest, and contributes to important national goals and policy.

CONSUMER AND ENVIRONMENTAL VALUES

There is important and increased national interest in the consumption and U.S. production of foodstuffs which provide important nutritional and environmental values. Avocados meet these criteria.

The avocado is a highly nutritious product. It contains no cholesterol. It is a "natural" food; no ersatz substitutes or additives. (Exhibit 1 presents nutritional information). Avocados are purchased by 36.8% of the U.S. families. (See Exhibit 9). They are of particular importance to Latin American families.

In addition, avocado production has long favored the use of "beneficial" insects wherever possible to control harmful pests rather than using pesticides. The California industry is practically under biological control.

And the avocado groves contribute importantly to beautiful "green belts" and to other desirable environmental factors. Therefore, it is in the national interest to encourage continued and expanding avocado production in the United States.

HISTORICAL DEVELOPMENT

The avocado industry was a small industry twenty years ago. The product was virtually unknown in much of the United States, with consumption heavily weighted to areas of high Latin American concentrations such as Florida, Texas, Arizona, and California.

In 1961 the California avocado growers began committing substantial funds to educate the American housewife in the nutritional advantages of the product, its delicious flavor, and how to use it. To date, these growers have spent over $8,000,000 in this educational program, which is a larger share of their income diverted to education than any previous agriculture venture in U.S. history.

The results of this steady educational pressure, which is administered by the State of California, has been the gradual balancing of supply and demand.

More and more people are enjoying avocados. This broadened demand has created a climate whereby the avocado industry has been able to broaden its production base, develop new varieties to assure year around availability, and develop processing techniques for freezing and canning the product.

However, by its very nature, the avocado produces erratically, causing wide fluctuations in tonnage. The year just past has been the poorest in recent history in terms of tonnage available for sale.

Conversely, in heavy "set" years the industry has a formidable job in marketing its total output, which calls for an increased investment in consumer education and market development programs to consume the excess volume. During 1972–73, California alone will invest $1,500,000.

Careful marketing planning and coordination, together with judicious use of available funds, has been instrumental in moving these fluctuating volumes to the consumer in a more orderly manner than was experienced prior to the exclusion of tariff free Cuban imports and prior to the formation of the California Avocado Advisory Board.

For example, in 1959–60, 165,000,000 pounds of avocados were sold at a net return to the growers of $8,277,000. Included were 10,173,000 pounds of Cuban imports. (See Exhibit 10, pages 16, 19, 20.)

However, with Cuba excluded, the comparable 1966–67 crop of 162,000,000 pounds returned the growers $16,340,000, almost double the prior period. All it takes is a small quantity of low priced fruit to disastrously affect returns to domestic producers. (See Exhibit 10, Pages 16, 19, 20.)

If we shift to a tariff policy which will allow importers to dump product onto the U.S. market at distressed prices, the results could spell disaster for the industry, and, ultimately, for the U.S. consumer.

Israel is committed to heavy government subsidies to their avocado producers for market development. With the advantage of such subsidies, they would be able to undersell domestic growers in U.S. markets if allowed to enter duty free, or at a lower tariff.

We are committed to a long range, steady development of the avocado industry. This will only materialize if we continue to broaden consumer demand through sound education and promotion coupled with broadening production capacities to meet this increasing consumer demand. We submit that increased demand developed through grower investment should be to the benefit of domestic producers.

However, production increases are only based on long range planning. A period of eight to ten years is required from the decision point to actual full production in the next decade.

Currently, we have adequate supplies to meet demand, averagely. Our best estimates indicate adequate new planting to meet broadened demand for the next eight to ten years. This data is summarized in Exhibits 2-4, & 11.

The avocado industry is at a critical point in its development. We know that increased consumption of avocados is a desirable national goal. This goal can only be achieved by a combination of continued consumer education and steady expanison of production. Both are taking place.

Both of these major requirements are in jeopardy without a reasonable tariff policy.

CONCERNS OVER CURRENT TARIFF POLICY

There are several areas of concern to the avocado industry relative to impending GATT negotiations.

Israel, the most important volume supplier of foreign grown avocados into the export market, is currently shipping most of their avocados to the European market. While this is their natural market from the standpoint of freight costs, it has not prevented them from competing with U.S. producers for eastern Canadian markets. Government subsidies to Israeli producers to stimulate foreign consumption could easily attract them to major U.S. avocado consumption areas if the European market does not grow quickly enough to consume their rapidly expanding production. (See Exhibit 5.)

The same concern is present relative to Caribbean, Mexican, and Central American production.

Today, quarantines and foreign policy exclude much of this production from the U.S. market. However, Mexico is the largest producer of avocados in the world (including the U.S.), and most of the other countries in Central America have substantial production at present with real interest in greater production in the future. (See Exhibit 6.)

While quarantines currently exclude fresh avocados, there is nothing to stop development of processed avocados in quarantined countries. And much is being done to make quarantines on fresh product unnecessary through technological development. (See Exhibit 12.)

Therefore, the barriers to unrestricted importation from Caribbean, Central American, and Mexican production could well evaporate in the next ten years.

NEGOTIATING CONSIDERATIONS

As stated previously, the U.S. avocado industry desires the retention of traiffs on fresh avocados which went into effect in 1948; namely, 7.5¢ per pound. We feel this tariff level is absolutely mandatory if our industry is to continue to finance the required consumer education and to attract the increased production which our nation should expect. (Exhibit 7 shows recent importation data on avocados.)

SUMMARY

It is in the national interest to encourage the development of the U.S. avocado industry. Tariff policy should be consistent to and supportive of national domestic policy and goals.

To insure continued domestic plantings which require eight to ten year advanced planning, our growers must be assured that there is a realistic tariff policy in effect if they are to finance the continued education and development required.

There is no current reason why the retention of 1948 tariff levels should create negotiating problems at the forthcoming GATT negotiations.

Such tariff levels are essential to the continued development of the U.S. avocado industry.

This statement has been prepared by the California Avocado Advisory Board. It has been reviewed by a representative group of the Florida avocado industry. It is supported and recommended by both.

EXHIBIT #1

CALIFORNIA AVOCADO COMPOSITION [1]

	Seasonal Range [2] per 100 grams	"Typical Half" = edible 2.85 ozs.[3] Percent	Grams	Percent of Recommended Dietary Allowances (1968) [4]
Fat	8.3 %[5] — 22.8 %	16 %	12.9	•
Moisture	65.8 % — 81.4 %	73 %	59.0	•
Fiber	1.8 % — 3.0 %	2.4%	1.9	•
Ash	0.95% — 2.1 %	1.4%	1.1	•
Protein	1.95% — 2.66%	2.3%	1.9	2.9
Carbohydrates	2.7 % — 6.7 %	4.5%	3.6	•
Calories	99 — 237		132	4.7
Vitamins				
Carotene	370 IU — 870 IU		460 IU	9.2
Riboflavin	0.08 mg — 0.16 mg		0.09 mg	5.3
Pyridoxine	0.19 mg — 0.26 mg		0.18 mg	9.0
Pantothenic acid	0.78 mg — 1.2 mg		0.8 mg	•
Folic acid	0.022 mg — 0.105 mg		0.05 mg	12.5
Thiamine HCl	0.08 mg — 0.125 mg		0.09 mg	6.4
Ascorbic acid	4.0 mg — 13.0 mg		5.8 mg	9.7
Niacin	1.05 mg — 2.42 mg		1.4 mg	7.8
Choline	12.0 mg — 22.2 mg		15. mg	•
Biotin	2.3 mcg — 4.2 mcg		2.6 mcg	•
Vitamin E	0.8 IU — 4.2 IU		1.7 IU	5.7
Minerals [6]				
Potassium	400 mg — 1,000 mg		500 mg	•
Sodium	6 mg — 20 mg		9 mg	•
Phosphorus	20 mg — 60 mg		27 mg	3.4
Calcium	7 mg — 20 mg		9 mg	1.1
Magnesium	20 mg — 90 mg		40 mg	11.4
Iron	0.4 mg — 3.0 mg		1.4 mg	14.0
Copper	0.2 mg — 0.4 mg		0.2 mg	•
Manganese	0.1 mg — 1.0 mg		0.3 mg	•

Fatty Acids	Seasonal Range	Weighted Average	
Palmitic	4 % — 16%	11 %	1.4 gm
Oleic	64 % — 93%	76 %	9.8 gm
Palmitoleic	0.5 % — 7%	4 %	0.5 gm
Linoleic	2 % — 12%	8 %	1.0 gm
Arachidonic	0 — trace		
Stearic	0 — trace		
Linolenic (and related acids)	0 — 0.8%		

• No Recommended Dietary Allowance has been established.

1 Analyses of Shankman Laboratories, Los Angeles, April, 1968 — February, 1969.

2 Samples selected to typify avocados in the market by source, size, and time. Varieties analyzed were Fuerte and Hass, composing 80% of California avocados.

3 California avocados range in size from under four to more than twenty ounces. Weight for one entire season averaged 7.5 ounces. One half of such a "typical" avocado (3.75 ounces) has 2.85 ounces (76%) of edible portion.

4 Reference Man: 22-35 years in age.

5 Legal minimum of 8% oil content required in California avocados; sample selected represents commercial minimum.

6 Also present: Trace amounts of silicon, boron, aluminum, lithium, titanium, chromium, nickel, and silver.

NOTES: One "slice" of California avocado yields 17 calories (one-sixteenth of a "typical" avocado). One tablespoon mashed avocado pulp yields 19 calories. Avocados contain no cholesterol.

EXHIBIT #2

PRODUCTION OF AVOCADOS, UNITED STATES

1961-1971

(millions of pounds)

Actual Production	California	Florida	Total
1961-62	100.0	12.2	112.2
1962-63	80.0	23.4	103.4
1963-64	93.6	31.8	125.4
1964-65	48.0	27.2	75.2
1965-66	116.0	5.4	121.4
1966-67	149.0	12.0	161.0
1967-68	74.8	31.2	106.0
1968-69	122.2	26.1	148.3
1969-70	66.0	28.8	94.8
1970-71	129.2	37.3	165.5
1971-72 (Est.)	55.2	40.0	95.2
Average Production:			
1945-48	37.8	5.1	42.9
1961-71	92.0	23.0	115.0
1975-80 (Est.)	153.0	60.0	213.0
Change:			
1945-48 vs. 1961-71	+ 169%		
1961-71 vs. 1975-80	+ 85%		

Source: U.S.D.A. and Department of Commerce
Robert C. Rock: University of California Extension Economics, June 24, 1971.
"A Projection of California Avocado Acreage & Production to 1977".
Florida Avocado and Lime Administrative Committee

EXHIBIT 3

SHIPMENTS BY MONTH, AVOCADOS

(Average of 1969-70 & 1970-71 Crop Years)

(Thousands of Pounds)

	California	Florida	Total	% of Year
January	8,616.2	4,524.7	13,140.9	10.2%
February	8,054.1	2,870.9	10,925.0	8.5
March	9,044.0	277.6	9,321.6	7.3
April	10,969.1	1.6	10,970.7	8.6
May	9,472.5	1.6	9,474.1	7.4
June	8,634.2	1.6	8,635.8	6.7
July	9,140.7	758.0	9,898.7	7.7
August	7,235.8	1,948.3	9,184.1	7.2
September	6,794.8	3,172.3	9,967.1	7.8
October	7,135.8	4,786.9	11,922.7	9.3
November	4,430.1	7,772.9	12,203.0	9.5
December	5,668.1	6,901.1	12,569.2	9.8
TOTAL	95,195.4	33,017.5	128,212.9	100.0%
AVERAGE MONTH	7,933.0	2,751.4	10,684.4	

Source: Agricultural Extension, University of California
"Economic Trends in the California Avocado Industry"

EXHIBIT 4

ACREAGE PLANTED, AVOCADOS, CALIFORNIA & FLORIDA

	IN PRODUCTION	NOT PRODUCING	TOTAL
1960			
California	20,045	4,378	24,423
Florida	4,270	204	4,474
Total	24,315	4,582	28,897
1970			
California	18,038	6,108	24,146
Florida	4,755	878	5,633
Total	22,793	6,986	29,779
1977 (estimated)			
California	23,119	5,000 *	28,119
Florida	6,400	500 *	6,900
Total	29,519	5,500	35,019

Average production per acre producing, 1960 — 3900 lb/acre

Average production per acre producing, 1970 — 5500 lb/acre

Average production per acre producing, 1977 (est.) — 6080 lb/acre

(* Industry Estimates)

Source: Florida Department of Agriculture & USDA: "Marketing Florida Avocados, Limes, & Mangoes, 1971-72 Season" , May 1972.

Agriculture Extension, University of California: "Economic Trends in the California Avocado Industry", June 1972.

Robert Rock, Agricultural Economist, Agriculture Extension Service, University of California: "A Projection of California Avocado Acreage and Production to 1977", June 24, 1971.

EXHIBIT #5

BUSINESS AND ECONOMIC NEWS FROM ISRAEL

ernment of Israel Investment and Export Authority

850 Third Avenue
New York, N.Y. 10022
(212) PLaza 2-5600

FOR: IMMEDIATE RELEASE

Contact: Philip Opher

EXPORT OF ISRAELI AVOCADOS SHOW GROWTH

Plans for Increased Demand

Now in Progress

Avocado exports from Israel is a growing business and over 3,000 tons of the fruit went overseas in the season which has just ended. These sales have earned $1.5 million for their Israeli growers.

Next year, sales are expected to continue their upward climb and 5,000 tons will be sent abroad at an anticipated earning of $2.5 million. Within five years, Israel's Agriculture Department expects overseas sales to grow to 17,000 tons as the demand for avocados in the European markets cannot be fully satisfied at present.

Some 5,000 acres are presently under cultivation for the fruit, and this will be expanded by some 600 acres yearly to help meet the demand.

###

-Exhibit 5-

A copy of this material is filed with the Department of Justice where the required statement under the Foreign Agents Registration Act of Israel [illegible] as an agent of the Government of Israel Investment and Export Authority, 850 Third Avenue, New York, New York is available for public inspection. Registration does not indicate approval of this material by the United States Government.

EXHIBIT #6

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREIGN AGRICULTURAL SERVICE
OFFICE OF AGRICULTURAL ATTACHE

American Embassy, Mexico, D. F.

November 7, 1972

Mr. Ralph Pinkerton
California Avocado Advisory Board
4533B MacArthur
Newport Beach, California 92660

Dear Mr. Pinkerton:

Enclosed is a translation of an avocado report recently received from the Mexican Fruit Commission (CONAFRUT), an organization controlled by the Mexican Department of Agriculture.

We hope this information will be of value.

Sincerely,

ANDREW E. BELLINGHAM
Assistant Agricultural Attaché

Enc.

EXHIBIT #6, PAGE 2

UNCLASSIFIED
CLASSIFICATION

PAGE 1 OF
FROM AmEmb, Mex, D.F.
ENCL. NO. 1
NO.

MEXICO - AVOCADO PRODUCTION

In spite of the fact that avocados are grown almost everywhere in Mexico in larger or smaller scale, production has not been planned in accord with demand of the most popular varieties. Also, avocado tree population consists of 85 percent of native trees of poor genetic quality and low productivity. The above circumstances have caused area and crop production to fluctuate, as shown in the following table.

Mexico - Avocado Production; 1966-70

Year	Area has.	Annual Change percent	Production m.tons	Annual Change percent
1966	13,660	12.1	169,510	4.7
1967	10,200	- 24.9	134,640	- 20.6
1968	10,400	2.0	140,400	4.3
1969	10,500	1.0	144,900	3.2
1970	21,821	107.8	206,940	42.8

Source: SAG's Yearbooks (1966-69)
CONAFRUT's Dept. of Economic Studies (1970)

Production increased considerably in 1970, not only recovering from the decline in 1967 but also with the change in 1970 exceeding by 42.8 percent production in 1969. The same holds true in area harvested, with 10,200 hectares harvested in 1967, i.e. 24.9 percent less than in 1966, against 21,821 hectares harvested in 1970, i.e. 107.8 percent more than in 1969.

In addition to the increase registered in area devoted to avocado production and in production of native and selected varieties, over the last few years selected varieties have been propagated and are yielding avocados of excellent quality. These are: Fuerte, Hass, Bacon, Booth 7 and Booth 8. In most of the cases, commercial plantings are established preferably in selected areas, at suitable heights above sea level and climates appropriate for the growth of trees, without disregarding crop, irrigation and phytosanitary aspects.

With the above in mind, the main production of selected avocado varieties originates at adequate ecological areas in the States of Michoacan, Mexico, Puebla and Jalisco, in line with the following table providing number of trees in production and areas, with the understanding that 156 avocados is the average number planted to one hectare.

Mexico - Avocado Trees of Selected Varieties in Production; 1970

States	Trees in Production No.	Area Ha.
Michoacan	292,000	1,874
Mexico	75,000	480
Puebla	62,400	400
Jalisco	20,280	130
Other	60,908	389
Total	510,588	3,273

Source: CONAFRUT

FAS-184A (6-61)

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EXHIBIT #6, PAGE 3

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CLASSIFICATION

PAGE 2 OF 2
FROM AmEmb, Mex, D.F.
ENCL. NO. 1
NO.

Concerning avocado projections, these look quite promising, considering the commodity's demand both domestically and abroad. CONAFRUT has prepared a plan for the increase and improvement of avocado production as of the current government administration. This plan comprises the rehabilitation of existing orchards where native varieties are predominant, as well as the establishment of increase orchards and of nurseries where 300,000 plants grafted with selected varieties over an area of 2,000 hectares will be produced in the Santo Domingo Valley, Baja California; Huejutla, Hidalgo; Martinez de la Torre, Veracruz; and Tenancingo, Mexico.

Also, CONAFRUT's program includes the industrial utilization of avocados, the establishment of quality standards for avocados and by-products, a series of promotional studies and technical-industrial assistance.

Source: CONAFRUT (National Fruit Commission)

EXHIBIT #7

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREIGN AGRICULTURAL SERVICE
WASHINGTON, D.C. 20250

VIA AIR MAIL

Mr. Ralph M. Pinkerton
Manager, California Avocado
  Advisory Board
4533-B MacArthur Boulevard
Newport Beach, California 92660

JUL 24 1972

Dear Mr. Pinkerton:

This is in connection with Bill Stewart's letter to you, dated May 23, 1972, regarding, in part, a study of the avocado industry in the Dominican Republic.

Our Agricultural Attache's office in Santo Domingo has now responded and I am therefore enclosing a copy of his report. It appears to be a reasonably good description of the avocado industry in that country. I hope it will be of some assistance to you.

Sincerely,

A. Clinton Cook

A. CLINTON COOK
Acting Director
Fruit and Vegetable Division

Enclosure

EXHIBIT 7, Page 2

Agricultural Attaché Santo Domingo June 30, 1972

DR 2025

9V
DOMINICAN REPUBLIC: Avocado Production and Trade

Area and Production

Avocado production is scattered over the country. Over the years, this fruit has grown wild and the only attention it receives from farmers is at harvest time when the fruits ready for marketing are hand picked. In this manner several varieties are grown and millions of fruits are sold yearly in the domestic and foreign markets.

The National Office of Statistics estimates that in the period 1962-69 avocado production increased over 14% from 315.6 million units to 361.8 million units. (See Table I.) While the National Office of Statistics estimates avocado production in 1968 at 357 million units, the Secretariat of Agriculture recorded only 10.6 million units marketed at the five principal local market centers during that year. (See Table II).

Information obtained from the Office of Marketing at the Secretariat of Agriculture reveals that most of the avocados meeting the U.S. import requirements are produced in the Puerto Plata area. The availability of avocados in the local market and for export show that the period of major scarcity is during the months of January through April. Supplies of avocados rise during May and reach their peak in October. Although supply in November is as high as August, a sharp decline occurs in that month. This cycle, according to officials from the Secretariat of Agriculture, occurs every year.

The Secretariat of Agriculture has researched a few varieties of avocados. Among those, Pollock has been the most successful. Currently experimentation is being conducted with Semil 34 and Gripina 5, two winter varieties. They expect to plant these for export to the U.S. during the winter months when U.S. local production declines. In addition, they have planted the following varieties: Lula, Taylor, Choquette, Popenoe, Melendez, Dui Bank, Española, Hass and Nabal.

In planning for diversification of agricultural production, the Government of the Dominican Republic has studied the possibility of setting up avocado farms. These farms would have an area of 300 tareas (1). In the feasibility studies made by government officials, at the end of the 10th year

(1) one tarea = .0629 hectares or .15543 acres

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EXHIBIT 7 Page 3

DR 2025

each producer would have obtained an average yearly net profit of RD$4,072.50. (2) (See Table III). The farms would be under the control of the Agrarian Institute which would supply technical and financial assistance. To date, the Agrarian Institute has not started on this project.

Export

Most if not all the avocados exported from the Dominican Republic are shipped to the U.S. mainland and Puerto Rico. In the period 1967-71 avocado exports increased over 209% from 634 metric tons in 1967 to 1,960 metric tons in 1971. (See Table IV). The reasons for this increase in avocado exports are a declindin Puerto Rican production, and better prices in the foreign market than in the local market. It should be noted that exports in 1968 declined from 634 metric tons to 368 metric tons due to adverse climatic conditions affecting almost all the crops in the Dominican Republic. It is likely that avocado exports to the U.S. will increase even more in the coming years due to larger production as well as increases in price.

Gerald P. Lamberty
Economic Officer

Campos S. De Moya
Assistant to the Agricultural Attaché
Attachments

(2) RD1.00 = U.S.$1.00

EXHIBIT 7 Page 4

DR 2025

TABLE I

DOMINICAN REPUBLIC: Avocado Production
Calendar Years 1962-69 in million units

1962	1963	1964	1965	1966	1967	1968	1969
315.6	320.5	338.5	341.0	348.5	353.0	357.0	361.8

Source: National Office of Statistics

TABLE II

DOMINICAN REPUBLIC: Avocados, Supply to Most Important Marketing Centers in CY 1968

	Quantity (1)	Value (2)
January	18	683
February	7	334
March	18	831
April	23	823
May	104	4,179
June	182	5,612
July	623	17,551
August	1,830	34,375
September	2,755	42,243
October	2,982	52,830
November	1,672	43,193
December	454	16,515
	10,678	219,177

Source: Secretariat of Agriculture

(1) in thousand units

(2) in RD pesos RD$1.00 = US$1.00

EXHIBIT 7 Page 6 DR 2025

TABLE III

Yearly Gains and Losses per Tarea in Avocado Production (1)

	Year 1	Year 2	Year 3	Year 4	Year 5
Returns					
Production per tarea	0	0	200	500	700
Price of RD$0.05 at the farm per fruit	0	0	10.00	25.00	35.00
Expenses					
Cost of planting including application of chemicals and clearing land	7.00	2.50	3.00	4.00	6.00
Cost of chemicals such as fertilizers insecticides, fungicides, etc.	1.25	2.00	3.00	5.00	6.00
Depreciation (2)	7.50	7.50	8.00	8.00	8.00
Sub-total costs of production	15.75	12.00	14.00	17.00	20.00
Indirect expenses (3)	6.00	6.00	7.00	7.50	7.50
Sales	0	0	10.00	25.00	35.00
Less total costs	21.75	18.00	21.00	24.50	27.50
Net Gain	-21.75	-18.00	-11.00	.50	7.50
Gains in 300 tareas	-6,525.00	[illegible]		150.00	2,250.00
		-5,400.00	-3,300.00		

Source: Commission for Agricultural Production Diversification

(1) one tarea = .0629 hectares; area of farm will be 300 tareas and will have 10 trees per tarea
(2) depreciation of trees and irrigation system 25 years, machinery, equipment and barn: 8 years, boxes: 4 years
(3) indirect expenses includes trees, irrigation system, machinery and equipment, barn, land and boxes

EXHIBIT 7 Page 7 DR 2025

TABLE IV

DOMINICAN REPUBLIC: Avocado Exports, Calendar Years 1967-71 in metric tons and thousand RD$ (1)

	1967	1968	1969	1970	1971
Volume	634	369	1024	1499	1960
Value	144	69	189	276	379

Source: Customs

(1) RD$1.00 = U.S.$1.00

EXHIBIT 8

AVOCADOS: Imports Into U. S. by Country of Origin

(years ending 6/30)

(thousands of pounds)

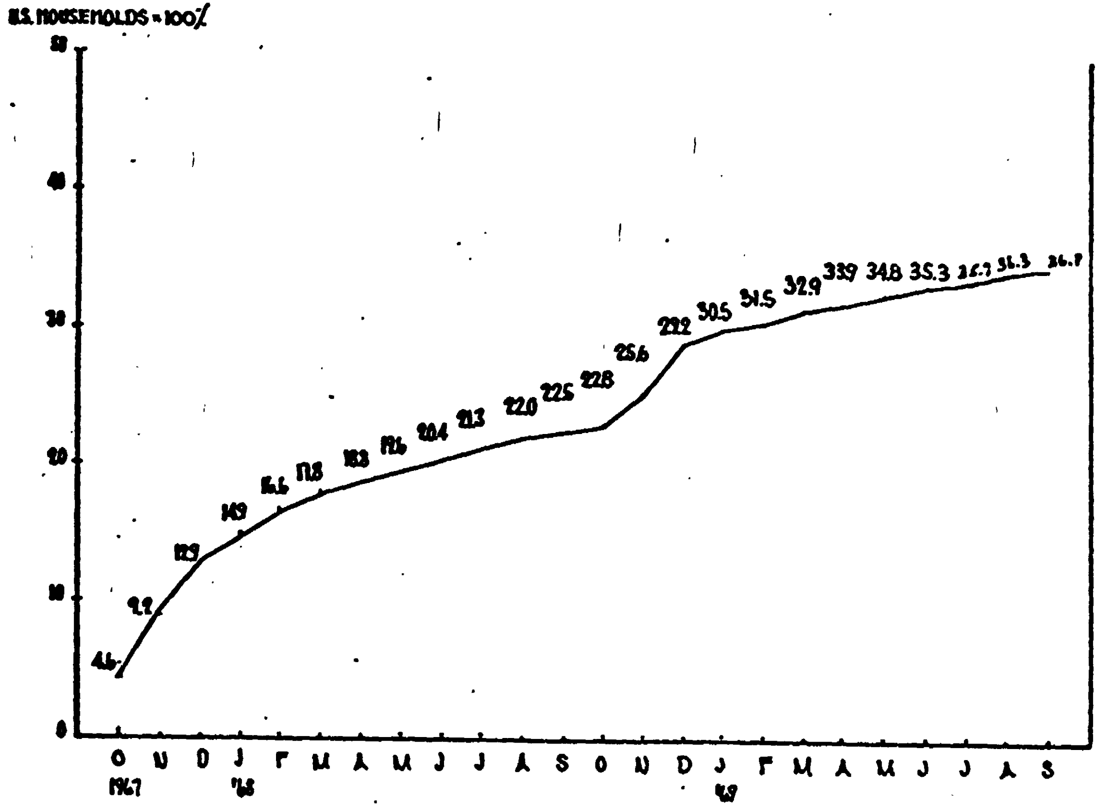
	Haiti	Dominican Republic	French West Indies	British West Indies	Cuba	Others	Total
1959-60	.3	.1	-	34.3	10,173	-	10,207.7
1964-65	.1	35.3	-	37.2	-	3.0	75.6
1965-66	46.8	619.7	196.3	9.5	-	42.6	914.9
1966-67	34.0	1135.4	.1	18.4	-	-	1187.9
1967-68	12.7	783.6	5.6	1.8	-	-	803.7
1968-69	6.9	495.5	-	6.9	-	-	509.3
1969-70	50.6	1405.8	-	2.1	-	-	1458.5
1970-71	8.6	2151.5	-	-	-	-	2160.1

Sources: Economic Research Service, U. S. Department of Agriculture, "U. S. Imports Under Quarantine in Foreign Agricultural Trade of the United States".

Marketing News Service, May 1972, USDA and Florida Department of Agriculture

"Marketing Florida Avocados, Limes, Mangoes, 1969-70 Season".

AVOCADOS
% HOUSEHOLDS REACHED
U.S. TOTAL - CUMULATIVE
OCT., 1967 - SEPT., 1969



MARKET RESEARCH CORPORATION of AMERICA

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EXHIBIT 9

EXHIBIT 10

economic trends in the california avocado industry

AGRICULTURAL EXTENSION UNIVERSITY OF CALIFORNIA

AXT-279
Rev. 6.72

The authors are: Robert C. Rock, Extension Economist; and Robert G. Platt, Extension Subtropical Horticulturist, Agricultural Extension Service, University of California, Riverside, California

TABLE OF CONTENTS

June 1972
3.5M

Co-operative Extension work in Agriculture and Home Economics, College of Agriculture, University of California, and United States Department of Agriculture co-operating. Distributed in furtherance of the Acts of Congress of May 8, and June 30, 1914. George B. Alcorn, Director, California Agricultural Extension Service.

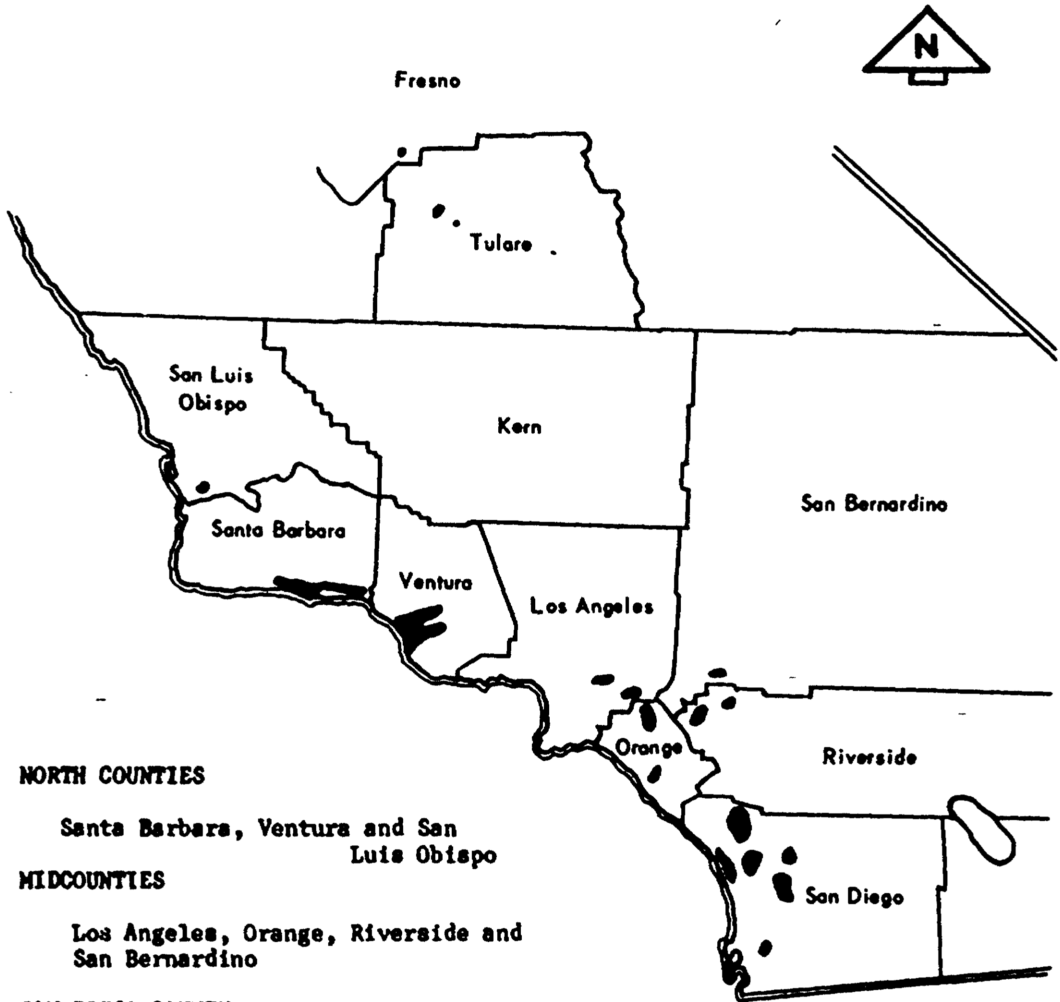
INDUSTRY HIGHLIGHTS

The California avocado industry is now in the second expansion period in twenty years. Improved returns in the 1940's led growers to expand total acreage during the period 1945 to 1959 by close to 50%. The resulting larger crops during the late 1950's and early 1960's brought depressed markets and a low level of new plantings during the early and mid-1960's. For the last ten years, total state bearing acreage has remained close to the 22,000-acre level and annual production, while varying widely from year to year, has averaged around the 100-million-pound level.

Since the early 1960's, grower returns have improved as a result of the more favorable supply and demand relationship in the industry, the extensive trade promotion program operating under a state marketing order, and improved marketing procedures and strategies by growers and handlers. Currently the rate of new planting is increasing and higher levels of acreage and production are projected for the remainder of the 1970's. Projections also indicate a changing varietal composition in the crop in the years ahead. The trend is toward increased acreage of the Hass variety relative to the Fuerte variety and proportionately larger spring, summer, and fall crops than in past years.

During this period of growth, the industry should be alert to the opportunities of orderly growth as well as to the dangers of excessive expansion. Increased production is needed if California is to supply the expanding market for avocados in the United States. Otherwise, other production areas may supply the market. Excessive expansion, particularly in certain varietal groups, could lead to marketing problems and lower grower returns.

Because of the difficulty of measuring the extent and the effect of the current expansion upon markets, growers should continually evaluate and revise their plans based on information as it becomes available. The rate of expansion of the industry and its effect on future grower returns will largely be determined by the following factors: 1) The loss of existing avocado acreage in California resulting from root rot infection and the encroachment of urban land uses; 2) The availability of land with suitable soil, climate and water available for new plantings and the high cost of orchard development; 3) The expansion of avocado production in other competing areas both domestic and foreign and changes of movement of avocados in foreign trade; 4) The success of the industry promotion program in creating demand in line with expanded production; and 5) The ability of growers and handlers to orderly market the crop.



NORTH COUNTIES

Santa Barbara, Ventura and San Luis Obispo

MIDCOUNTIES

Los Angeles, Orange, Riverside and San Bernardino

SAN DIEGO COUNTY

San Diego

SAN JOAQUIN VALLEY

Fresno and Tulare

FIGURE 1. COMMERCIAL AVOCADO PRODUCTION DISTRICTS IN CALIFORNIA

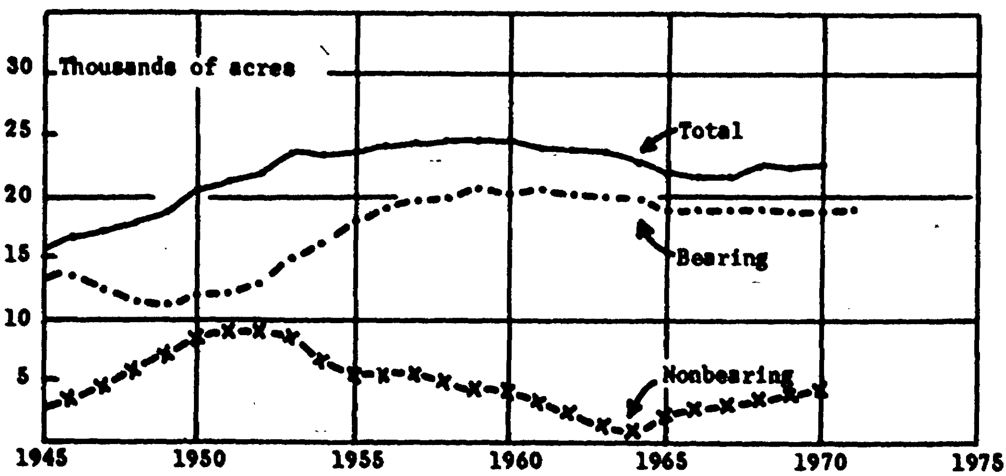
THE CALIFORNIA INDUSTRY

Commercial plantings of avocados in California started in the 1920's with a noticeable expansion in the 1950's and the current expansion starting in the late 1960's. California currently has nearly 22,500 acres of avocados, most of which are planted in the southern counties of the state including San Diego, Ventura, Santa Barbara, Los Angeles, Orange, Riverside, and San Bernardino. A small but expanding area is developing in the San Joaquin Valley.

Since the 1961-62 season, the California avocado industry has operated under a state marketing order designed to increase the demand for California avocados. Under the order a comprehensive trade promotion and advertising program for California avocados has been financed through grower assessments.

Total California Acreage

Total avocado acreage in California expanded from the 16,000-acre level in 1945 to the 25,000-acre level in the late 1950's and since that time has leveled off close to the 22,000-acre level. Figure 2 shows the trend in bearing, nonbearing, and total avocado acreage for California since 1945. During the late 1940's and early 1950's, new plantings resulted in increased bearing acreage. Larger crops followed resulting in lower returns and a slowing of new plantings. Nonbearing acreage (acreage five years of age or less) reached a low of 1,224 acres in 1964. Since then new plantings have increased nonbearing acreage, with 4,227 nonbearing acres reported in 1970. Most of the 1970 bearing acreage is over ten years of age. Future increases in total acreage will be influenced by the availability of suitable land with water and the effects of avocado root rot fungus (*Phytophthora cinnamomi*), and the pressures of urbanization on avocado acreage.

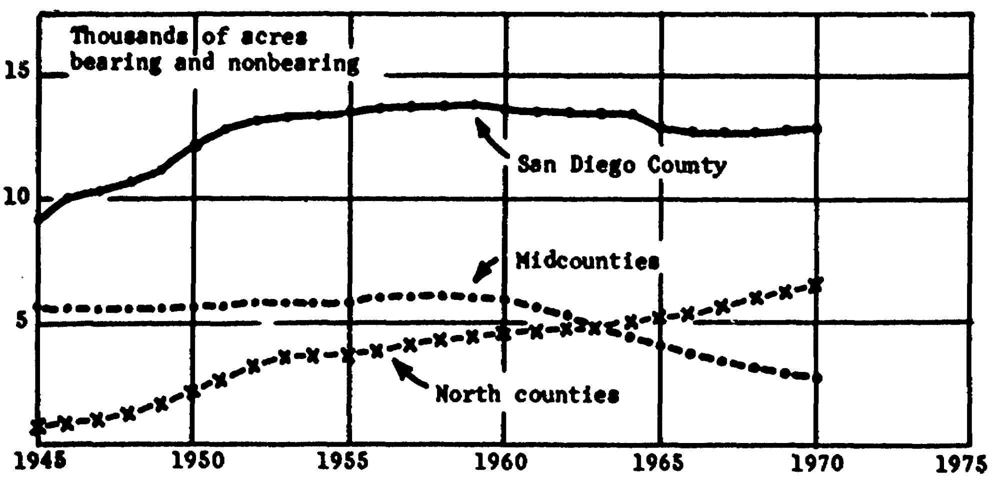


Source: Table 1

FIGURE 2. CALIFORNIA TOTAL AVOCADO ACREAGE, BEARING AND NONBEARING

California Acreage by Districts

Avocado acreage in California can be divided into three areas: 1) San Diego County; 2) the midcounties; and 3) the north counties. The trend in acreage in these three areas is shown in Figure 3. A small but expanding area is developing in Tulare and Fresno counties of the San Joaquin Valley. San Diego County leads all counties in avocado acreage, accounting for 57% of total state acreage. The greatest acreage increase in this area occurred in the late 1940's and early 1950's. Plantings are heavy to the Fuerte variety with the Hass variety gaining in favor. Acreage in the midcounties remained stable for a number of years but began to decline significantly in 1960. This area has been most affected by urbanization. Acreage in the north counties of Ventura and Santa Barbara is increasing. Summer varieties, predominantly Hass with some acreages of MacArthur and Rincon, make up the bulk of the acreage. Closer tree spacings of this area of high producing varieties such as Hass are resulting in high yield per acre.



Midcounties include: Los Angeles, Orange, Riverside, San Bernardino
North counties include: Ventura and Santa Barbara

Source: Table 3

FIGURE 3: CALIFORNIA TOTAL AVOCADO ACREAGE BY AREAS

California Acreage by Varieties

The two principal varieties grown in California are the Fuerte and Hass. Fuerte, a green-skinned fruit classified as a fall and winter variety, is marketed mainly during November through May. Hass, a dark-skinned fruit classified as a spring and summer variety, is marketed mainly during May through November, although some shipments occur during most other months of the year. While it should be recognized that time of harvest of different varieties varies somewhat from year to year, the general practice is to refer to all varieties marketed during the first six months of the season (November through April) as fall and winter varieties and the second six months (May through October) as spring and summer varieties. Principal fall and winter varieties are Fuerte, Bacon, and Zutano with most of the Rincon also marketed during this period. Principal spring and summer varieties are Hass and MacArthur.

The trend toward increased Hass acreage relative to Fuerte acreage continues. The trend in total acreage of the two varietal groups during the period 1958 to 1970 is shown below. Projections based largely on numbers of avocado trees available for sale by nurserymen in California indicate that this trend will continue and could accelerate into the late 1970's.

Fall & Winter	1958	1970	Spring & Summer	1958	1970
	acres			acres	
Fuerte	17,766	10,155	Hass	3,265	7,484
Bacon	318	1,373	MacArthur	679	704
Zutano	497	857		3,944	8,188
Rincon	612	487			
	19,193	12,872			

Source: California Crop & Livestock Reporting Service, Sacramento

OTHER U. S. PRODUCTION AREAS AND IMPORTS

Florida

Florida has produced avocados since the 1930's with the industry centered in Dade County in the farm area just south of Miami. Total acreage in Dade county at the end of 1971 was reported at 6,028 acres, up 12 percent from the 5,381 acres reported two years earlier. Most of the acreage is 15 years of age or older with 3,861 acres planted prior to 1955. During the period 1966 to 1971 new acres planted amounted to 1,273 acres or 21.6 percent of the total. Some interest in increased plantings is evident but urban expansion, high costs, not to mention hurricanes are tending to limit the industry to about its present size.

Other States

Small acreages of avocados supplying local markets have been grown in Hawaii for a number of years. Growing avocados has been tried in the lower Rio Grande Valley of Texas but severe freezes have limited commercial production.

Imports

Wide variation has occurred in the quantity of avocados imported into the United States. Prior to 1961 substantial quantities were imported from Cuba ranging from five to nine million pounds annually. Since that time imports have been relatively small. However, imports have increased since 1969 reaching 2.2 million pounds in the year beginning July 1, 1970. The principal supplier of these imports was the Dominican Republic.

Mexico and other Latin American countries produce and consume large quantities of avocados but none are exported to the United States. The main factor limiting imports has been regulations to protect the U.S. industry against seed weevil and various other fruit flies common in tropical countries and islands south of the United States. Duty on imports is 7.5¢ per pound the year around on all imports fresh and processed.

Mexico has an avocado industry equal to or larger than that of California. Reliable records of acreage and production are not available but informed sources indicate Mexican avocado acreage with a magnitude of 30-40,000 acres, much of which is in young trees five years of age or younger.

U. S. AVOCADO SUPPLY AND PRICE

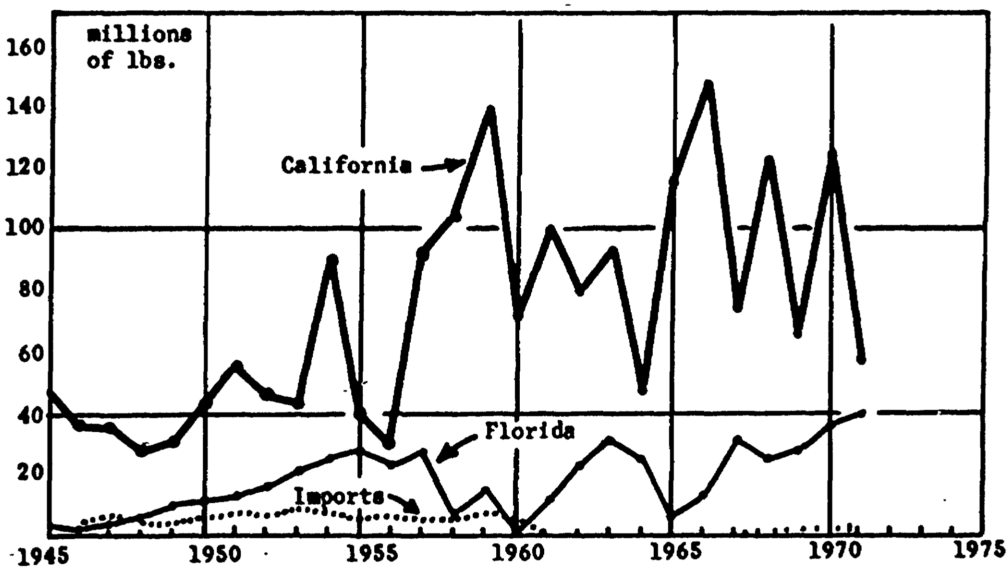
Avocado Supply

California and Florida are the principal suppliers of avocados for United States markets. Before 1961, substantial quantities of avocados were imported into the U.S. from Cuba during the summer months. The trend in California and Florida avocado production and U.S. avocado imports since 1940 is shown in Figure 4.

While the trend in California production has been upward, the size of the crop has varied widely from year to year. The large crops of 1957-58 to date reflect the heavy plantings during the late 1940's and early 1950's. A severe heat wave in September 1963 and an abnormally cool spring in 1964 contributed to a light fruit set and a small 1964-65 crop. This small crop was followed by the second largest crop of record in 1965-66 and an all-time record large crop in 1966-67. The short crop of 1969-70 was due to a severe freeze in December 1968. A record small Fuerte crop contributed to the small 1971-72 crop.

Florida production has dropped to low levels twice in the last ten years as a result of freeze and hurricane damage. Total production has been increasing since the last hurricane in 1965 and reached a record high of 40 million pounds for the 1971-72 season.

Projections based largely on the number of avocado trees for sale by nurserymen in California indicate that bearing acreage of California avocados could move from the current 18,000-acre level to the 23-25,000-acre level by 1977. Based on these assumptions, total production could rise from the 100-million-pound annual average production potential to the 150-million-pound level by 1977. As in the past, crops from year to year could vary significantly above or below this production potential level.



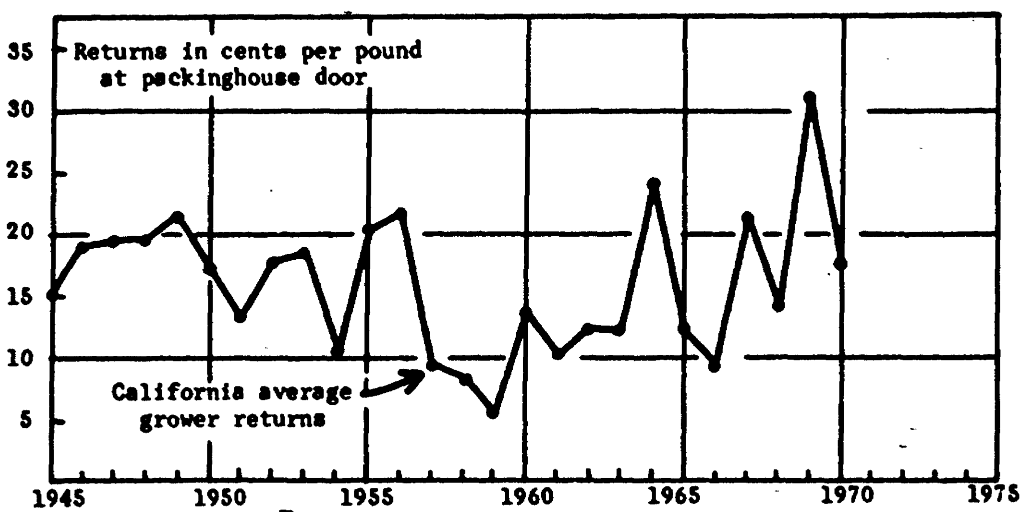
Season beginning year shown, imports for year indicated. Imports priot to 1960 mainly from Cuba.

Source: Table 5

FIGURE 4: CALIFORNIA AND FLORIDA AVOCADO PRODUCTION AND U.S. IMPORTS

Avocado Grower Price

The inverse relationship between the size of the California avocado crop and the seasonal average price received by California growers for fruit delivered to the packinghouse can be seen by studying the price and production data in Figures 4 and 5. An upward trend in prices is apparent in recent years but, again, wide fluctuations occur depending upon supply. During the last 15 years average grower prices have varied from a low of 5.5¢ per pound during the record large crop of 1959-60 to 3[illegible]¢ per pound for the short crop of 1969-70.



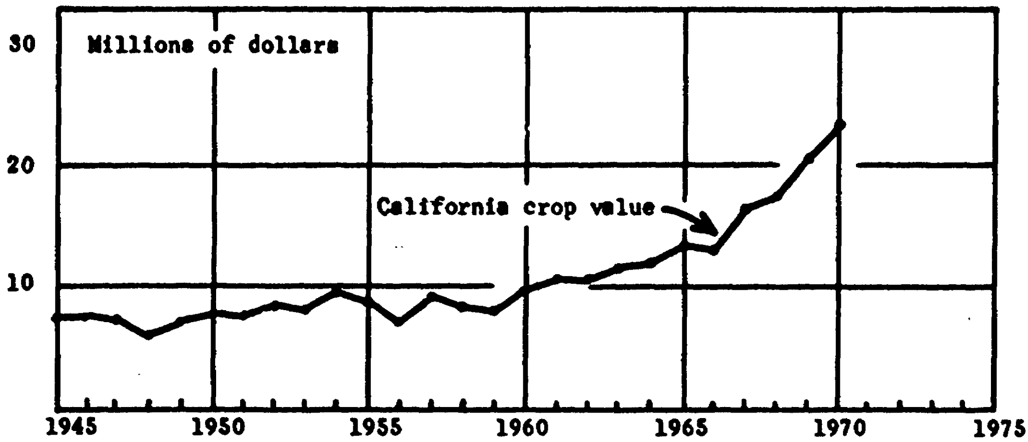
Season beginning year shown. Returns since 1961 after deduction of marketing order assessments.

Source: Table 2

FIGURE 5: CALIFORNIA AVOCADO AVERAGE GROWER RETURNS

Crop Value

The value of the California avocado crop delivered to the packinghouse door after deduction of marketing order assessments, reached $23,433,000 for the 1970-71 season -- over double the value of the crop ten years previous. The gross returns at the packinghouse door on a per-bearing-acre basis have also increased significantly during the last ten years, rising from $500 per bearing acre in 1960 to $1,336 per bearing acre in 1970 (see Table 2). The rising trend in grower prices, returns per bearing acre, and crop value since 1960 has resulted largely from the more favorable supply and demand relationships in the industry, the extensive trade promotion program operating under state marketing order, and improved marketing procedures and strategies by growers and handlers.



Crop value since 1961 after deducting marketing order assessments.

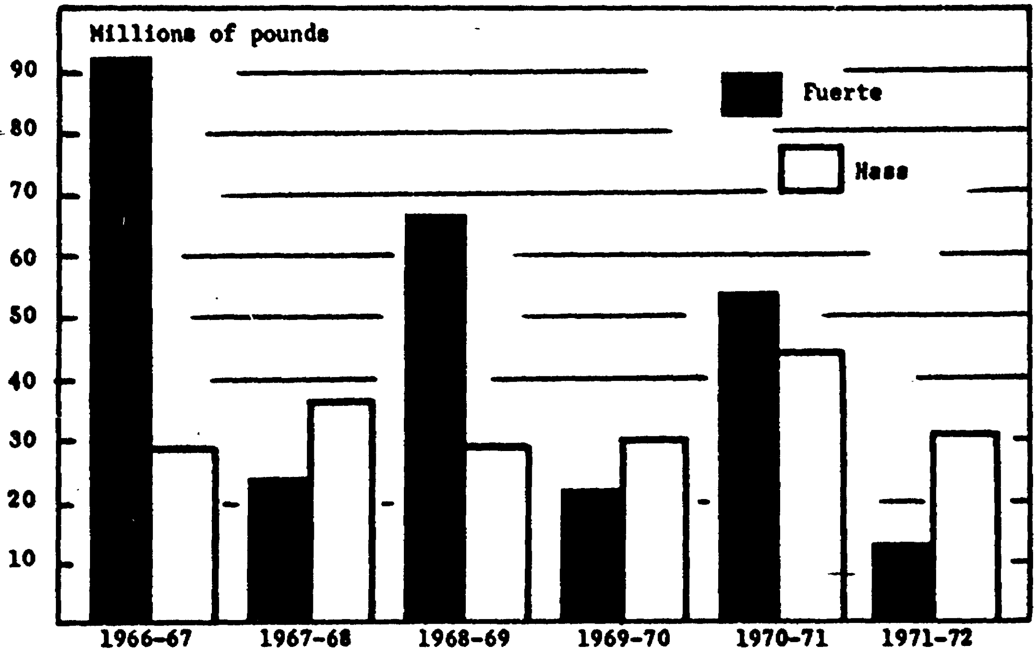
Source: Table 2

FIGURE 6. CALIFORNIA AVOCADO CROP VALUE

California Production by Varieties

The production trend of the two major California avocado varieties is shown in Figure 7. Production of the Fuerte variety was short in the 1964-65, 1967-68, 1969-70, and 1971-72 seasons. The record large crop in the 1966-67 season resulted largely from the record large Fuerte crop. Variations in the size of the Hass crop from year to year have not been as great as for the Fuerte variety. In recent years the Hass variety has accounted for a larger percentage of the total crop with production of Hass in 1967-68 actually exceeding for the first time the size of the Fuerte crop.

The trend toward increased Hass variety production relative to Fuerte production and proportionately larger spring and summer crops continues. Projections of future production based largely on information on the number of nursery trees available for planting indicate that by 1977 the composition of the crop could be 60% Hass and other spring and summer varieties and 40% Fuerte and other fall and winter varieties. Currently these percentages are reversed.



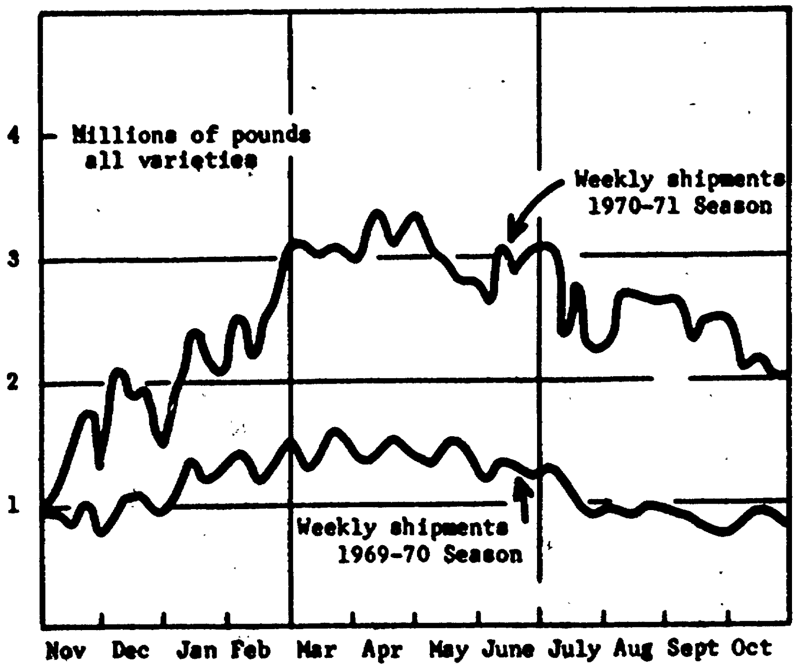
Source: Table 4

FIGURE 7: PRODUCTION OF FUERTE AND HASS VARIETY AVOCADOS IN CALIFORNIA

Weekly Avocado Shipments

The pattern of weekly shipments of California and Florida avocados to market affects prices and grower returns. For this reason growers should study weekly shipment and price information and consult with their handler before picking. This is particularly important at the beginning of the season when price levels adjust to heavier supplies. Under such conditions there is a possibility of growers picking too early and too heavily in an attempt to beat the price decline.

Figure 8 compares the weekly California avocado shipments for the 1969-70 and the 1970-71 seasons. During the 1969-70 season, 65.1 million pounds of avocados were shipped compared with 124 million pounds in the 1970-71 season.

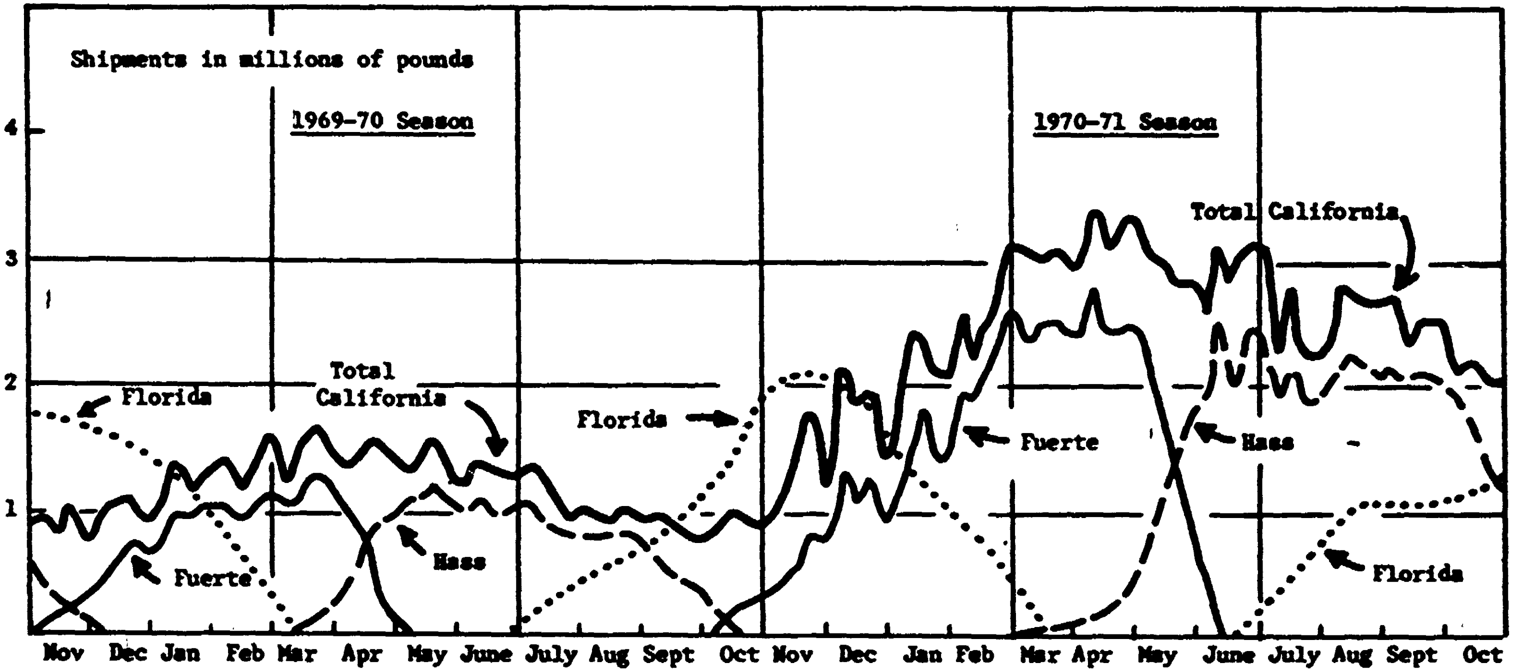


Source: Tables 10 & 11

FIGURE 8. CALIFORNIA WEEKLY AVOCADO SHIPMENTS, 1969-70 AND 1970-71 SEASONS

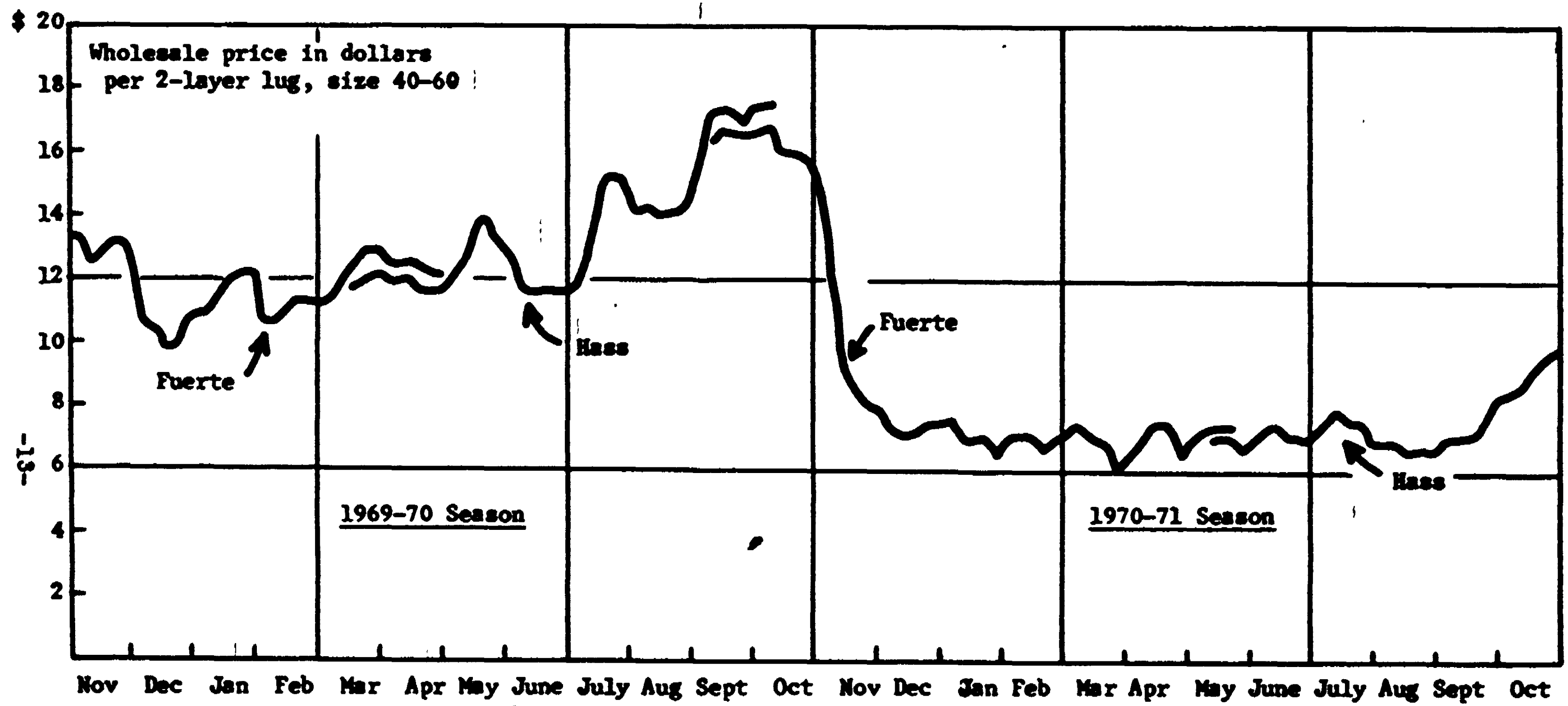
Avocado Prices

For a better understanding of supply and price relationships in the avocado industry, study the two charts below. Figure 9 shows the pattern of weekly shipments of California and Florida avocados for the two seasons 1969-70 and 1970-71. Shipments of the Fuerte and Hass varieties for California are also shown. Compare this shipment information with the corresponding price information shown in Figure 10. Note the inverse relationship between price levels and corresponding weekly shipments. Prices during the 1969-70 season reflected the short Fuerte crop and Hass crop.



Source: Tables 7, 10 & 11

FIGURE 9. WEEKLY SHIPMENTS OF CALIFORNIA AND FLORIDA AVOCADOS, 1969-70 and 1970-71 SEASONS



Price line indicates midpoint of Wednesday price range.

Source: Tables 13 & 14

FIGURE 10: WEEKLY LOS ANGELES WHOLESALE MARKET PRICES FOR AVOCADOS, 1969-70/1970-71 SEASONS

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WORLD PRODUCTION AND THE EUROPEAN MARKET

The first commercial production outside the western hemisphere was in Israel in the 1950's. Expanding their planting very rapidly, they now have nearly 6,000 acres planted and are expanding at a rate of 300-500 acres annually.

There are many similarities between Israel and California in varieties, production techniques, and maturity. They have exported to western Europe, particularly England and France, more than 70% of their production. They have advertised their fruit heavily (partly government subsidized) to aid in the expansion of an exportable commodity. Although the Israelis do not have the root rot disease, they have serious problems with irrigation water and salinity.

The Republic of South Africa has an avocado industry consisting of approximately 3,000 acres. Three-fourths of their exports go to the United Kingdom, mainly during the summer months. Although large acreages suitable for avocado production are available in South Africa, the root rot disease is very rampant and a control or prevention procedure is necessary before production can expand.

Other minor suppliers of the growing European market include Martinique, Cameroon, Morocco, Swaziland, Canary Islands, Angola and Kenya.

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Table 2. California avocado crop value, gross returns per pound and per bearing acre, 1950-51 season to date

Crop year	Returns at packinghouse door			Returns at packinghouse door after deduction of marketing order assessment 1/		
	Total crop value	Cents per pound	Dollars per bearing acre	Total crop value	Cents per pound	Dollars per bearing acre
	1,000 dollars	¢	$	1,000 dollars	¢	$
1950-51	7,683	17.1	640			
1951-52	7,560	13.5	601			
1952-53	8,074	17.4	595			
1953-54	7,881	18.5	524			
1954-55	9,447	10.4	580			
1955-56	8,280	20.7	459			
1956-57	6,952	22.0	364			
1957-58	9,028	9.7	456			
1958-59	8,652	8.4	428			
1959-60	7,659	5.5	360			
1960-61	9,940	14.0	496			
1961-62	10,700	10.7	513	10,165 1/	10.2	487
1962-63	10,720	13.4	506	10,184	12.7	480
1963-64	12,121	12.9	553	11,515	12.3	525
1964-65	12,480	26.0	578	11,856	24.7	550
1965-66	15,196	13.1	806	14,436	12.4	767
1966-67	15,049	10.1	808	14,297	9.6	768
1967-68	17,204	23.0	919	16,344	21.8	873
1968-69	18,330	15.0	954	17,505	14.3	911
1969-70	21,780	33.0	1,207	20,800	31.5	1,153
1970-71	24,548	19.0	1,336	23,443	18.1	1,275
1971-72 2/	23,000	41.7				

1/ State marketing order established California Avocado Advisory Board. First complete season of operation was 1961-62. Assessment rate has been 5% of value of fruit at roadside for years 1961-62 through 1967-68 and 4½% assessment for seasons 1968-69 to date.

2/ Preliminary

Source: California Crop and Livestock Reporting Service, Sacramento, California

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Table 3. California avocado acreage by major producing counties: 1945, 1950, and 1960 to date

Year	South: San Diego	Midcounties: Los Angeles	Midcounties: Orange	Midcounties: Riverside	Midcounties: San Bdno.	Midcounties: Total	North counties: Santa Barbara	North counties: Ventura	North counties: Total	Others 1/	State total
	acres			- acres -				- acres -		acres	acres
Nonbearing											
1945	1,885	358	366	25	1	750	83	164	247	2	2,884
1950	5,591	409	953	183	24	1,569	600	691	1,291	13	8,464
1960	2,386	75	401	176	32	684	386	843	1,229	79	4,378
1961	1,597	110	265	112	38	525	294	554	848	96	3,066
1962	1,018	63	158	71	33	325	637	555	1,192	93	2,628
1963	515	27	30	33	15	155	609	321	930	106	1,706
1964	579	18	42	20	4	84	579	310	889	-	1,224
1965 2/	1,070	6	35	70	4	115	602	348	950	90	2,530 2/
1966	1,257	32	30	74	9	140	671	629	1,300	160	3,060
1967	1,363	30	20	98	11	159	798	599	1,397	161	3,150
1968	1,700	22	11	119	3	155	779	586	1,365	430	4,300
1969	2,130	20	20	150	-	190	750	610	1,360	520	4,200
1970 3/	2,040	10	130	260	10	410	700	580	1,280	500	4,230
Bearing											
1945	7,650	3,098	1,829	51	66	5,044	333	343	676	33	13,403
1950	6,970	2,515	1,525	51	47	4,138	406	488	894	6	12,008
1960	11,230	2,535	2,441	335	147	5,458	1,260	2,084	3,344	13	20,045
1961	12,031	2,128	2,397	383	138	5,046	1,389	2,383	3,772	13	20,862
1962	12,610	2,097	2,257	417	137	4,908	1,349	2,314	3,663	13	21,194
1963	13,113	2,078	2,134	445	138	4,795	1,450	2,550	4,000	13	21,921
1964	13,481	2,024	1,438	404	117	3,983	1,634	2,466	4,100	10	21,574
1965 2/	10,911	2,004	1,389	357	116	3,866	1,679	2,372	4,051	26	18,810 2/
1966	11,179	1,244	1,346	367	116	3,080	1,765	2,545	4,300	61	18,620
1967	11,348	1,248	1,284	395	113	3,040	1,658	2,613	4,271	71	18,730
1968	11,585	1,253	1,249	397	106	3,005	1,749	2,786	4,535	74	19,220
1969	10,380	1,250	1,180	410	100	2,940	1,920	2,740	4,660	60	18,040
1970	10,880	1,250	780	330	100	2,460	2,070	2,880	4,950	90	18,380
1971 3/											18,470

1/ Other counties mainly in the San Joaquin Valley.
2/ Acreage adjusted to complete tree census in 1965. State total acreage revised 1965 to date. Therefore county estimates do not equal total.
3/ Preliminary.

Source: California Crop and Livestock Reporting Service, Sacramento, California.

Table 4. California avocados: Handler report of production by variety, 1960-61 season to date

Varietal group1/	California shipments					
	1960-61	1961-62	1962-63	1963-64	1964-65	1965-66
	millions of pounds					
Fuerte	40.3	61.5	47.3	57.6	17.3	52.3
Other fall & winter	6.1	7.9	7.9	6.5	7.6	10.2
Hass	13.6	17.6	16.5	21.6	14.4	37.6
Other spring & summer	11.0	12.0	7.5	7.6	7.9	12.1
Total	71.0	99.0	79.2	93.3	47.2	112.2

	1966-67	1967-68	1968-69	1969-70	1970-71	1971-72 2/
	millions of pounds					
Fuerte	92.1	24.0	66.1	21.3	53.6	10.5
Other fall & winter	14.9	9.2	13.9	7.7	14.9	9.5
Hass	28.4	36.1	28.4	29.8	43.6	29.1
Other spring & summer	13.0	4.9	11.5	6.8	11.7	6.1
Total	148.4	74.2	119.9	65.6	123.8	55.2

1/ The four varietal classifications used are (1) Fuerte, (2) other fall and winter varieties, (3) Hass, and (4) other spring and summer varieties. The avocado season begins November 1, and other fall and winter varieties are defined as fruit other than Fuerte shipped during the first six months of the season (Bacon, Zutano) and other spring and summer varieties as fruit other than Hass shipped during the last six months of the season (MacArthur).
2/ Preliminary, as of May 1, 1972 report.

Source: California Crop and Livestock Reporting Service, Sacramento.

Table 5. Avocados: California production, Florida shipments, imports and U.S. supply, 1930, 1935, 1940, and 1945 to date

Year	California production 1/	Florida shipments	Fla-Calif	Avocado imports 2/	Total U.S. supply
		- millions of pounds -			
1930	4.3	1.2	5.5	9.8	15.3
1935	10.4	2.0	12.4	7.5	19.9
1940	29.2	1.8	31.0	11.7	42.7
1945	48.0	6.4	54.4	0.9	55.3
1946	37.0	3.2	40.2	4.9	45.1
1947	37.2	4.6	41.8	6.0	47.8
1948	28.8	6.2	35.0	7.5	42.5
1949	31.0	10.0	41.0	6.4	47.4
1950	44.8	11.0	55.8	7.9	63.7
1951	56.0	13.0	69.0	9.2	78.2
1952	46.4	17.4	63.8	6.9	70.7
1953	42.6	21.2	63.8	8.3	72.1
1954	90.4	23.6	114.0	7.4	121.4
1955	40.0	28.6	68.6	5.3	73.9
1956	31.6	21.6	53.2	6.6	59.8
1957	92.6	29.6	122.2	5.7	127.9
1958	103.0	8.2	111.2	7.1	118.3
1959	140.0	16.0	156.0	8.8	164.8
1960	71.0	3.6	74.6	6.1	80.7
1961	100.0	12.2	112.2	0.2	112.4
1962	80.0	23.4	103.4	3/	103.4
1963	93.6	31.8	125.4	3/	125.4
1964	48.0	27.2	75.2	3/	75.2
1965	116.0	5.4	121.4	0.9	122.3
1966	149.0	12.0	161.0	1.2	162.2
1967	74.8	31.2	106.0	0.8	106.8
1968	122.2	26.1	148.3	0.5	148.8
1969	66.0	28.8	94.8	1.5	96.3
1970	129.2	37.3	166.5	2.2	168.7
1971 4/	55.2	40.0	95.2	-	-

1/ Season beginning year shown.
2/ Imports, year beginning July. Prior to Cuban embargo in 1962 imports mainly from Cuba.
3/ Less than 100,000 lbs.
4/ Preliminary.

Source: U.S. Department of Agriculture and U.S. Department of Commerce.

Table 6. Florida avocados: Bearing acreage, production, certified shipments, and season average price per pound[1] delivered to packinghouse for crop years 1949-50 through 1970-71

Crop year	Acres	Total crop	Certified shipments	Local sales	Processing	Total having value	Price per pound	Value of sales
	1,000 acres	million lbs.	- million lbs. -			million lbs.	cents	1,000 dollars
1949-50	-	11.0	-	-	-	10.9	6.8	746
1950-51	-	12.1	-	-	-	12.0	6.1	734
1951-52	-	14.3	-	-	-	14.24	4.8	686
1952-53	-	19.14	-	-	-	19.08	5.5	1,058
1953-54	-	23.32	-	-	-	23.26	4.9	1,142
1954-55	-	25.96	-	-	-	24.79	5.1	1,285
1955-56	-	31.46	27.86	1.09	-	29.46	5.0	1,500
1956-57	-	23.76	19.86	1.30	-	21.21	5.6	1,195
1957-58	-	32.56	26.24	1.36	-	31.28	4.8	1,507
1958-59	-	9.02	7.7	.38	-	8.08	6.3	507
1959-60	4.7	1.76	14.63	.82	-	15.46	4.0	618
1960-61	4.8	3.96	3.68	.23	-	3.92	8.0	312
1961-62	4.8	13.42	12.60	.77	-	13.36	7.7	1,033
1962-63	4.8	25.74	24.70	.98	-	25.67	6.3	1,634
1963-64	4.9	30.58	29.37	1.14	-	30.51	6.4	1,970
1964-65	5.0	29.48	26.84	1.12	-	27.96	8.2	2,288
1965-66	5.1	6.16	5.39	.69	-	6.08	20.5	1,244
1966-67	5.1	12.76	11.99	.69	-	12.68	10.1	1,291
1967-68	5.2	32.34	31.18	.94	.08	32.20	8.5	2,752
1968-69	5.3	27.72	26.12	.98	.53	27.63	10.8	2,979
1969-70	5.1	30.8	28.88	.33	1.54	30.74	13.8	4,237
1970-71[2]	5.1	41.36	37.4	.72	3.19	41.30	13.2	5,445

1/ Converted from original data on the basis of 55 pounds of avocados per bushel.
2/ Preliminary.

Source: Statistical Reporting Service, U. S. Department of Agriculture.

Table 7. Florida avocados: Shipments from the South Florida production area - 1963-64 to date

Months	1963-64	1964-65	1965-66	1966-67	1967-68	1968-69	1969-70	1970-71	1971-72
					pounds 1/				
April-June	14,190	—	12,870	1,430	13,640	8,525	8,745	1,100	1,980
July	682,055	1,257,850	712,030	281,050	1,219,240	869,000	442,090	1,073,985	1,738,770
August	1,068,540	2,346,575	1,242,890	424,985	1,869,065	1,992,980	1,379,895	2,516,690	4,067,525
September	3,027,475	3,376,450	1,567,060	929,665	3,302,695	2,875,180	2,650,065	3,694,515	4,148,700
October	4,567,585	4,779,775	612,040	3,303,740	5,171,595	4,264,205	4,272,510	5,301,175	4,526,225
November	7,670,135	6,558,200	863,005	3,180,980	7,901,850	6,487,690	6,886,825	8,658,980	7,431,050
December	5,514,630	5,325,815	378,730	2,998,325	6,726,445	4,678,300	6,391,660	7,410,535	6,677,990
January	4,451,040	2,908,565	11,715	854,370	3,686,815	3,260,895	4,180,935	4,968,480	5,260,475
February	2,226,235	299,860	2,255	32,340	1,213,575	1,569,865	2,522,960	3,218,710	4,355,285
March	158,290	7,755	—	2,915	74,525	124,355	106,425	448,690	1,590,820
Totals	31,765,250	27,168,460	5,404,080	12,009,800	31,179,445	26,130,995	28,844,200	37,292,860	40,068,820

1/ Converted from bushels on the basis of 55 pounds per bushel.

Source: Florida Avocado Administrative Committee, Homestead, Florida.

Table 8. Major Florida avocado varieties: Quantity received by handlers and starting date for picking, 1970-71 season

	1970-71 season	
Variety	Pounds picked	Starting picking date
Booth 8	9,739,895	Sept. 14
Lula	8,429,740	Oct. 19
Waldin	4,657,070	Aug. 17
Booth 7	4,078,415	Oct. 12
Booth 3	1,907,510	Oct. 26
Booth 1	1,649,670	Oct. 26
Pollock	1,456,565	July 6
Fuchs	1,037,410	June 22
Hall	963,985	Oct. 12
Hickson	813,120	Oct. 5
Choquette	709,665	Oct. 19
Monroe	583,165	Oct. 19
Collinson	430,925	Sept. 28
Trapp	381,755	Aug. 10
Simmonds	375,705	July 6
Booth 5	335,940	Oct. 5
Nadir	335,280	July 6
Taylor	324,940	Oct. 26
Dr. DuPuis	283,580	Sept. 22
Tonnage	149,765	Aug. 31
Peterson	130,570	July 27
Black Prince	107,580	Sept. 14
Ruehle	98,780	Aug. 3
Nesbitt	15,675	Aug. 17
Total	38,997,255	

Source: Avocado Administrative Committee, Homestead, Florida

Table 9. Combined rail and truck shipments of California avocados as reported by handlers. Weekly shipments in pounds.
1969-70 Season

Week ending		Fuerte	Other fall & winter	Hass	Other spring & summer	Total
1969				pounds		
October	3	-	169,028	1,323,833	165,249	1,658,110
	10	-	293,426	1,365,507	28,210	1,687,143
	17	-	1,745,625	1,322,385	-	3,068,010
	24	-	334,032	1,416,779	-	1,750,811
	31	1,742	448,718	957,500	-	1,407,960
November	7	6,211	387,480	516,591	-	910,282
	14	127,766	368,666	266,939	-	763,371
	21	339,909	485,259	265,551	-	1,090,719
	28	327,081	324,955	79,096	-	731,132
December	5	497,232	383,724	36,943	-	917,899
	12	668,023	343,492	9,099	-	1,020,614
	19	809,440	355,993	1,409	-	1,166,842
	26	635,007	178,523	410	-	813,940
1970						
January	2	892,912	264,395	8,734	-	1,166,041
	9	1,072,215	341,232	73,178	-	1,486,625
	16	879,592	256,853	10,223	-	1,146,668
	23	1,072,531	178,419	8,275	-	1,259,225
	30	958,597	306,613	11,899	-	1,277,109
February	6	1,090,025	350,606	5,752	-	1,446,383
	13	957,283	195,122	40,108	-	1,192,513
	20	1,147,349	166,691	43,718	-	1,357,758
	27	1,276,029	286,973	66,343	-	1,629,345
March	6	1,078,089	125,854	34,793	-	1,238,736
	13	1,328,538	125,335	67,171	-	1,521,044
	20	1,362,066	153,187	150,343	9,454	1,675,050
	27	1,108,780	157,019	203,496	21,895	1,491,190
April	3	919,798	37,550	289,479	134,334	1,391,161
	10	762,407	-	393,043	248,265	1,403,715
	17	323,171	-	944,750	281,114	1,549,035
	24	190,442	-	991,448	255,300	1,437,190
May	1	99,534	-	1,106,552	158,190	1,364,276
	8	39,330	-	1,016,978	395,498	1,451,806
	15	47,706	-	1,257,140	305,441	1,610,287
	22	20,069	-	1,094,912	330,936	1,445,917
	29	105,753	-	921,858	259,968	1,287,579
June	5	7,447	-	1,054,674	229,540	1,291,661
	12	19,083	-	1,131,331	335,835	1,486,249
	19	4,656	-	989,732	350,408	1,344,796
	26	2,340	-	1,025,596	276,757	1,304,693

Table 9. (Continued)

Week ending		Fuerte	Other fall & winter	Hass	Other spring & summer	Total
				pounds		
1970						
July	3	1,910	-	1,190,584	284,414	1,476,908
	10	1,425	-	1,008,040	276,093	1,285,558
	17	279	-	876,988	189,946	1,067,213
	24	323	-	701,266	165,852	867,441
	31	888	-	884,332	200,946	1,086,166
August	7	-	-	736,122	240,351	976,473
	14	-	-	748,512	199,085	947,597
	21	-	-	852,100	257,267	1,109,367
	28	16,613	-	800,092	146,157	962,862
September	4	41,195	-	712,324	155,291	908,810
	11	45,048	-	675,280	179,383	899,711
	18	117,951	-	477,912	206,206	802,069
	25	95,329	-	430,571	227,051	752,951
Final 1969-70 season		20,509,193	7,345,207	30,610,594	6,675,422	65,140,416

Source: Federal-State Market News Service, Los Angeles

Table 10. Combined rail and truck shipments of California avocados as reported by handlers. Weekly shipments in pounds.
1970-71 Season

Week ending		Fuerte	Other fall & winter	Hass	Other spring & summer	Total
1970				pounds		
October	2	114,890	303,983	383,009	-	801,882
	9	142,839	499,321	286,677	-	928,837
	16	276,283	607,216	186,057	-	1,069,556
	23	382,919	547,823	92,338	-	1,023,080
	30	328,097	538,987	9,247	-	876,331
November	6	454,736	623,830	19,862	-	1,098,428
	13	525,376	736,485	17,550	-	1,279,411
	20	866,806	881,065	18,750	-	1,766,621
	27	712,751	507,110	450	-	1,220,311
December	4	1,493,986	647,267	8,625	-	2,149,878
	11	1,007,907	834,557	10,475	-	1,852,939
	18	1,246,587	731,598	950	-	1,979,135
	25	828,423	605,760	1,050	-	1,435,233
1971						
January	1	1,306,037	624,765	125	-	1,930,927
	8	1,800,476	635,231	8,430	-	2,444,137
	15	1,552,060	514,617	132,492	-	2,199,169
	22	1,463,033	493,100	76,631	-	2,032,764
	29	1,553,897	571,680	164,081	-	2,289,658
February	5	1,842,130	679,976	18,100	-	2,540,206
	12	1,738,438	455,147	17,280	-	2,210,865
	19	2,046,061	493,402	27,403	-	2,566,866
	26	2,640,882	500,267	23,064	-	3,164,213
March	5	2,433,946	497,316	114,990	-	3,046,252
	12	2,543,032	372,851	100,070	-	3,015,953
	19	2,570,609	452,987	113,344	-	3,136,940
	26	2,407,930	488,607	66,423	-	2,962,960
April	2	2,429,130	499,366	103,340	-	3,031,836
	9	2,813,677	-	215,095	409,596	3,438,368
	16	2,474,288	-	271,600	377,423	3,123,311
	23	2,425,795	-	375,545	420,977	3,222,317
	30	2,553,955	-	359,484	427,941	3,341,380
May	7	2,379,519	-	483,753	327,233	3,190,505
	14	1,628,049	-	1,035,818	357,360	3,021,227
	21	1,103,530	-	1,282,638	404,655	2,790,823
	28	758,113	-	1,702,463	322,004	2,782,580
June	4	311,889	-	1,965,754	421,702	2,699,345
	11	203,471	-	2,522,819	467,022	3,193,312
	18	76,912	-	2,061,502	709,971	2,848,385
	25	31,000	-	2,452,393	616,634	3,100,027

Table 10. (Continued)

Week ending		Fuerte	Other fall & winter	Hass	Other spring & summer	Total
1971				pounds		
July	2	34,422	-	2,463,723	527,420	3,025,565
	9	12,276	-	1,833,807	448,004	2,294,087
	16	10,483	-	2,143,736	575,848	2,730,067
	23	4,512	-	1,751,017	446,677	2,202,206
	30	9,114	-	1,735,642	501,417	2,246,173
August	6	64,678	-	1,816,596	535,230	2,416,504
	13	3,869	-	2,273,122	482,680	2,759,671
	20	415	-	2,276,938	383,199	2,660,552
	27	850	-	2,156,118	481,327	2,638,295
September	3	375	-	2,289,663	441,686	2,731,724
	10	-	-	2,054,891	344,526	2,399,417
	17	400	-	2,222,490	311,199	2,534,089
	24	-	-	2,109,891	450,902	2,560,793
October	1	397	41,875	1,819,725	323,487	2,185,484
	8	-	305,638	1,861,763	118,728	2,286,129
	15	61	262,968	1,652,567	117,340	2,032,936
	22	326	283,792	1,519,097	260,194	2,063,409
Final 1970-71 season ending September 24		53,610,853	15,344,314	43,857,311	11,192,633	124,005,111
Final 1970-71 season ending October 22*		53,611,637	16,238,587	50,710,463	12,012,382	132,573,069

* The avocado industry has changed to new marketing season - November 1 through October 31.

Source: Federal-State Market News Service, Los Angeles

Table 11. Combined rail and truck shipments of California avocados as reported by handlers. Weekly shipments in pounds. 1971-72 Season to date

Week ending		Fuerte	Other fall & winter	Hass	Other spring & summer	Total
1971				pounds		
October	29	257	296,963	1,254,658	141,286	1,693,164
November	5	599	507,379	1,185,875	-	1,693,853
	12	37,753	496,105	824,776	-	1,358,634
	19	37,058	470,597	787,250	-	1,294,905
	26	128,684	418,188	529,519	-	1,076,391
December	3	141,246	419,366	540,891	-	1,101,503
	10	206,783	531,447	224,687	-	962,917
	17	335,886	757,267	122,477	-	1,215,630
	24	253,798	534,784	31,817	-	820,399
	31	191,618	429,089	24,027	-	644,734
1972						
January	7	392,719	598,262	58,038	-	1,049,019
	14	481,195	523,503	171,485	-	1,176,183
	21	371,627	412,179	120,589	-	904,395
	28	499,943	403,713	20,419	-	924,075
February	4	551,947	410,547	30,520	-	993,014
	11	505,254	431,564	16,001	-	952,819
	18	693,044	339,195	4,438	-	1,036,677
	25	893,645	213,822	19,260	-	1,126,727
March	3	893,571	227,451	46,785	-	1,167,807
	10	943,439	200,182	57,224	-	1,200,845
	17	899,623	243,375	164,245	-	1,307,243
	24	589,760	221,858	420,127	-	1,231,745
	31	526,322	131,337	584,646	-	1,242,305
April	7	290,308	141,786	698,804	-	1,130,898
	14	176,662	118,990	836,041	-	1,131,693
	21	128,704	120,089	898,103	-	1,146,896
	28	74,626	154,517	986,322	-	1,215,465
May	5	38,641	-	831,278	127,565	997,484

Source: Federal-State Market News Service, Los Angeles

Table 12. Los Angeles wholesale market prices for avocados - 1970

Month	Week	Fuerte So. Calif. dists. 2-lyr. lugs 40's-60's	Hass So. Calif. dists. 2-lyr. lugs 40's-60's
		- dollars -	
Jan.	1st Weds.	10.25-12.50	
	2nd	11.00-12.50	
	3rd	11.00-13.50	
	4th	11.00-13.00	
Feb.	1st Weds.	10.00-11.00	
	2nd	10.50-11.00	
	3rd	11.00-11.50	
	4th	10.50-11.50	
March	1st Weds.	11.00-11.50	
	2nd	11.50-12.50	11.00-11.50
	3rd	12.50-13.50	-12.00
	4th	12.50-13.00	12.00-12.50
April	1st Weds.	12.00-13.00	-12.00
	2nd	12.00-13.50	-12.00
	3rd	12.00-12.50	-11.50
	4th		11.25-12.00
	5th	-12.25	11.25-12.25
May	1st Weds.		11.50-12.50
	2nd		12.00-13.50
	3rd		12.50-15.00
	4th		12.00-14.00
June	1st Weds.		11.50-13.50
	2nd		11.00-12.50
	3rd		11.00-12.50
	4th		11.00-12.50
July	1st Weds.		11.50-13.00
	2nd		13.00-14.00
	3rd		15.00-16.00
	4th		15.00-16.00
	5th		14.00-16.00
Aug.	1st Weds.		13.00-16.00
	2nd		13.50-16.00
	3rd		13.50-16.00
	4th		13.50-16.50
Sept.	1st Weds.	1/	14.50-17.00
	2nd	16.00-17.00	17.00-18.00
	3rd	16.00-18.00	17.50-18.00
	4th	16.00-18.00	16.00-18.00
	5th	15.00-18.00	17.00-18.00
Oct.	1st Weds.	16.00-17.00	17.00-18.00
	2nd	-16.00	
	3rd	-16.00	
	4th	15.50-16.00	
Nov.	1st Weds.	14.00-15.00	
	2nd	Holiday	
	3rd	8.50- 9.50	
	4th	7.50- 8.50	
Dec.	1st Weds.	7.50- 8.50	
	2nd	7.00- 7.50	
	3rd	6.50- 7.50	
	4th	7.00- 8.00	
	5th	7.00- 8.50	

1/ Off bloom

Source: Federal-State Market News Service, Los Angeles

Table 13. Los Angeles wholesale market prices for avocados - 1971

Month	Week	Fuerte So. Calif. dists. 2-lyr. lugs 40's-60's	Hass So. Calif. dists. 2-lyr. lugs 40's-60's	Month	Week	Fuerte So. Calif. dists. 2-lyr. lugs 40's-60's	Hass So. Calif. dists. 2-lyr. lugs 40's-60's
		- dollars -					
Jan.	1st Weds.	7.00-8.50		July	1st Weds.		7.00-8.00
	2nd	6.50-8.00			2nd		7.75-8.25
	3rd	6.50-7.50			3rd		7.50-8.00
	4th	6.00-7.00			4th		7.00-7.50
Feb.	1st Weds.	7.00-7.50		Aug.	1st Weds.		6.50-7.00
	2nd	7.00-7.50			2nd		6.50-7.00
	3rd	6.50-7.00			3rd		6.50-7.00
	4th	7.00-7.50			4th		6.25-7.00
March	1st Weds.	7.00-8.00		Sept.	1st Weds.		7.00-7.25
	2nd	7.00-7.25			2nd		7.00-7.25
	3rd	6.50-7.00			3rd		7.00-7.25
	4th	-6.00			4th		7.50-8.00
	5th	6.00-6.25			5th		8.00-8.50
April	1st Weds.	-7.00		Oct.	1st Weds.		8.00-8.50
	2nd	7.50-8.00			2nd		8.25-8.75
	3rd	7.00-7.75			3rd		9.00-10.00
	4th	-6.50	6.50-6.75		4th		9.50-10.50
May	1st Weds.	7.00-7.25	-7.00	Nov.	1st Weds.		9.50-10.50
	2nd	7.00-8.00	-7.50		2nd		11.00-12.00
	3rd	7.00-8.00	-7.50		3rd	14.00-15.00	14.00-15.00
	4th		6.00-7.50		4th	-16.00	-16.00
June	1st Weds.		6.25-7.75	Dec.	1st Weds.	15.00-16.00	15.00-16.00
	2nd		7.00-8.00		2nd	-13.00	-13.00
	3rd		6.50-8.00		3rd	13.00-14.00	
	4th		6.00-8.00		4th	12.00-15.00	
	5th		6.00-7.50		5th	15.50-16.50	

Source: Federal-State Market News Service, Los Angeles

UNIVERSITY OF CALIFORNIA - AGRICULTURAL EXTENSION SERVICE

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EXHIBIT 11, Page 1

Agricultural Extension Service

June 24, 1971
Preliminary

A PROJECTION OF CALIFORNIA AVOCADO ACREAGE AND PRODUCTION TO 1977

Robert C. Rock*

The purpose of this paper is to provide information on the future trend of California acreage and production. Projections of bearing acreage and production potential were made for four varietal groups for the five-year period to 1977. The projections shown in tables 1 and 2 were based on specific assumptions regarding future new acreage planted, acreage losses, and estimates of yield per acre in 1977. While these assumptions were developed after an evaluation of all available relevant information, it should be noted that these projections will become reality only if the assumptions are valid. An acceleration in acreage loss due to the ravages of root rot or higher than anticipated new planting could modify these projections in either direction.

Projection Method

The production potential for the industry in 1977 for the four varietal groups (Fuerte, other fall and winter, Hass, other spring and summer) was developed in the following manner:

As a base, the bearing and nonbearing acreage in 1969, as reported by the California Crop and Livestock Reporting Service, was used. Estimates were then made of expected new plantings during the years 1970 through 1973. It was assumed that while new plantings would occur in 1974 and beyond, these trees would not be of bearing age during the projection year 1977. New planting estimates were based primarily on reports from avocado nurserymen on the number of avocado trees which they expected to have for sale. The base acreages in 1969 plus the estimates of new acreage were then adjusted for acreage loss due to factors such as root rot, urbanization, etc. The projected bearing acreage in 1977 was then combined with estimates of yield per acre of the four varietal groups to arrive at a projected production potential in 1977 (see tables 1 and 2).

New Plantings

Estimates of new plantings were based primarily on information developed in a survey of avocado nursery stock. This survey, made in March 1971, collected information from twelve nurserymen out of a total list of sixteen growing avocado trees for commercial planting. It is estimated that the included nurserymen produce 90% or more of the total production of avocado trees. Nurserymen were asked how many avocado trees they would have available for sale in 1971, how many in 1972 and in 1973. It should be recognized that the estimates for 1972 and 1973 are less reliable than the current year because of the possibility of making future changes in production plans. The survey indicated 355,602 trees available for sale in 1971, 411,400 trees in 1972, and 454,900 trees in 1973. The varietal composition of the trees available for sale in 1971 was

* Economist, Agricultural Extension Service, University of California, Riverside

62% Hass variety, 27% other fall and winter varieties, 6% Fuerte variety, and 5% other spring and summer varieties. For projection purposes (table 1) tree numbers were converted to acreage on a basis of a 70% survival rate and tree numbers per acre as follows: Hass - 110; Bacon - 135; Fuerte - 110; Zutano - 120.

Acreage Loss

It was assumed that the average rate of acreage loss for the industry during the seven year period 1970 to 1977 would amount to 1,214 acres per year or a total of 8,500 acres. Available information on past acreage loss, while incomplete, indicates average acreage loss close to 1,000 acres per year. The magnitude of future acreage loss due to root rot and the pressures of urbanization are difficult to estimate.

Yield Per Acre

Appropriate estimates of yield per acre of bearing acreage by the four varietal groups in 1977 were made in order to project production potentials in 1977. The estimates used were: Fuerte - 5,200 lbs. per acre; other fall and winter varieties - 6,500 lbs. per acre; Hass - 7,500 lbs. per acre; and other spring and summer varieties - 7,000 lbs. per acre. These estimates are not intended to represent the yield of good commercial orchards but were selected to represent average yields for total state acreage used in the projections. Historical data indicate average yield per acre for the period 1965-66 to 1969-70 was 5,100 lbs. per acre for Fuertes; 5,901 lbs. per acre for other fall and winter varieties; 6,894 lbs. per acre for Hass variety; and 6,062 lbs. per acre for other spring and summer varieties.

Summary

The projections based on the stated assumptions indicate that bearing acreage of California avocados will move from the current 18,000-acre level to the 23,000-acre level in 1977. Total production would rise from the 100-million-pounds annual production potential to the 150-million-pound level by 1977. As in the past, crops from year to year could vary significantly above or below this production potential level. An important shift in the varietal composition of the crop is also indicated. The production potential for the Fuerte variety is indicated to drop from the 51-million-pound level to the 34-million-pound level in 1977. Other fall and winter varieties will increase in volume from the 11-million-pound level to the 28-million-pound level. A significant increase in the Hass variety is indicated with a production potential moving from the 32-million-pound level to 80 million pounds in 1977. Other spring and summer varieties will increase slightly in volume from the 10-million-pound level to 12 million pounds in 1977.

This prospective increase in total production in the industry during the next five years and particularly the shift to larger Hass crops have important implications to the industry. All marketing agencies and industry groups should continually evaluate their operations in light of this changing industry situation.

Table 1. California Avocados - A Projection of Bearing Acreage to 1977

Variety	Bearing Acreage 1969	Non-bearing 1969	1970	1971	1972	1973	Total Columns 1 - 6	Acreage Loss 7 Yrs. 1970-1977	Estimated Bearing Acreage 1977
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
					- acres -				
Fuerte	9,869	492	100.0	119.9	175.0	187.7	10,944	4,500	6,444
Other Fall & Winter	1,898	1,102	500.0	601.7	749.8	894.7	5,746	1,500	4,246
Subtotal	11,967	1,594	600.0	721.6	924.8	1082.4	16,690	6,000	10,690
Hass	4,671	2,408	1200.0	1349.9	1471.9	1608.7	12,709	2,000	10,709
Other Spring & Summer	1,600	200	100.0	91.3	102.1	126.3	2,220	500	1,720
Subtotal	6,271	2,608	1300.0	1441.2	1574.0	1735.0	14,929	2,500	12,429
All Varieties	18,038	4,208	1900.0	2162.8	2498.8	2817.4	29,725	8,500	23,119

Column 1 & 2 - Source, California Crop and Livestock Reporting Service, Sacramento
Column 4, 5, & 6 - Based on survey of trees available for sale by nurserymen, 70% survival rate & average planting distances.
Column 8 - Based on industry estimates - loss of 1214 acres per year.
Column 9 - Column 7 less Column 8.

EXHIBIT 11, PAGE 3

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Table 2. California Avocados - A Projection of Production to 1977

Variety	Average Production 1966-1970 (1) mil lbs.	Estimated Bearing Acreage 1977 (2) acres	Estimated Yield Per acre 1977 (3) lbs.	Estimated Production Potential 1977 (4) mil lbs.
Fuerte	51.2	6,444	5,200	33.5
Other Fall & Winter	11.2	4,246	6,500	27.6
Subtotal	62.4	10,690		61.1
Hass	32.2	10,709	7,500	80.3
Other Spring & Summer	9.7	1,720	7,000	12.0
Subtotal	41.9	12,429		92.3
Total All Varieties	104.3	23,119		153.4

Column 1 - Source: California Crop and Livestock Reporting Service, Sacramento
Column 2 - From table 1.
Column 3 - Industry estimates.
Column 4 - Column 2 X Column 3.

EXHIBIT 12

U.S. DEPARTMENT OF AGRICULTURE,
Hyattsville, Md., January 16, 1973.

Mr. C. D. GUSTAFSON,
Agricultural Extension Service,
University of California,
San Diego, Calif.

DEAR MR. GUSTAFSON: This will acknowledge your letter of December 29 in which you inquired about the discussion of Mexican imports at the Mexican-American Work Conference held in Guanajuato in the fall. You expressed a special interest in any discussion that might have been held regarding the export of avocados.

There was very little discussion of this subject. The Mexican pest control officials did express an interest in shipping avocados to this country. They referred to a survey that had been made of the pests that occur in their principal avocado-producing areas and that the pest of concern to us did not occur in some areas of the country. They, of course, recognize that we do have a special concern about the seed weevil which we do not have and about other pest occurrences.

We did express an interest in the report of the survey and asked that a copy be furnished to us for our review. Following a review of that report, we will give consideration again to avocado imports. You appreciate, of course, that any consideration of a change in our regulations would be discussed beforehand with the States concerned and representatives of the avocado industry. No change is contemplated at this time.

We fully appreciate your interest in this subject.

Sincerely,

D. R. SHEPHERD, *Director.*

RESOLUTION OF THE CUSTOMS COMMITTEE OF THE LOS ANGELES COUNTY BAR ASSOCIATION

Whereas this Committee has caused its Subcommittee on the Trade Reform Act of 1973 to make a careful study and report of such Act to the Committee as a whole;

Whereas said Trade Reform Act of 1973 is pending before the House of Representatives of the United States as H.R. 10710 and may shortly be passed by said House of Representatives;

Whereas based upon the report of said Subcommittee and upon the independent study of its members, this Committee believes said Trade Reform Act of 1973 to be a carefully conceived and skillfully drafted piece of legislation which, if enacted, offers great hope for increasing the freedom, equity and benefits of trade between the United States and foreign countries, and the consequent improvement of the economic situation within the United States;

Whereas the Committee further suggests two relatively minor improvements in the detailed provisions of the bill; now, therefore, be it

Resolved, That this Committee recommends to the Congress of the United States that the Bill, variously known as the Trade Reform Act of 1973 and H.R. 10710, be enacted in its present form subject only to the two modifications hereinafter set forth:

FIRST: That subsection (c) of Section 101 be altered to read as follows:

> Except as otherwise provided in paragraph (2), no proclamation shall be made pursuant to subsection (a) (2) increasing any rate of duty to (or imposing) a rate above the higher of the following: (A) the rate existing on July 1, 1934, or (B) the rate which is 20 percent ad valorem above the rate existing on July 1, 1973.

SECOND: That paragraph (1) of subsection (f) of Section 203 be revised to read as follows:

> No such partial suspension of item 806.30 or item 807.00 shall increase the applicable duty by more than 50 percent of the amount by which duty would be increased if the item were wholly suspended.

EDWARD N. GLAD, *Chairman.*

PORT OF NEW ORLEANS,
JANUARY 11, 1974.

Hon. RUSSELL B. LONG,
U.S. Senator,
Old Senate Office Building,
Washington, D.C.

(Attention: Mr. Michael Stern).

DEAR SENATOR LONG: I am writing in regard to the Senate Finance Committee's public hearings to be held in the near future on the Trade Reform Act of 1973 (H.R. 10710).

In this regard I would like to call your attention to my letter of July 3, 1973 (copy enclosed) that I sent to you on earlier versions of this legislation.

It is requested that you review this earlier correspondence and take it into consideration as the Port of New Orleans' position on this vital legislation.

Sincerely,

EDWARD S. REED,
Executive Port Director and General Manager.

Enclosure.

JULY 3, 1973.

Hon. RUSSELL B. LONG,
U.S. Senator,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR LONG: As you are no doubt aware, the Committee on Ways and Means is presently in executive session for the purpose of formulating new trade legislation.

Hardly anyone has a more vital stake in the outcome of these deliberations than the men and women who live in areas adjacent to U.S. ports. Their very livelihoods depend on the continued flow of international commerce and the adoption of restrictionist trade policies which would inhibit the trade would naturally mean fewer jobs, smaller pay checks and reduced income for these millions of Americans. The Port of New Orleans supports 60 percent of the New Orleans economy and is responsible for 50,000 people statewide employed in maritime related industries. The Port is the largest business in the State of Louisiana and has an annual impact on the economy of the State of $1.8 billions and accounts for $1,050 income per year per household. Anything that will adversely impact on the future viability of the Port of New Orleans will affect the overall economy and well being of the State of Louisiana. Throughout the U.S. it has been estimated that a total of 6,253,000 port area residents ultimately derive their livelihood from waterborne foreign commerce. On May 14 a spokesman for the AAPA testified before the Committee on Ways and Means to describe the stake of these millions of Americans in the trade policy of this nation. Specifically, the ports of the U.S. endorsed the objectives of the Trade Reform Act of 1973 (H.R. 6767) and urged favorable consideration by the Congress of most of its provisions. Conversely, American ports urged the rejection of proposals advocating the imposition of comprehensive import quotas and other severe restrictions on international trade such as embodied in the Burke-Hartke Bill (H.R. 62). In this regard, see our letter (enclosed) to you on February 23, 1973. Your attention is also invited to the fact that the Port of New Orleans has an approximate 1½ to 1 favorable (exports vs. imports) balance of trade in its foreign trade dollar value.

I respectfully recommend that you consider the vital importance of the continued movement of exports and imports across the piers and docks in port communities throughout the U.S. to the millions of Americans who owe their economic well being to this commerce as you yourself evolve your position on the appropriate future course for future U.S. trade policy.

Sincerely,

EDWARD S. REED.

FEBRUARY 23, 1973.

Hon. RUSSELL B. LONG,
U.S. Senate, Old Senate Office Building,
Washington, D.C.

DEAR SENATOR LONG: I am writing to inform you of the Port of New Orleans' opposition to the Hartke-Burke Bill and to ask your support in the Congress of this position.

The Hartke-Burke Bill would in the long term stifle trade which is the lifeblood of the nation's ports. This would result from retaliatory actions by foreign nations to the provisions of the subject bill which include: calling for quotas on imports not already subject to limitations, restricting multi-national corporations, ending duty-free treatment on the value of U.S.-made portions of goods assembled abroad, and labeling of all goods containing foreign made components and other provisions.

Ports of America are the national gateways of international trade. Through them flow the imports and exports of global commerce, bringing a better life to millions in the United States and around the world.

People everywhere are dependent upon each other for the products they use every day, because no single country produces all the consumer goods and foods needed by its population. The world-wide interchange of goods is handled through the seaports, yet few realize that ports, in fulfilling this role, provide not only facilities for waterborne transport, but jobs for people and increased prosperity for all. The activities directly related to ports provide jobs for as many as 2.5 million people within harbor areas throughout the nation. Thus, millions of men and women across America have a personal stake in their ports, in a continuing flow of international commerce through these gateways to trade and prosperity.

The Port of New Orleans is the largest business is the State of Louisiana and has an annual impact on the economy of the State of $1.8 billion and accounts for $1,050 income per year per household. I am sure that you will agree that anything that will adversely impact the future viability of the Port of New Orleans will affect the overall economy and well-being of the State of Louisiana.

We, therefore, strongly recommend that you vote against the enactment of the Hartke-Burke Bill in the Congress.

Sincerely yours,

EDWARD S. REED,
Executive Port Director and General Manager.

BRICK INSTITUTE OF TEXAS,
Keene, Tex., April 3, 1974.

Re Trade Reform Act (H.R. 10710).

Mr. MICHAEL STERN,
Staff Director, Committee on Finance, Dirksen Senate Office Building, Washington, D.C.

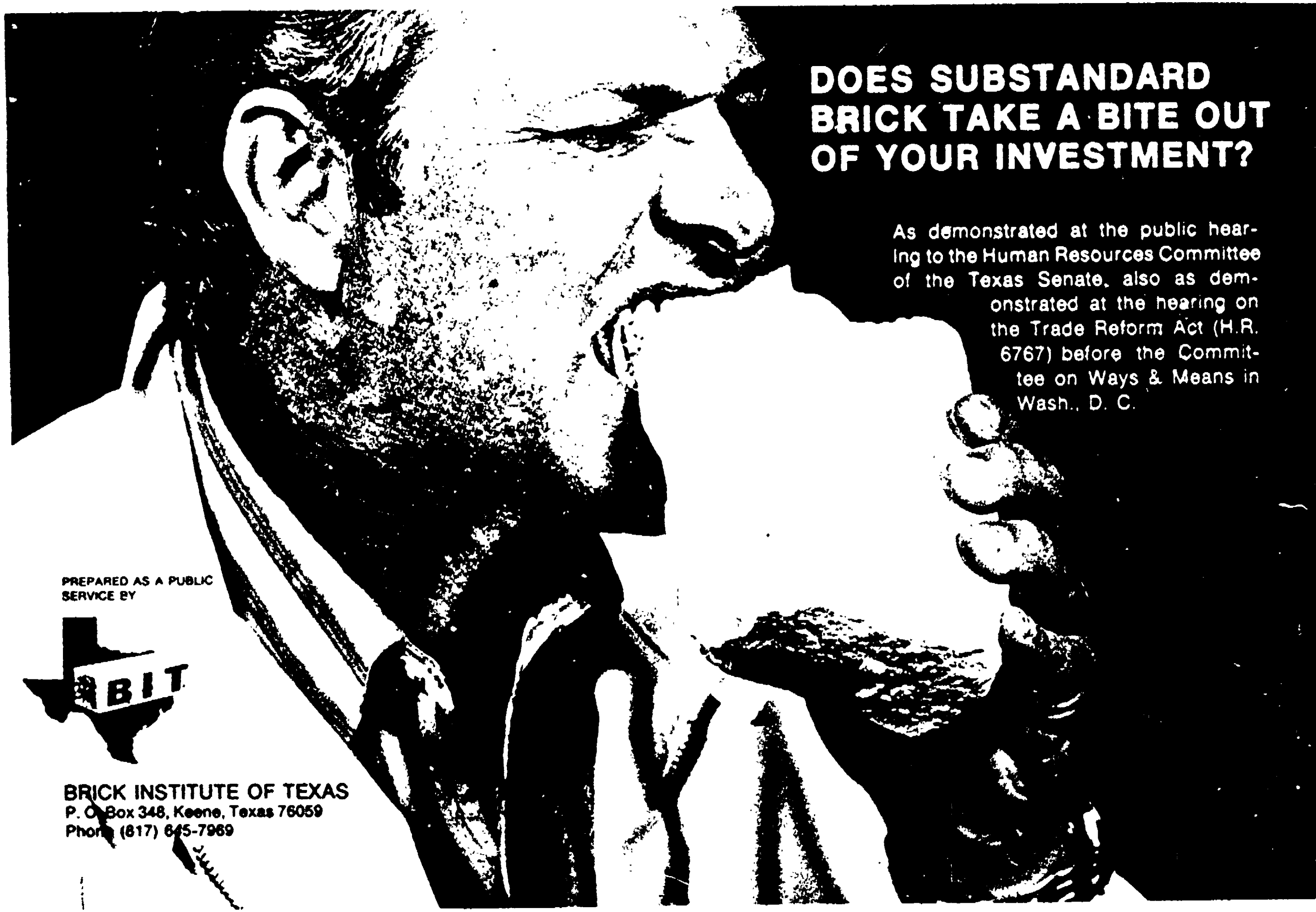
DEAR MR. STERN: The following is a written position of the views of the brick manufacturers of Texas and I respectfully request that this letter and enclosure be submitted and included in the printed record of the hearings.

1. Mexican brick makers are dumping substandard brick in the U.S. through Texas at substandard prices.
2. Mexican brick meet no specification standards as outlined by building codes, American Standard of Testing Materials Specifications (ASTM), FHA or VA specifications.
3. Bills of lading are falsified at Texas ports of entry as to value of brick and numbers of brick.
4. The U.S. Treasury Department collects little or no duty as set forth in the U.S. Customs manual.
5. Government personnel differ in interpretation of the U.S. law governing brick imported from Mexico.
6. The Mexican brick industry is destroying the U.S. domestic brick industry.
7. The Mexican government does not permit U.S. brick in Mexico, yet there are NO restrictions on quantity or quality of Mexican brick shipped to this country.
8. The tariff on Canadian brick v.s. U.S. brick is unfair and should be equalized.

Enclosed is a colored brochure to explain this National problem. We believe all of the above items should be corrected.

Sincerely,

DON HALSELL, *President.*

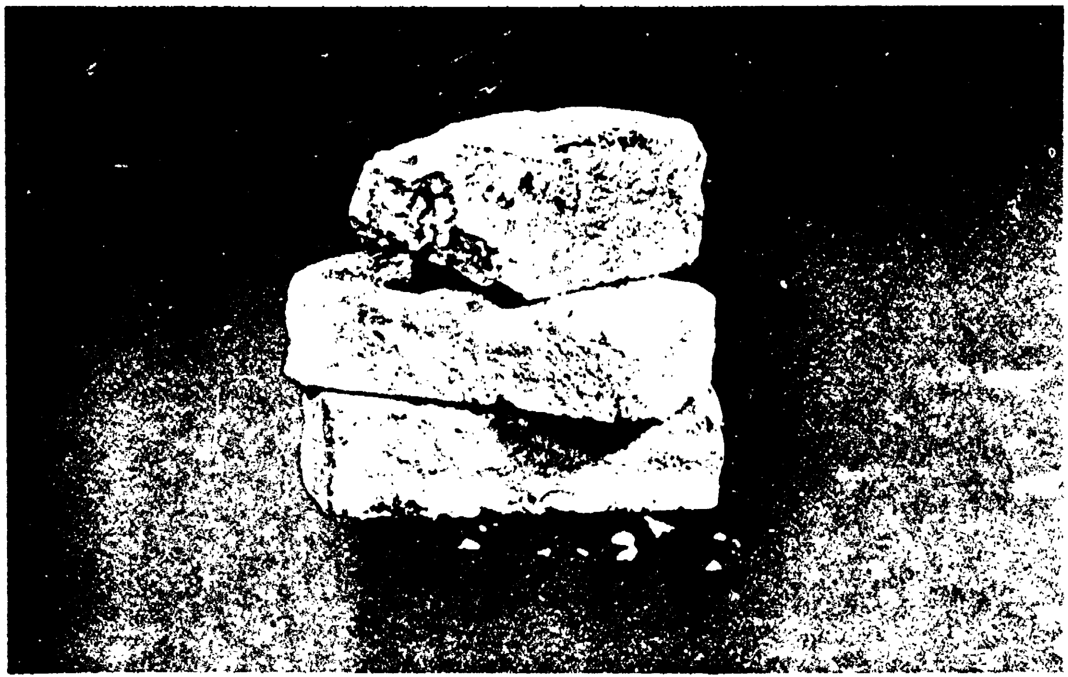

DOES SUBSTANDARD BRICK TAKE A BITE OUT OF YOUR INVESTMENT?
As demonstrated at the public hearing to the Human Resources Committee of the Texas Senate, also as demonstrated at the hearing on the Trade Reform Act (H.R. 6767) before the Committee on Ways & Means in Wash., D. C.
PREPARED AS A PUBLIC SERVICE BY
BIT
BRICK INSTITUTE OF TEXAS
P. O. Box 348, Keene, Texas 76059
Phone (817) 645-7969

A PROBLEM:

About 26% of the IMPORTED handmade brick bought by Texans each year will probably disintegrate before the construction mortgage is paid off. INFERIOR SUBSTANDARD IMPORTED handmade brick are the principle CULPRITS.

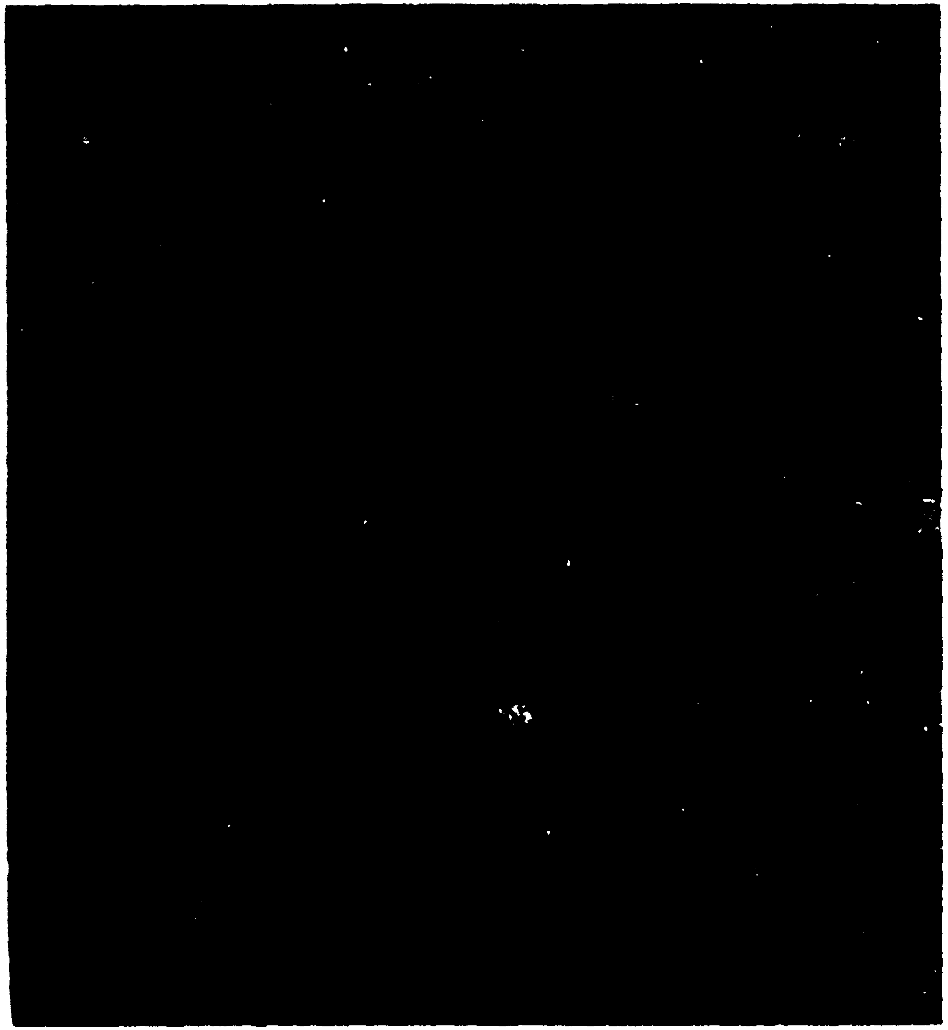
DOCUMENTATIONS:

- Pictures of typical imported handmade brick disintegration in TEXAS
- Newspaper article of Senate demonstration
- Newspaper articles stating problems



THE SOLUTION:

Some imported handmade brick are durable, but who knows *which* are *which?* Require a certificate from the builder or contractor to the effect that the brick meet the internationally recognized Standard Specifications for Building Brick promulgated by the American Society for Testing and Materials, ASTM C 62.

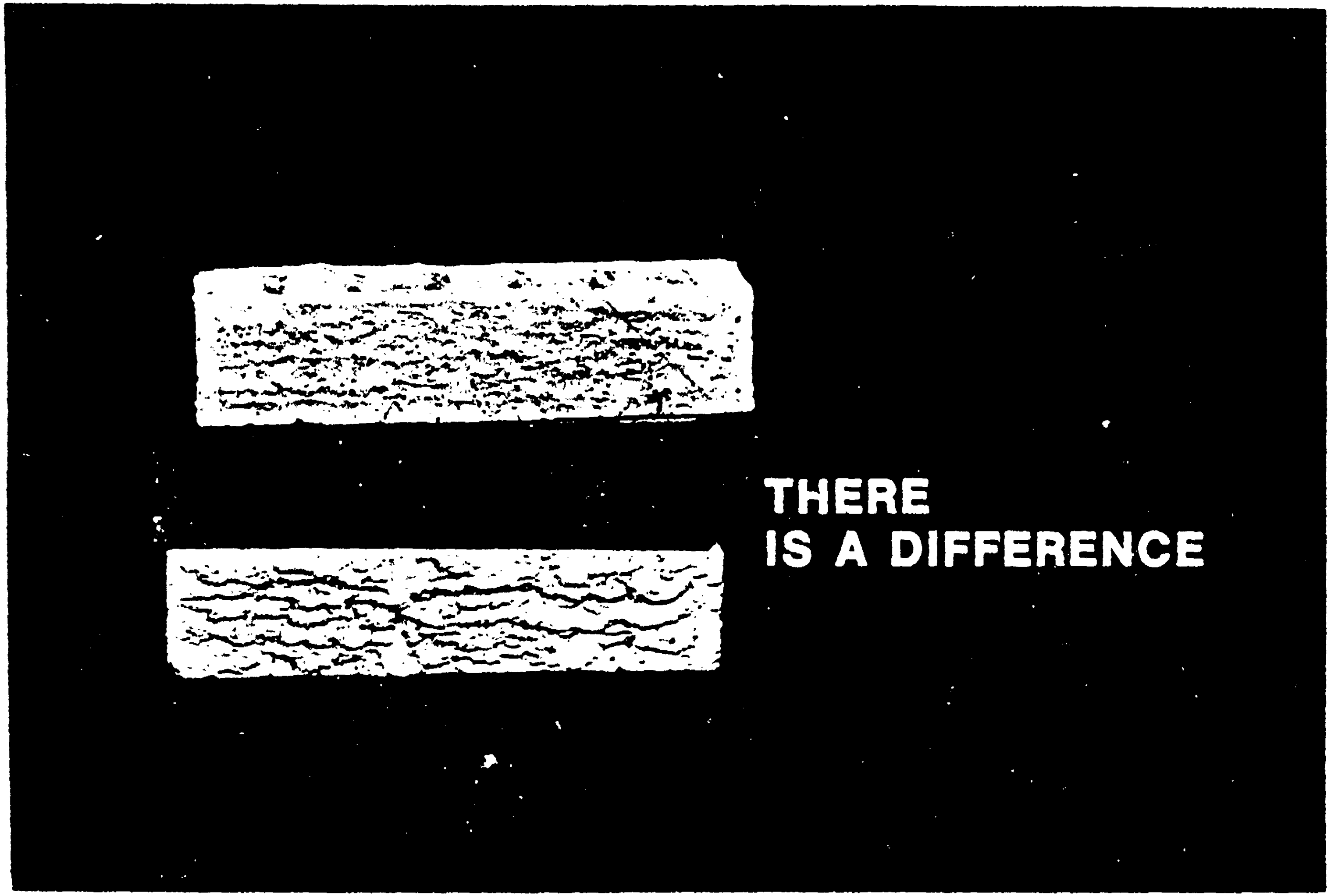


Is this permanent quality and beauty?

2516

Twenty-two Reasons For Building With Quality Brick . . .

- Brick is of the earth, conceived in fire.
- Quality clay brick never grow old.
- Brick is the oldest man-made building material.
- Nothing offers more charm than a log fire in a brick fireplace.
- You can grow a vine on a brick wall.
- Brick offers *Romance,* charm and glamour in great abundance.
- There is versatility and great variety in brick pattern bonds and mortar joint types.
- Brick homes offer *Identity* and distinction without gaudy conspicuousness.
- Termites don't eat brick and neither do rats.
- The resale value of a brick house is considerably higher than frame.
- If you pay for maintenance and upkeep, it costs 800% more to maintain a painted wall than a brick wall.
- The annual fire insurance premiums on all brick houses is considerably less than on wood frame houses.
- A brick fence can offer complete seclusion, and perforated brick walls may offer privacy and ventilation without exclusion.
- Brick homes are a lot easier to finance. 2517
- Brick doesn't have to be painted.
- The *Convenience* offered by brick is rarely matched by any other building material.
- Brick just looks stronger.
- It is fire safe, and provides greater resistance to fall-out protection.
- Brick is solid, durable, lasting and it doesn't fade.
- Brick houses are quieter because brick walls absorb more sound than frame walls.
- Brick is available in 10,000 colors and textures.
- Touch this brick — feel its rich texture.


THERE
IS A DIFFERENCE

Builders warned of bad brick

All builders currently buying brick direct from independent truckers importing brick are warned by GHBA that such brick is substandard, and GHBA is initiating action to control this practice.

The substandard brick is not a fired or burned brick and will not meet absorption requirements for residential construction in the Houston area. Truckers bringing the brick in are also not paying the appropriate taxes that other brick suppliers in the city pay, such as sales tax.

Restrictions will be placed on truckers bringing in imported brick. Exactly what requirements will have to be met is not known at this time. Suggestions have been that the city and county license all truck drivers or that a document be issued at the Mexican border stating that the imported brick will meet specifications for residential construction.

Bob Batten, GHBA Executive Vice President, and John Terrell of the Texas Association of Builders are scheduled to meet with the Mexican Brick Manufacturers group to discuss the situation. They will stress that Houston builders do not anticipate accepting substandard brick in the future. If continued, remedial action will have to be taken.

In the interest of all associates and builders, there is a possibility of government agencies and all lenders creating excessive requirements for the use of brick in the Houston area if current practices continue.

Builder members can do more to stop the use of substandard brick in the Houston area than anyone else by refusing to buy brick from truckers.

The repercussions of the use of substandard brick should be noted by all builders. Homebuyers may register complaints about latent defects as long as five years after purchase of the home.

It is a matter of record that one builder was involved in court proceedings with a homebuyer who filed suit five years after the closing. The suit involved several thousand dollars, and one of the main items mentioned in the suit was the use of substandard brick that did not perform in the wall. A $4,000 verdict was awarded to the homebuyer.

Testimony On Bricks A Mouthful

Austin Bureau

AUSTIN—At the climax of his testimony to a Senate committe, Don Halsell of Keene, Texas, rose from his seat and with a loud crunch bit the corner off a brick.

Through gritty teeth, he exclaimed, "Anybody that would sell this kind of brick

2519

TAB Austin Legislative Report

Following is a comprehensive report on the status of legislation introduced at the past session of the Texas Legislature — important bills to the industry — passed and not passed. This report is supplied to HAB members from the office of the Texas Association of Builders in Austin.

Members needing a copy of any of the bills that have been passed, please notify the HAB office — 631-4840.

(AP WIREPHOTO)

PUTS THE BITE ON COMMITTEE — Don Halsell of Keene, president of Brick Institute of Texas, testified before the Senate Resources Committee Thursday and climaxed his testimony by literally biting the corner of a brick which he said was a substandard brick imported by the millions into Texas from Mexico. Halsell is shown as he repeated the demonstration for a photographer.

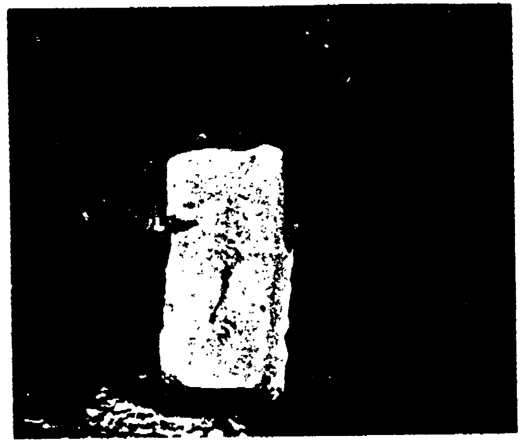
S.B. 378 by Creighton. TAB vigorously opposed.

Would have provided that: "Any person or corporation that, as a contractor or subcontractor, installs any substandard brick in a structure intended for human occupancy is liable to the owner of the structure at the time any damage is discovered, whether or not there is any contractural relationship between the installer and the owner, for all costs of repair or replacement of the substandard brick and for any other damage caused by the substandard brick."

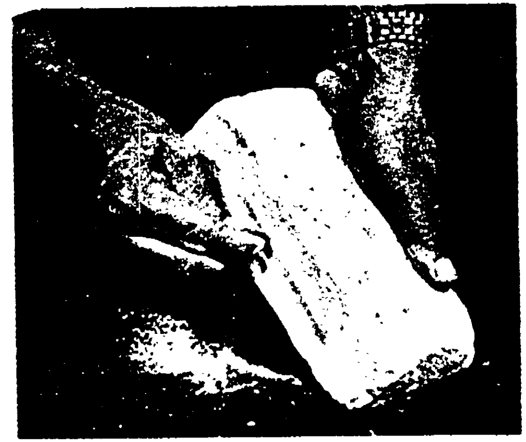
2520

IF YOU CAN . . .

. . . Break it with your hands —



or cut it with a knife —



or score it with a coin, or bite the corner off as shown on the front cover; you can be sure you have a sub-standard "imported" handmade brick.

If you are a prospective home owner — investigate the quality of your brick selection. Buy from a reputable manufacturer or distributor who will certify his product.

Feel free to contact BIT for additional information —

BRICK INSTITUTE OF TEXAS
P. O. Box 348, Keene, Texas 76059
Phone (817) 645-7969

2521

FOREIGN TRADE ASSOCIATION OF SOUTHERN CALIFORNIA,
Los Angeles, Calif., March 25, 1974.

Hon. RUSSELL B. LONG,
U.S. Senator, Chairman, Senate Finance Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: This association which since 1919 has been the leading organization of firms engaged in all phases of foreign commerce in Southern California, wishes to submit hereby its position on HR 10710, the Trade Reform Act of 1973, as modified and passed by the House of Representatives on December 11, 1973.

We respectfully request that our position on the said Bill be included as testimony in the hearings record. Copies of this letter have been sent to Senators Cranston and Tunney.

While the Foreign Trade Association of Southern California is in favor of strengthening the President's authority in order to enable him to effectively deal with foreign nations in the interest of the liberalization of world trade, we urge that certain restraints be included in the Bill in order to minimize the risk of any arbitrary use of such pwers. Re Title I of the Bill, which would give the President a five-year tariff negotiating authority, including the authority to eliminate, reduce, or raise tariffs: We are in favor of this authority, however, we believe that in order to enable business and industry affected by any tariff increase to adjust to changing conditions, there should be a reasonable phase-in period built into the Bill. We believe that the Bill should provide that any such tariff increase is to become effective within 180 days after its announcement by the President unless Congress vetoes the measure by simple majority within a 90-day period subsequent to such announcement. We also urge that the President's tariff-raising power be limited in any event to a maximum of 50% of Column I.

As to the provisions of Title I of the Bill, which would also authorize the President to negotiate agreements providing for reciprocal reduction of non-tariff barriers, we believe that the Congressional veto procedure proposed by the Administration constitutes an adequate safeguard, however, we do suggest that language be added to this provision to provide for the Tariff Commission's previous investigation and evaluation of proposed Non-Tariff matter changes.

We are opposed to the sweeping import relief and adjustment provisions of Title II for the following reasons: Under the proposed provisions, if the Tariff Commission finds injury to an industry and market disruption, the mere coexistence of these factors shall be prima-facie evidence that imports are the primary cause of such injury. Market disruption is defined in the Bill to mean substantial and rapidly rising imports being sold at prices below those of domestic producers. If this situation is found to exist, the President may impose tariffs, impose quotas, suspend certain existing duty reductions and exemptions for a maximum five-year period.

Experience indicates that there is not necessarily a casual link between a depressed industry and increased imports, hence such "relief" could easily be used to subsidize inefficiently run industries at the expense of the American consumer and to the detriment of our export trade.

We are equally opposed to the provisions of Title III which would give the President unlimited authority to retaliate against foreign countries, which in his sole view, place "unreasonable" and "unjustifiable" restrictions on U.S. commerce. Historically, retaliation has never worked and has consistently led to trade wars. We do believe that, instead, our country should propose the creation of an international code clearly defining and proscribing unreasonable trade practices.

In addition, this Association strongly supports the amendment proposed by Senator Mondale and carrier on pages S21683 through 21686 of the December 3, 1973 Congressional Record. But we feel that the events of the past few months have clearly shown the necessity for our country as well as for all other three nations to have access to the sources of raw materials, in an increasingly interdependent world, and to give our administration the tools which it may need in order to effectively insist upon such access. In this connection, our Association advocates clear and unambiguous standby authority for the President to withdraw trade concessions from countries or to restrict export shipments to countries which impose illegal or unreasonable restraints on sales to this country of commodities in short supply.

We hope that the mere existence of such standby legislation will make its enforcement unnecessary and that it will help those nations which have valuable natural resources required by the rest of the world realize that they have an obligation to use these resources in ways which will benefit and not hurt the rest of the world.

We appreciate this opportunity of conveying our views to your Committee.

Respectfully yours;

JOHN J. BAER,
Second Vice President and Chairman Legislative Committee.

PEER BEARING CO.,
Chicago, Ill., April 4, 1974.

SENATE FINANCE COMMITTEE,
Dirksen Senate Office Building,
Washington, D.C.

GENTLEMEN: I am suggesting that Most Favored Nation treatment be accorded to Romania. I am suggesting that Romania be set aside from the Soviet Union in this determination. We all have statistics on Romania's trade position with the United States—we have these same statistics on Romania's position on international matters, but, let us look for a minute to the report titled, "Branch Gatt Studies" dated March 1974, page 144. "In 1960, the President determined that Poland had shown the requisite independence of the international Communist movement required by the statute, and Most Favored Nation tariff treatment was restored to that country". Continuing, the President determined that Most Favored Nation status for Yugoslavia and Poland should be retained as it would "promote the independence of such countries from international Communism".

I have just returned from a visit to Romania and would urge each and every member of this committee to do likewise. Reach out and go into the factories, the fields, the coffee shops and then you can determine for yourself what and where are their fears. Senator Jackson might talk about free emigration and some one else might talk about split families, that's not your answer to freedom. The real point is freedom from the "East". This is the fear I speak of. We cannot and must not turn our backs on a valiant effort being made by the Romanian people in their attempt to break the yoke of Soviet domination.

The time is now to put aside favored interests and let us live up to our heritage as "Founders of Freedom". Let's keep the tanks out of Bucarest and open the doors of the West. This can only be done with Most Favored Nation status for Romania.

No one has statistics on fear. I was there. I saw it. I felt it.

Cordially yours,

LAURENCE W. SPUNGEN.

STATEMENT OF FRANK M. DAILEY, PRESIDENT, KENTUCKY DISTILLERS' ASSOCIATION

SUMMARY SHEET

(1) The Kentucky Distillers' Association strongly objects to the inference and interpretation of Section 102 as contained in the "Summary and Analysis of H.R. 10710—The Trade Reform Act of 1973," pages 12, 15 and 18, which indicates that the President has the prospective power, without limitation, to change or modify the application of a domestic excise tax as provided in 26 U.S.C. 5001(a)(1), and, more specifically, by taxing under-proof distilled spirits on the basis of proof-gallon.

(2) If Section 102 "Nontariff Barriers to and Other Distortions of Trade of H.R. 10710," is deemed to grant the President the power described above, such grant, in the language of the staff analysis, ". . . would be by far the greatest delegation of authority which the Congress has ever made to any President in the trade area." Such a grant by the Congress to the President is and would constitute an improper delegation of legislative powers in violation of the Constitution of the United States.

(3) The many and varied legal attacks on the method of taxing imported under proof bottled distilled spirits as provided by Section 5001(a)(1), Internal Revenue Code, have been turned aside, and the method of taxation provided for has been upheld and approved as not violating any existing trade or treaty agreements and not being discriminatory, either directly or indirectly, against such importers.

(4) There is not and cannot be any basis for contending that the present method of taxing distilled spirits unduly burdens or restricts foreign trade when all statistics show the tremendous growth of imported distilled spirits in the domestic market in the last few years—a growth that has curtailed the sale and production of domestic distilled spirits, contributed to the deficit in the balance of payment problems, and has resulted in higher consumer prices for such imported products to Americans despite the virtual elimination of duty on such products.

(5) To tax under proof imported distilled spirits on the proof gallon basis would deprive the U.S. Treasury of $100,000,000.00 a year in tax revenues. This windfall to importers would not result in lower consumer prices, but would be used to create a more intensive advertising campaign against domestic distilled spirits, create new jobs in foreign distilleries, and cause unemployment in the domestic distilleries.

I.

STATEMENT OF OBJECTIONS TO SECTION 102, TRADE REFORM ACT OF 1973, H.R. 10710

The Kentucky Distillers' Association desires to submit this statement in opposition to the opinion expressed in the "Summary and Analysis of HR 10710—The Trade Reform Act of 1973," (pages 12, 15 and 18), prepared by the staff of the Senate Finance Committee wherein it is specifically asserted that Section 102 of HR 10710 gives the President the authority to change the wine-gallon/proof-gallon method of taxation provided by Internal Revenue Code, Section 5001(a)(1) which states:

"(a) Rate of Tax

1. General. It is hereby imposed on all distilled spirits in bond or produced in or imported into the United States an internal revenue tax at the rate of $10.50 on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon."

The practical application of this law is that the excise tax imposed on distilled spirits produced or in bond in the United States, or imported into the United States is $10.50 on each proof gallon when 100 proof or above. However, if the product is below 100 proof the tax is based on the wine gallon, a physical measure of actual liquid volume containing 231 cubic inches. For example: a gallon of whisky removed from bond or imported into the United States at 100 proof is taxed at $10.50 per gallon; if 110 proof, the tax is $11.55 ($10.50 plus $1.05); if less than 100 proof, such as 86 proof, the tax is $10.50 per wine or liquid gallon. Most bulk imported distilled spirits are entered at 100 proof or above, and constitute about one-third of all imported distilled spirits.

When the President's bill "Trade Reform Act of 1973" was before the House Committee on Ways and Means, this Association, representing seventeen distilling companies,[1] who are the primary producers of Bourbon in the United States, appeared before the Committee and submitted a written brief in support of its position that the proposal to permit the President to change a domestic tax law as imposed in Section 103(c) of the President's proposal was an illegal and unlawful delegation of power. The tax of the oral statement, the brief, and the question and answer section may be found in Trade Reform, Hearings Before The Committee on Ways and Means, Volume 14, pages 4825 through 4843.

As a result of the public hearings, written statements and staff studies submitted to the Committee on Ways and Means, the President's proposal was redrafted as HR 10710 and came to the floor of the House with debate and amendments limited to Title V and VI of the bill. Although Title I, Section 102, dealing with nontariff trade barriers, was not subject to any amendment, some question was raised about the authority of the President to change the wine-gallon/proof-gallon method of taxation as provided by the Internal Revenue Code. To dispell this notion and to clarify the intention of the Committee on Ways and Means we cite the colloquy on the House floor between Acting Chairman, Hon. Al Ullman and the Hon. Don Rostenkowski, a member of the Committee. Mr. Rostenkowski queried:

[1] Austin, Nichols & Co.; Barton Brands, Ltd.; James B. Beam Distilling Co.; Brown-Forman Distillers Corp.; Double Springs Distillers, Inc.; The Fleischmann Distilling Corp.; Glenmore Distilleries Co., Inc.; Medley Distilling Co.; National Distillers Products Co.; Old Boone Distillery Co.; Old Fitzgerald Distillery, Inc.; T. W. Samuels Distillery; Schenley Industries, Inc.; Joseph E. Seagram & Sons, Inc.; Star Hill Distilling Co.; "21" Brands, Inc.; and The Willett Distilling Co.

"Therefore, am I correct, Mr. Chairman, in pointing out that our committee in its hearings and executive sessions very carefully considered this presidential request for such authority and that the committee determined not to grant such authority? And, that there is no provision or language in this bill now before us, H.R. 10710, which would grant the President authority to make change or modification of the wine-gallon/proof-gallon basis for assessment without congressional approval."

Mr. Ullman replied as follows:

"The distinguished gentleman is absolutely correct. It was our committee's determination that any change in the Internal Revenue Code would have to be approved by the Congress."

The full text of this statement is found in the *Congressional Record*, Volume 119, No. 193, page H. 109650, dated December 10, 1973, attached hereto as Appendix No. 1.

After the above statement was made for the Congressional Record, the Association assumed that no reasonable interpretation of Section 102, "Nontariff Barriers and Other Distortions of Trade," could be made giving the President the authority to change a domestic tax law which defines the standards for levying an excise tax on distilled spirits.

If the Senate Finance Committee staff analysis is correct, it would, by their own admission, be the "greatest delegation of authority which Congress has ever made to any President in the trade area.' It would give the President, on a prospective basis, the right to change a statutory law of the United States by reducing or eliminating a domestic tax in violation of ARTICLE I, Section I and Section VIII, of the Constitution of the United States which gives the Congress the exclusive power to ". . . lay and collect taxes. . . ." A lesser delegation of authority to a former President was held unconstitutional in *Panama Refining Company vs. Ryan*, 293 U.S. 388, 79 L. ed. 446, wherein the Supreme Court denied the delegation of legislative authority to the President to regulate trading conditions and prescribe rules for the oil industry. In holding that such delegation of authority to the President by the Congress was unconstitutional the Court stated:

"The question whether such a delegation of legislative power is permitted by the Constitution is not answered by the argument that it should be assumed that the President has acted, and will act, for what he believes to be the public good. The point is not one of motives but of constitutional authority, for which the best of motives is not a substitute. . . ."

". . . the Congress manifestly is not permitted to abdicate or to transfer to others the essential legislative functions with which it is thus vested. . . ."

The same conclusions were reached and upheld in the case of *Schechter vs. United States*, 295 U.S. 495, 79 L. ed. 1570.

Under Title I, Chapter I, Section 101, "Basic Authority for Trade Agreements," the first section reads:

(a) Whenever the President determines that any existing duties or other import restrictions of any foreign country of the United States are unduly burdening and restricting the foreign trade of the United States. . . ."

It should be noted with emphasis that duties imposed on alcoholic beverages are itemized in 19 U.S.C.A. 161.39, Tariff Schedules, Part 12, Beverages, Item 168.05, et seq., prescribing the duties on such beverages. Headnote 3 under Part 12 states:

"The duties prescribed on the products covered by this part are in addition to the internal revenue taxes imposed under existing laws or any subsequent act. . . ."

We further feel that we can show beyond doubt that the wine-gallon/proof-gallon method of taxation as provided by the Internal Revenue Code does not impose any burden, much less an undue burden or restriction, on imported distilled spirits products, as is clearly demonstrated in Section III of this paper.

If it can be assumed under the Act, by virtue of the review procedure contained in Section 102(f), that the President may change an internal revenue law [Section 5001(a)(1)] by submitting his intention of such change to the Senate and House of Representatives, said intended change becoming "law" in 90 days after the agreement and implementing orders are submitted to the Congress, unless one house by majority vote "vetoes" such proposal, then this delegation of power does such violence to the constitutional procedures that it is unconscionable. Heretofore, it has always been the basic concept of this Republic that the Congress makes the laws with the President having the power of veto. In this instance, if Section 102(f) is applicable, we are reaching an opposite result. The President is making a law (changing a domestic tax) which will become effective by executive order, unless "vetoed" by either house of the Congress by majority vote.

II.

26 U.S.C. 5001(a)(1) HAS BEEN COURT TESTED AND UPHOLD IN ITS APPLICATION TO UNDER PROOF BOTTLED IMPORTED DISTILLED SPIRITS AS NONDISCRIMINATORY AND NOT IN VIOLATION OF U.S. TREATIES OR AGREEMENTS

In past years it has been a practice for importers of Scotch, Canadian, and Irish whiskies, the preponderance of imported distilled spirits products, to import bottled distilled spirits under proof, generally at 86 proof. When such bottled distilled spirits are withdrawn from customs bond, they are taxed on a wine gallon basis at the rate of $10.50 per gallon as provided in the Internal Revenue Code. Section 5001(a)(1). Because of the imposition of the tax on a wine gallon basis for under proof imported bottled distilled spirits into the United States, there have been many attempts in both the Congress and the courts to change the clear mandate of the Congress in effect since 1868 (Act of July 20, 1868, 15 Stat. 125) for assessing the tax on spirits.

Importers have challenged the taxation of under proof bottled imported distilled spirits in many court actions asserting discrimination, treaty violations. trade agreement violations, and improper application of the law over a period of many years. However, our judiciary has consistently upheld the validity of the pertinent statutory sections as well as their administration and enforcement.

The first court test was in *Bohemian Distributing Company vs. United States, 15 Cust. Ct. 121, C.D. 957 (1945)*. Here the Customs Court upheld the taxation of under proof imported bottled spirits on a wine gallon basis, and held that this method of taxation did not violate the trade agreements then in existence with Canada and the United Kingdom.

In *United States vs. Westco Liquor Products Company, 38 CCPA 101, C.A.D. 446 (1951)* the Court held that the taxation by custom authorities of wine imported from Spain on the wine gallon basis was a proper method of taxation of such product under Section 2800 of the 1939 Internal Revenue Code, which is similar except for the rate of tax as the present code. Section 5001(a)(1). Again in *Vernon Distributing Company vs. United States, 39 CCPA 205, C.A.D. 463* (1951) the Court upheld the wine gallon method of taxation applied to under proof imported Cuban rum.

In *Vernon Distributing Company vs. United States, supra*, strong argument was made that the wine gallon method of taxing under proof imported distilled spirits either in bulk or bottles was a discrimination against such imported products under Section 2800, now 5001, Internal Revenue Code. In denying the discrimination argument the Court stated:

> ". . . an analysis of the taxing statute here involved will disclose that no discrimination exists in the rates fixed as between imported distilled spirits and domestic spirits. A single rate of tax is provided for but is made applicable to two distinct products, i.e. (1) distilled spirits over proof, and (2) distilled spirits below proof. The tax becomes effective when such spirits are produced in the United States or imported into the United States. Under the law no discrimination exists. When distilled spirits are produced in this country over proof or are imported over proof, the tax is to be based on the proof gallon. In view of the wording of the taxing statute which distinguishes between the two kinds of distilled spirits, viz. those that are over proof and those that are under proof, the contention of the plaintiff that they are similar for purposes of taxation cannot be successfully maintained."

Again in *Bercut-Vandervoort & Company vs. United States, 46 CCPA 28, C.A.D. 691 (1958), cert. den., 359 U.S. 953, 79 S. Ct. 739, 3 L Ed 2d 760* the Court sustained the taxation by the wine gallon method of taxation on London Dry Gin imported from Holland at 90 proof. Here the Court reiterated that there was no discrimination between imported and domestic products within the meaning of Article II and III of the General Agreement on Tariffs and Trade but provided for two distinct classifications of distilled spirits—proof gallon and below proof. In *Bercut* it was strongly contended that the wine gallon taxation of under proof distilled spirits subject the imported product to "internal taxes in excess of those applied indirectly to like products" in contravention of Article III, Section II of GATT, since domestic under proof distilled spirits had allegedly "indirectly" received a tax advantage because the domestic under proof merchandise is taxed directly on the basis of proof gallon. In striking down this argument the Court held that Section 2800(a)(1) did not discriminate between imported and domestic products within the meaning of Article III of GATT, but merely laid a different rate of tax on two distinct classes of merchandise, viz, (1) proof or over proof spirits, (2) under proof spirits, *in either of which class the importer was free to enter its product.*

An unusual argument was made in *China Liquor Distributing Company v. United States 343 F. 2d 1005 (1964)* when it was argued that the wine gallon tax on under proof bottled imported distilled spirits should be only $9.00 per wine gallon under the provisions of the 1939 Internal Revenue Code rather than $10.50 per gallon under the 1954 Internal Revenue Act because the provisions of GATT were adopted prior to the adoption of the 1954 Internal Revenue Code and thus the treaty provisions superceded the $10.50 tax rate. Again the Court upheld the method of taxation of under proof imported bottled distilled spirits under the provisions of the 1954 Internal Revenue Code and again affirmed that this method of taxation in no way violated any of the contracts or trade agreements between the United States and foreign countries, particularly Article III of GATT.

As recently as 1970 the Supreme Court denied a writ of certiorari to certain importers who unsuccessfully had challenged the wine-gallon/proof-gallon method of tax assessment in *Schieffelin & Co. et al. v. United States, 61 Cust. Ct. 397, C.D. 3640 57 CCPA 66 424 F. 2d 1396 (1970); cert. den., 400 U.S. 8690, 27 L. Ed. 2d 109; reh, den. 400 U.S. 1002, 27 L. Ed 453.*

The United States Court of Customs and Patent Appeals, in reviewing *Schieffelin, supra,* affirmed the judgment of the customs court, which had ruled that the wine-gallon/proof-gallon method of determination did not discriminate against bottled below proof imported spirits. Here, Schieffelin attacking Section 5001(a)(1) asserted that the wine gallon method of taxation on under proof bottled distilled spirits violated the treaty agreement between Great Britain and the United States entered into on July 3, 1815, and violated Article VI and XXI of the Irish Treaty. Referring to, and quoting, the Customs Court, the Court of Customs and Patent Appeals pertinently stated:

> "It [the Customs Court] observed that the time at which the tax is determined fixes the basis of the assessment and found that the 'issue turns on whether the stipulated circumstances involve "like situations" at the time of tax determination'."
>
> In disposing of that question, the [Customs] court concluded that the *bottling of the spirits has no bearing on the 'taxing event' to which both the domestic and imported products are subject, observing that sections 5001(a) (1) and 5006(a)(1) are addressed to the spirits and not the containers which house them.* It [the Customs Court] stated;
>
> '* * * The criterion on which the taxing event takes place is with respect to the domestic spirits the withdrawal of the spirits from bond. Under the stipulated facts at bar the imported spirits are under proof at the time of tax determination, while the domestic spirits are at or over proof at such time. It is this difference in the nature of the taxed commodity which, in our view, militates against plaintiff's claim of discrimination. . . .
>
> * * * Underproof imported spirits (bottled and proof or overproof domestic spirits (bulk) at the time of the tax determination do not involve "like situations"' . . . ."

Schieffelin, supra, at 1399–1400

In Schieffelin, the Congress should note that, in an unprecedented step, the Department of Justice at the insistence of the Department of State, permitted the governments of Northern Ireland and Great Britain to intervene by filing briefs.

From the above cited cases it is abundantly clear that the courts have turned aside every argument, no matter how serious or spurious, in upholding the method of taxation of domestic and imported distilled spirits as prescribed by Congress.

III.

DOES THE PRESENT METHOD OF TAXING DOMESTIC AND IMPORTED DISTILLED SPIRITS AS DEFINED IN THE INTERNAL REVENUE CODE UNDULY BURDEN OR RESTRICT FOREIGN TRADE?

No!

There is no evidence that the present method of taxing under proof bottled distilled spirits is "unduly burdening or restricting foreign trade." The appendices filed with this section clearly indicate the tremendous growth of imported distilled spirits in bottle and bulk in the domestic market over the past years

This growth has obviously curtailed the sale and production of domestic distilled spirits and created unemployment in our distilling industry. It has contributed substantially to the deficit in our balance of payment problems, and the duty reductions, since 1935, have resulted in higher rather than lower prices for the American consumer.

What has been the growth of imported distilled spirits in the United States? In 1955 the United States produced spirits accounted for 85.5 percent of whiskies entering domestic trade channels. In 1972 it supplied only 62 percent of such whiskies. (See chart Appendix II).

A comparison of whiskies entering trade channels in 1955, compared to 1972, indicates that the United States distilled spirits has shown a gain of only 9.3 percent for the period while the total imports of distilled spirits have gained 339 percent. (See chart Appendix III).

Has the balance of payment problem been aided by the imposition of the wine gallon tax on underproof bottle distilled spirits? No. In 1972 imported distilled spirits into the United States amounted to $454,100,000.00, while domestic producers sold only $15,000,000.00 of distilled spirits in export trade, a dollar deficit of $438,200,000.00. On all alcoholic beverages the sad fact is that the United States staggers under a trade deficit of $757 million dollars. That amounts to approximately ten percent of the entire $6.8 billion trade deficit. Americans drink more Scotch than the British—50 million gallons last year versus the United Kingdom's 13 million, and almost as much cognac as the French. Yet because of foreign restrictions, taxes and trade policies a mere four million gallons of Bourbon was exported to our trading partners. (See chart, Appendix IV).

Naturally one would assume that a reduction either in taxes or duty charges would be reflected in the reduction of the price to the American consumer. However, a study of the average price of the ten leading Scotches imported into the United States versus the duty reduction from 1955 to 1972 indicates that in 1955 the duty on a one-fifth bottle of Scotch was 30 cents, with an average selling price of $6.18. In 1972 with a ten-cent duty per bottled fifth the average price was $7.80. (See table, Appendix V and VI).

For a further comparison of reduced duties and high prices we have prepared a table indicating that importers have faired extremely well in the reduction of duty since the repeal of prohibition in 1933. For example, two years later, in 1935, the duty on Scotch whisky was $5.00 per proof gallon. In progressive downward steps it is now 51 cents per proof gallon. Since imported blended distilled spirits such as Scotch, Irish and Canadian whiskies do not pay the 30-cents-per-proof-gallon rectification tax required of U.S. distillers for like mixing and blending, the present duty structure is actually 21 cents per proof gallon. (See table, Appendix VII).

From these economic statistics no valid argument can be asserted that any purpose would be served by reducing under proof bottled imported distilled spirits taxes from a wine gallon to a proof gallon method. The most telling effect would be the loss of at least $100,000,000.00 in tax dollars to the United States Treasury if such method were applied to under proof imported bottled distilled spirits based on the 1972 imports of distilled spirits into the United States. (See Appendix VIII.) This tax dollar loss to the United States Treasury would supply more advertising dollars for use against American produced distilled spirits, and, at the same time, create more jobs for workers at Scotch and Irish distillers, while causing unemployment in the domestic industry. It certainly, historically, could not be contemplated to reduce the cost of imported products to the American consumer.

Recognizing that the importers are urging the same construction of HR 10710, Section 102, as the staff analysis we cannot help but point out that the *duty* on a proof gallon of Scotch and Irish whisky is a net $0.21 (51 cents less than the 30-cent rectification tax levied on domestic producers for this rectified product) while the duty levied by the United Kingdom on a proof gallon of Bourbon is $30.98. To add insult to injury, the shipping charges for a case of Scotch whisky shipped to the United States is considerably less than a like quantity of Bourbon shipped to the United Kingdom.

With these facts can any case be made that the wine-gallon/proof-gallon method of taxation as presently provided for in the Internal Revenue Code is "unduly burdening or restricting foreign trade in the imported whisky industry"?

IV.

CONCLUSION

In conclusion, the Kentucky Distillers' Association summarizes its statement as follows:

1. Section 102 of HR 10710, "The Trade Reform Act of 1973," cannot be interpreted to give the President the authority to change a domestic tax law. In the alternative, if such an interpretation is deemed possible then this is an unconstitutional delegation of legislative power to the executive branch.

2. To give HR 10710, Section 102, the meaning intended by the Committee on Ways and Means, the following sentence should be inserted at the end of the sentence on line 11, page 8, of the Act; "Provided, however, that the foregoing authority shall not be exercised so as to modify or in any way affect any provisions of the Internal Revenue Code of the United States (U.S. Code Title 26)."

3. The courts have consistently upheld the wine gallon method of taxing under proof imported bottled distilled spirits under the provisions of the Internal Revenue Code. The opinions cited herein indicate that the method and administration of the tax as applied is correct; that this method of taxation does not violate any existing treaty or trade agreement; that it is not discriminaory, either directly or indirectly, against such importers.

4. There is no evidence, factual or otherwise, that would justify the conclusion that the present method of taxing below proof bottled imported distilled spirits is "unduly burdening or restricting the foreign trade of the United States" or creating any economic burden on such importers or their product.

Respectfully submitted.

FRANK M. DAILEY, *President.*

[From the Congressional Record, Dec. 10, 1973]

APPENDIX I

Mr. ULLMAN. Mr. Chairman, I yield to the gentleman from Illinois (Mr. ROSTENKOWSKI) such time as he may consume for a question.

Mr. ROSTENKOWSKI. Mr. Chairman, I thank my chairman for yielding.

Mr. Chairman, in its "section-by-section analysis of the Trade Reform Act of 1973," sent to the Ways and Means Committee by the administration along with its proposed bill which was introduced and considered by the committee as H.R. 6767, at page 68 of the so-called committee print, which contains this section-by-section analysis, the administration discussed section 103(c) of H.R. 6767.

Section 103 was entitled "Nontariff Barriers to Trade" and, in this administration analysis, subsection (c) was explained as granting the President advance authority to implement certain trade agreements and specifically cited as an example of agreements which could be implemented under this authority, agreements relating to, and I quote from page 68, "the wine-gallon/proof-gallon basis for assessment."

As the members of the Ways and Means Committee know, this example referred to the method of tax determination on distilled spirits which is presently contained in section 5001 of the Internal Revenue Code and which has been in every enactment of the Federal tax laws since 1868. Similarly, it has been the view of this committee that the President has never had the authority and should not be granted the authority to change, in any way, this wine-gallon/proof-gallon method of tax determination.

Therefore, am I correct, Mr. Chairman, in pointing out that our committee in its hearings and executive sessions very carefully considered this Presidential request for such authority and that the committee determined not to grant such authority? And that there is no provision or language in the bill now before us, H.R. 10710, which would grant the President authority to make change or modification of the wine-gallon/proof-gallon basis for assessment without Congressional approval.

Mr. ULLMAN. The distinguished gentleman is absolutely correct. It was our committee's determination that any such change in the Internal Revenue Code would have to be approved by the Congress.

Mr. ROSTENKOWSKI. I thank the gentleman.

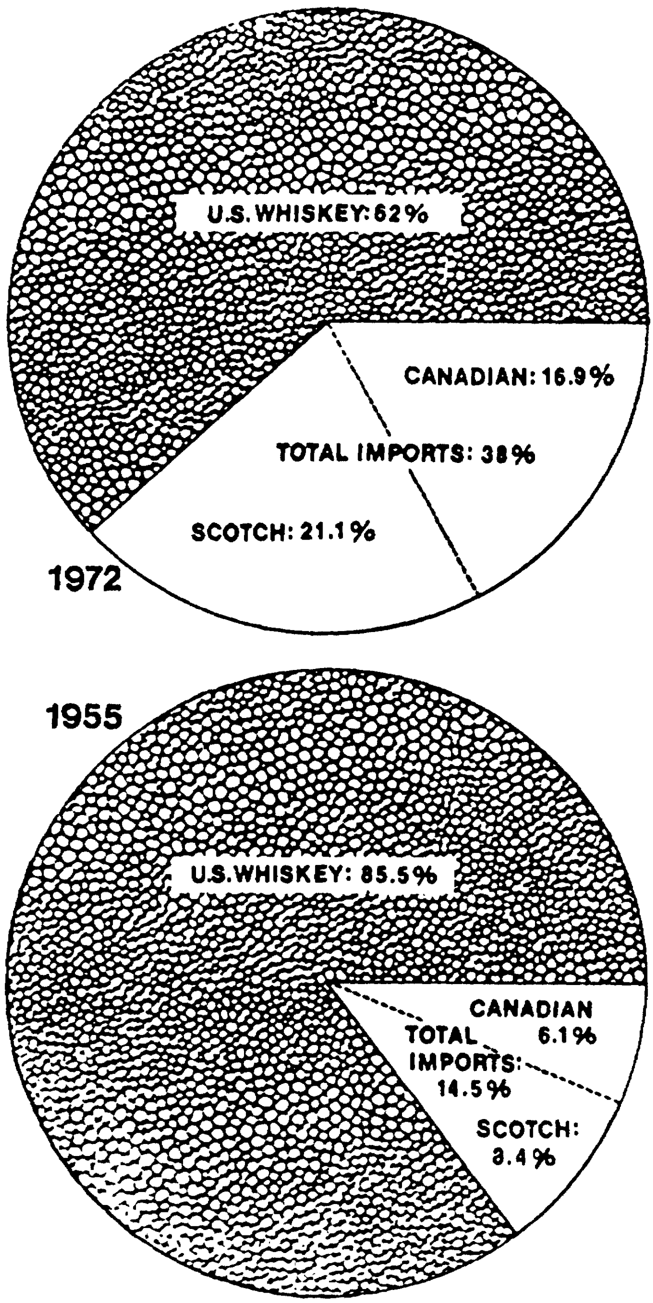
(Mr. Rostenkowski asked and was given permission to revise and extend his remarks.)

APPENDIX II

IMPORTS HAVE CAPTURED 38% OF THE TOTAL U.S. MARKET

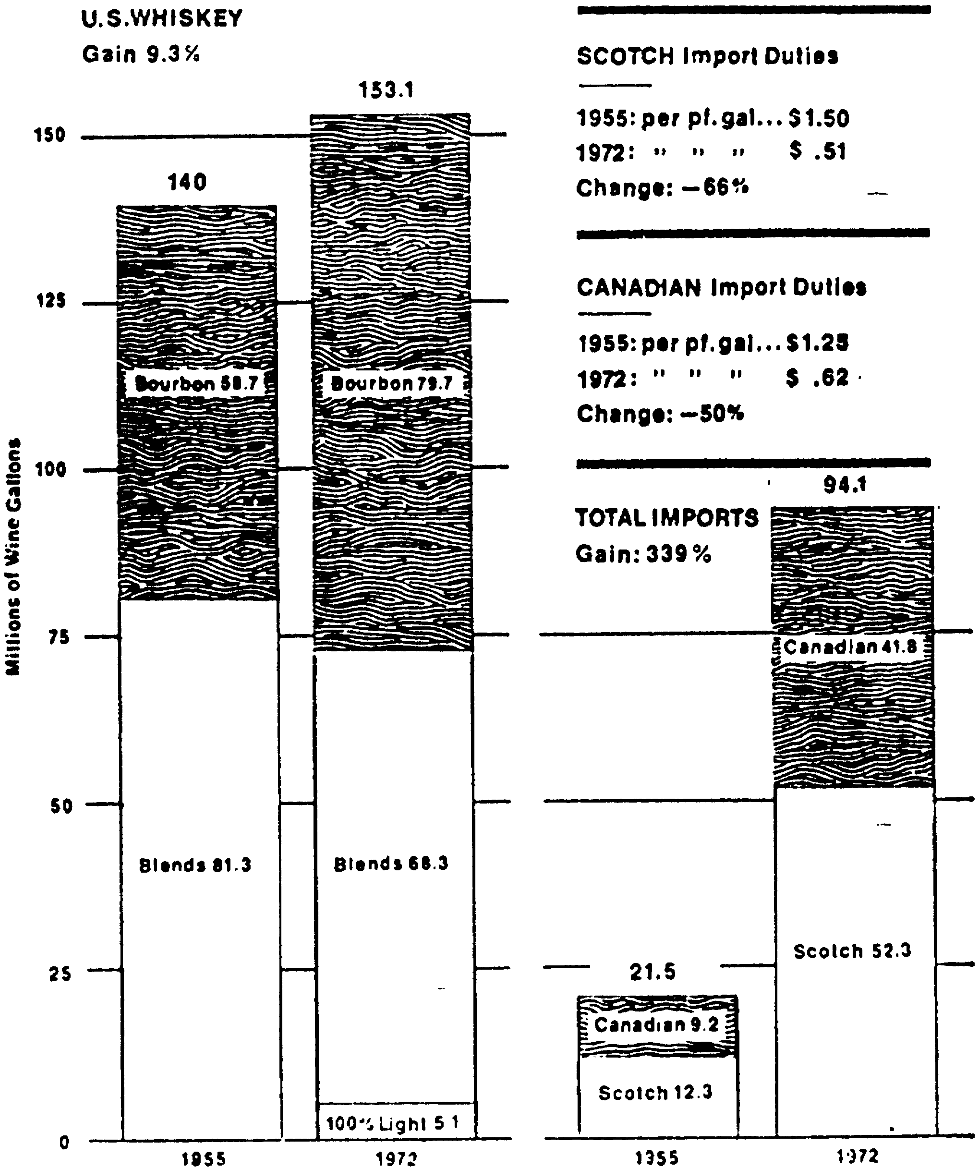
(Whiskies entering U.S. trade channels)

Source:
The Liquor Handbook
1973



APPENDIX III

WHISKIES ENTERING TRADE CHANNELS - 1955 vs. 1972

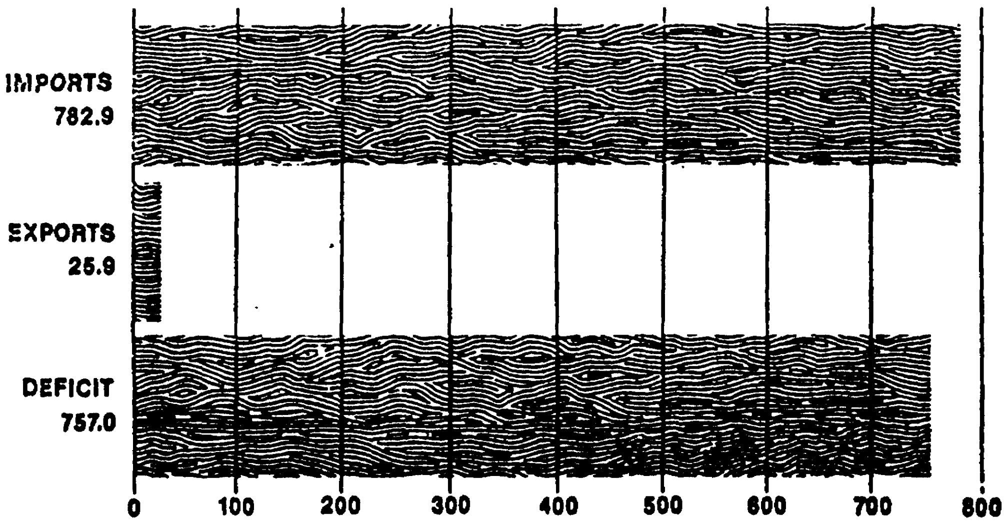


Source: U.S. Department of Commerce - 1972

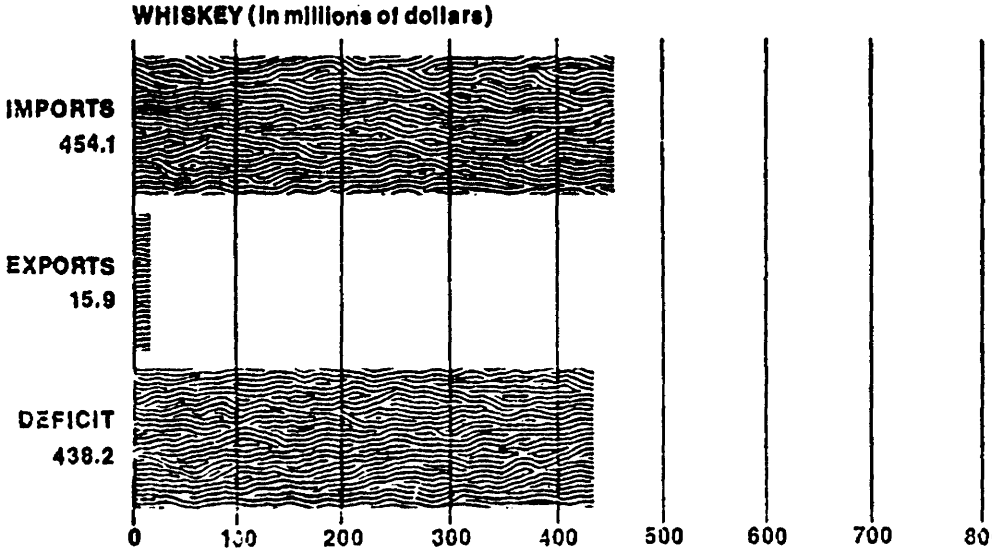
APPENDIX IV

1972: THE BALANCE OF PAYMENTS PROBLEM

ALCOHOLIC BEVERAGES (in millions of dollars)



WHISKEY (in millions of dollars)



Source: U.S. Department of Commerce

APPENDIX V

AVERAGE PRICE OF 10 LEADING SCOTCHES VERSUS DUTY 1955-72

Month and year	Average New York State prices for 10 leading scotches (fifths)	Duty (per fifth)	Month and year	Average New York State prices for 10 leading scotches (fifths)	Duty (per fifth)
December—			December—Continued		
1955	$6.18	$0.30	1961	$6.53	$0.25
1956	6.25	.28	1962	6.64	.22
1957	6.47	.27	1963	6.98	.20
1958	6.49	.25	1971	7.25	.12
1959	6.51	.25	1972	7.80	.10
1960	6.51	.25			

Source: The Bourbon Institute.

APPENDIX VI

AVERAGE PRICE OF LEADING CANADIANS VERSUS DUTY 1955-72

Month and year	Average New York State prices for Canadians (fifths)	Duty (per fifth)	Month and year	Average New York State prices for Canadians (fifths)	Duty (per fifth)
December—			December—Con.		
1955	$6.16	$0.25	1964	$6.60	$0.25
1956	6.16	.25	1965	6.60	.25
1957	6.37	.25	1966	6.72	.25
1958	6.35	.25	1967	6.72	.25
1959	6.35	.25	1968	6.72	.22
1960	6.35	.25	1969	6.87	.20
1961	6.35	.25	1970	7.10	.17
1962	6.35	.25	1971	7.10	.15
1963	6.60	.25	1972	7.40	.12

Source: The Bourbon Institute.

APPENDIX VII

U.S. LIQUOR DUTIES, 1935-72

[Dollars per proof gallon]

	Scotch	Canadian	Brandy	Gin
1935	$5.00	$5.00	$5.00	$5.00
1936	2.50	2.50	2.50	2.50
1948	1.50	1.50	1.25	1.25
1951	1.50	1.25	1.25	1.25
1955	1.50	1.25	1.25	1.25
1956	1.42	1.25	1.25	1.25
1957	1.35	1.25	1.25	1.25
1958	1.27	1.25	1.25	1.25
1962	1.14	1.25	1.25	1.25
1963	1.02	1.25	1.25	1.25
1967	1.02	1.25	1.25	1.00
1968	.91	1.12	1.12	.90
1969	.81	1.00	1.00	.80
1970	.71	.87	.87	.70
1971	.61	.75	.75	.60
1972	.51	.62	.62	.50

Source: The Bourbon Institute.

APPENDIX VIII

EXCISE TAX REVENUES OF BOTTLED IMPORTS, JANUARY THROUGH DECEMBER 1972

	Tax gallons	Tax dollars at $10.50 per proof gallon	Taxed at actual proof rate	Tax difference
Canadian	22,383,692	$235,028,766.00	$202,124,738.70	$32,904,027.30
Scotch	33,417,259	350,881,219.50	301,757,848.70	49,123,370.80
Irish	106,536	1,118,628.00	962,020.08	156,607.92
Gin	4,016,711	42,175,465.50	37,957,918.95	4,217,546.55
Brandy	2,173,382	22,820,511.00	18,256,408.80	4,564,102.20
Cordials	2,352,424	24,700,452.00	17,290,316.40	7,410,135.60
Total	64,450,004	676,725,042.00	578,349,251.63	98,375,790.37

STATEMENT OF ORVILLE L. FREEMAN,[1] PRESIDENT, BUSINESS INTERNATIONAL

Mr. Chairman and Members of the Committee: Since the Trade Reform Act was sent to Congress in April 1973, international economic events have made it even more imperative that the bill be passed as soon as possible. A year ago, the United States was concerned chiefly with knocking down import barriers, both tariff and nontariff, all over the world. Now, the need for comprehensive multilateral trade negotiations in the framework of the GATT is magnified by the looming problems of access to supply of resources, a growing tendency by producers of valuable commodities to use export embargoes, and the degree to which domestic economic policy changes can disrupt the economies of other nations.

We need to expand the negotiations that were launched last September beyond the question of access to markets, lowering of tariffs, elimination of nontariff barriers to trade et al. We must focus on three new problems.

The first is the problem of resources. Serious negotiations should begin on how to cooperate in the use of the world's resources. I am under no illusion that this will be easy. Cooperation on energy, food and other raw materials will be enormously complex because it will inevitably involve some bitter choices where domestic political problems are concerned. What is presently a fragmented, national approach based on short-term self-interest must give way to new attitudes and new institutions.

The trail of such negotiations may well lead to international commodity agreements of various kinds where scarce basic materials are concerned. In agriculture, international commodity agreements have been negotiated within the GATT for over 20 years. True, the results have been limited. But considerable experience has been gathered. And the urgency of the currency situation, with shortages staring us in the face, is much more demanding of innovation and action than pressures were when the world's problem was how to deal with surpluses and low prices.

A second problem area is that of preventing domestic economic policies of any one country from wrecking havoc outside its borders. We need to recognize that actions by one country that may appear to have little direct relationship with international trade or investment or availability of raw materials may in fact have severely disrupting effects on other countries.

Market disruption results not only from imports. A far worse market disruption takes place when a country exports inflation or deflation. This is true because the world has become a single economic unit. Any action taken by a major country that significantly affects its domestic economy is certain to have an impact on other countries as well. Therefore, I would urge that GATT negotiations seek also to develop a consultative mechanism, so that as actions with possible market-disrupting effects are taken by any one country, efforts can be made to eliminate or at least ameliorate those effects.

The third area we need to focus our attention on is investment. This is because investment is intricately interrelated with trade. In todays world investment is literally the other side of the coin of trade—they are inextricably

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[1] The views expressed in this testimony are those of the witness, and do not necessarily represent those of Business International Corporation, or others of its directors, officers or staff.

tied together—each follows the other. Yet so far in the world's history there has been no organization to set ground rules for international investment, no way of negotiating in an orderly manner according to an accepted set of rules.

Business International Corporation has now completed two studies of the effects of US overseas investment on US employment, US exports, and the balance of payments.

This study has thrown into dramatic relief the extent to which overseas investment follows trade to protect and expand new markets. Conversely, it shows that trade follows investment as capital goods and intermediate products as well as complementary finished products are supplied to the new factories abroad.

Taking a closer look at the Business International study, we examined 133 manufacturing companies, divided into eight industrial categories. Most of these companies have heavy foreign investment but some have none at all. The combined worldwide sales of this 133-company sample were $177 billion, of which some 30% ($52 billion) was to foreign customers. These companies had total exports of $13 billion, with over 56% going to their foreign affiliates. They also had a surplus of exports over imports of over $6 billion. Finally, they accounted for a gross investment of $121 billion, of which $94 billion was in the US.

The companies in the sample accounted for: over 16% of 1972 US factory shipment; over 33% of 1972 US nonagricultural exports; over 40% of 1972 US balance of payments foreign direct investment outflow; over 50% of 1972 US foreign manufacturing investment.

Looking at this sample, we found, first of all, that foreign investment creates jobs at home. The companies studies increased their net US payrolls—after deleting jobs added as a result of domestic acquisitions—by almost 30% between 1960 and 1972. In the same period, US manufacturers as a whole increased their payrolls by 14%.

We also found that foreign investment promotes overall sales. During the 1960–1972 period, the analyzed companies increased sales to US customers by 135%. Sales to foreign customers rose by more than 440%.

Another finding of the study was that foreign investment increases US exports. The participating companies had exports totaling $13.3 billion in 1970. Their exports rose almost twice as fact as those of all US manufacturers between 1960 and 1972. Exports to their foreign affiliates rose over three times faster than the exports of all US manufacturers. During the 1960–1972 period, the sample's export rose: 136% to unrelated buyers; 267% to all buyers; and, 484% to their own affiliates.

On the import side of the ledger, we found that while the percentage of imports as a percentage of total US sales rose, the rise was small. The increase was extremely slight if the auto industry, which began importing from high-labor-cost Canada during the period studies, is excluded—less than one percentage point between 1960 and 1972 for imports from affiliates. More specifically, the sample's total imports as a percentage of sales to US customers (including the auto industry) stood at 1.6% in 1960, 3.8% in 1970, and 5.3% in 1972. When the auto industry was excluded, however, the figures were 1.8% for 1960, 2.7% for 1970, and 3.8% for 1972. Similarly, the sample's imports from affiliates as a percentage of US sales (including the auto industry) rose 0.5% in 1960, 1.8% in 1970, and 2.1% in 1972, but when the auto industry is excluded the figures are 0.6% for 1960, 0.9% for 1970, and 1.2% for 1972.

Another finding of the Business International study that is important to keep in mind is the strengthening effect of foreign direct investment on the US trade balance. We found that the surplus of exports over imports of the companies studied rose from about $2.7 billion in 1960 to $6.3 billion in 1972. During the same period, the US trade balance fell from a $5.6 billion surplus to a $5.8 billion deficit.

Not only did foreign investment strengthen the US trade picture; even more so it strengthened the dollar. Since 1968 the direct foreign investment surplus has been the largest single favorable item in America's international ledger. This surplus reached $7.0 billion in 1972, doubling in just two years.

The participating companies alone remitted $2.8 billion in 1972, more than six times more than in 1960. After deducting net capital outflow, they contributed about $2 billion to the 1972 surplus. Thus in 1972 the participating companies' trade surplus of over $6 billion plus investment surpluses contributed a net of some $8 billion to the US balance of payments. Without US corporate foreign in.. tment the US dollar would have been far worse off than was the case.

Yet at the same time, we found that foreign investment stimulates investment at home as well. While all US manufacturers increased their spending on domestic plant and equipment in 1972 by 108% over 1960, the participating companies increased theirs by 141%.

The most interesting and *unique* finding of the Business International study, was the clear correlation we found between investment intensity and benefits to the workers of the US. That is, the study found that the companies committed abroad the most intensely were also the companies that created the most US jobs and whose exports grew fastest. This correlation was dramatically clear when the sample was divided into four quartiles of companies, according to their relative foreign investment intensity. We found that the most intensive group of foreign investors increased net employment in the US by 36.9% from 1960 to 1972. The second most intensive group increased net US employment by 19.9%, the third by 20.8%, and the fourth (that is, the least intensive group) by 11.4%. During the 1966–72 period, the more intensive foreign investors created over 112,000 new jobs in the US while the less intensive group ended up with 16,000 fewer jobs.

The same correlation showed up between foreign investment intensity and export growth. We found that companies with a high proportion of foreign investment over the whole period increased their exports at a more rapid rate than companies in the less foreign investment intensive group. The more intensive group increased exports by 261.8%, while the other group increased exports by 220.7%.

Even if there can no longer be any serious doubt that the foreign direct investments of US-based multinational companies are beneficial to the US economy, there still remains a serious criticism of multinational corporations in general. This is the charge that MNCs are unregulated, that they are responsible to no single authority, and that no international body exists to provide surveillance or set rules for transnational firms.

Such a situation fuels suspicion and resentment of international companies. The absence of international machinery means that there are no uniform rules for doing business where MNCs are concerned, and no predictability of national behavior, no assurance against arbitrary action and discrimination by individual nations. In sum, there is no system of law and order in the international investment world.

The time has come to do something about this. We should turn our attention to seeing how the GATT can provide the institutional and operational framework to get the job done. As a first step in this direction, it is paramount that the President of the United States have the power to negotiate new multilateral agreements on trade, resources and investment within the context of GATT. To the extent that it would enable him to do, therefore, I support passage of the Trade Reform Act, expanded as outlined in this submittal.

STATEMENT OF THOMAS WOLFE, CHAIRMAN, NATIONAL ASSOCIATION GREENHOUSE VEGETABLE GROWERS, CLEVELAND, OHIO

Mr. Chairman and Members of the Committee: I appreciate this opportunity to submit to the United States Senate, on behalf of the National Association of Greenhouse Vegetable Growers a written statement concerning the pending trade Reform Act of 1973, H.R. 10710.

The National Association Greenhouse Vegetable Growers is an organization of greenhouse owners who produce winter vegetables, primarily tomatoes, for the domestic market.

The idea of free trade is appealing at first glance, but a deeper examination of the bill causes me and our Association members to worry if the framers of the bill realize its bad economic effect.

Position on the trade bill

After tolling the advantages and disadvantages of the bill, our Association is opposed to the bill. Either restrictions should be imposed on imports before they cause predictable serious injury, or the procedures under Title II by which such serious injury can be determined should be changed to make it more certain that remedial action *will be taken* against imports when a domestic industry makes the necessary case that it has sustained such serious injury.

The National Association Greenhouse Vegetable Growers, through its spokesmen, testified on the Trade Bill before the House Ways and Means Committee on the need for protection against imports from countries with low wage rates, as in the case of Mexican tomatoes. We hold the same views today—with even greater emphasis—but in recognition of changes in the bill since action by the House of Representatives, we intend in this statement to concentrate on the so-called "escape clause" and the need to give greater certainty to those domestic industries seriously injured by imports that *procedural* safeguards accomplish what they intend.

The U.S. greenhouse tomato industry

Greenhouse vegetable production is one of the most specialized forms of commercial agriculture in the United States today. The tomato is the leading crop produced in vegetable greenhouses in the United States in an industry generating over $100 million annually to our economy. Horticulturally, the greenhouse tomato is grown to perfection and has the finest quality of any tomato grown in the world.

Greenhouse tomatoes are perishable and they must be sold soon after harvest. Since the crop is sold during a relatively short period, low prices can be disastrous to the individual grower. Due to present trade policy, tomato imports, primarily from Mexico, are heaviest during the marketing period of greenhouse tomatoes.

For a number of years the greenhouse growers have been subjected to heavy pressures because of the importation of vine-ripe tomatoes from Mexico during the January–May season. As Mexican agricultural laborers are paid approximately as much for a day's work as American greenhouse workers are paid per hour, the Mexican growers have a tremendous initial cost advantage that is only partially offset by their higher transportation costs and the minimal tariff rates. The Mexican cost advantage has enabled the Mexicans to achieve a rapidly-increasing penetration of the U.S. market. Mexican-grown tomatoes have been imported at more than four times the rate of 10 years. This dramatic rise is indicated by the following U.S. Department of Agriculture figures:

	Pounds
1960–61	182,461,000
1961–62	230,097,000
1962–63	235,916,000
1963–64	249,216,000
1964–65	258,509,000
1965–66	340,058,000
1966–67	386,106,000
1967–68	359,020,000
1968–69	461,318,000
1969–70	626,829,000
1970–71	580,283,000
1971–72	577,170,000
1972–73	745,146,000

This wholesale invasion of the U.S. market by imported Mexican tomatoes has meant a corresponding decline in tomato sales by U.S. growers, which in turn has caused serious economic hardship to the members of our Association. There has been a substantial decline in greenhouse acreage in Ohio and other Midwestern states, and our industry is presently facing serious disruption and insolvency, as are tomato growers in Florida and other states.

Under these circumstances, we can scarcely be expected to view the ideal of free trade with unmixed feelings. On the one hand, as American citizens and consumers, we applaud congressional efforts to liberalize and rationalize trade patterns, but when we see our share of the tomato market steadily diminish, our greenhouses abandoned and our firms driven to the brink of bankruptcy, and our workers laid off, it is difficult for us to keep abstractions and generalities in mind. We cannot help but wonder whether a blanket application of the free-trade principle is either wise or humanitarian.

Obviously, if free trade means that many domestic industries will be either destroyed or seriously injured, precipitating widespread bankruptcies and unemployment within the United States, a large number of American consumers will not have sufficient funds to purchase the imported goods. To the extent that there is unemployment and economic depression within the nation, the American market for foreign goods will contract. An economic principle—even if not intended—of increasing foreign imports at the expense of domestic industries is self-defeating because it dries up the purchasing power of the American consumer.

Additionally, in the case of the U.S. domestic tomato industry, we know that the cost-advantage of our Mexican competitors is based on the maintenance of the Mexican laborer in a very low pay condition. To "rationalize" trade patterns by encouraging such conditions south of the border can scarcely be said to be enlighted or humanitarian policy, particularly when this policy also involves depressing the American agricultural worker to much the same condition, if—which is not likely—he were to remain in agricultural work.

The extensive provisions in the Trade Reform Bill concerning worker and firm assistance are also susceptible of conflicting interpretations. These provisions will, it is true, temporarily alleviate hardship in dislocated industries, but the necessity to include these provisions in the bill strikes an ominous note. Apparently, the framers of the bill anticipate that many domestic industries will be seriously damaged, and many American workers thrown out of work, by the contemplated Presidential trade agreements. This prospect is hardly reassuring because the assistance programs are not a substitute for healthy and viable domestic industries and full employment.

Need for more certain procedural safeguards under escape clause

Our chief concern about remedies in the bill to protect our industry is that they are more fiction than fact. Procedure by which these remedies are to be fashioned are in Title II, Sections 201, 202, and 203, the well-publicized "escape clause" which allows domestic industries injured by foreign competition to seek import relief.

I endorse the proposed liberalization of the escape clause, insofar as it is actually liberalized. Proposed Section 201(b)(1) provides hope to stricken domestic industry by changing the criteria of determining injury caused by foreign imports. Under the proposed Section 201(b)(1), the foreign imports need no longer be a "major" cause of injury, as under existing law, but only a "substantial" cause, in order to trigger a Tariff Commission investigation and possible relief. I also approve of Section 201(b)(2), which lists the indicia of injury to domestic industry more comprehensively than in existing law. If these provisions are enacted into law, our Association would have much improved grounds to file an import-relief petition with the Tariff Commission, and, based on the *very substantial* injury Mexican tomatoes cause our greenhouse industry, the Commission would probably recommend such relief to the President.

So far, so good. As we said, the proposed law gives us more hope than under existing law that we can make the cause and effect showing between imports and damage to our industry.

But, at this point, proposed Section 202 would be activated, which states:

(a) After receiving a report from the Tariff Commission containing an affirmative finding under Section 201(b) that increased imports have been substantial cause of serious injury or threat thereof with respect to an industry—

(1) The President shall evaluate the extent to which adjustment assistance has been made available (or can be made available) under Chapters 2 and 3 to the workers and firms in such industry, and, after such evaluation, *may* direct the Secretary of Labor and the Secretary of Commerce that expeditious consideration be given to petitions for adjustment assistance; and

(2) the President *may* provide import relief for such industry pursuant to Section 203.

(b) Within 60 days . . . after receiving a report from the Tariff Commission containing an affirmative finding under Section 201(b) . . . the President *shall make his determination whether to provide import relief pursuant to Section 203.*

If the President determines not to provide import relief he shall immediately submit a report to the House of Representatives and to the Senate stating the considerations on which his decision was based.

As the underlined passages show, the President is under no compulsion whatsoever to follow a Tariff Commission recommendation that import relief should be granted.

Not only that, but the proposed law contains no provision for congressional overriding of the President's refusal to follow the recommendations of the Tariff

Commission; whereas in existing law there is such a provision. The proposed Trade Reform Bill, as it now stands, is a retreat from the principle of meaningful congressional participation in foreign trade control, and in fact the bill gives over virtually dictatorial control to the White House.

I am at a loss to understand why the Congress should abdicate its historic powers in this area. Administration sponsors of the bill argue that the President must have positive trade control to enter into effective trade agreements with foreign powers.

I am unimpressed by this argument. It is true, of course, that if the President has ultimate and unfettered power over foreign trade, international agreements can be achieved more quickly than if Congress retains some standby authority in escape-clause cases. But the argument of efficiency might be rejected by the American people on the grounds that the sacrifice of democratic processes cannot be justified by mere bureaucratic streamlining. Knowing this, the Administration has invoked the "credibility" argument, but this reasoning is also flawed. A host of trade agreements (including portions of GATT) have been successfully negotiated under existing law, which incorporates standby congressional authority.

There is no valid reason, either of policy or necessity, why in escape clause cases the Tariff Commission should be reduced to a mere advisory body and Congress should be completely excluded from the decision process.

On the contrary, there are numerous compelling reasons why the President should not be given unfettered discretion in escape clause cases. The statements submitted to the Committee in March, 1974, by Secretary of Agriculture Butz, Secretary of Commerce Dent, and Secretary of the Treasury Shultz illustrate the present Administration's powerful bias towards increasing exports irrespective of consequences. One of their chief reasons for wishing to increase exports is to secure a more favorable balance of payments: in order to achieve favorable balances, they say, it is necessary to make U.S. tariff and nontariff concessions, which in turn will cause foreign nations to lower their barriers to U.S. goods, and this will increase the American penetration of foreign markets. Secretary Shultz even goes so far as to say "A primary objective of the planned multilateral trade negotiations should be to work out cooperative arrangements that will permit the reduction of barriers to agricultural trade." It is significant that Secretary Shultz also endorses the provision in the bill that authorizes him to suspend the operation of the countervailing duty statute for a four-year period.

This is essentially the language of big business as opposed to medium and small business. The largest American manufacturers, and certain isolated sections of the American agricultural industry, which are virtually international corporations themselves, naturally wish to market their products overseas, but the vast majority of medium and small industries like our greenhouse association, have no important foreign markets and are far more concerned about import competition.

It seems to me that while improving the balance-of-payments situation is a desirable goal, some way ought to be found to do this without sacrificing medium and small American business to the interests of a few multi-national corporations. Certainly a policy that would sacrifice small domestic agricultural industries is in the long-range view a bankrupt policy, because it places America at the mercy of foreign suppliers of agricultural commodities.

There is nothing in the statements of Administration spokesmen to indicate that the legitimate rights and needs of the greenhouse growers, or other domestic industries of like size, will be given a fair hearing in hardship situations. The liberalization of the criteria of injury to domestic industry in proposed Section 201 is effectively cancelled by proposed Section 202, which relegates the Tariff Commission to an advisory role in escape-clause cases and gives the President virtually dictatorial powers of ultimate decision. I believe that the so-called liberalization of proposed Section 201 is window dressing to disarm opposition to the bill, because proposed Section 202 provides a huge loophole by which any Tariff Commission finding of industry damage can be avoided.

As if this were not enough, proposed Section 203(g) would create another layer of bureaucratic machinery over the Tariff Commission. This section provides that the President cannot provide import relief pursuant to an affirmative Tariff Commission recommendation without holding another adversary hearing. The President could invoke this new apparatus to obfuscate a case when he does not approve of a Tariff Commission recommendation.

In escape clause cases, Section 351 of existing law compels the President to act within 60 days after an affirmative finding by the Tariff Commission. However, if he needs additional information, he may (within this 60-day period) request it, and the Tariff Commission must respond within another 120 days. After the Tariff Commission's response, the President has yet another 60 days to act, and if he fails to do so by the expiration of this period, Congress may within another 60 days overrule the President by affirmative vote. (Under existing law the President may negotiate a marketing agreement, but this does not necessarily delay the proceeding.)

Assuming presidential delay and inaction, existing law stimulates a period of 16 months between the original filing of the petition for import relief and ultimate enforcement of that relief by Congress. This process requires one hearing before the Tariff Commission and the lobbying of the whole Congress, which is very expensive. For practical purposes, therefore, even under existing law, presidential unwillingness to provide relief is a bar to most applicants.

The proposed bill, however, would make the review process even longer and possibly more expensive, and at the end of the road there would be only one authority (the President) rather than two (the President and Congress).

Under the proposed bill, the Tariff Commission investigation, hearing and report must be completed within 6 months, as under existing law. Assuming an affirmative Commission recommendation, the President would have 60 days to decide whether to act; but if he wants additional information, he must request it within 45 days, to which request the Tariff Commission must respond in another 60 days if the information requested is substantial.

Thirty days after this 105 days has elapsed (a total of 135 days), the President "shall make his determination whether to provide import relief". But somewhere during this period the President must hold another adversary proceeding at which all interested parties have an opportunity to be heard, before he can grant relief.

At this stage in the proposed bill, however, there is further opportunity to delay. Within 15 days after the import relief determination date (the date of the President's determination to provide relief, which must occur within the 135 day period mentioned above), the President may announce his intention to enter into an orderly marketing agreement. This announcement suspends all proceedings for 180 days. Meanwhile, the President must, within the 15-day period after the import relief determination date, issue any initial proclamations concerning the relief he intends to order; and these proclamations go into effect automatically if an orderly marketing agreement has not been consummated within the 180-day period. In the probably non-unusual situation where the President announces his intention to make a marketing agreement and is not successful, a maximum period of 135+15+180 days, or about 11 months, will elapse before the designated import relief goes into effect. This long period, added to the 6 months required by the Tariff Commission proceeding, means that even in meritorious cases where the Commission and the President both order import relief, that relief can be delayed for a total of 17 months from the time the injured industry files its original petition with the Tariff Commission. Furthermore, the proposed law would require two hearings, one before the Tariff Commission, the other at the presidential level.

Worse, under the proposed law, the President need not grant relief even to a deserving petitioner, and in this event there is no appeal to Congress.

From a technical standpoint, the review provisions of the proposed escape clause seem needlessly cumbersome, time-consuming, and prejudicial against petitioners. Although the grounds for relief are liberalized, the actual chances of a petitioner winning his case seem no greater than under existing law with its restrictive legal grounds. Under the proposed law, an industry that is seriously and genuinely damaged by foreign imports might not survive this long process of review, and import relief, even if granted by the President, might come too late.

In this brief statement it is impossible to cite all the specific changes and deletions which we would like the Senate to make in this enormously complicated bill, for the provisions are so ingeniously interlocked that untangling them would require a major rewriting job.

It is apparent, however, that the well-publicized "liberalization" of the escape clause will be a sham unless the review machinery in the proposed bill is substantially overhauled. There can be no true liberalization of the escape clause unless (1) a mechanism is provided whereby the President's failure to act can be speedily overruled by Congress; (2) the mode of congressional overruling should be that the Tariff Commission decision becomes law unless specifically voted down by Congress within a time certain; (3) the six-month delay in proceedings while the President attempts to negotiate a marketing agreement should be stricken; (4) the provision for an additional redundant hearing at the presidential level should be eliminated; (5) the time frame should be shortened so that no more than 120 days would elapse between the Tariff Commission's affirmative determination and the granting of relief by Congress in the event the President does not act.

With this kind of streamlined review procedure, the President would be stimulated to negotiate international agreements that do not destroy large sections of domestic industry.

Thank you for this opportunity for the National Association Greenhouse Vegetable Growers to give its views on the Trade Bill.

Statement of the Greater Minneapolis Chamber of Commerce

I.—INTRODUCTION

The following statement is submitted on behalf of the Greater Minneapolis Chamber of Commerce, which represents approximately 3,000 dues paying member firms and individuals deeply involved in international trade. The statement expresses our firm support for an overall U.S. foreign economic policy of reform, liberalization and expansion. Specifically, we urge prompt, favorable Congressional action on the Trade Reform Act (H.R. 10710) to provide American negotiators the authorities they need to achieve outward-looking and equitable reform of international monetary and trade policies in the tough negotiations ahead.

We have long supported policies that would encourage and permit the United States to engage in healthy and balanced competition in an increasingly interdependent world. The economy of Minnesota and of the Upper Midwest as a whole welcomes the opportunities and challenges of freer exchange among a growing community of nations and peoples. The Twin Cities is the headquarters of a number of companies with a progressive, international outlook. As these companies reach out into the rest of the world, they provide markets for American-produced goods, foreign exchange earnings for our balance-of-payments and meaningful well-paying jobs for our area's skilled and industries work force. While we may disagree with certain provisions, we believe that the overall effect of the Trade Reform Act represents a foreign economic policy in the best interests of our own area and of the nation as a whole.

II.—AGRICULTURE

The Upper Midwest is also firmly committed to achieving expansion of international markets for our agricultural commodities. Our highly productive land and climate, trained and energetic farmers and innovative agricultural community have built a farm economy that is equipped to compete successfully in world markets. Over the past few decades, productivity in agriculture has increased at two times the rate for manufacturing as a whole. In Minnesota alone, about one in every four jobs depends either directly or indirectly on a prosperous agriculture. U.S. farm-product exports have expanded to about $17 billion in calendar year 1973. With an aggressive attack on the many serious barriers which still distort world agricultural trade, we can continue and improve upon that record. Agriculture must, in the new series of negotiations, be a priority item. We are pleased that the House of Representatives has in this bill expressed its sense of the urgency for meaningful negotiations by our trading partners in the agricultural sector.

III.—NONTARIFF BARRIERS TO AND OTHER DISTORTIONS OF TRADE

We agree with the objective of Section 102 that negotiations of nontariff barriers are vital to the success of any trade agreement. We favor the concept which allows for the conversion of nontariff barriers to an ad valorem basis and believe it will be most helpful in reducing these barriers. We are, however, deeply concerned over the portion of the section which would require product sector negotiations. We do not believe that agriculture or other product sectors will be well served by placing such a limitation on the negotiations before they begin. While product-sector negotiations may be useful in a few, limited areas, the concept is generally opposed to notions of comparative advantage and reciprocal concessions of mutual benefit. Product-sector negotiations would blunt the scope for reciprocity, since the value of concessions—value of trade and degree of duty reduction, or some other formula—by each party is unlikely to be equal by product sectors. For these reasons it seems advisable to change at the very least the wording of this section to make product-sector negotiations a recommended method rather than the required method.

IV.—ADJUSTMENT ASSISTANCE

We have believed and urged for a long time that policies which benefit the nation and economy as a whole should include programs funded and supported by all to facilitate adjustment to more competitive and rewarding endeavors by those temporarily displaced. This concern has been at the heart of the debate of the past few years over the welfare consequences of U.S. foreign economic policy. The evidence generated by that debate, we believe, demonstrates overwhelmingly the positive benefits of more liberal foreign economic policies and the advantages of affirmative adjustment programs rather than the negative impulse of isolating the United States from the rest of the world. We believe that the provisions of the bill on adjustment assistance are equitable and will provide needed relief to individuals and businesses forced to change by import competition.

V.—MOST FAVORED NATION TREATMENT

With respect to Title IV, we wish to reiterate our objection to Section 402 "Freedom of Emigration in East-West Trade." We believe that this provision of the proposed law will be highly injurious to this area and to the country as a whole. While we concur that there are some domestic policies of both market and nonmarket economies with which we do not agree, we believe that this country should not attempt to induce changes in these countries' domestic policies by precluding the President from granting Most Favored Nation Treatment to them. Specifically, we do not approve of the emigration restrictions imposed by the USSR on her citizens, and we could support other means of attempting to induce her to relax these restiictions. We feel, however, that to so endanger the improved climate of diplomatic and trade relations with that country by this means is most imprudent. We believe that there exists sufficient reviewal and approval provisions to permit the Congress to deny MFN status should circumstances warrant, and we urge that this Section be stricken from the bill. For the same reasons, we would oppose the application of the same restrictions to extension of Exim-bank credits and would urge opposition to such an amendment.

VI.—THE MONDALE AMENDMENT

It is important for the Trade Bill to recognize and address the question of access to supplies of scarce commodities. The amendments introduced by Senator Mondale represent a constructive first step in dealing with the problem. This issue and its relationship to the overall negotiation are necessarily complex. We urge that careful study be given to each of the proposals in view of the fact that the United States has only limited leverage in dealing with them. We must insure that the language of the amendments on the scarcity issue does not restrict the ultimate success of the trade negotiations.

VII.—CONCLUSION

With the exceptions we have noted, we feel that H.R. 10710 is a constructive bill and one that is badly needed to help us regain a balanced trade and payments posture. It contains useful provisions in the area of generalized preferences which in combination with other provisions in the bill will benefit industry and commerce by removing serious obstacles to their competitive positions. With the upheaval in the trade situation caused by recent worldwile scarcities, adoption of the Trade Reform Act is even more essential than before. We urge its passage.

STATEMENT OF ALFRED MASKIN, EXECUTIVE DIRECTOR, AMERICAN MARITIME ASSOCIATION

The American Maritime Association, in behalf of which this statement is submitted, consists of 45 companies operating 148 American-flag merchant ships, totaling 3.1 million deadweight tons, in the foreign and domestic commerce of the United States.

Of these 148 vessels, 35 are tankers totalling approximately 1.5 million dwt.

I am authorized to state that the views expressed in this statement are also those of the Independent U.S. Tanker Owners' Committee which, in addition to the AMA tanker owners, includes a number of non-AMA owners who operate American-flag tankers of approximately 700,000 dwt. Thus the combined membership of this committee represents some 2.2 million dwt.

Essentially, we propose an amendment to H.R. 10710 that would allocate to U.S. flag ships specific percentages of our oil imports. This proposal is now pending in the House of Representatives, where it has been sponsored by more than 220 members as H.R. 8193 and numerous identical bills. Senators Magnuson and Beall have introduced a similar bill in the Senate, S. 2089, which has been cosponsored by Senators Jackson and Mathias.

The train of events that the Arab attack of October 6 set in motion in the Near East has enormously affected the public significance of this suggested amendment.

Two years ago, when we testified before the Committee on Commerce on similar legislation, for which the distinguished Chairman of this Committee was floor leader, it was basically to seek help in conditions of severe economic adversity, when the drying-up of domestic coastwise demand and the stalemate on the Alaskan pipeline portended virtual destruction of American tanker service. It was an industry problem, although some larger ramifications were suggested, and everyone was concerned to know the extra cost of preferring American tonnage for a small percentage of oil imports. Debate in the Senate turned exclusively on this economic issue.

Today, we believe, very different considerations will govern such legislation. The justification for it stands now on the highest grounds of national policy, and particularly of the national defense. It is on those grounds that we now come forward to recommend its early enactment.

The facts behind the argument constitute the history of the American effort following October 13 to re-supply Israel in order, in the words of the Secretary of State, to maintain the military balance in the Middle East against the flow of Russian arms to the Arab side.

According to public statements of the Secretaries of State, Treasury and Defense, our re-supply aircraft were refused both refueling and overflight privileges by all Mediterranean allies of the United States, specifically Spain, France, Italy, Greece and Turkey; they were refused permission to land on, or to be refueled from, air bases constructed by the United States at a cost of many billions of dollars. Three of those countries alone, Greece, Turkey and Spain, have received over the years about $7 billion in military aid. While our aircraft were denied overflights by our allies, and were obliged to refuel in the air and on aircraft carriers strung down the Mediterranean, it appears that Turkey permitted Russian overflights to restock their Arab clients.

In the meantime, Germany in effect prohibited use of its ports to transfer arms to Israel, and challenged possible troop movements out of Germany during the special alert of October 24. According to press reports, German companies supplied Arab belligerents with electronic equipment said to be based on American military licenses.

Continuing until virtually the other day, all of the 12 to 15 countries that previously had sold fuel to American military units overseas ceased to do so, expressly to avoid offending Arab oil producers; Japan and the Philippine Islands were reported to have refused to sell oil to our 7th Fleet, and Spain to our vital 6th Fleet in the Mediterranean.

In a month our world-wide system of bases became of ambiguous utility, particularly among the north shore of the Mediterranean, designed especially to permit domination of the eastern Mediterranean, and the more important because of the alienation of the countries bordering the southern shore. Relations with our principal allies are at present so strained that it is openly speculated in the press here and abroad whether NATO can or ought to survive. It appears that European diplomats have been seeking to bring Japan into arrangements that would for the first time exclude the United States. An atmosphere of resentment exists against our policy and our frank official opinion of the manner in which we have been treated. Pursuing what the Economist of London calls the "spaniel policy" towards the oil-producing nations ("Any member caught standing up to Arab oil embargoes must immediately lie down on its back again, put out its tongue and wave its feet in the air"), the European powers and Japan first negotiated bilateral supply contracts in competition with one another, while warning us against any show of concert in the then forthcoming Washington conference, and then undertook joint action excluding us. "Some individual countries" have conducted against our efforts for peace in the Near East a campaign that Secretary Kissinger has officially described as not merely unfriendly but hostile to us. The severity with which the President has found it necessary to speak publicly shows how profound are the disagreements with our allies that have suddenly revealed themselves.

A correspondent in the same distinguished journal from which I have quoted points out some serious implications of all these events:

"Whatever their motives may have been, and they were all undoubtedly honorable, the conclusion to be drawn from their conduct is that by not doing what the United States would have liked them to do, they did precisely what the Soviet Union wanted them to do.

"The constellation of forces has changed profoundly. The Soviet Union has succeeded in driving a wedge between the United States and its European allies. The United States will have perceived that in an emergency it cannot place very much reliance on the loyalty of the western European governments. The Soviet Union now knows that, in a confrontation between the two superpowers, the western European governments will be neutral and will, by in effect dissociating themselves from the United States, be giving support to the Soviet cause. In other words, this latest war has been won by the Russians—in Europe."

It is not my purpose to draw out these conclusions to their blackest, or to suggest that the alliance will not be re-established on something of its old footing. But at minimum, would it not be improvident to repose absolute reliance on third nations in any adversity that may eventuate? We ought to be profoundly grateful that we have to so great an extent power to be self-reliant in defense, and that as in the episode just concluding in the Near East, our diplomacy cannot be crippled by weakness of arms or economic means. No one can doubt that the President speaks for the country in resolving to achieve independence in energy as rapidly as possible.

If that could be accomplished as rapidly as the President hopes—and there is wisdom in setting a target requiring a maximum exertion—the shipping problem might have a somewhat different form. However, the best estimates we have seen do not contemplate self-sufficiency before 1985 or even later. Until 1985, then, we shall to some material extent need to import oil from the western hemisphere, the Far East, Africa and the Persian Gulf (whether or not from Arab countries). Of course, as the President has said, self-sufficiency will not mean exclusion of all energy imports; it means the power to produce at will substantially what we may need without looking abroad.

We now suggest that it is dangerous to rely wholly upon the foreign transportation mechanism to carry these imports, as we do at present. In any crisis during the next decades, even short of war, where we have the misfortune to adopt a policy from which our allies dissent, or which they are compelled positively to oppose (as we have just seen Japan and France do) under pressure from our adversaries or enemies, there is simply no guaranty that they will continue to carry oil for us. If they have refused to sell bunkers to our Navy, the buckler behind which they shelter, can we expect them to lift the oil to effectuate a policy that brings them into collision with forces they may wish or be under compulsion to appease? To be blunt, would Sweden have chartered tonnage from its large merchant fleet to carry arms to our armies in Vietnam? Fortunatey we did not have to find out: the American merchant marine was able to do the job under the terms of a very old law that requires all military cargo to move on American ships. And I may add that we had such a merchant marine in operation because of that and other cargo-preference laws written by Congress—a subject to which I shall return.

2. *Are ships of convenient foreign flag a resource?*

In considering available alternative shipping resources, we shall be asked, what of the ships owned by American companies under foreign flag? These fall into two classes. We need hardly discuss the very large fleets of our major oil companies or others under the flags of the commercial maritime powers, European and Japanese. These are the very ships we have just been discussing, deemed the national territory of states fully capable of enforcing their embargoes.

The other class consists of ships registered under the so-called flags of convenience, chiefly non-maritime countries like Liberia and Panama. The Maritime Administration obviously entertains few illusions about ther availability for national service. According to its official study, the significant deficiencies reside in crew nationality, and for the short run; size and speed of units. Now we can see the position much more clearly against the backdrop of current events.

If these countries of registry happened to sympathize with or find themselves under the whip of states in a position adversary to us, or were merely desirous to be neutral, they might easily and lawfully take actions deeply injurious to our interests. In the Arab-Israeli war, Liberia (which broke relations with Israel) issued a decree forbidding the carriage of arms to the belligerents by ships of its flag. We know of no breach of this decree by any owner.

But it will be asked whether an American corporation would heed such an order to the direct detriment of the United States. Well, Senator Jackson recently charged American oil companies, which after all are the legal and titular owners of the oil out there, with having been the instruments by which the Arab nations cut off oil supplies to our military installations around the world; the refinery in Guam, which serves the Armed Forces exclusively, was cut off by one major company on grounds of force majeure. The answer of the oil companies, which in no way impugns their patriotism, is illuminating:

"The oil industries in the Middle East were simply told by the Arab governments that 'You will not be allowed to supply the U.S. military overseas from our oil and if you do you'll be cut off completely', Bonner [chairman of Gulf] said. ' * * * Exxon issued a similar statement in the name of its chairman, J. K. Jamieson. 'The corporation vigorously denies the charge of disloyalty and believes that the facts fully confirm this position,' the statement said."

Moreover, the technical corporate owners of the ships we are discussing may usually be citizens of the countries of register, and bound by their laws. If such a corporation should disregard an order not to carry oil to this country—as our oil companies did not disregard an order not to sell their own oil to us—it would be no very far stretch to reach into the courts of friendly foreign jurisdictions to enforce decrees of expropriation or forfeiture. Our own companies, following the example of France, have invoked such courts to assert their rights of property when not compensated. It takes only a condition like the present for Japan to let it be understood that it will no longer acknowledge the claims of our companies to "hot" oil expropriated by Libya without compensation and will buy it freely henceforth: would Japanese courts in a legal content now sustain the American owner or Libya? If Liberia, our oldest friend in Africa, has stood neutral (against Israel) in a matter of such interest to us, and exerted its vessel control against our interest, what of Panama, only officially friendly to us? If we were not actually at war, I wonder whether our own courts might not respect a decree of forfeiture or of requisition otherwise valid under the law of a foreign state.

Again, I am not concerned to canvass blame between one side and another: but the lesson of current experience, immediate experience, is simply that indirect American ownership cannot insulate foreign tonnage from claims that to other nations may seem legally valid and which are certainly enforceable, however inimical to our interests.

To all the other factors that have always clouded the ready availability of these ships of convenient flag, even when the friendliness and active alliance of these other nations was taken for granted, must be added their vulnerability to this kind of attack.

I conclude therefore that we cannot continue to depend on foreign vessels to carry all of our petroleum imports, and that we must accordingly have a flag fleet capable of lifting a sufficient part ourselves.

I now address the means of procuring such a fleet, and the problem of its cost.

3. *Size and Cost of the Fleet Required.*

In studies made by the Maritime Administration prior to the October war, it was forecast that in 1980 the United States would be importing 11 million barrels a day (b/d) by sea, and nearly 14 million by 1985. This contrasted with an actual average of 4.6 million b/d in 1972, and in excess of 6 million in 1973 as a whole. It had dropped under 5 million b/d in the first weeks of this year. Mr. Simon has recently confirmed the continuing validity of the Maritime forecast.

I think it is fair to assume that if we make every effort to conserve energy and to increase indigenous production, we shall be able to hold down direct and indirect oceanborne imports of crude and petroleum products to an average of about 11 million b/d, continuing through the period of stringency and beyond.

Imports of Canadian oil by pipeline would add another 1 million b/d. Although formerly expected to grow into the dominant source of supply, imports on that scale would be a diminishing proportion of energy consumption. I feel sure that the country will gladly make substantial sacrifices to minimize foreign dependence; and this purpose receives an additional motivation from the impact of price increases, which seem to threaten not merely the balance of payments but the currency structure itself.

Using MARAD's geographical distribution for the import figure (with flexibility to shift, however, to non-Arab sources even for the Persian Gulf and Africa), we calculate that a fleet of 25 million dwt tons is required in order to carry 80% of 11 million b/d. The agency's projections contemplate two broad classes of tankers, 90,000 dwt and 265,000 dwt. It clearly expects early construction of deep-water ports to render the larger class feasible, and the President's energy message calls for prompt commencement of the work. Of course, the number and size of actual units cannot be rigid; allowing for standardization, ships of 50,000 and 35,000 tons are efficient for carrying refined products in the short trades, and the government is considering six ULCCs of 380,000 dwt. However, the size distributions MA selects for calculation (divided between large and small sizes in the ratio of 7 dwt tons to 1) are nationally suitable, on the assumption that the goal is 25 million tons overall.

A fleet of that size is within the capacity of our yards to build by 1982, assuming the whole additional program is added to the end of present contracts, about 1976. According to the government, the yards now have annual capacity for 10 90,000-ton tankers and 6 VLCCs, say, 2.5 million dwt, of which the latter critical component, now about 1.6 million dwt, will easily rise to 2 million tons before 1977, and according to our information, 2.6 million tons by 1978, and 3.5 million tons by 1980. We should therefore expect completion by 1982 of a schedule that rises to a total tanker production of 3 million tons a year in 1978, and 4 million tons a year in 1980 and thereafter. Subsidized construction now in train amounts to 3.2 million dwt, half scheduled for delivery in 1976, by which time the VLCC units will for the first time approach the present capacity of the yards.

An addition to the fleet under construction of a little under 23 million tons, including 20 million tons of the largest types, probably will cost about $10.4 billion, if it stretched out through 1982, assuming annual escalation of 10%.

4. *Subsidy or Cargo Preference*

The question now arises of how the cost of this fleet should be borne. The first way naturally considered is that the subsidy features of the Merchant Marine Act should be brought to bear. We are not convinced that this will do the job for tankers. (I stress that our conclusion here relates only to tankers, and in no way impugns the utility of the subsidy system in relation to the dry-cargo field.)

In the first place, at the statutory rate of construction subsidy, scheduled to descend to 35% in 1976, the government's share of the building cost would run perhaps $3.6 billion, or an average of $520 million a year. Not only is this more than twice the annual appropriation for *all* construction since FY 1971, but it would rise to an average of $750 million in the last three years of the program. I am not certain, frankly, whether a sustained program is practical politics at so much higher a level of capital expenditure, observing that operating subsidy must also be contemplated, at figures of which we have as yet no experience for tankers, but which for the items subsidized for liner vessels would apparently run $150 million a year at current levels for a fleet of about 117 tankers.

Further, the government's willingness to pay subsidy is only one part of the equation: operators must be willing to assume the remaining 65% of the construction price. In the commercial shipping market, capital expansion normally takes place in long-term conditions of supply and demand favorable to owners, rather strongly accelerated or retarded by extreme short-term fluctuations of charter rates up or down. We have just enough experience of the 1970 Act to see that this rule applies no less to undertakings supported by subsidy.

I personally observed a striking instance. In December 1970, just after passage of the amendments, a delegation of our leading members met with the then Maritime Administrator; spot commercial rates were at W360, and they had substantial long-term chartering opportunities at profitable rates: they offered to contract immediately to build 10 VLCC's, 2.5 million tons at a swoop, with construction subsidy but waiving operating subsidy. For various reasons, partly legal, partly a favored program of a different character, the Maritime Administrator of those days found himself unable to accept this offer, the fruits of which would just now be available. After six months later, he candidly admitted an error of policy. But in six months the bulk trades move far; the spot market had dropped to about one-sixth of its peak, the unusually good chartering opportunities had vanished, and for the time being the chance was lost.

We see from this episode the importance of market conditions even for a subsidy program: indeed, a major requisite for the award of the subsidy is economic feasibility. Now it is rather apparent that subsidies do not produce such equality of costs as will permit head-to-head competition with foreign operators in all conditions of the market. Unlike liner trade, there are no rate-fixing conferences in bulk commerce, and in the non-proprietary sector the independent owners operate in near perfect competition. To fit them for such competition, the statute offers a construction subsidy subject to a ceiling that will decline to 35% by 1976. We supported this conception as an incentive to shipyard efficiency, and believe it has tended in that direction, although everyone agrees the double devaluation of the dollar has rather strikingly eased the transition to lower subsidies. In any event, the act does not guarantee capital equality.

The law also put a ceiling on the wage subsidy, and even without that ceiling, liner operators have testified that the operating subsidy falls short of providing cost equality with foreign competition.

Thus, unless the shipping market is itself profitable, an operator may see a losing proposition even with both forms of subsidy and the valuable additional helps the statute affords, which may all leave him with a built-in competitive disadvantage against foreign operators; that is no great incentive to build when the world market is down. It is when that market is high and rising, when world tonnage is fully employed at rates profitable to Americans and enormously profitable to existing foreign tonnage, that there is a rush to build.

Over the years, of course, world rates will not usually be high enough to sustain an American fleet without subsidy. Before the sharp rise in bunkering costs, a national American VLCC in the Persian Gulf trade (of course, we have none as yet) could operate profitably without subsidy at W90, and with bunkers at $50 a ton, we estimate that figure at W105. In the five years ending December 1973, long-term charters of six years or more, which tend to reflect the trend of foreign construction costs, reached barely below W80 at the end of the period. For charters of three to five years the quarterly average reached above 90 only once, in the last quarter of 1973, and for most of the period ranged between 50 and 80. Even one to two year charters rose over 90 only twice, in 1970 and 1973, with a peak of 130 in the third quarter of 1973, followed by a steep drop to 80 in the fourth quarter. It is, of course, the longer charter that would be necessary for successful operation of American tonnage in foreign trade.

That was the experience for an unsubsidized vessel. We estimate that with both forms of subsidy, construction and operating, a VLCC would have required W70 to operate profitably before the jump in bunkers, and W85 at $50 bunker prices. The former level would have been attained by the 3–5 year market for an additional two quarters in 1970, and during 1973, and 85 of course much more briefly, showing that the subsidies do not fully equalize competition with foreign tonnage over the main course of the market.

Since that is the case, the American ship continues to be the marginal supply, which normal market conditions will usually exclude. For whenever freight rates rise to a point where American ships can compete profitably, cheaper foreign construction will in time be attracted in sufficient numbers to depress the rates below that point.

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I think we shall see this principle demonstrated again. Last Fall, the market was at record levels; it has since collapsed in the wake of the Arab boycotts, having an estimated overhang of 30 million dwt tons or more of a total fleet of about 200 million tons. The extent of a rebound now that the boycotts are ended will be modified by the new high price of oil and the more or less severe recessions thereby occasioned in consuming countries, superimposed upon ordinary cyclical conditions.

My essential conclusion is that cargo is more critical to ship construction than subsidies, a point made frequently by Merchant Marine Committee over the years.

Cargo is the theme of the present proposal before the Committee. It sets aside a definite part of the market for American carriers, who would compete for it only against one another. This market would be reserved for them so long as their rates are fair and reasonable for American ships. These two clauses imply measurable business at prices profitable for efficient ships, modified by competition and subject to the ceiling of the statutory standard, but not whipped about by factors of world-wide competition.

Under conditions of stable expectations such as these, conventional considerations of market demand will still govern within the reserved area, and will control management decisions; in our opinion, the market will be able to sustain a program of the magnitude proposed even without subsidies, which present regulations exclude for bulk vessels enjoying cargo preference. We believe, in short, that the demand will support sufficient Ameriacn tonnage without drawing on the federal treasury. The great advantage of mortgage insurance and capital construction funds would still be available, but these entail no government outlay.

I said earlier that cargo preference is responsible for the existence of a going American merchant marine. It was the protected trades that provided the powerful impulse for the container age, a combination of the coastwise and military of Alaskan business are behind some of the most vigorous unsubsidized building programs. Many of the liner services in foreign commerce, including most of the major subsidized lines, have received underpinning from military and foreign-aid programs; and it is not too much to say that the financial problems of some lines, which we hear about, flow from the drying-up of those programs.

5. *Cost to the Consumer*

If we are right, the nation gains a crucial weapon of defense without federal expenditure.

That does not quite end the matter. There is a sense in which one can say that when the taxpayer does not pay, the users must pay. Of course, the government contribution was never intended to pay the whole cost of shipping, but only the excess over what the shipping public would pay if it employed foreign carriers. How much is that excess here?

In testimony before the House Merchant Marine Committee witnesses advanced a range of estimates, depending on different theories of the governing principles.

Oil company representatives suggested the highest estimate, based in effect on the supposition that monopoly conditions would replace free market competition, and on certain disagreements with the Maritime Administration as to financing costs; all these factors added up to approximately $.02 a gallon as the price of employing American tonnage to the extent proposed by the bill.

The Maritime Administration proceeded on the theory that in the long run prices under competition respond to costs, and that accordingly the best long range estimate will be based on the competitive operating costs respectively of foreign and American vessels; the agency's latest figure for the excess costs of using the latter, revised to take account of the sharp rise in bunkers and certain other capital increases, amount for the year 1980 to about $.03 bbl, or $.0007 gal; applied to gasoline individually, this is said to work out to $.0003 gal.

An economist who testified before the Merchant Marine Committee in the House suggested that in effect enactment of the legislation would produce a net saving for the consumer, rather than an increase in cost from the employment of American tonnage; he reasoned from the circumstances of oil company control of its own tonnage that monopoly conditions prevail in transportation of oil as well as in its production, refining and marketing; from the opportunity and incentive for transfer pricing in respect of their foreign ships, he concluded that shipping costs are arbitrarily priced in the ultimate product, perhaps at high multiples of actual experience; accordingly, to the extent of the enforced employment of American ships, savings might accrue to the public that were estimated to range from $.36 to $.59 bbl (and approximately 30% of those amounts for total imports of oil).

Our own estimate, proceeding on the more conservation theory of the long term relation between price and cost, and adjusted in accordance with the actual experience of our members, produces a difference of cost from the employment of American ships amounting to roughly $.04 bbl in 1980 ,or $.0009 gal.

One may weigh figures of these slight magnitudes against the enormous price increases for oil that have been imposed in the last year. In the scale of $10 oil, $.04 bbl does not seem enough to talk about; or even as against the private barter deals now negotiated by various European nations, which seem to average about $7 for commitments of three or four years. The excess shipping cost under our program rises to $175 million in 1980. Fully amortized, the two subsidies would cost the government 89% more per annum, practically twice, and would still fail to produce ships capable, if used, of saving the whole excess over foreign costs.

I submit that the cost of our program, spread over the consuming public, which in this case is as broad as the whole population, is at once cheaper than existing subsidy programs and a small incremental cost for American martime independence.

The language that we propose as an amendment to H.R. 10710 follows:

Section 901(b)(1) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1241), shall be further amended by striking the colon after the words "in such manner as will insure a fair and reasonable participation of United States-flag commercial vessels in such cargoes by geographical areas," inserting a period, and adding the following: "The appropriate agency or agencies shall also take such steps as may be necessary and practicable to assure that at least 20 per centum of the gross tonnage of all petroleum and petroleum products imported into the United States on ocean vessels, including movements (i) directly from original point of production and (ii) from such original points to intermediate points for transshipment or refinement and ultimate delivery into the United States, shall be transported on privately owned United States-flag commercial vessels to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels, in such manner as will insure fair and reasonable participation of United States-flag commercial vessels in such cargoes by geographical areas: *Provided*, That the quantity required so to be carried in United States-flag commercial vessels shall be at least 25 per centum after June 30, 1975, and at least 30 per centum after June 30, 1977, if the Secretary of Commerce shall on December 31 preceding each such date determine that United States tonnage existing or on order and scheduled to be delivered by such date would be adequate to carry such quantity".

Respectfully submitted,

ALFRED MASKIN,
Eexecutive Director.

STATEMENT OF INTERNATIONAL ECONOMIO POLICY ASSOCIATION

A year has gone by since President Nixon submitted his proposed Trade Reform Act of 1973 to the House Ways and Means Committee. In that year, the international economy has been badly shaken by monetary instability, rampant inflation, rising prices of agricultural and other raw materials, and above all by the Arab oil embargo and skyrocketing petroleum prices.

In this context, the fabric of international economic cooperation and interdependence is being tested as never before.

Your Committee should first consider whether, in such a climate, international negotiations will be productive, even if they are desirable.

One of the activities which our Association undertakes every year is an in-depth survey of economic developments and knowledgeable opinion in Western Europe.

Based on these surveys, we have been pessimistic about the prospect of trade negotiations, given the ability of the European Community to agree only on the basis of a "lowest common denominator," the Community's intractability on the European Common Agricultural Policy, and its demonstrated desire to develop a trading bloc, through association agreements, in disregard of the spirit of GATT rules. Even more important, the EC countries, as well as Japan and other trading areas, are facing serious economic uncertainties due to the petroleum situation which make them reluctant to enter into new commitments.

These economic barriers to productive negotiations are being heightened by the political weakness of major Western governments. There is a real danger that governments will yield to domestic pressures for unwise short-term policies with destabilizing international effects. We have already seen examples of a "beggar thy neighbor" outlook in the course of bartering for oil. As the foreign exchange costs of petroleum grow, there may be cutthroat competition to accumulate needed earnings through exports to foreign markets, particularly the U.S. market. These problems cannot be resolved through trade negotiations. The accumulation of monetary surpluses by countries which cannot use but a fraction for imported goods will leave an overhang of $30 to $40 billion a year, adding new instabilities.

These issues are mentioned here to put trade negotiations in their proper perspective. There has been a tendency in the past to exaggerate our capacity to negotiate away most international economic problems. However, it is precisely because of all these uncertainties that we believe an effort should be made to reaffirm certain principles of international trade and investment and to discuss them seriously with other major trading countries and blocs. We do not think that we can expect significant and far-reaching results during a time of turmoil; but if we are not to be overwhelmed by that turmoil, the process of negotiation should be maintained.

Consequently, the Congress must give the Executive Branch authority to negotiate on the full range of pending economic and financial issues. Otherwise, our trading partners will use the President's present limited negotiating authority as an excuse for avoiding meaningful discussions of current economic issues. He must have the authority to bargain effecitvely and to take unilateral retaliatory action where necessary. For these reasons, we support the authority to negotiate in tariff and nontariff matters for improved escape clause relief and expanded adjustment assistance.

We would like to recommend, however, that the Senate consider the following additional matters which are not adequately reflected in the Trade Reform Act as passed by the House:

1. Negotiating authority should extend to all pending economic and financial issues subject to the approval of the Congress.
2. Negotiations on international trade should give adequate consideration to services such as tourism, accounting, insurance, construction, architecture, investments, transportation, management and technology, recognizing that service earnings are an important and growing portion of our total foreign export earnings.
3. Negotiations should seek fair and equitable treatment for U.S. investments abroad, the principal beadwinner for our balance of payments.
4. A major focus of the trade negotiations should be to develop international procedures for assuring access to the world's raw materials, including but not limited to, petroleum.

I. NEGOTIATIONS SHOULD INCLUDE ALL PENDING ECONOMIC AND FINANCIAL ISSUES

Approaching a full-scale multilaterial series of negotiations, the United States must have all pending economic and financial issues potentially on the table. To attempt to limit these talks solely to tariff and nontariff barriers by a sector-by-sector and commodity-by-commodity approach will place us at a disadvantage with foreign competitors. In the Kennedy Round, failure to negotiate an effective international program on agricultural trade allowed the continuance of the EC's Common Agricultural Policy and variable levies which discriminate effectively against major American agricultural exports. In the forthcoming round, failure to agree on rules for trade in raw materials may leave this area open to competitive nationalistic policies which can destroy progress made in other areas.

Viewed from a broader perspective, negotiations limited to trade in commodities (agricultural, industrial, and mineral) may well be insufficient to avoid serious future deficiences in the overall economic system. We are currently engaged in negotiations to establish a new monetary system which will provide greater flexibility for accommodating economic changes.

There are other factors, however, which are not being considered in relation to these trade and monetary talks. The U.S. balance of payments is burdened each year by a large net outflow for common defense expenditures—inu 1973, $1.8 billion to Europe ($2.4 billion worldwide). Foreign aid and government lending resulted in an estimated net $1 billion outflow in 1973. We are not disputing the priorities which dictate such expenditures, but we feel that negotiations aimed at "strengthening economic relations with foreign countries" must not ignore the areas where we chronically incur deficits. IEPA's balance of payments charts, included at Annex A, illustrate the magnitudes of the various accounts and the payments drag imposed by the government sector deficits.

We are now entering an era in which international economic decision-making will be one of the greatest challenges that governments face. Hence, it is important that the problems of trade, investment, balance of payments, energy, resources, and aid policy be dealt with in a consistent and broad fashion. It is important to formulate a set of overall *economic* objectives and insist that our negotiators pursue these consistently in international talks. Such objectives must reflect the fundamental long-range interest of this nation in achieving a world characterized by open exchanges of ideas, goods, services, and technology. The studies conducted by IEPA have led to the conclusion that this long-range objective can best be shaped through the acceptance of the discipline of the international balance of payments mechanism. Thus, one consistent short-range guide in assessing our economic relations with other areas of the world is the payments balance, and the economic objective must be to approach equilibrum in our international accounts.

While it may be possible to construct a consistent set of objectives for foreign economic policy, our political policies are, by nature, changing. In the Trade Reform Act of 1973, this Committee faces a difficult problem in reconciling economic and political objectives in regard to Title IV, the extension of nondiscriminatory tariff treatment and export credits to the nonmarket economies. A parallel to our policy in Latin America is perhaps useful here. After a long history of American attempts to encourage U.S.-style democracies in Latin America, the Nixon Administration tried a new approach. Termed the "mature partnership," our policy since 1969 has been to accept, without interference, the political decisions of the *de facto* governments. The Executive Branch has only continued to administer economic aid expenditures, as it must to fulfill their responsibility to the American taxpayer. The policy of noninterference in the domestic affairs of other states is also a basic principle of international law, as embodied in the United Nations Charter (Article 2(7)).

Title IV of the Trade Reform Act would prohibit the granting of nondiscriminatory trade treatment or export credits to nonmarket economies unless the President certified that the country does not deny the right to emigrate, or impose more than a nominal tax on emigration or the expressed desire to emigrate. This is an understandable response to reported infringements of human rights which have aroused public indignation in this country, but it has no place in this legislation. It is a political issue that has served to preempt a needed debate of the economic costs and benefits of East-West trade. Indeed, not enough attention has been given to the long-range economic and national security implications of long-term trade and credit arrangements with communist countries. It is to be hoped that each trade deal will be subjected to such scrutiny.

Specifically, there are a number of special problems which arise in dealing with state trading enterprises. Many of our economic concepts such as profit, fair value, depreciation, and others are difficult to apply to a centrally planned economy. Cost accounting as the market economies have known it is nonexistent in the USSR and Eastern Europe, making difficulties inevitable when fair market value must be established for anti-dumping and countervailing duty purposes. Exchange rates are managed and generally overvalued. For companies there are problems as well, primarily associated with the Eastern Europe predilection for barter agreements. Such agreements always have an implicit price, and difficulties ensue when the value of exchanged products changes at different rates over the agreement's course.

Title IV is already in the bill and if, as a matter of practical politics, it cannot be removed, then as a minimum, section 402, which requires the President to make a report to Congress on emigration policies, should be revised. It should allow the President to extend MFN treatment if there is evidence of "reasonable progress" toward the goal of free emigration, along the lines of the unsuccessful amendment offered by Representatives Pettis and Corman in the House Ways and Means Committee. This will provide him with some flexibility in his constitutional responsibilities in the foreign policy field as well as in the use of the economic negotiating responsibility given him in this bill.

II. NEGOTIATIONS SHOULD INCLUDE SERVICES, SUCH AS TRANSPORTATION, MANAGEMENT, AND TECHNOLOGY AS WELL AS COMMODITIES

The Trade Reform Act of 1973 improves considerably on the President's proposals in explicitly including services as a subject for negotiation. Section 163 instructs the President to report on "the results of action taken to obtain . . . removal of foreign practices which discriminate against United States service industries (including transportation and tourism) and investment." In Title III, providing authority to act against unfair trade practices, the Ways and Means Committee report indicates that "commerce" as used in section 301(a), applies to services, "including, but not limited to, transportation, tourism, banking and insurance," as well as goods.

These provisions should be strengthened by the inclusion of services as well as goods in the Statement of Purposes (section 2) and in the Definitions (section 601) by defining the words "trade" and "commerce" as used in the bill. (See IEPA Recommendations for Revisions, Appendix B). Specifically, we recommend that the legislation state that one of the objectives to be sought by the exercise of the authority granted to the President is the achievement of naional, reciprocal, and most-favored-nation treatment where appropriate in international trade of goods and services such as, transportation, tourism, technology, accounting, construction, insurance, investments, and architectural services.

Service income is of growing importance in our balance of payments. Between 1960 and 1972 service export earnings grew 192 percent, while merchandise exports grew only 149 percent. In the first three quarters of 1973, our total foreign earnings from private service exports were $10.4 billion, or 21 percent, as large as our merchandise exports. These services included tourism, transportation, insurance, construction, engineering, management, consulting, use of technology, and communications among others. The provisions of GATT do not extend to services, and discrimination in the treatment of servicves, particularly transportation, is rampant.

Tourism is one of the most likely categories for improvement. Including transportation, foreigners spent over $4 billion on tourism in the United States in 1973, accounting for almost 30 percent of U.S. service exports. However, U.S. travelers abroad spent nearly twice as much ($7 billion), resulting in a deficit of over $3 billion on our tourism account—unchanged from 1972. Realigned currency values and a slower rate of inflation have made travel to the United States more competitive with other destinations. To take advantage of this opportunity, the United States must take action against some of the discriminatory policies of our trading partners, especially in the transportation area. Freedom to travel for business and pleasure purposes should be one of our negotiating objectives. U.S. airlines are now restricted in many countries in the number of passengers they may carry and the number of flights they may operate. Favored treatment for foreign-owned national airlines in areas such as currency manipulations, preferential services, governmental subsidies, and pooling arrangements all serve as nontariff barriers inhibiting U.S. earnings from transportation involved in tourism.

III. FAIR AND EQUITABLE TREATMENT FOR U.S. INVESTMENTS ABROAD

A foreign economic policy which pursues the objectives of free and open movement of goods and capital cannot be achieved in the trade and monetary areas alone. A third topic for discussion must be investment policies. The United States has a vital interest in international investment, with currently $94 billion in direct investments abroad. The earnings of over $13 billion on these investments last year are essential to our balance of payments; even after deducting new capital outflows, direct investment netted over $9 billion. Although recently there has been a series of well-publicized international studies of the "MNC problem," serious impediments to the free flow of investment are becoming part of governmental policy discussions. Restrictions on foreign ownership of assets, foreign content of products, earnings repatriation, and other more subtle laws and regulations which hinder productive foreign investment are being seriously discussed. In addition, the growing number of tax incentives and subsidies offered by nations to obtain national and regional growth objectives can distort investment patterns.

The United States is cooperating with the OECD Executive Committee in Special Session in considering a number of issues relating to investment. These include problems of the multinational enterprise as well as those posed by governmental policies. The International Economic Report of the President observes that these "efforts could have important long-run consequences for the international economy."

The pattern of investment policies in recent years, despite encouraging progress in Japan (where the "system" still makes 100 percent ownership sometimes unprofitable), is one of encroachment on the principle of "national treatment," in the name of "national sovereignty." In Mexico, for example, the local content requirements often force uneconomic production of component parts, and local participation minimums mean that investors must sell off equity at bargain basement prices.

It is important to recognize that complete national treatment in some cases cannot be offered; for national security reasons many nations, including the United States, limit foreign investment in the defense, communications, and transporation industries. An international consensus is needed on these legitimate exceptions, minimizing their number, and assuring that they are applied to a nondiscriminatory, most-favored-nation basis. In this connection, it is disturbing to note that regional groupings are exhibiting a tendency to favor member countries in investment policies. For example, the Andean Pact nations have proposed preferential tariff treatment within the area for trade of enterprises controlled by member countries. The European Community could discriminate against nonmembers in the future as nationalist tendencies rise, although there are currently no plans to do so.

It is important to realize the reciprocal nature of investment agreements as well as trade. Our domestic policies will affect the opportunities afforded U.S. investors abroad. As our long-run interest is in the free flow of goods and capital, we must be careful to restrain all pressures for new restrictions on foreign investments in this country or abroad.

It is for this reason that we recommend that the Trade Reform Act of 1973 make clear that the President's authority to negotiate regarding trade and to take retaliatory action against unfair foreign trade policies should also apply to fair and equitable treatment for U.S. investments abroad. In this connection we note that the House version of the Trade Reform Act (H.R. 10710) removed the Administration's reference to the "formulation of international standards for investment and tax laws and policies," in the Statement of Purposes, section 2. This should be restored.

In addition, the Statement of Purposes should be made more specific with the inclusion of "characterized, insofar as possible, by the application of the principles of reciprocal, national, and most-favored-nation treatment for trade and services." Section 102 on Nontariff Barriers to Trade should be expanded to include authority to negotiate regarding discriminatory investment policies. In section 301, which provides for responses to unfair import restrictions and export subsidies, the reference to "policies which are unjustifiable or unreasonable and which burden or restrict U.S. commerce" (section 301(a)(2)) should explicitly apply to discriminatory investment policies. We believe the amendments listed in Annex B will cover the above.

With regard to the generalized system of preferences for less developed countries, the limitation in section 502(c)(4) (in reference to withholding such preferences in cases of uncompensated expropriation) might be amended to add: "unless the dispute has been referred to an international arbitration tribunal." This would be in consonance with the language of the Gonzalez amendment to the recent laws authorizing appropriations for the international financial institutions, and would promote the use of available impartial arbitration mechanisms.

In short, the President should be asked to seek, and should be given authority to achieve national, reciprocal, and most-favored-nation treatment of investments through bilateral and multilateral negotiations. For the only recourse available to the United States, short of adopting undesirable retaliatory and restrictive measures on foreign investments within our own country, is to assure that negotiations on trade and other international economic matters take into consideration the treatment of U.S. investments by foreign countries.

We realize, of course, that the problem of making different political and social systems compatible in terms of economic competition is extremely complex. And yet, if we cannot negotiate and insist on implementation of some reasonable reciprocity in investments, the United States may one day face not just the current influx of imports, but the domination of whole industries by foreign investors.

IV. ACCESS TO RAW MATERIALS

The shortage of petroleum which preoccupies this country due to the Arab nations' embargo of oil exports has had at least one beneficial result: it has focused attention on the problem of fair access to dwindling supplies of raw materials—an area which had been overlooked because the emphasis was almost entirely on access to markets. Policies must be developed now to enable the world community to establish principles and procedures for access to resources before nationalistic responses to crisis divide the major trading nations, and establish discriminatory patterns.

In December 1973, Senator Mondale announced a series of amendments to the Trade Reform Act which would seek to make access to supplies of raw materials one of the major goals of U.S. trade negotiations, reform and strengthen the GATT rules controlling the use of export controls, and provide the President with authority to take retaliatory action (including export quotas, and embargoes, denial of economic and military assistance, credits, credit and investment guarantees, and restrictions on private investment by U.S. citizens or corporations) in the event of unreasonable or unjustified export restrictions.

Clearly, the Executive must have congressional guidance and a mandate for authority in this area if access to materials is to become a major concern of the upcoming trade negotiations. The Mondale amendments are a good start, establishing the objectives for negotiation and providing the President with wide-ranging authority to respond to discriminatory export controls, but they do not offer a satisfactory set of generally agreed upon rules of access. The unofficial suggestion by Treasury Secretary Shultz for a "least-favored-nation" concept to govern access to supply might be a starting point for discussion. This is a non-discriminatory policy much like the "most-favored-nation" concept which applies to market access in which, if there are some restrictions on supply, they should apply equally to all. Thus, no country is treated any better than the one that is treated worst.

Outside of GATT, the major consuming countries may attempt a fair sharing of the scarce products—this must remain an important thrust of policy—but in the next round of trade negotiations, basic rules for world access to resources must be established.

In summary, we recommend that the Committee act favorably upon the bill, but with the specific changes we have recommended which are designed to broaden the scope of the negotiations to include all pending economic and financial issues; explicitly incorporate services, such as transportation, tourism, management and technology, as a topic for negotiation; give the President authority to negotiate fair treatment for investment, as well as trade; and to work toward the achievement of multilateral rules for access to resources as well as markets. With those changes, we believe that international negotiations can be extremely important in these times of turmoil.

ANNEX A—pt. 1

IEPA BALANCE-OF-PAYMENTS SUMMARY, 1969-73

[In millions of dollars]

	1969		1970		1971		1972		1973 (quarters 1 to 3) seasonally adjusted	
	Private	Government	Private	Government	Private	Government	Private	Government	Private	Government
ACCOUNTS										
Merchandise exports [1]	33,306	3,094	38,875	3,089	39,598	3,170	45,862	2,907	47,751	2,500
Income on direct investments [2]	7,340		7,920		9,456		10,433		9,824	
Income on all other investments	2,267	932	2,597	909	2,556	887	2,697	795	2,639	642
Direct investment capital inflow	832		1,030		−115		160		1,527	
Portfolio capital inflow	3,130		2,190		2,269		4,335		3,400	
Other long-term capital inflows	861	267	1,135	−433	134	−467	843	238	615	895
Tourism receipts [3]	2,361		2,707		2,889		3,230		3,100	
Other service receipts	4,288	378	4,962	383	5,416	405	5,985	416	5,055	343
Repayments to the U.S. Government [4]		1,282		1,474		1,879		1,921		1,783
Military sales abroad		1,512		1,478		1,912		1,166		1,332
Total receipts	+54,384	+7,465	+61,417	+6,900	+62,203	+7,786	+73,516	+7,444	+73,911	+7,495
Merchandise imports	−35,807		39,788		−45,466		−55,681		−50,741	
Income paid to foreign direct investors [2]	−518		−552		−739		−857		−757	
Income paid to all other investment in United States	−3,269	−777	−3,591	−1,024	−2,344	−1,844	−2,522	−2,684	−2,761	−2,856
Direct investment capital outflow	−3,271		−4,410		−4,943		−3,404		−3,199	
Portfolio capital outflow	−1,494		−942		−966		−614		−279	
Other long-term capital outflow [5]	−127	−5,032	−431	−5,037	−780	−6,041	−1,471	−5,809	−712	−5,097
Tourism expenditures abroad [3]	−4,487		−5,184		−5,568		−6,436		−5,177	
Other service expenditures	−3,158	−715	−3,564	−736	−3,945	−745	−4,370	−798	−3,804	−655
Net remittances, pensions, and other transfers	−890	−406	−1,019	−462	−1,011	−542	−998	−572	−698	−520
Gross military expenditure outflows		−4,856		−4,852		−4,829		−4,724		−3,463
Total expenditures	−53,022	−11,786	−59,481	−12,111	−65,763	−14,001	−76,353	−14,587	−68,118	−12,591
Basic balance	+1,362	−4,321	+1,936	−5,211	−3,560	−6,215	−2,836	−7,143	+5,793	−5,096
Nonscheduled repayments to the U.S. Government [4]		−87		244		225		+137		+289
Nonliquid short-term capital outflows	−731		−1,384		−2,332		−1,810		−3,271	
Nonliquid short-term liabilities of U.S. private residents	91		902		−15		173		+279	
Unrecorded outflows or inflows	−2,395		−1,205		−10,784		−3,112		−4,821	
Liquidity balance [6]	−1,673	−4,408	+249	−4,967	−16,692	−5,990	−7,586	−7,006	−2,020	−4,807

[1] Government-financed merchandise exports listed as "Government exports."
[2] Income on direct investments includes fees and royalties.
[3] Tourism includes passenger fares and travel receipts and expenditures, except for foreigners' payments to U.S. carriers for transport between third countries, which is included in other services.
[4] Excludes nonscheduled repayments of debt to U.S. Government, included in liquidity balance.
[5] Government category composed of nonmilitary grants and loans, including foreign aid and Exim-bank long-term lending.
[6] With the addition of special drawing rights allocations (1970 $867,000,000; 1971, $717,000,000; 1972, $710,000,000), liquidity balance agrees with "Net liquidity balance" published in the Survey of Current Business.

Source: U.S. Department of Commerce, Survey of Current Business, June, September, and December, 1973.

Note: Details may not add to totals due to rounding.

ANNEX A—PT. 2

IEPA BALANCE OF PAYMENTS SUMMARY, 1973

[In millions of dollars]

	1st quarter		2d quarter		3d quarter	
	Private	Government	Private	Government	Private	Government
ACCOUNTS						
Merchandise exports [1]	14,454	866	15,860	918	17,437	716
Income on direct investments [2]	3,152		3,223		3,449	
Income on all other investments	785	221	879	209	975	212
Direct investment capital inflow	273		534		720	
Portfolio capital inflow	1,745		496		1,159	
Other long-term capital inflows	328	224	115	484	172	187
Tourism receipts [3]	1,061		1,014		1,025	
Other service receipts	1,619	110	1,703	115	1,733	118
Repayments to the U.S. Government [4]		590		664		529
Military sales abroad		343		455		534
Total receipts	23,417	+2,354	23,824	+2,845	26,670	+2,296
Merchandise imports	−16,280		−17,022		−17,439	
Income paid to foreign direct investors [2]	−217		−275		−265	
Income paid to all other investment in United States	−766	−866	−939	−986	−1,056	−1,004
Direct investment capital outflow	−2,025		−946		−228	
Portfolio capital outflow	+51		−126		−204	
Other long-term capital outflow [5]	−388	−1,606	−390	−1,899	+66	−1,592
Tourism expenditures abroad [3]	−1,697		−1,832		−1,648	
Other service expenditures	−1,263	−204	−1,255	−208	−1,286	−243
Net remittances, pensions and other transfers	−225	−172	−218	−171	−245	−177
Gross military expenditure outflows		−1,168		−1,185		−1,110
Total expenditures	−22,810	−4,016	−23,003	−4,449	−22,305	−4,126
Basic balance	+607	−1,662	+821	−1,604	+4,365	−1,830
Nonscheduled repayments to the U.S. Government [4]		+111		+174		+4
Nonliquid short-term capital outflows	−1,857		−1,380		−34	
Nonliquid short-term liabilities of U.S. private residents	+35		−24		+268	
Unrecorded outflows or inflows	−3,891		+425		−1,355	
Liquidity balance	−5,106	−1,551	−158	−1,430	+3,244	−1,826

[1] Government-financed merchandise exports listed as "Government Exports."
[2] Income on direct investments includes fees and royalties.
[3] Tourism includes passenger fares and travel receipts and expenditures, except for foreigners' payments to U.S. carriers for transport between 3d countries, which is included in other services.
[4] Excludes nonscheduled repayments of debt to U.S. Government, included in liquidity balance.
[5] Government category composed of nonmilitary grants and loans.

Source: U.S. Department of Commerce, "Survey of Current Business," December 1973.

RECOMMENDATIONS FOR REVISION OF H.R. 10710, THE TRADE REFORM ACT OF 1973

Page 5, SECTION 2, STATEMENT OF PURPOSES, subsection (2), after the the word "trade" and before the period, insert the words:

"Characterized, insofar as possible by the application of the principles of reciprocal, national, and most-favored-nation treatment for trade and services, including tourism, transportation, technology, accounting, insurance, construction, architecture and investments."

Page 147, SECTION 601, DEFINITIONS, insert the following new subsections (10) and (11) after subsection (9) on line 9 as follows:

"(10) The term "trade" includes commerce in manufactures, commodities, and services, including tourism, technology, transportation, accounting, insurance, construction, architectural services and investments.

"(11) The term "commerce" includes commerce in goods as well as services including tourism, technology, transportation, accounting, insurance, construction, architectural services and investments."

STATEMENT ON BEHALF OF AMERICAN INSTITUTE OF MARINE UNDERWRITERS

This statement is submitted by the American Institute of Marine Underwriters. The Institute was founded in 1898 and is an association of 110 insurance companies writing marine insurance in one or more states of the United States.

Normally, transportation insurance is negotiated between the buyer and the seller of goods in world commerce. The terms of the letter of credit (or other commercial documents) will designate which party is to purchase the insurance. Freedom of choice in placing transportation insurance has been restricted in two ways: (1) by requiring imports to be insured in the country of importation (in at least 16 countries known to us), and in some cases exports must be insured in the country of exportation, e.g., Zambia; (2) by imposing discriminatory taxes on transportation insurance placed with foreign countries (at least 3 countries known to us) or by restrictive import licensing and exchange control regulations (as in the case in at least 8 countries known to us).

The prospect of expanded trading with other countries with which trade agreements are being negotiated, notably countries with government controlled economies, raise the prospect that American companies may not be given the opportunity to compete freely.

This state of facts was recognized by the House Committee on Ways and Means when it considered this bill. In its report (House Report No. 93-571), it stated at page 66:

"It is the intent of the committee that 'commerce,' as it is used in section 301 (a), is to include the services as well as goods. Although the committee understands that the trade agreements of the type authorized under title I of the bill do not usually extend to the treatment of services, it is much concerned over present practices of discrimination against U.S. service industries including, but not limited to, transportation, tourist, banking, insurance, and other services in foreign countries. It is the committee's intent that the President give special attention to the practical elimination of this discrimination by the use of authority under this provision, to the extent feasible, as well as steps he may take under other authority. This intent is further indicated in the section 163 requirement that he report to Congress on the results of action taken to remove this discrimination in international commerce against U.S. service industries."

In view of the foregoing, we submit the following amendments to section 304 (a) of the "Trade Reform Act of 1973":

"Section 301. Responses to certain trade practices of foreign governments.

(a) Whenever the President determines that a foreign country or instrumentality—

(1) Maintains unjustifiable or unreasonable tariff or other import restrictions on products *and/or commercial services* which impair the value of trade commitments made to the United States or which burden, restrict, or discriminate against United States commerce,

(2) Engages in discriminatory or other acts or policies which are unjustifiable or unreasonable and which burden or restrict United States commerce, or

(3) Provides subsidies (or other incentives having the effect of subsidies) on ~~its exports~~ of one or more products to the United States or to other foreign markets which have the effects of substantially reducing sales of the competitive United States product or products *and/or commercial services* in the United States or in those other foreign markets, the President shall take all appropriate and feasible steps within his power to obtain the elimination of such restrictions or subsidies, and he—

(A) may suspend, withdraw or prevent the application of, or may refrain from proclaiming, benefits or trade agreement concessions to carry out a trade agreement with such country or instrumentality; and

(B) may impose duties or other import restrictions on the products *and/or commercial services* of such foreign country or instrumentality for such time as he deems appropriate.

(b) In determining what action to take under subsection (a) the President shall consider the relationship of such action to the international obligations of the United States and to the purposes stated in section 2. Any action taken under subsection (a) may be on a nondiscriminatory treatment basis or otherwise; except that, in the case of a restriction, act, policy, or practice of any foreign country or instrumentality which is unreasonable but not unjustifiable, the action taken under subsection (a) shall be taken only with respect to such country or instrumentality.

(c) The President in making a determination under this section, may take action under subsection (a)(3) with respect to the exports of a product *and/or commercial services* to the United States by a foreign country or instrumentality if—

(1) the Secretary of the Treasury has found that such country or instrumentality provides subsidies (or other incentives having the effect of subsidies) on such exports *and/or commercial services;*

(2) the Tarffi Commission has found that such exports to the United States have the effect of substantially reducing sales of the competitive United States product or products in the United States; and

(3) The President finds that the Antidumping Act, 1921, and section 303 of the Traffic Act 1030 are inadequate to deter such practices.

(d) The President shall provide an opportunity for the presentation of views concerning the import restrictions, acts, policies, or practices referred to in paragraph (1), (2), or (3) of subsection (a). Upon request by any interested person, the President shall provide for appropriate public hearings with respect to such restrictions, acts, policies, or practices after reasonable notice, and he shall provide for the issuance of regulations concerning the conduct of hearings under this subsection and subsection (e).

(e) Before the President takes any action under subsection (a) with respect to the import treatment of any product *and/or commercial services*—

(1) he shall provide an opportunity for the presentation of views concerning the taking of action with respect to such product,

(2) upon request by any interested person, he shall provide for appropriate public hearings with respect to the taking of action with respect to such products *and/or commercial services*, and

(3) he may request the Tariff Commission for its views as to the probable impact on the economy of the United States of the taking of action with respect to such product.

CALIFORNIA CHAMBER OF COMMERCE,
January 10, 1974.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LONG: The California Chamber of Commerce wishes to submit by means of this letter its position on HR 10710, the Trade Reform Act of 1973, as modified and passed by the House of Representatives on December 11, 1973.

We ask that the Chamber's views on HR 10710 be included as testimony in the hearings record. Copies of this letter have been sent to othe other members of the Finance Committee and to Senators Cranston and Tunney.

The California Chamber of Commerce is pleased to note that almost all of the recommendations it made to the House Ways and Means Committee during its consideration of HR 6767 have been incorporated into HR 10710. Thus, the Chamber unequivocally supports Title I, II, III, V, and VI of the bill. The Chamber believes that these measures will give the President: (1) full freedom, flexibility and leverage in negotiating trade agreements with foreign nations, (2) the ability, when required, to extend adequate adjustment assistance to workers and firms, (3) the needed power to curb unfair foreign trade practices and to restrict imports whose rapid growth seriously disrupts or threatens to disrupt the U.S. market, and (4) the ability to assist the developing countries by permitting duty free entry of certain of their products into the United States market.

In addition the California Chamber of Commerce supports the amendment proposed by Senator Mondale and carried on pages S 21683 thru 21686 of the December 8, 1973 Congressional Record. The Mondale amendment, co-sponsored by Senator Ribicoff, would update the Trade Reform Act of 1973 to deal with the pressing need to assure equitable access to supplies of food, raw materials and manufactured goods which we and other nations need to support our growing economies. The events of the past few months have clearly demonstrated the importance, in an increasingly interdependent world, of equitable access to essential raw materials. Certainly if the developed countries of the world have an obligation to help the developing countries increase their economic growth, the countries that have valuable resources have an obligation to use them in ways which, for a fair return, will benefit rather than injure the other nations of the world.

The California Chamber, however, looks with disfavor upon Title IV of HR 10710—Trade Relations With Countries Not Enjoying Non-discriminatory Treatment—as modified by the Vanik amendment and passed by the House of Representatives. The Chamber believes that passage of Title IV into law would be counter-productive and thus urges its deletion from HR 10710. In the Chamber's opinion there are four major reasons why Title IV should be deleted from the bill:

1. The humanitarian intent behind the tying of the extension of non-discriminatory tariff treatment, credits and credit and investment guarantees to the freedom to emigrate is commendable. However, passage of Title IV into law is likely to increase Soviet resentment and thus, increase the difficulties faced by the Jews and other minorities in the Soviet Union. The Soviets do not need trade with the United States enough to acquiesce in our interference in their affairs just as we, if the situation were reversed, do not need Soviet raw materials enough to permit their interference in our affairs. Instead of changing the nature of their society for increased trade, there is a good possibility that the Soviets, confronted with Title IV, may adopt even more repressive policies. This could include further, perhaps indirect, harrassment of minorities or even an outright prohibition of emigration altogether. Clearly, the passage of Title IV into law is not worth the risk of increasing Soviet repression and/or provoking a decision to cut back on Jewish emigration now occurring at a rate of more than 3,000 a month.

2. Much of the recent improvement in U.S.–Soviet relations has been brought about through private persuasion and quiet diplomacy. This type of slowly developed and fragile detente, possible in large part because of the Soviet desire for increased trade, is needed more than ever today, especially in view of the explosive Middle East situation. The passage of Title IV into law would be a step away from a policy of detente—progress through private diplomacy—and would force the U.S. and U.S.S.R. back into a policy of confrontation. Such an undermining of U.S. efforts to bring about changes in internal Soviet policy through persuasion and cooperation would not be in the interest of the United States nor would it be in the interest of Israel.

3. The elimination of credits and credit and investment guarantees would reduce the substantial growth which has occurred in recent years in U.S. exports of peaceful, non-strategic goods to the U.S.S.R., to the Socialist Countries of Eastern Europe and the People's Republic of China. In 1073 U.S. exports to these countries were well over 2½ billion dollars while imports were some 500 to 550 million dollars, netting a U.S. trade surplus of some 2 billion dollars. A good measure of this growth has been due to the recent more realistic attitude of the U.S. Government towards the improvement of East-West trade. This demonstration of interest in trade, including the elimination of unnecessary export controls and the ability to extend credits in certain well-warranted cases, has encouraged the Socialist countries. It has also encouraged U.S. businessmen to make major long term commitments in funds and personnel which are required to develop these complex and difficult markets. U.S. businessmen will not continue long-range efforts of this type if our Government adopts restrictive policies or an "on and off" attitude. Passage of Title IV into law would put the United States into an "off" position, discourage U.S. businessmen, and once again, effectively deliver much of the sizable and growing Socialist market to our West European and Japanese competitors, all of whom are in business for the long haul and none of whom restrict themselves on matters of credit.

4. Title IV is a serious judgment on the morality of another country and such an expression should not be handled as an amendment to legislation permitting the President to improve U.S. trade.

In summary, the California Chamber of Commerce believes, along with the House Ways and Means Committee, that prohibiting the extension of nondiscriminatory tariff treatment to countries restricting emigration would adequately indicate to the Soviets and the rest of the world the importance the United States places on human rights.

In the case of Title IV as passed by the House, however, the additional far reaching restrictions on credits and credit and investment guarantees would have a limiting effect on U.S. foreign policy and U.S. trade, delaying and frustrating the solution of many of the world's deep seated problems for many years to come. Clearly it would be better to strike Title IV from HR 10710 and hold it in abeyance until such time as hearings can be held to study and weigh its possible effects on the Socialist Countries and on the United States, and especially until we have had a chance to see what progress détente and quiet diplomacy will make in the Middle East talks.

Senator Long, we appreciate this opportunity to make our views known and wish to commend you for giving high priority to the hearings of the Trade Reform Act of 1973.

Sincerely,

JOHN T. HAY,
Executive Vice President.

Statement of the Copper & Brass Fabricators Council, Inc.

Summary

SECTOR-BY-SECTOR TARIFF NEGOTIATIONS

The negotiation of mutual tariff reductions can only be "mutual" if made within a framework of industries that are related. It is hardly mutual for reductions in tariffs on industrial products to be offset by reductions in consumer products.

ESCAPE CLAUSE RELIEF

The relief granted to domestic industry from the impact of imports which actually cause or threaten to cause serious injury to domestic industry should be sufficient to relieve the injury or eliminate the threat of such injury. No arbitrary limit should be placed on the amount of escape clause relief available to domestic industry in such cases.

COUNTERVAILING DUTIES

The clear statutory remedy against the unfair trade practices of import bounties and grants can only be effective to discourage unfair competition by foreign fabricators if that remedy is inevitably applied once the import bounty or grant is found to exist. That effectiveness could and would be destroyed or minimized by making its application in countervailing duty cases subject to the discretion of the Secretary of the Treasury.

ANTIDUMPING

A statutory right of judicial review in antidumping cases should be conferred on domestic fabricators. Such a provision would be wholly consistent with the proposed amendment to Section 516 of the Tariff Act of 1930 to so specifically permit judicial review of negative countervailing duty determinations.

Statement

The Copper & Brass Fabricators Council, Inc., with offices at 1015 18th Street, N.W., Washington, D.C., is a membership corporation formed for the purpose of promotir" the interests of domestic fabricators of copper and brass products, particul' 'y as they relate to the exports of such products from, and the imports of such p' ucts into, the United States; and to other activities in connection with Federa 'egulatory matters affecting fabricators of copper and brass mill products. The Council consists of 27 domestic brass mill companies that account for about 85 percent of the total production of the industry in this country. A list of our members is attached as Exhibit A.

On May 24, 1973, the Council's Managing Director appeared before the Committee on Ways and Means on behalf of the Council, and testified in support of a number of amendments to the Trade Expansion Act of 1962 as proposed in H.R. 6767 (which was subsequently reported out favorably in October as H.R. 10710). Strong objections were taken to other proposals in the Bill. A copy of the Council's testimony is attached hereto and incorporated herein by reference.

In its testimony before the Committee on Ways and Means, the Council urged the adoption of amendments to the "escape clause" provisions which are now incorporated in H.R. 10710, and which establish less restrictive standards for the imposition of import restraints—more specifically, the elimination of the causal link between increased imports and trade agreement concessions, and the substitution of "substantial" for "major" cause with respect to the relationship between increased imports and injury to industry.

The Council also urged the codification of time limitations in Treasury Department antidumping proceedings.

It similarly urged the imposition of time constraints on the Secretary of the Treasury in acting to impose countervailing duties, and supported the extension of such duties to duty-free imports.

Each of those amendments were essentially incorporated in H.R. 10710 and the Council continues to urge their inclusion in any trade bill ordered out by the Senate Finance Committee.

As is pointed out in greater detail in the attached copy of the Council's testimony, the strengthening of statutory remedies available to United States industry injured or threatened with injury by illegal or unfair foreign imports is a matter of urgent interest to the domestic brass mill industry. It does not seek an umbrella of high tariffs to protect it against fair competition from foreign fabricators. It asks only for the opportunity to compete with them on a fair basis. Such a basis clearly does not exist, however, when our Government requires domestic producers to compete with foreign producers who not only enjoy lower labor and other production costs, but who also receive export subsidies from their governments and find they can continue to defy this country's antidumping laws with impunity.

It is for these reasons that we urge that the pending legislation include additional provisions to supplement those already contained in H.R. 10710.

SECTOR BY SECTOR TARIFF NEGOTIATIONS

The Council urges the Committee to provide in Section 101 for sector by sector negotiations of tariff agreements. A sector by sector approach is already required by Section 102(c) for negotiations on non-tariff trade barriers. The negotiation of mutual tariff reductions should be within the framework of particular industries which are related. For example, it is hardly "mutual" for reductions in tariffs on brass mill or other industrial products to be offset by reductions in foreign tariffs on consumer or agricultural products.

ESCAPE CLAUSE RELIEF

We strongly urge the total elimination of any restriction in Section 203 that limits the extent of escape clause relief which may be granted by the increase in rates of duties. Section 203 would limit such increases to not more than 50 percent ad valorem above the rate (if any) existing at the time the President proclaims an increase in duty on an article causing or threatening to cause serious injury to industry. As originally introduced in the House, Section 203 contained no such limitations. We do not believe that the protection of domestic industry from imports which actually cause or threaten to cause serious injury to domestic industry should be subject to an arbitrary, mechanical duty limitation. The remedy rather should be free of artificial limitations and available in such measure as to fully serve the purpose of the statutory provisions purporting to grant such a remedy. It should not, in any event, remain subject to the current provisions of Section 351(b) of the Trade Expansion Act of 1962, limting the relief which may be granted by the increase of duties to not more than 50 percent above the rate existing on July 1, 1934.

COUNTERVAILING DUTIES

As stated earlier we strongly endorse the proposed strengthening amendments to the countervailing duty provisions of the bill. We especially support those relating to time limitations, the extension of such duties to duty-free imports, the provision for judicial review, and making mandatory the imposition of countervailing duties on dutiable merchandise whch the Secretary determines to benefit from a bounty or grant.

We strongly oppose, however, the 4-year temporary discretionary authority conferred on the Secretary by Section 303. To now impose time limits on the processing of complaints, but leave the matter of actually granting related relief to the discretion of the Secretary is to drastically reduce the effective availability of the statutory remedy against recognized unfair trade practices. The attached copy of our testimony cites the historic disinclination of Secretaries of the Treasury to exercise discretionary authority. The Ways and Means Committee's report on H.R. 10710 observes that

"The Committee assumes that it may be necessary to further amend section 303 depending on the outcome of . . . [forthcoming] . . . negotiation, assuming that they terminate in an agreement acceptable to the United States." [1]

It would seem the better practice, and in the best interest of United States industry, if the imposition of the statutory remedy is made mandatory now on the Secretary, and that possible, future amendments to diminish that remedy be left to such time as they may become actually needed as trading concessions in any future international trade negotiations. Any such actual future need is, of course, highly speculative and theoretical at this time. The current need for the proposed statutory remedy is demonstrably concrete and developed in public testimony before this and the Ways and Means Committee.

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[1] H.R. Rep. No. 93–571, 93 Cong., 1st Sess. 76 (1973).

ANTIDUMPING

The Council additionally urges that the bill be further amended to confer on domestic industry a specific statutory right to judicial review in antidumping cases. Advisory letters from the Secretary of the Treasury attesting to the current availability of such review and the Committees' agreement with the Secretary's letter are far less concrete than a statutory provision specifically granting that right. Such a provision would be wholly consistent with, and companion to, the proposed amendment to Section 516 of the Tariff Act of 1930 to so specifically permit judicial review of negative countervailing duty determinations. And such a provision is needed because of the serious legal cloud over the right of judicial review to domestic industry, and the absence of any precedent whatsoever. This Committee approved such an amendment in the Trade Act of 1970, and there is no apparent opposition to the principle from Treasury or from any other source.

CONCLUSION

The Copper & Brass Fabricators Council vigorously endorses those provisions of H.R. 10710 which: establish less restrictive standards for the imposition of import restraints, codify time limits in Treasury Department antidumping and countervailing duty proceedings, provide for judicial review in countervailing duty cases, extend countervailing duties to duty-free imports; and, if limits are to be retained with respect to increases in duties in escape clause cases—the eliminating of the practical distinction between specific and ad valorem duties in such cases.

The Council strongly urges further amendment to H.R. 10710:

(1) to provide for sector by sector negotiations of tariff agreement,

(2) to totally eliminate any restrictions in Section 203 limiting the rates of duty to be imposed on imports of articles causing or threatening to cause serious injury to domestic industry,

(3) to totally eliminate any discretionary authority in the Secretary of the Treasury in imposing countervailing duty sanctions on imports found to benefit from a bounty or grant, and

(4) to confer on domestic industry a specific statutory right to judicial review in antidumping cases.

Respectfully submitted,

ROBERT J. WARDELL,
Managing Director.

Attachments.

COPPER & BRASS FABRICATORS COUNCIL, INC.,
Washington, D.C.

EXHIBIT A

MEMBERSHIP LIST

Anaconda American Brass Co.,
414 Meadow Street,
Waterbury, Conn. 06720.

Bridgeport Brass Co., Inc.,
30 Grand Street,
Bridgeport, Conn. 06601.

Bridgeport Rolling Mills Co.,
Bridgeport, Conn. 06601.

Cerro Copper Products,
Division of Cerro Corp.,
East St. Louis, Ill. 62202.

Cerro Metal Products,
Division of Cerro Corp.,
Bellefonte, Penna. 16823.

Chase Brass & Copper Co., Inc.,
20600 Chagrin Boulevard,
Cleveland, Ohio 44122.

Chicago Extruded Metals Co.,
1812 South 54th Street,
Cicero, Ill. 60650.

Cities Service Co.,
New Haven Copper Operations,
79 Main Street,
Seymour, Conn. 06483.

Extruded Metals,
21800 Greenfield Road,
Detroit, Michigan 48237.

Howell Metal Co.,
New Market, Va. 22844.

Hussey Metals Division,
Copper Range Co.,
Leetsdale, Pa. 15056.

Linderme Tube Co.,
1500 E. 219th Street,
Cleveland, Ohio 44117.

The Miller Co.,
99 Center Street,
Meriden, Conn. 06450.

The National Copper & Smelting Co.,
6075 Cochran Road,
Solon, Ohio 44139.

New England Brass Co.,
Park Street,
Taunton, Mass. 02780.

Olin Corp.-Brass Group.
East Alton, Ill. 62024.

Penn Brass & Copper Co.,
P.O. Box 8188,
Erie, Penna. 16505.

Penn Capillary Tube Co.,
New Ross, Ind.

Phelps Dodge Brass Co.,
P.O. Box 2,
Dayton, N.J. 08810.

Reading Industries, Inc.,
530 Main Street,
Fort Lee, N.J. 07024.

Revere Copper & Brass, Inc.,
605 Third Avenue,
New York, N.Y. 10016.

Robintech, Inc.,
P.O. Box 2342,
Fort Worth, Tex. 76101.

Scott Brass, Inc.,
50 Taylor Drive,
East Providence, R.I. 02916.

Scovill Manufacturing Co.,
99 Mill Street,
Waterbury, Conn. 06720.

Triangle Pipe & Tube Co., Inc.,
New Brunswick, N.J. 08903.

Volco Brass & Copper Co.,
Kenilworth, N.J. 07033.

Waterbury Rolling Mills Co.,
East Aurora Street
Waterbury, Conn. 06720.

Location of Brass Mills

Exhibit B

ALABAMA: Decatur.
ARKANSAS: Wynne.
CALIFORNIA:
- Los Angeles.
- Newark.

CONNECTICUT:
- Ansonia.
- Bridgeport.
- Bristol.
- Meriden.
- Newtown.
- New Milford.
- Norwalk.
- Seymour.
- Stratford.
- Thomaston.
- Waterbury.

ILLINOIS:
- Chicago.
- Cicero.
- Clinton.
- Danville.
- East Alton.
- East St. Louis.

INDIANA:
- Anderson.
- Indianapolis.

KENTUCKY:
- Eminence.
- Franklin.

MASSACHUSETTS:
- Attleboro.
- New Bedford.
- Taunton.

MICHIGAN:
- Adrian.
- Belding.
- Detroit.
- Marysville.
- Port Huron.
- Southfield.
- Warren.

MISSISSIPPI: Fulton.
NEW JERSEY:
- Fort Lee.
- Kenilworth.
- New Brunswick.
- Patterson.
- Riverside.

NEW YORK:
- Buffalo.
- New York City.
- Rome.

OHIO:
- Bryan.
- Cleveland.
- Elmore.
- Mentor.
- Mountpelier.
- Solon.

PENNSYLVANIA:
- Bellefonte.
- Brave.
- Cornwells Heights.
- Erie.
- Leetsdale.
- North East.
- North Wales.
- Ontelaunce.
- Reading.
- Zelienople.

RHODE ISLAND:
- Cranston.
- Lincoln.
- Providence.

TENNESSEE: Pulaski.
TEXAS: Hillsboro.
VIRGINIA: New Market.
WASHINGTON: Bellington.
WISCONSIN:
- Kenosha
- Milwaukee.

IMPORTS OF COPPER AND BRASS MILL PRODUCTS EXHIBIT C

In Thousands of Pounds – Metal Weight

DECEMBER 1972

PERIOD	COPPER: Plate, Sheet, Roll & Strip	COPPER: Foil	COPPER: Seamless Tube	COPPER: TOTAL COPPER	COPPER ALLOYS: Plate, Sheet & Strip	COPPER ALLOYS: Foil	COPPER ALLOYS: Rod	COPPER ALLOYS: Angles, Shapes & Sections	COPPER ALLOYS: Seamless Tube	COPPER ALLOYS: Wire	COPPER ALLOYS: TOTAL COPPER ALLOYS	GRAND TOTAL	Monthly Average	PERIOD
1951	1/	2/	948	14,973	3/	2/	3/	4/	1,882	447	14,026	28,999	2,417	1951
1952			5,146	22,180					882	368	33,936	56,116	4,676	1952
1953			1,166	12,342					7,277	326	33,773	46,115	3,843	1953
1954			5,768	17,924	5,103		12,219		15,154	505	32,981	50,905	4,242	1954
1955	18,289		11,595	29,884	6,251		11,644		20,708	382	38,985	68,869	5,739	1955
1956	16,592		23,198	39,790	7,454		15,111		23,881	802	47,248	87,038	7,253	1956
1957	22,337		31,396	53,733	6,770		16,819		28,431	2,895	54,915	108,648	9,054	1957
1958	37,924		46,430	84,354	13,708		19,095		33,510	2,991	69,304	153,658	12,805	1958
1959	42,490		51,857	94,347	26,119		23,985		38,500	5,992	94,596	188,943	15,745	1959
1960	25,919		45,121	71,040	26,214		22,327		28,148	5,352	82,041	153,081	12,757	1960
1961	14,532		20,343	34,875	25,335		17,244		24,319	3,602	70,500	105,375	8,781	1961
1962	17,509		13,585	31,094	28,712		17,887		29,355	2,713	78,667	109,761	9,147	1962
1963	16,787	5,661	12,169	34,617	30,094		18,976	262	32,706	3,407	85,445	120,062	10,005	1963
1964	18,685	21,983	13,743	54,411	29,612		15,782	1,228	40,383	3,831	90,836	145,247	12,104	1964
1965	21,988	25,227	19,550	66,765	29,987		9,944	791	41,113	1,944	83,779	150,544	12,545	1965
1966	20,788	18,915	51,116	90,819	50,509	13,133	42,953	1,034	46,753	2,321	156,703	247,522	20,627	1966
1967	22,270	22,553	31,549	76,372	47,882	11,627	27,237	827	36,268	1,854	125,695	202,067	16,839	1967
1968	45,270	41,048	48,692	135,010	44,091	19,712	14,070	1,219	46,636	2,375	128,103	263,113	21,926	1968
1969	18,474	13,794	31,358	63,626	32,013	13,475	10,305	1,713	44,157	2,026	103,689	167,315	13,943	1969
1970	18,181	12,193	36,355	66,729	36,295	11,437	6,137	774	40,139	3,226	98,008	164,737	13,728	1970
1971	24,060	18,714	42,793	85,567	54,909	19,493	5,927	1,206	47,389	3,953	132,877	218,444	18,204	1971
1972-12 Mo	28,779	22,971	50,778	102,528	70,525	21,749	10,227	1,966	52,981	4,313	161,761	264,289	22,024	1972-12 Mo
Prior Yr	24,060	18,714	42,793	85,567	54,909	19,493	5,927	1,206	47,389	3,953	132,877	218,444	18,204	Prior Yr
Jan.	1,775	2,367	3,998	2,140	6,420	3,763	697	221	4,852	439	16,392	24,532		Jan.
Feb.	1,759	2,193	2,970	6,922	5,483	2,315	702	161	5,974	307	14,942	21,864		Feb.
Mar.	1,750	2,191	4,975	8,916	6,150	1,389	623	47	5,050	355	13,614	22,530		Mar.
Apr.	1,793	2,302	4,296	8,391	5,090	1,898	470	93	3,907	285	11,743	20,134		Apr.
May	2,476	1,983	3,911	8,370	5,966	1,616	899	205	4,071	486	13,243	21,613		May
June	3,180	1,935	4,636	9,751	6,911	1,305	704	79	5,105	362	14,466	24,217		June
July	2,258	1,844	3,916	8,018	5,464	1,337	718	104	3,693	254	11,570	19,588		July
Aug.	3,558	1,367	4,225	9,150	6,727	1,096	714	101	5,753	478	14,869	24,019		Aug.
Sept.	2,251	1,290	4,181	7,722	6,022	1,296	837	123	2,690	173	11,141	18,863		Sept.
Oct.	2,745	1,562	4,947	9,254	5,584	1,613	1,009	129	3,960	205	12,500	21,754		Oct.
Nov.	2,929	1,909	3,793	8,631	6,375	2,028	1,442	73	4,094	516	14,528	23,159		Nov.
Dec.	2,305	2,028	4,930	9,263	4,333	2,093	1,412	630	3,832	453	12,753	22,016		Dec.

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EXPORTS OF COPPER AND BRASS MILL PRODUCTS

In Thousands of Pounds – Metal Weight

DECEMBER 1972

EXHIBIT C

PERIOD	COPPER: Plate, Sheet & Strip	COPPER: Foil	COPPER: Bars Straight Rod & Shapes	COPPER: Pipe and Tube	TOTAL COPPER	COPPER ALLOYS: Plate, Sheet & Strip	COPPER ALLOYS: Bar Rod & Shapes	COPPER ALLOYS: Wire	COPPER ALLOYS: Pipe and Tube	TOTAL COPPER ALLOYS	GRAND TOTAL	PERIOD
1951	1,145	1/	2/	4,319	5,464	1,657	1,827	2,892	2,915	9,291	14,755	1951
1952	1,106			5,182	6,288	1,851	4,423	1,339	2,801	10,414	16,702	1952
1953	734			3,244	3,978	1,283	2,517	559	5,716	10,075	14,053	1953
1954	600			2,397	2,997	872	910	753	1,731	4,266	7,263	1954
1955	1,083			2,583	3,666	1,434	1,296	724	2,314	5,768	9,434	1955
1956	674			3,101	3,775	1,674	1,468	813	2,839	6,794	10,569	1956
1957	529			2,708	3,237	1,578	1,170	906	2,923	6,577	9,814	1957
1958	334			3,216	3,550	1,109	1,130	655	2,395	5,289	8,839	1958
1959	627			1,598	2,225	1,146	1,030	693	2,547	5,416	7,641	1959
1960	1,001			1,449	2,450	1,300	1,143	647	2,070	5,160	7,610	1960
1961	710			1,897	2,607	1,155	1,315	450	2,687	5,607	8,214	1961
1962	697			1,728	2,425	2,274	1,820	665	3,528	8,287	10,712	1962
1963	675			2,315	2,990	1,335	1,573	1,123	4,238	8,269	11,259	1963
1964	796			2,866	3,662	2,228	2,082	680	2,732	7,722	11,384	1964
1965	1,860	432	2,705	1,789	6,786	6,869	4,146	1,632	3,759	16,406	23,192	1965
1966	621	979	2,121	1,039	4,760	2,387	3,457	2,233	3,863	11,940	16,700	1966
1967	494	1,268	668	1,431	3,861	2,225	4,357	1,821	4,184	12,587	16,448	1967
1968	288	1,451	2,226	1,194	5,159	2,459	3,254	2,158	3,041	10,912	16,071	1968
1969	850	2,323	2,008	1,906	7,087	4,653	4,157	2,453	3,525	14,788	21,875	1969
1970	717	2,618	3,681	2,129	9,145	4,551	6,057	4,032	3,309	17,949	27,094	1970
1971	572	933	931	2,499	4,935	4,224	12,868	3,474	5,123	25,689	30,624	1971
1972-12 Mo	558	323	1,747	2,282	4,910	7,947	14,310	2,508	4,070	28,835	33,745	1972-12 Mo
Prior Yr	572	933	931	2,499	4,935	4,224	12,868	3,474	5,123	20,689	30,624	Prior Yr
Jan.	9	2	67	169	247	436	1,251	318	253	2,258	2,505	Jan.
Feb.	83	14	16	63	176	583	1,758	250	331	2,922	3,098	Feb.
Mar.	20	4	313	159	496	302	1,985	277	389	2,953	3,449	Mar.
Apr.	52	14	26	106	198	795	1,173	226	346	2,540	2,738	Apr.
May	46	61	49	270	426	526	1,650	118	213	2,507	2,933	May
June	6	23	550	248	827	709	1,308	170	313	2,500	3,327	June
July	27	16	28	142	213	501	543	188	425	1,657	1,870	July
Aug.	16	57	130	300	503	687	797	137	421	2,042	2,545	Aug.
Sept.	44	57	102	154	357	818	571	154	295	1,838	2,195	Sept.
Oct.	108	18	41	333	500	856	1,217	173	287	2,533	3,033	Oct.
Nov.	76	48	287	149	560	845	1,295	258	246	2,644	3,204	Nov.
Dec.	71	9	138	189	407	889	762	239	551	2,441	2,848	Dec.

SOURCE: BUREAU OF CENSUS OF U. S.

NOTES: 1/ Not segregated prior to January 1965; alloy foil is included.
2/ Segregation available only back to January 1, 1965.

Figures for 1965, 1966 and 1967 revised to incorporate exports of Copper Bars, Straight Rods and Shapes, not available prior to January 1, 1965.

COPPER & BRASS FABRICATORS COUNCIL, INC.
1015 18th Street, N. W.
Washington, D. C. 20036

EXHIBIT D

BRASS MILL IMPORTS IN PERCENT OF COMMERCIAL MARKET (1) BY COMMODITIES

1970-1972 Inclusive

(In Millions of Pounds - Metal Weight)

	1972			1971			1970		
	Commercial Market	Net Imports	% of Commercial Market	Commercial Market	Net Imports	% of Commercial Market	Commercial Market	Net Imports	% of Commercial Market
COPPER (Not Alloyed)									
Plate, Sheet, Roll, Strip, Rod and Foil	385.4	49.2	12.8	358.8	40.3.	11.2	304.8	23.4	7.7
Seamless Tube	812.2	48.4	5.9	759.4	40.2	5.3	689.3	34.2	5.0
TOTAL COPPER	1,197.6	97.6	8.1	1,118.2	80.5	7.2	994.1	57.6	5.8
COPPER ALLOY									
Plate, Sheet, Strip and Foil	750.3	84.7	11.3	643.6	70.2	10.9	561.4	43.2	7.7
Rods, Angles, Shapes and Sections, Wire	861.2	-0-	-0-	681.0	(5.3)	-	615.6	-0-	-0-
Seamless Tube	171.7	49.0	28.5	162.1	42.3	26.1	168.1	37.0	22.0
TOTAL COPPER ALLOY	1,783.2	133.7	7.5	1,486.7	107.2	7.2	1,345.1	80.2	6.0
GRAND TOTAL	2,980.8	231.3	7.8	2,604.9	187.7	7.2	2,339.2	137.8	5.9

1/ Domestic Shipments plus net Imports less Military and Coinage.

SOURCE: BUSINESS AND DEFENSE SERVICES ADMINISTRATION
BUREAN OF THE CENSUS

COPPER & BRASS FABRICATORS COUNCIL, INC.
1015 - 18th Street, N. W.
Washington, D. C. 20036

May 15, 1973

EXHIBIT E

BRASS MILL PRODUCT IMPORTS AND MILITARY SHIPMENTS

1965 -- 1972

	NET IMPORTS	RATED SHIPMENTS
1965	127.	77.
1966	231.	326.
1967	186.	368.
1968	247.	393.
1969	145.	408.
1970	137.	260.
1971	187.	159.
1972	231.	176.

SOURCES: BDSA
BUREAU OF THE CENSUS

COMPARATIVE WAGES IN MANUFACTURING INDUSTRIES IN THE U.S.; AND IN PRINCIPAL FOREIGN COUNTRIES SHIPPING BRASS MILL PRODUCTS TO THE U.S.

EXHIBIT F

COUNTRY	SEX*	DOLLARS PER HOUR										PER CENT INCREASE 1963-1972	PERCENT OF 1963	U.S. 1972	INCREASE @ PER HR. 1963-1972
		1963	1964	1965	1966	1967	1968	1969	1970	1971	1972				
UNITED STATES	MF	2.46	2.53	2.61	2.71	2.83	3.01	3.19	3.36	3.56	3.80	55	100	100	1.34
CANADA	MF	1.81	1.88	1.97	2.08	2.22	2.40	2.79	2.87	3.28	3.50	93	74	92	1.69
UNITED KINGDOM	M	1.03	1.11	1.23	1.29	1.16	1.23	1.34	1.51	1.74	2.04	98	42	54	1.01
EUROPEAN COMMON MARKET															
WEST GERMANY	MF	.87	.94	1.03	1.11	1.15	1.20	1.43	1.63	1.91	2.27	161	35	60	1.40
FRANCE	MF	.54	.58	.61	.64	.69	.76	.76	1.04	1.17	1.44	167	22	38	.90
NETHERLANDS	MF	.58	.66	.72	.81	.87	.95	1.22	1.30	1.54	1.91	229	25	50	1.33
BELGIUM	M	.74	.83	.90	.97	1.04	1.09	1.20	1.29	1.50	1.89	155	30	49	1.15
ITALY	MF	.54	.59	.62	.64	.68	.71	.78	.98	1.16	1.37	153	22	36	.83
SWEDEN	MF	1.40	1.54	1.69	1.85	1.80	1.91	2.14	2.32	2.53	3.15	125	56	83	1.75
SWITZERLAND	M	.98	1.06	1.14	1.22	1.33	1.42	1.49	1.61	1.99	2.12	116	40	55	1.14.
YUGOSLAVIA	MF	.19	.24	.20	.27	.30	.33	.41	.48	.42	.57	200	8	15	.38
JAPAN	MF	.42	.46	.50	.56	.63	.74	.91	.94	1.12	1.54	266	17	40	1.12

* M–Male only; MF–Male and Female

GENERAL NOTE: The figures generally relate to earnings of all wage-earners. They normally include bonuses, cost of living allowances, taxes, social insurance contributions payable by the employed person and, in some cases, payments in kind. They normally exclude social insurance contributions payable by the employers, family allowances and other social security benefits.

SOURCE: International Labour Office – United Nations Monthly Bulletin of Statistics; 1972 figures from U.S. Dept. of Labor, Bureau of Labor Statistics.

COPPER & BRASS FABRICATORS COUNCIL, INC.
1015 EIGHTEENTH STREET, N.W.
WASHINGTON, D.C. 20036

MAY 15, 1973

Statement by the American Cyanamid Co., Wayne, N.J.

Summary of Comments and Recommendations

1. While the President should be given broad powers to negotiate on behalf of the United States, he should be required to do so within criteria set by Congress and be accountable to the Congress consistent with the constitutional obligation of the Congress to regulate foreign commerce.

2. Current laws and practices governing the taxation of foreign source income should be retained without change to avoid penalizing American business by placing it at a competitive disadvantage with respect to foreign companies in both foreign and domestic markets.

3. The authority for the President to extend most-favored-nation treatment to Eastern European nations should be granted since it offers new markets to U.S. business and represents a step toward achieving a stable and peaceful world.

4. The proposed Act should recognize that environmental control standards of the United States and other countries from which products would be imported into the United States must be a factor in determining international tariffs and trade policy between the United States and other nations. Higher capital investment and production costs resulting from required environmental controls are definite factors in competitive trade.

5. The Executive branch of government should be required to sek and use the advice of expert representatives of American business, industry, labor and agriculture in the preparation for and in the forthcoming trade and tariff negotiations. The proposed Advisory Committee for Trade Negotiations can serve as a desirable and useful mechanism in this regard. It is vital that negotiations of both tariff and non-tariff barriers be truly reciprocal in contrast to the outcome of past negotations.

Statement

American Cyanamid Company (Cyanamid) is a diversified company which operates in four major segments: consumer, medical, agricultural and chemical.

Cyanamid sales in 1973 were approximately $1.46 billion. While our principal market is the United States, there has been a continuing demand for Cyanamid products and technology throughout the world. As a result, some 32 percent of our sales were made in more than 125 countries abroad.

Cyanamid employs more than 39,000 persons. We operate 64 domestic plants and 64 sales offices in 29 states.

Outside the United States, we have 43 manufacturing plants in 20 countries and 51 sales offices and research laboratories in 32 countries. We manufacture and market overall some 2,500 products.

Over the past 15 years, the dollar flow to the United States as a result of Cyanamid's export sales and the dividends, royalties and interest received by Cyanamid from foreign sources was in excess of $1.2 billion. During this same period foreign operations have contributed more than $327 million to Cyanamid's net after tax earnings.

Our direct foreign investment has had a strong pulling effect on Cyanamid's exports which in 1973 were in excess of $90 million, some two-thirds of which were sent to the company's subsidiaries abroad in the form of intermediates and raw materials. Jobs for 1,200 U.S. production workers are provided by these foreign sales along with an additional 800 management positions in the United States, including jobs in research and development. Our foreign operations are staffed primarily by local personnel. In fact, Cyanamid employs only 28 U.S. citizens in its international subsidiaries.

Cyanamid's involvement in domestic and international business and the knowledge and experience gained therefrom make it clear that there is a vital need at this time for negotiations of both tariff and non-tariff barriers to be truly reciprocal if they are to benefit the United States and the other nations involved.

This can be accomplished only if both side come to the negotiating table with a willingness to recognize the realities of doing business and a readiness to participate in hard and mutually fruitful bargaining.

The United States must be ready to make concessions, but only in return for equal benefits to this nation and its people. Past experience has demonstrated that our national policy of free trade has not led to fair trade for the United

States, and, in some respects, may have been detrimental to U.S. businesses, individual citizens and labor.

Cyanamid endorses in principle the proposed Trade Reform Act. This is especially so with respect to those provisions that seek to maintain and not impair the competitive position of American industry in the world market place. It is in that spirit and to that effect that Cyanamid offers some comments and recommendations on particular aspects of the proposed Trade Reform Act and suggested related legislation.

NEGOTIATIONS—THE PRESIDENT AND CONGRESS

Cyanamid believes in the importance of and supports international discussions aimed at improving our trading system. While the President should be given broad discretionary powers to negotiate trade arrangements on behalf of the United States, he should do so within the criteria established by Congress and be accountable to the Congress. The constitutional authority to regulate foreign commerce is vested within the Legislative Branch. Accordingly, the proposed Congressional participation as official advisors to the U.S. negotiators is consistent both with the Constitution and the President's invitation to Congress to "set up whatever mechanisms it deems best for closer consultation and cooperation to ensure that its views are properly represented as trade negotiations go forward."

We also wish to emphasize the valuable experience and knowledge acquired by U.S. business in its international role. For that reason, we are pleased to note provisions for the transmittal of advice from selected industry groups concerning national negotiating objectives and bargaining positions in specific product sectors prior to entering into a trade agreement. Cyanamid supports, therefore, the proposed Advisory Committee for Trade Negotiations, with representatives from industry, labor and agriculture.

To demonstrate Cyanamid's interest in serving in an advisory capacity, we can note the active participation of our personnel with the Trade Advisory Task Forces of the Office of the Chemical Industry. Mr. John Ludden, President of Cyanamid's Pigments Division, is a member of the group's Policy Committee, and other Cyanamid experts are serving on task forces for medicinals, dyes, rubber process chemicals and pigments.

In developing the guidelines for trade negotiations through passage of enabling legislation, the Congress should be mindful that while nations may become trading partners, the individual trading units of those nations, i.e., the business corporations, are severe competitors. Even as the negotiating nations seek an increase in overall trade through elimination of barriers through common agreement, the negotiators must obtain a hard and reciprocal agreement based on the hard facts of existing and anticipated competition.

TAXATION OF FOREIGN INCOME

Although we recognize that the subject is not yet an integral part of the proposed legislation, we anticipate that the Finance Committee will be asked to consider tax revisions on U.S. foreign investment, and therefore, we would like to comment on this matter.

American foreign investment has produced beneficial results for the United States. It has improved the U.S. balance of trade and overall balance of payments at a time of heightened foreign competition, generated additional and enhanced job opportunities for American workers and generally strengthened the U.S. economy. Moreover, the benefits of U.S. overseas investment transcend this nation; they have been positive contributors to developed and developing countries all over the world.

In Cyanamid's case, foreign operations have contributed more than $327 million to net after tax earnings over the last 15 years. More than half of our subsidiaries' earnings have been returned to the United States as dividends, and, importantly, both U.S. and foreign income taxes have been paid on these dividends. Our subsidiaries retain a portion of their earnings as working capital and for additional plant facilities to permit their business activities to grow and to ensure a strong competitive position for Cyanamid's products in foreign markets.

~~Cyanamid~~ and other U.S. enterprises operating overseas currently pay heavy income taxes to their host countries. We have had to invest abroad in order to remain competitive with foreign companies. The competition we face is such that if we are restricted in our ability to make foreign investments, we foresee our competitors exploiting this situation to our very real detriment.

For example, our studies indicate that if the U.S. tax laws were changed to impose tax currently on the entire unremitted earnings of foreign subsidiaries, Cyanamid's additional tax payments would approximate $4 million annually. Of this amount, it is estimated that approximately $2 million would be paid to foreign governments as withholding taxes and only $2 million would be paid as additional U.S. taxes.

This is because sound business practice for Cyanamid (and presumably for other companies similarly situated) would undoubtedly dictate that the entire earnings of foreign subsidies actually be distributed as dividends in order to satisfy in full the ultimate liability for both foreign an U.S. taxes on such earnings rather than pay penalty taxes to the United States on unremitted earnings.

Payment of the dividends and the increased foreign and United States taxes on those distributed earnings would necessitate additional methods of financing foreign operations or, alternatively ,the financial condition of foreign subsidiaries would deteriorate to the extent that they would lose their ability to maintain or expand market positions.

As a result, we disagree with the Treasury proposal to add a new section 951 (a)(1)(c) to the Internal Revenue Code so as to tax currently the U.S. shareholders of so-called "Foreign Tax Haven Manufacturing Companies." While this would be a limited exception to the tax principle that unremitted earnings of foreign subsidiaries are not taxed currently, it does involve an unwarranted tax penalty. It impinges on the determinations by foreign governments of the appropriate level and method of taxation within their geographical boundaries and could well induce them to raise the income and withholding taxes paid by U.S. interests.

The proposal also would include as tax incentives foreign countries' provisions for accelerated depreciation and investment allowances as well as grants for plant construction. These are widely accepted provisions in the tax laws of many countries to modify the burdensome corporate tax rates otherwise applicable generally in the foreign jurisdiction and not to attract plant investment without regard to the business purpose and necessity for such project.

Application of such a provision to foreign tax incentive operations will constitute a penalty on U.S. companies with foreign-owned subsidiaries which will benefit from such tax incentives. Other countries recognize the basic international taxation principle that the country where income is earned has the primary right to levy the appropriate tax on income earned within its borders. We submit that it is unreasonable for the United States to place a tax penalty on U.S. companies operating in tax incentive countries. To the extent that such a provision discourages foreign subsidiaries from using foreign tax incentives, there will be both short-term and long-term reductions in United States tax revenues from distribution of dividends from subsidiaries. There would be a weakening in the competitive posture of American firms vis-a-vis others operating in tax incentive countries, with a secondary negative impact on U.S. trade and domestic employment.

The United States system for taxing foreign source income has been developed over a period of some 50 years in an attempt to achieve equity, consistency with principles of international taxation and to serve as a sound base for a pattern of double taxation conventions with other countries. We are concerned that the current proposal to extend taxation on unremitted earnings would introduce an inequity into our system of taxing foreign income and impair the tax relationship with other countries.

The President's statement of April 10, 1973, in submitting the Trade Reform Proposal should be given the fullest emphasis in connection with any consideration of changing the United States system for taxing foreign income:

"Our existing system permits American-controlled businesses in foreign countries to operate under the same tax burdens which apply to its foreign competitors in that country. I believe that system is fundamentally sound. We should not penalize American business by placing it at a disadvantage with respect to its foreign competitors."

BROADENING OF INTERNATIONAL TRADE

As a business enterprise operating in a multipolar world, Cyanamid has traditionally supported appropriate bilateral and multilateral governmental efforts toward international negotiation and cooperation, rapprochement and equilibrium. We have always believed that man's best hope for prosperity remains a stable world in which nations seek peace and accommodation. Such a climate can broaden internationl commerce and permit industry to accomplish what it does best: innovate, create, manufacture, market and distribute. This activity, we feel, stimulates social progress and engenders prosperity, both here and abroad.

The proposed authority for the President to extend most-favored-nation (MFN) treatment to Communist nations represents, to us, a step toward achieving a stable and peaceful world. Moreover, it presents U.S. business with new markets, enabling us to increase production and employment, meet foreign competition more effectively, and contribute to the domestic economy.

We would support the safeguards in the proposed legislation that (1) provide for import relief measures to be imposed by the President resulting from Tariff Commission findings of "marketing disruption and material injury;" (2) protect industrial rights and manufacturing processes, trademarks and copyrights; (3) arrange for the settlements of commercial differences; and (4) promote trade, Moreover, we note that the national interest is further protected by the provisions, which we support, of a three-year limit on the initial extension of MFN treatment and suspension at any time for national security reasons.

Cyanamid recognizes that Congressional failure to pass this legislation places the government of the United States in the position of abrogating international agreements already negotiated, thus weakening the premises on which world trade is conducted, and denies U.S. companies business opportunities currently available to their foreign competitors.

Therefore, we recommend enactment of the MFN provisions of the original Trade Reform Act of 1973 as proposed by the Administration and containing the safeguards previously discussed. We would also recommend that Congress suggest additional trade and financial criteria to the President concerning the initial extension of MFN treatment and either its renewal or withdrawal through the Advisory Committee on Trade Negotiations.

Currently, Cyanamid is also concerned by proposals to restrict American exports of raw materials. Restrictions imposed by the United States would be counterproductive, we feel, because they would inevitably lead to retaliation by other countries. We recommend that Congress make a separate study of this situation to determine if special legislation is warranted, and we caution against sweeping and precipitate measures which could exacerbate rather than remedy the problem.

ENVIRONMENTAL CONTROL STANDARDS A FACTOR

Cyanamid believes that until international standards are developed with regard to environmental control related to manufacturing processes, individual nations will impose varying degrees of restrictions on local industry.

Pollution control has received heavy emphasis in the United States during the past few years and U.S. industrial organizations are having to bear greater financial burdens than many of their overseas competitors. Higher capital investment and production costs resulting from required pollution controls are becoming definite factors in competitive trade. For example, Cyanamid through 1972 made capital expenditures for pollution control equipment on a cumulative basis of $69 million and we expect to commit $34 million more through 1974. The annual costs of operating this equipment and of Cyanamid's pollution-control research were $11 million. And, large expenditures for pollution control will continue. These factors will become more significant during the life of the trade agreements to be negotiated at the next GATT round. As some nations place more emphasis on this facet of the quality of life than others, there will be differences between production processes and costs of companies operating in different countries.

We believe that in drafting trade legislation, Congress should indicate that marked disparities between pollution control standards and resultant costs should be considered and allowances therefor made to bring about comparative equity between the foreign and domestic producers. We believe that this will also encourage other countries to upgrade their own pollution control standards.

BUSINESS/GOVERNMENT COOPERATION

Cooperation between industry and government within the member nations of the GATT demonstrated clearly the effectiveness of the foreign negotiating teams in past sessions of the GATT. This was in contrast with the lack of such a relationship on the part of the United States.

This mistake cannot be repeated. Government agencies concerned with the negotiations and preparation therefor should be required under the proposed Act to actively seek and use the advice of expert representatives from business, labor and agriculture on the several tariff and trade subjects and products to be considered for negotiation at the GATT. Certainly the kind of body envisioned in the proposed Advisory Committee on Trade Negotiations would be a most useful mechanism for this purpose.

Until now, U.S. government responsibility in foreign commerce has been widely spread among a number of government agencies: the Departments of State, Commerce and Agriculture, the President's Special Trade Representative and others. Federal effort is aimed largely at promoting exports with little attention to foreign investment except for restrictions.

Government policy, attitudes and mechanisms are for the most part still tuned to the world of trade as it was 25 years ago.

The need for a change is becoming critical. Foreign governments, economic blocs and international agencies and forums are beginning to study the multinational company. U.S. multinationals are increasingly finding themselves in a defensive position, because international forums have every appearance of becoming a tug of war between nations with the MNC's in the middle. Unfair, unwarranted restrictions will not only be detrimental to the MNC's, but also threaten negative economic consequences for the U.S. economy.

U.S. government delegates to these agencies and forums must be supported by a firm U.S. policy which recognizes that the export of capital and technology in exchange for profits is equally as important to our economic well-being as the export and import of products.

In summary, Cyanamid appreciates the opportunity of submitting its views and recommendations to the Finance Committee. The central philosophy underpinning our comments is a belief in the efficacy of the private enterprise system in promoting material and social benefits. We are keenly interested in continuing our business overseas, and desire only equity in our dealings with our own government and the governments of the nations in which we operate. We are ever mindful that our success in delivering essential products for human, animal and plant health on a global basis depends on our ability to compete with foreign companies. The record shows, we believe, that our success yields manifold benefits to the United States and the world community. It is for this reason that we trust the Committee will give due consideration to this subject which is of vital concern to our economy and our company.

COMMONWEALTH OF PUERTO RICO, DEPARTMENT OF COMMERCE,
San Juan, P.R., April 4, 1974.

Hon. RUSSELL LONG,
Chairman, Senate Committee on Finance, U. S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: In lieu of a personal appearance, I respectfully submit the attached materials as written testimony to your Committee's public hearings on HR 10710, the Trade Reform Act of 1973.

The Commonwealth of Puerto Rico is seriously concerned about the anticipated negative impact on its economy due to the tariff and nontariff trade concessions of HR 10710. It should be noted that this impact is of a graver nature and magnitude than that which can be expected to affect specific sectors of the mainland economy.

Accordingly we feel it is necessary to provide your Committee with the enclosed materials which explain our position in more detail and specify those products and commodities we are particularly concerned about.

Cordially yours,

DAMIAN O. FOLCH,
Secretary of Commerce.

Enclosures.

POSITION PAPERS—APPENDIX A

PUERTO RICO AND INTERNATIONAL TRADE NEGOTIATIONS

The Commonwealth of Puerto Rico needs special consideration in international trade negotiations in order to maintain its economic stability. Such consideration would be consistent with previous recognition given to Puerto Rico's unique situation which has enabled it to participate in trade and tariff discussions. At the Kennedy Round negotiations, for example, Puerto Rico maintained a consultant in Geneva for over two months on an "as needed" basis to provide information and materials to the U.S. negotiators. Moreover, Commonwealth and U.S. officials met repeatedly to discuss special treatment for Puerto Rican trade interests. At the requests of U.S. officials, the Commonwealth prepared an analysis of areas where concessions from foreign nations might increase Puerto Rican export opportunities.

BACKGROUND

The Commonwealth status of Puerto Rico came into being as a result of an agreement "in the nature of a compact" between the United States and Puerto Rico in 1952. Puerto Rico is neither a state of the Union nor a territory. In 1953, at the urging of the United States, the United Nations General Assembly recognized Puerto Rico as an autonomous political entity—a free associated state linked to the United States by common citizenship, common defense, common currency and a common market. This special relationship renders the U.S. and Puerto Rico free to undertake certain arrangements which might be constitutionally impermissible for the states.

Under Puerto Rico's compact of association with the United States, the Federal income tax is inapplicable to Puerto Rico. Customs levies collected at Puerto Rican ports revert to the Treasury of Puerto Rico. Certain excise taxes collected in the U.S. on Puerto Rican products are paid over to Puerto Rico. The tariff rates on imports into Puerto Rico are generally the same as those established for imports into the U.S., but it should be noted that special distinctions have been made in the past.

Puerto Rico's economic growth has rested upon its duty-free access to the continental U.S. market. Puerto Rican economic development has been overwhelmingly geared to sales in the U.S., with some 90% of its exports going to the mainland. If the preferential access of Puerto Rico to the U.S. market is diminished by a general lowering of U.S. tariff barriers, without special consideration of Puerto Rican circumstances, the Commonwealth's ability to maintain an acceptable rate of economic growth will be seriously impaired presenting dangerous economic and political problems to the Commonwealth of Puerto Rico and, inevitably, to the U.S. Data covering a period of three decades indicate that economic recession in Puerto Rico is a direct stimulant to migrations of Puerto Ricans to the urban centers of the United States. International trade negotiations which (perhaps inadvertently) harm Puerto Rico's economic development program will inevitably stimulate migration from Puerto Rico.

Unfavorable negotiations on trade and tariff barriers maintained by foreign countries on certain products manufactured in Puerto Rico would be prejudicial to both the U.S. and Puerto Rican efforts to increase exports, and would be particularly injurious to Puerto Rico's endeavors to improve its economy through industrialization.

PRINCIPLES WHICH SHOULD BE ADOPTED BY THE UNITED STATES TO SAFEGUARD PUERTO RICAN TRADE AND TARIFF INTERESTS

The commonwealth of Puerto Rico submits that it is entitled to, and must be accorded, separate consideration and treatment in the course of the forthcoming trade negotiations under the auspices of the General Agreement on Tariffs and Trade. The history and nature of Puerto Rico's association with the U.S., its status as a developing area and its economic, political and strategic importance to the U.S. demonstrate the appropriateness and necessity of continued and extended separate treatment in the field of trade and tariffs.

Accordingly, the Commonwealth urges that the U.S. observe the principle under the four areas outlined below. We wish to stress particularly the importance of consultation between the U.S. and the Commonwealth on matters which directly affect the three million citizens of Puerto Rico.

1. As a general principle, the U.S. should not negotiate or adopt any tariff reductions or other measures which would tend to affect adversely the shipment of products from Puerto Rico to the U.S. without giving serious consideration to the specific Puerto Rican interests in each case. Both those products now being produced in Puerto Rico and those which Puerto Rico may reasonably expect to produce in the near future should be carefully considered. The U.S. should not reduce the tariffs on certain agricultural products merely because they are not produced on the U.S. mainland, notably where these products are significant to the Puerto Rico economy.

2. To protect the Puerto Rican market and its agricultural and manufacturing industries from serious injury, the U.S. should exempt from its negotiated reductions the tariffs on certain products when they are imported into Puerto Rico.

3. The U.S. should seek concessions from foreign countries on products which Puerto Rico can develop and export to foreign markets. The U.S. should also adopt a policy of negotiating certain concessions from foreign countries applicable to Puerto Rican exports as distinct from those of the U.S.

4. To assure an appropriate voice for the Commonwealth Government in matters directly affecting its people, the Secretary of Commerce of the Commonwealth of Puerto Rico should be appointed, *ex officio*, to any broadly based group constituted by the Federal Government to provide advice on international trade negotiations. In addition, Puerto Rico should be afforded ample opportunities for participation in the industrial technical groups named to advise the President's Special Representative on trade negotiations or the U.S. Department of Commerce or the U.S. Department of State as to needs by the various sectors of the economy.

List of Products and Commodities—Appendix B

April 1974.

The purpose of this preliminary memorandum list is to present in broad and brief terms the major products and commodities in the economy of Puerto Rico which would be most vulnerable to the tariff modifications and other trade adjustments proposed in HR 10710, the Trade Reform Act, under review by the United States Congress in preparation for the forthcoming international trade negotiations. It is intended as a preliminary assessment to provide interim guidance to members of Congress and trade policy officials of the Federal Government in Washington. It will be supplemented at a later date by detailed studies justifying the Commonwealth's position for special consideration in negotiations involving specific sectors of the Puerto Rican economy which appear to be particularly sensitive to tariff reductions, as well as those that might be helped by reciprocal trade concessions.

TSUS Schedule 3—Textile Fibers and Textile Products

Establishments engaged in the production of textile and apparel products provide 47,000 jobs or approximately one-third of the total manufacturing jobs in Puerto Rico. In 1972, Puerto Rico accounted for 12.8% of the total textile and apparel products shipped into the United States. Textile and apparel establishments of Puerto Rico shipped goods to the United States in 1972 valued at $478,842,000, representing 23% of the total of $2,070 millions exported by Puerto Rico that year.

The Commonwealth is greatly concerned with the increasing competition from foreign sources, where low costs of production results in an inability to compete unless maximum possible protection is afforded the industry. Any reduction in present duties will necessarily give further competitive advantage to foreign plants which would result in the loss of this industry to Puerto Rico.

TSUS 376.24 AND 376.28—CORSETS, GIRDLES, BRASSIERES AND OTHER BODY-SUPPORTING GARMENTS FOR WOMEN AND GIRLS

The foundation garment industry is the most important single sector of the island's apparel group. In 1972, items in this category valued at $126.1 millions were shipped to the United States. This sector provides the greatest number of employment opportunities in the textile and apparel industry. It is in this sector particularly where foreign competition has eroded industry gains over the years and has caused loss of manufacturing plants in a number of instances, and marginally profitable operations in others.

Additionally, the Commonwealth of Puerto Rico is concerned with the adverse impact tariff and non-tariff barrier changes might have on other sectors of the textile and apparel products industry such as:

Hosiery.

Panties.

Womens, girls and infants underwear, not knit, of man-made fibers.

Womens, girls and infants pajamas and other night-wear, not knit, of man-made fibers.

Womens, girls and infants wearing apparel (sweaters) of wool and man-made fibers.

A detailed study is being made to support the assumption that few if any of the plants engaged in the manufacture of textile and apparel products in Puerto Rico can absorb any substantial tariff cuts.

TSUS 170.40, 170.45 AND 170.60—CIGAR FILLER TOBACCO

Puerto Rico is one of the principal suppliers of filler-type tobaccos for the United States cigar industry, providing about 46.3% of the domestic filler currently used by the industry, and finished products such as cigars and "cigarrillos". These products represent 6.6% of the total Puerto Rican exports, with a dollar value of over $187 millions. The industry provides employment to 5,557 unskilled and semi-skilled persons.

Under existing conditions, any substantial tariff reduction by the United States would create or widen price differentials enabling imported filler from low-cost producing areas to undersell Puerto Rican types in the American market. This would have a most adverse effect on tobacco growers and processors in Puerto Rico since Puerto Rican costs cannot be reduced without injury to farmers, agricultural and industrial workers, and processors.

TSUS 110.10, 112.30, 112.34, 112.42, 112.90, 113.26 AND 113.56
TUNA AND TUNA-LIKE FISH

The Commonwealth is concerned that present treaty and voluntary arrangements for orderly development of the United States tuna market may be disrupted, resulting in a greater share of canned tuna being supplied by foreign suppliers.

During 1972, the shipment of the tuna products from Puerto Rico to the United States constituted 69.8% of the total canned tuna imported into the United States. This represented 9.1% of the total Puerto Rican exports, with a dollar value of $190,439,000.00.

The tuna processing industry currently provides over 6,000 employment opportunities in Puerto Rico.

TSUS 168.40—RUM (INCLUDING CANA PARAGUAYA)

Puerto Rico is concerned with (1) the probable economic effect of a reduction of the current duty of $1.75 per gallon, (2) the impact of any proposed changes in the method by which the United States excise tax is assessed on distilled spirits, and (3) the relationship between any such United States changes and possible concessions by foreign countries.

About 92. % of all rum entering the United States trade channels in recent years has come from Puerto Rico. While rum is a relatively minor factor in the over-all production and consumption of distilled spirits in the United States, it is a basic element in the economy of Puerto Rico and a uniquely important fact in the Commonwealth's tax revenues—contributing in 1973 a total of $94.1 millions to the Government's recurrent revenue.

TSUS 685.10, 685.20, 685.23, 685.25, 685.30, 685.32, 685.40, 685.42, 685.50, 685.80, 685.90, 686.10, 686.22, 686.24, 686.30, 686.40, 686.50, 686.60, 687.50, 687.60, 688.04, 688.05, 688.06, 688.10, 688.12, 688.15, 688.20, 688.25, 688.30, 688.35, 688.40

Electrical Machinery and Equipment

Electrical and electronic equipment represented 10.1% of total shipments in 1972 to the United States, providing thousands of employment opportunities. Electrical equipment of the type of radios, phonographs and communication equipment provided 2,521 jobs, and electronic equipment and components 3,000 jobs, as of October 1972.

Retaining present tariff structures could result in attracting to Puerto Rico foreign firms (Japan and Germany) which manufacture electrical and electronic products, or could result in the continued growth of existing firms of this nature on the Island.

Lowering of tariff barriers would result in the loss to Puerto Rico of domestic manufacturing operations involving products in these categories.

TSUS 700.20—FOOTWEAR OF LEATHER

Puerto Rico is seriously concerned with the loss of ten leather footwear manufacturing plants during the past three years, attributable principally to foreign competition, local wage increases, and scarcity of raw materials. This industry has been a substantial provider of employment, and Puerto Rico can ill afford with its high 12% over-all rate of unemployment to continue losing jobs for any of the approximately 3,500 workers still employed in the industry. This industry currently ships to the United States leather footwear with a dollar value of $38,097,000.00.

TSUS 706.05—LEATHER BILLFOLDS, WALLETS, AND PORTFOLIOS

TSUS 705.35—LEATHER GLOVES

Puerto Rico ships to the United States leather items in the above categories valued at $53,338,000.00. Approximately 2,484 employees are engaged in this work. Preliminary studies indicate that most of the Companies engaged in manufacturing of leather items in these categories could not with-stand a tariff cut without incurring losses.

Impact on Puerto Rican Agricultural Production

Tariff reductions could adversely affect a number of farm commodities of some current or potential importance to the Puerto Rican economy. Local production of the following commodities could be seriously affected by removal of tariffs which now protect the local farmer from low-priced competitive items from abroad:

Batatas	Peppers	Squash
Name	Tomatoes	Plantains
Yautias	Pigeon Peas	

A major effort is under-way in Puerto Rico to stimulate the re-growth of the agricultural industry which has been in a continuing decline during the past twenty years. Every possible assistance is required to assure that the Government's plans have a reasonable opportunity to success.

TSUS—125.60, 125.70, 125.80—LIVE PLANTS

Puerto Rico has been successful in the past several years in developing an increasing trade in the shipment of live plants. This is one step in the over-all effort to give impetus to a serious lag in agricultural activity. There is considerable competition from other tropical countries, and it is essential that adequate tariff protection be accorded to permit this trade to remain competitive in the United States market.

TSUS 148.90, 148.93, 148.96

Pineapple

The pineapple crop is a significant source of employment and export revenue for Puerto Rico. The United States is the primary market for Puerto Rico's fresh pineapple. Both production and harvesting are highly labor-intensive and together represent 45 percent of total crop costs. Additional employment opportunities are generated by the pineapple canning and processing industries.

Preliminary studies made show that the profit margin in pineapple production in Puerto Rico has been very limited, despite continuing efforts to increase yields per acre. The need for continued tariff protection is evident.

Appendix C

Export Experience

It is desired that the attention of involved authorities be directed toward the positive efforts being made by the Commonwealth of Puerto Rico to increase its export trade with foreign countries, thereby contributing measurably to improvement in the trade balance of the United States and attesting to the declared intention of the Commonwealth Government to comply with the spirit of the call to increase foreign trade.

Puerto Rico in 1972 exported to foreign countries items with a total value of $149 millions. Exports to foreign countries increased in 1973 to a total value of $202 millions, principally as a result of the promotional activities of the Commonwealth Government directed toward countries of the Caribbean and Central and South America.

In 1972, Puerto Rico exported abroad $27 millions of chemical elements and compounds, such as benzine, cyclohexane, ethylbenzene, and vinyl chloride Monomer. Over $7 millions of ortho Xylene, para xylene and Crude Tar Oils were shipped abroad. Medicinal and pharmaceutical products valued at $13,505,000 were exported in 1972 to foreign countries.

Our foreign trade in 1972 included $5 millions in paper, paperboard and paper products; radio and TV parts and accessories and TV chassis and unassembled TV kits valued at over $4 millions; carbon and graphite electrodes worth $5 millions; manufactured goods of textile yarn fabrics, clothing, brassiers and accessories valued at $8 and one-half millions.

The Commonwealth of Puerto Rico is fully cognizant of the provisions of the Trade Reform Act directed toward the adoption of measures which will facilitate a greater and easier flow of trade between the countries of the world. We subscribe to all efforts contemplated to improve international trade, and it is for that reason we include this short exposition of our own intensive efforts to engage successfully in foreign trade efforts.

Statement of the Bicycle Manufacturers Association, Inc., New York, N.Y.

The question is immediately raised: Why should an industry that has been described by many as one of the most "dynamic growth" industries of the Twentieth Century be concerned with imports? The American public has been buying bicycles at an expanded rate. The bicycle has been described by enthusiasts as a great nonpolluting means of transportation and exercise and offers unique opportunities to conserve energy. The American public has demanded better and more bikeways and Congress is responding by appropriating money for such bikeways. This is an industry where sales to the retailer have gone from approximately 5 million units in 1964 to 15 million units in 1973.

The following table illustrates quickly and succinctly why the United States bicycle manufacturers are deeply concerned about the import problem in the domestic market.

Year	Domestic bicycle production	Bicycle imports	Total U.S. bicycle sales	Percent import to total sales
1964	4,083,000	1,010,000	5,093,000	19.8
1965	4,619,000	1,039,000	5,658,000	18.3
1966	4,829,000	927,000	5,756,000	16.1
1967	5,180,000	1,117,000	6,298,000	17.7
1968	5,988,000	1,534,000	7,500,000	20.4
1969	5,089,000	1,971,000	7,060,000	27.9
1970	4,951,000	1,947,000	6,898,000	28.2
1971	6,519,000	2,339,999	8,585,000	26.4
1972	8,751,000	5,156,000	13,907,000	37.1
1973	10,072,000	5,154,000	15,226,000	33.8

With the increasing development of a large bicycle market has come a deluge of imported bicycles into the United States which has increased imports from 1,000,000 units in 1964 or 19.8 percent of our market to 5,156,000 units in 1972 or 37.1 percent of our market. While domestic sales were more than doubling; imports were growing five-fold.

Most of these bicycles come in at a low duty rate of approximately 5 percent and come from over 40 countries, including such diverse places as Japan, Korea, Taiwan, Poland, India and the China mainland. Is it fair that these foreign producers should completely overrun a market that we have developed in the United States? It is difficult for an industry like this to prosper while a large part of our growth is being taken by imports.

Perhaps no other industry is affected by international trade in as many ways as bicycle manufacturing. Imports of bicycles from low-wage countries have created severe hardships for American producers; yet imported parts from some of these same countries are essential to our industry because many parts are simply unavailable from domestic sources.

At first glance, our position with regard to imports may appear inconsistent: restrain imports of bicycles while allowing a free flow of parts. This apparent inconsistency evaporates, however, upon close examination.

While American bicycle manufacturers prefer to buy domestically, unfortunately many components are simply not manufactured here; others are not available in the quantities demanded. Faced with stiff competition from imported bicycles, and lack of domestic supply for parts, American manufacturers have gone abroad for a source of supply. The Bicycle Manufacturers Association would support legislation permitting free importation of any product so long as such unrestricted importation did not cause dislocation in the market or substantially injure American manufacturers.

Import relief:

It has become increasingly popular to brand individuals and organizations as either "protectionist" or "free trade." This is unfortunate. The issues involved in international commercal policy are much too complex for these simplistic labels. The Bicycle Manufacturers Association supports a program of open borders, tempered with an internationally recognized system of orderly marketing arrangements.

The current status of the American bicycle industry vividly demonstrates the basis of our position. American bicycle producers are faced with a vast array of escalating costs and decreasing freedom to make economic decisions.

In the past ten years, our labor costs have gone up 75 percent; our average fixed overhead has increased 64 percent; our raw materials costs have escalated 48 percent. On the other hand, various levels of government have established increasingly restrictive regulations regarding such matters as workmen's compensation, minimum wage, in-plant safety, pollution control and a vast array of social legislation. All of this adding to the cost of doing business. This is not to say such legislation is undesirable; many of the social policies these laws are designed to foster are long overdue.

One of the effects of these regulations has been to further limit the ability of the American industry to compete effectively with imported products. Free from the regulatory power of your government, and free to pay wages no American workers would accept, many foreign manufacturers are able to produce bicycles at much less than the American producer. Further, the commercial policies of some countries allow—and even encourage—business practices long outlawed in the United States. Market division, price fixing, and predatory pricing are hallmarks of some overseas producers. Governments in some countries openly subsidize the operations of their own domestic products: the taxpayers of Japan, for example, help Japanese companies undersell American products on the United States market.

A senior executive of one of our major companies has just returned from a visit to the Far East. He can personally attest that wages and fringe benefits in Taiwan and Korea are one-tenth of those in his plant. These plants are well equipped. Some operate in the most modern free trade zones in the world. While productivity in our United States factories is perhaps the highest in the world, it is impossible to pay ten times the wage and fringe cost, meet higher safety and pollution standards, pay higher taxes, and still be competitive.

The bicycle industry is not an inefficient industry clamoring for "Protection" from efficient foreign manufacturers. We only ask for a chance to compete fairly—on an equal basis—with imported products. The legislation you are considering here recognizes the fundamental problems I have been discussing. Unfortunately, this recognition has not resulted in effective mechanisms for dealing with these problems. The legislation would give the President unrestricted authority to act when he felt imports were becoming a serious problem. I suggest he already has much of the authority he is now requesting. Congress must reaffirm its constitutional obligation to provide guidance in our international trade policy. Standards must be established which would automatically impose restrictions on imports competing with American products when they accelerate precipitously; the antidumping and countervailing duty laws should be strengthened. "Escape clause" cases should be allowed even where the injury to a domestic industry cannot be traced to a change in our Tariff Schedules. Administrative guidelines for all these proceedings should be made more explicit—not blurred as the Administration suggests.

Also there should be provision in the new legislation which guarantees domestic producers a fair share of the domestic market. Our industry would be agreeable to allowing imported bicycles to attain up to 20 percent of the domestic market. The ten year table in the early part of my report shows that imported bicycles averaged 23.5 percent of the domestic market over the past nine years, including the 37.1 percent which they attained in 1972. We are now facing for 1974 the fact that they will possibly have about 50 percent of the domestic market. Our industry, aside from what is shipped to our overseas military bases, does not export a single bicycle. Because of our labor costs, we are not competitive in the world market; also foreign trade barriers add considerably to our prices.

In short, the Trade Bill you finally report should establish clear standards and methods by which American industry can be guaranteed an opportunity to compete in its own market and retain a fair share of this domestic market. This is not protectionism. In recognition that we are operating under different standards than in much of the world, we can't continue our present practice of giving foreign producers unlimited access to our markets without destroying jobs here. It is the major reason for our unfavorable balance of trade today.

In summary, the Bicycle Manufacturers Association favor trade legislation which would:

1. Recognize that foreign manufacturers do not have the same "ground rules" of fair business practices that American companies are required to observe, and set up ways to protect American industry.
2. Establish firm administrative guidelines for enforcement of this trade policy.
3. Incorporate a "trigger mechanism" for restrictions of imports when injury to an American industry appears imminent.
4. Allow free, unrestricted trade in any product when injury to an American industry appears remote, particularly when imposition of tariffs or other restrictions could significantly disrupt the American market.
5. We request that bicycles be exempted by legislation from any attempt to reduce the already low duties on such products from the less developed countries. No significant product differentiation exists between imported and domesti-

cally produced bicycles. Developing countries, including those presently importing bicycles, devalue their currencies in line with dollar devaluations. They maintain currency parity and their competitive position in the United States market despite U.S. dollar devaluations. With bicycles coming from 40 different countries you can see that any further duty reductions could be disastrous.

We hope that this Committee will enact meaningful trade legislation which will guarantee the orderly marketing of products into the United States together with adequate legislative safeguards to protect American industry from a flood of unrestricted imports.

Statement of the Scientific Apparatus Makers Association, Submitted by George E. Lawrence, Executive Vice President

This statement is filed on behalf of the Scientific Apparatus Makers Association (SAMA), a voluntary, non-profit trade association. SAMA counts among its membership more than 200 companies engaged in the manufacture and distribution of scientific laboratory research instruments and apparatus, reagent chemicals and diagnostic solutions, and industrial process control instrumentation. SAMA's membership spans the range of small, medium and large sized companies. In recent years, many of these companies have experienced substantial increases in export sales. For this reason, the members of SAMA are vitally concerned with the legislation that is the subject of these hearings.

At the outset, SAMA would like to express its general support for the proposed Trade Reform Act of 1974, H.R. 10710, and its opposition to legislation requiring the establishment of strict quotas on imports by application of mechanical formulas such as are contained in the legislation commonly referred to as Burke-Hartke. Restrictive legislation of the latter type is likely to result in retaliatory actions by foreign governments with the result that SAMA members might no longer be able to continue their thus far highly successful efforts to market increasing numbers of American-made instruments in foreign markets and thereby producing a highly favorable surplus for the United States on instrument trade.

For calendar 1973, the members of SAMA estimate gross sales approximating two billion dollars. Of this total,[1] approximately 22%, or 440 million dollars will be accounted for by exports. The recent growth trend in export sales has exceeded that of domestic sales.

The instrument industry as a whole has developed export sales of instruments far exceeding instrument imports with an attendant highly favorable balance for the United States in its instrument trade. The last analysis by the Department of Commerce[2] shows that the following trade surpluses were produced by the U.S. instrument trade:

Year and gross trade surplus in millions of dollars

1965	449
1966	521
1967	590
1968	604

While overall figures comparable to those set forth immediately above have not been computed, there is nevertheless ample evidence that the U.S. instrument trade continues to produce a healthy surplus. For example, the figures for engineering and scientific instruments are as follows:

ENGINEERING AND SCIENTIFIC INSTRUMENTS

[In thousands of dollars]

Year	U.S. imports	U.S. exports	U.S. trade surplus
1970	36,528	177,964	141,436
1971	37,168	174,235	137,068
1972	44,685	203,406	158,721

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[1] SAMA estimates that its members account for approximately 50–60% of the total U.S. industry production.

[2] Analysis and Trends of Scientific Instrument Exports, 1965–68; U.S. Department of Commerce, Business and Defense Services Administration, April, 1969.

In the case of electrical measuring instruments, the figures are as follows:

ELECTRICAL MEASURING INSTRUMENTS

[In thousands of dollars]

Year	U.S. imports	U.S. exports	U.S. trade surplus
1970	78,705	264,941	186,236
1971	68,265	226,350	158,085
1972	89,398	258,597	169,199

The U.S. instrument industry continues to lead the world in producing technological advances and these advances have largely been financed by investment of the industry's own funds—the instrument industry has the second highest ratio of company funds invested in research and development as compared to total sales. Thus, with accelerating efforts to improve the technological advantages of American made instruments occurring in concert with the economic benefits derived from devaluation of the dollar and a lessening of the unfair restrictions now imposed by many countries on American instrument exports which we hope will be achieved by negotiations to be conducted under the legislation to be approved by this committee, we, in the instrument industry, are confident that the rate of expansion in U.S. instrument trade surplus can be improved.

SAMA's position in general supoprt of H.R. 10710, the Trade Reform Act of 1974, is based on its firm conviction that it is to the economic benefit of the United States to enter into international negotiations for the purpose of attempting to secure a substantial reduction in the barriers that presently particularly burden the export trade of the United States. While SAMA recognizes that the bill would vest significant authority in the President, we believe that only the President can carry on effective negotiations and that he must be armed with extensive authority in order to be in a position to produce the most favorable results for the United States. Although the legislation being considered would permit the impositon of increased trade restrictions by the United States which might be followed by retaliatory restrictions against U.S. exports, we believe that there is sufficient appreciation throughout the world of the need for a lessening of the barriers to trade and of the disastrous consequences that would follow a trade barrier war, that the negotaition to be undertaken pursuant to the legislation under consideration will result in agreements accomplishing a fair reduction of U.S. and foreign trade restrictions.

SAMA supports the provisions of H.R. 10710 that would provide the President with authority to raise or lower tariff duty levels and, after the Congress has had an opportuntiy to veto such Presidential proposals, modify provisions of U.S. law constituting non-tariff barriers.

With regard to tariff and trade barrier negaotiations, SAMA would like to emphasize its position that industry should have an extensive and well defined consultative role in the negotiations. The United States is unique in its isolation of trade negotiators from the expertise its own knowledgeable industry representatives could provide. Negotiators for almost all other countries maintain close liaison with their affected industrial leaders while negotiations are taking place. We believe that the United States should follow the lead of other countries and establish mechanisms for close consultation between representatives of industry and the U.S. trade negotiators during the actual negotiations. We believe that industry representatives can be very helpful to U.S. negotiators by providing them with data bearing on the likely effect of particular negotiating proposals.

SAMA is of the opinion that it is particularly important for government negotiators to consult with and maintain close liaison with industry representatives regarding non-tariff barriers. Industry representatives charged with maximizing export sales are in the best position to identify those foreign practices that unfairly inhibit U.S. exports and to evaluate just what is the dollars and cents effect of such practices.

In the case of SAMA, national standards have been identified as being frequently used to limit unfairly instrument imports. For this reason, SAMA has mounted a substantial effort throughout the world to keep abreast of standards activities affecting instruments, and to assure that such international and national standards as are developed are framed so as to be compatible with U.S. products. We have also voiced our support for the International Voluntary Standards Cooperation Act and for U.S. conversion to the metric system of measurement. We believe that it is vitally important for the American negotiators to keep abreast of activities of American industry on the international standards front and also to keep industry advised of any negotaitions under way with regard to the non-tariff barrier effect of particular national standards imposed by either the United States or any foreign country.

While firmly committed to a policy of lessening both U.S. and foreign trade barriers, SAMA recognized that there is a need for some means of softening too severe an impact which may result from sharply increasing imports. SAMA therefore, generally supports the proposals that would accomplish this in H.R. 10710. In this regard, SAMA would like to emhasize its position that adjustment assistance should be available to affected industry as well as workers. Assistance should be in a form tailored to meet the needs of the specific situations.

As a final point, SAMA urges that the President be given authority to extend most favored nation treatment to countries not now receiving it and that this authority not be conditioned with regard to the emigration policy pursued by such countries. The instrument industry has identified the Eastern bloc countries and China as being among the largest potential markets for its products. However, selling to these countries is now made extremely difficult by controls imposed by the United States as well as restrictions imposed by the importing country. Although U.S. export controls have been significantly relaxed by the Department of Commerce pursuant to provisions of the Equal Export Opportunity Act, marketing in the Eastern bloc and China remains difficult. SAMA believes that extending most favored nation treatment to the Soviet Union, other Eastern bloc countries and China would be strongly in the interest of the United States provided that it receives in exchange for such treatment a relaxation of many of the barriers currently imposed by these countries to trade with the United States. SAMA believes that it is vitally important for the President to have such bargaining authority.

STATEMENT OF THE NATIONAL ASSOCIATION OF RECYCLING INDUSTRIES, INC. (NARI)

April 4, 1974.

Mr. CHAIRMAN: My name is Edward L. Merrigan. I am a member of the law firm Smathers, Merrigan & Herlong whose offices are located here in the District of Columbia. I appear before the Committee today as counsel for Aris Gloves, Inc., one of the oldest ladies' glove manufacturers and distributors in the United States. Aris' offices are located in New York City and San Francisco, California, and presently it is a division of Consolidated Foods Corporation of Chicago, Illinois.

While Aris Gloves is vitally interested in other sections of the President's proposed Trade Reform Act of 1973, its testimony today will focus exclusively on the President's request for broad, new authority to grant Most-Favored-Nation treatment to any country, subject only to possible subsequent Congressional veto.

Aris Gloves does not oppose the President's request. However, in the case of Czechoslovakia, which is one of the potential recipients of Mast-Favored-Nation treatment if Congress allows the President to exercise the new authority he seeks, Aris urges the Congress, in fairness, to attach firm conditions such as will guarantee that, as a *quid pro quo* for the President's grant of Most-Favored-Nation treatment, Czechoslovakia must promptly pay its long-standing debt to American citizens on awards rendered by the Foreign Claims Settlement Commission of the United States for the taking, expropriation and nationalization of their properties by the Communist government of Czechoslovakia after World War II.

During the early 1960's, the Foreign Claims Settlement Commission, acting pursuant to authority granted to it by the Congress in 1958 in the Czechoslovakian Claims Act (Public Law 85-604), ruled that more than $75 million of American-owned properties had been confiscated and nationalized by the Czechoslovakian government after the Communist regime seized power in 1947. In Aris' case, the Commission granted Aris an award against the Government of Czechoslovakia in the sum of approximately $630,000 as compensation for Czechoslovakia's expropriation of Aris' glove manufacturing facilities in that country, which consisted of two small plants, a tannery and large quantities of glove manufacturing machinery and equipment.

To date, Czechoslovakia has simply ignored these awards and it has refused to make any payments to the American award-holders, albeit the latter suffered their losses more than 25 years ago and Czechoslovakia has enjoyed the use and benefit of the expropriated properties since they were originally taken in the late 1940's.

Simultaneously, since the end of World War II and pursuant to the Paris Reparation Agreement of January 24, 1946 (TIAS 1665), the United States Government, in partnership with the United Kingdom and France, has been holding approximately 18,400 kilograms of gold belonging to the Government of Czechoslovakia. At present rates, that gold is worth approximately $118 million or more, i.e., an amount more than sufficient to pay the principal sums (no interest) due on the American awards Czechoslovakia has ignored and refused to pay for such a long period of time.

In June, 1972, the Department of State advised the Senate Foreign Relations Committee that both the United Kingdom and France have released any claims they have against this gold, and that accordingly, the United States is in a position to negotiate directly with Czechoslovakia for the right to utilize the said gold in the payment of the American awards against Czechoslovakia. The Department also advised the Senate Committee that Czechoslovakia was extremely desirous of obtaining Most-Favored-Nation treatment from the United States and that this was a factor to be considered in any agreement dealing with the American awards, the blocked gold, and new trade relations between the two nations. Indeed, the Washington Post went further and recently reported:

"The United States and Czechoslovakia have exchanged draft agreements on a consular treaty in the first major effort to end a two-decade impasse in their relations, well informed sources said yesterday. . . .

"Both sides plan to engage in complex talks on settlement of wartime damage and nationalization claims. The United States claims amount to roughly $72 million. Prague seeks the return of 18.4 tons of Czechoslovak gold looted by the Nazis and recovered by the Allies. The gold is currently held at Fort Knox.

"The impetus for normalization of relations has come from Prague seeking to break out of diplomatic isolation while at the same time gaining access to U.S. markets and technology.

"The Prague government has already expressed interest in Most-Favored-Nation status, and in U.S. credits and credit guarantees."

Aris Gloves and the other long-suffering American award-holders are genuinely troubled and seriously disturbed, however, by persistent, ominous reports from State Department sources which indicate that the United States, admittedly possessed of tremendous bargaining strength in the current negotiations (through its control over the gold and its ability to grant Czechoslovakia the extremely valuable, sorely-needed Most-Favored-Nation status), might nevertheless be willing to release both to Czechoslovakia in return for some meager, long-delayed, totally unsecured and completely insufficient settlement of the American awards—a settlement which, over perhaps 20 years from today, would finally return at the most only 50¢ on the dollar of the American awards.

Clearly, Mr. Chairman, there can be no justification for any such settlement in this instance. The Czechoslovakian government has already enjoyed the use and benefit of the expropriated American properties for more than 25 years, without compensation to the American owners. The Czechoslovakian gold held by the United States at Fort Knox is constantly growing in value, and today it is more than enough to pay the principal amount of the American awards. Finally, Most-Favored-Nation status, plus access to U.S. markets and technology, plus U.S. credits and credit guarantees are far, far more valuable to Czechoslovakia than the relatively small amount that country has owed the unfortunate U.S. award holders here involved since 1947.

Accordingly, Aris Gloves, speaking for itself and the hundreds of other U.S. award holders similarly situated, prays that, if this Committee feels inclined to grant the President the new unilateral authority he seeks to extend Most-Favored-National status to any country, including Czechoslovakia, it will simultaneously impose statutory restrictions or conditions applicable to Czechoslovakia which will prevent a Presidential grant to that country unless and until it concomitantly makes full, fair and prompt settlement of the long outstanding American awards against that nation.

If the Congress fails to protect the American interests here involved when obviously we have the diplomatic tools to do so, then it will certainly be a signal to those other countries throughout the world, which are bent on expropriating American properties without compensation, that they may proceed with absolute impunity, simply because our Government is too timid effectively to employ all of its available bargaining powers to protect its properties and its citizens' interests therein.

STANLEY B. LUBMAN,
Berkeley, Calif., April 8, 1974.

Hon. RUSSELL LONG,
Chairman, Senate Finance Committee,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I appreciate the opportunity to submit this statement on the trade reform legislation currently pending in Congress, and respectfully request that it be made part of the record of hearing on the subject.

This statement is concerned with whether nondiscriminatory tariff treatment should be granted to the People's Republic of China. My position is that, regardless of whether such treatment is granted to other nonmarket countries such as the Soviet Union, Congress should move decisively to authorize the President to negotiate a bilateral agreement with China that would include the granting of most favored nation treatment to Chinese goods, in the context of reciprocal U.S.-Chinese agreement to improve trade between the two countries.

This statement is submitted by me as an individual. I have long specialized in Chinese affairs, particularly China's trade with developed countries. After serving as a law professor at the University of California at Berkeley, since 1972 I have been advising American companies on China trade, and have also represented and assisted them in negotiating in China. I have attended three Canton Fairs and write to you on the eve of my departure for a fourth. I have appended a brief biographical statement hereto describing my background and activities with relation to Chinese affairs, particularly trade.

This statement is divided into three parts. The first is addressed to the issues involved in linking U.S. tariff concessions to the emigration policies of countries with nonmarket economies generally; the second, the heart of my statement, discusses the contribution which nondiscriminatory tariff treatment of Chinese goods would make to American trade and other national interests; the final portion discusses some problems in U.S.-China trade (further described in an article which is also appended hereto) which could be the focus of reciprocal Chinese actions in return for American tariff concessions.

I. THE UNITED STATES SHOULD NOT USE TRADE CONCESSIONS TO INFLUENCE THE INTERNAL POLICIES OF OTHER NATIONS TOWARD THEIR OWN CITIZENS

The House version of the bill under study links the granting of nondiscriminatory tariff treatment to the emigration policy of the country in question. At present, the bill would treat the People's Republic of China and the Soviet Union alike in this respect. In my opinion the emigration policy of either country should be irrelevant to the tariff treatment its goods receive from the United States.

In addressing itself to American tariff barriers, the bill expresses willingness to dismantle trade barriers erected during a period of intense political conflict between East and West. It is, therefore, anomalous to inject political criteria into an area of concern—East/West trade—which has only recently been slightly depoliticized. The anomaly is made even greater in view of the oft-repeated view that Communist countries use trade for political purposes, as if the United States does not. To tie tariffs to emigration policy is to link trade concessions to highly political judgments about the internal affairs of other nations.

The humanitarian aim of the proponents of using trade to influence emigration policy is on its face unexceptionable. Yet, judgments of the morality of another society are unreliable guides to foreign policy and are dangerous as tools of diplomacy. Such judgments seriously infected many American policies during the Cold War, and distorted American perceptions of Communist countries. Here they are being used in an attempt to change the internal policy of another nation with respect to its own citizens. The inappropriateness of this measure should appear plain simply by imagining how Americans would react if the Soviet Union insisted that some domestic American policy be changed as the price for a trade or political concession in the international arena. Regardless, then, of whether the Soviet Union or China is involved, the attempt to influence their emigration policies utilizes an inappropriate tool to extract a concession, and deviates from the strictly economic and trade criteria which should normally be employed in bilateral tariff concession agreements.

II. NONDISCRIMINATORY TARIFF TREATMENT OF CHINESE IMPORTS WOULD SERVE THE NATIONAL INTEREST OF THE UNITED STATES, REGARDLESS OF WHETHER SUCH TREATMENT IS ACCORDED TO SOVIET GOODS

Among the arguments which can be made for granting the President authority to extend nondiscriminatory (Column 1) treatment to Chinese imports are included: (A) the substantial impetus such treatment would give to U.S.-China trade at a time when the United States could become an important supplier of China; (B) the enhancement of relations generally between the United States and China that are contributed to by more trade; and, (C) the further contribution which the removal of discriminatory tariff treatment would make to East-West detente. Each is discussed briefly below:

(A) THE IMPETUS WHICH NONDISCRIMINATORY TARIFF TREATMENT WOULD GIVE TO U.S.-CHINA TRADE

During 1973 total U.S.-China trade was approximately seven hundred million dollars, of which only about one-tenth represented American imports from China; projections for 1974 suggest that total two-way trade will exceed one billion dollars, with the balance of trade again approximately ten-to-one in favor of the United States. The discriminatory tariff which presently prevails seriously inhibits Chinese exports to the U.S. Without venturing into detailed discussion of this subject, I would note that with respect to some commodities with which I am familiar, high tariff duties make importation of these goods almost impossible. As an example I would note that the Column 1 import duty on canned mushrooms is 3.2¢ per pound on drained weight plus 10% *ad valorem*, as compared to 10¢ per pound and 45% *ad valorem* in Column 2; the Column 1 tariff on bamboo baskets is 25% *ad valorem*, while the Column 2 tariff is 50%; on certain men's cotton wearing apparel the Column 1 tariff is 35% *ad valorem*, while the Column 2 tariff is 90%.

The effects of the discriminatory tariff should be considered in light of the possibilities for expanded economic relations which the newly revived U.S.-China trade promises for both trade partners. The trade has presented some significant advantages to the United States. Indeed, the favorable balance of U.S.-China trade contributed over a third of the overall trade balance which the United States showed in 1973.

The trade has also brought some advantages to China. Some eighty-five per cent of her purchases from the United States were composed of agricultural commodities such as wheat, corn, cotton, soy beans and tobacco; perhaps seventy-five per cent of Chinese purchases from the United States in 1974 should be composed of agricultural commodities, also. At the same time, China has also found some American equipment and technology to be of interest, including ten Boeing 707's, eight fertilizer plants which will be constructed by the M. W. Kellogg Company of Houston, Texas, and technology licensed to the China National Technical Import Corporation by at least five American companies, including Standard Oil of Ohio and Standard Oil of Indiana. Moreover, there are indications that these purchases from the United States are taking place in the context of an overall Chinese decision to purchase more from abroad than ever before.

China is presently engaged in making large purchases of machinery, equipment, complete plants, and technology. The Central Intelligence Agency's *People's Republic of China: International Trade Handbook*, published in October, 1973, estimated that the Chinese purchased more than a billion dollars worth of machines and transport equipment over a year and a half period extending from 1972 to 1973. China has also purchased complete industrial plants worth about one billion dollars since 1971, which, the same source notes, amounts to almost five times the cost of such plants purchased during the entire decade of the 1960's. Negotiations with Western (including American) companies on other projects, particularly in the petrochemical area, are presently under way. China thus represents a market of some interest for American companies which have high technology or heavy capital goods to sell, or which are willing to license technology.

But even while China's imports, including those from the United States, are increasing, how will China pay for those purchases? A new willingness to purchase on credit, or "deferred payment" terms, has become evident. Of more importance for our present purposes is increased interest in expanding Chinese exports. The United States has emerged as a potentially large market for Chinese products, not only those which are distinctively Chinese, but some which are Western-type, designed and styled for foreign markets. Since April, 1972, when some forty Americans attended the Spring, 1972 Kwangchow Fair, officials of the Chinese trading corporations have been collecting information on the legal and merchandising standards which they must meet if China is to increase her exports to the United States. Not oly have they been greatly interested in FDA and other legal problems, but also in learning about the organization of the American economy, patterns of distribution in various trades, and necessary levels of sophistication in packaging, labeling and designing.

Yet, even as China prepares to export more to finance increased purchases, including more from the United States, American tariff treatment of Chinese goods remains at the level of the Smoot-Hawley tariff of 1931, this country's most restrictive, and inhibits American purchases of Chinese goods. It must be noted that at least one recent study estimates that if most favored nation treatment is granted to China's exports to the United States, Chinese expors to this country would only increase by around sixteen per cent (Haas, "Impact of MFN on US Imports from the PRC", Office of East-West Trade, US Department of State, August 17, 1973). However, this study does not appear to take into account a Chinese export drive, which has been hinted at in Chinese negotiations with American importers and in general discussions. Also, several unpublished studies estimate that U.S. imports from China could reach a considerably higher level if MFN treatment is obtained. Regardless of the level to which Chinese exports to the U.S. would rise if the present discriminatory treatment were ended, it would affect China's capacity to export to the United States and, therefore, to earn foreign exchange to pay for Chinese imports.

The present adverse balance of U.S.-China trade has by no means escaped the attention of Chinese trade officials. Although the Chinese do not insist on bilaterally balanced trade with all their trade partners, Chinese officials have expressed concern about the imbalance in China's trade with the U.S., and about the effect of the discriminatory tariff in promoting that imbalance by suppressing the level of Chinese exports to this country. It must be surmised that their concern could lead to the diversion of some Chinese purchasing interests away from the United States.

(B) THE ENHANCEMENT OF U.S.-CHINA RELATIONS TO WHICH INCREASED U.S.-CHINA TRADE WOULD CONTRIBUTE

Given significant Chinese interest in purchasing American products and technology, trade has become a noticeable avenue of communication between the two countries. It would be simplistic and inaccurate to postulate a direct correlation between increased trade and improved political relations between trading partners; the purchase of American products and technology by Communist countries does not necessarily reduce fundmental differences between these countries and the United States. Yet, at the same time, trade does open windows into societies which were formerly closed to each other. Although social intercourse between American businessmen in China and their Chinese counterparts is limited, significant exchanges of views take place during these contacts which not only clarify business matters but also contribute to mutual understanding on a broader scale. And, of course, trade increases the economic relationships between the countries involved, thus increasing the stake which each has in maintaining sound relations with the other.

(C) THE REMOVAL OF DISCRIMINATORY TARIFF TREATMENT WOULD CONTRIBUTE FURTHER TO EAST WEST DETENTE

Regardless of whether nondiscriminatory tariff treatment is given to Soviet goods, according such treatment to those of other nonmarket countries, including China, would be in the national interest by further enhancing American trade and relations generally with such countries.

The case of China is special because it can be argued that in the triangular U.S.-USSR-China relationship it has been important for the United States to be even-handed in conducting its detente diplomacy. Even as incremental improvements in relations with one Communist giant have been brought about, the United States has remained attentive to the effects of its actions on its relations with the other. This argument would suggest that granting most favored nation treatment to China while denying it to the Soviet Union would be interpreted in Moscow as implying favoritism toward Peking at the expense of the Soviet Union.

But, if the Soviet Union is excluded from the application of the legislation under discussion while other nonmarket countries are not, the basis for that claim would clearly not be favoritism toward Peking. Rather, the decision would rest on considerations peculiar to the Soviet Union itself, namely the highly publicized treatment of would-be emigres, particularly Soviet Jews. The good faith of the President and Secretary Kissinger has been amply demonstrated during the debates on the legislation; they have consistently and strongly urged Congress to grant the President authority to extend most favored nation treatment to imports from the Soviet Union. If Congress refuses to heed their exhortation and allows such authority to be granted with respect to goods from nonmarket countries other than the Soviet Union, that decision is more a reflection of American domestic politics than of American foreign policy, and would have to be explained to the Soviets as such.

There is a positive need for further improvement in Sino-American relations, also, and trade (together with cultural and educational exchanges) is one of the few areas in which some progress can be made without encountering presently unresolvable problems such as the future of Taiwan. The removal of discriminatory tariff treatment would be a gesture of both economic and symbolic value that would help further normalization of U.S.-China relations. If trade increased as a result of the change in the U.S. tariff, further momentum would be generated for the resolution of some of the other problems that presently inhibit U.S.-China trade.

III. NONDISCRIMINATORY TARIFF TREATMENT SHOULD BE GRANTED TO CHINESE GOODS IN THE CONTEXT OF RECIPROCAL CHINESE ACTS TO IMPROVE U.S.-CHINA TRADE RELATIONS

Some attention should be given to the manner in which nondiscriminatory tariff treatment is given to Chinese exports to the United States. Normally such tariff concessions are made in return for reciprocal concessions. However, since the reduction of nonmarket economy tariffs does not lead to the expansion of trade which occurs when the same action is taken with respect to imports from market economies, other steps must be taken to improve trade. Sometimes a market economy partner in a bilateral tariff agreement attempts to persuade a nonmarket economy partner to agree to maintain a given level of purchases. Even if the Chinese were willing to accept such an arrangement, however, bilateral agreements of this type have not normally been entered into by the United States. Some other approach must be taken, then, to reciprocity. Reciprocity is itself a notion which has been given recognition by both countries. The Shanghai and China to facilitate trade in the spirit of "equality and mutual benefit". Consideration should therefore be given to inducing Chinese movement toward facilitating trade which would be regarded as embodying reciprocal concessions in exchange for the extension of most favored nation treatement to Chinese goods.

Limitations on time and space prevent me from discussing in any detail the numerous problems which presently beset U.S.-China trade and which require solution, I have attached hereto a copy of an article I recently published entitled "Legal, Financial and Practical Aspects of Trade with the People's Republic of China", and respectfully requeset that it be made part of the record of your hearings. I would only note some of the problems of present concern which Sino-American cooperation could ease.

Some of the problems cluster about the semi-annual Kwangchow (Canton) Export Commodities Fair, at which China transacts most of her export business. The number of Americans invited to the Fair has remained very limited despite the dramatic rise in U.S.-China trade; the invitations to the Fair arrive only some three weeks before the Fair begins, giving Americans planning to attend very little time for advance preparation.

Other problems flow from the difficulty in communications between American importers and Chinese exporting agencies between Fairs. Sometimes when the Chinese are late in shipping to the United States, they are slow to respond to cables from their American customers, inquiring about deliveries. Yet they assume, or request, that the American importer will extend his letter of credit for as long as is necessary, even though the deliveries are made long after the date called for in the contract.

Exporters, in their turn, find that they can learn about the Chinese market for their products only with extreme difficulty, if at all, and that it is virtually impossible for them to have any contact with Chinese end-users. American exporters also find that, in the absence of general regulations or Sino-American agreement, their proprietory technology and know how can be protected only through contract-by-contract negotiation.

Other problems include the absence of any U.S.-China agreement on the regulation of trademarks and protection of industrial and literary property. The impact of American food and drug legislation requires not only study, but cooperation between Chinese and American government authorities and American importers of Chinese foodstuffs. The exploration of solutions for the settlement of trade disputes which are mutually satisfactory should also be undertaken.

Some of the problems mentioned here, particularly with respect to Chinese exports, are due to the structure of the Chinese foreign trade apparatus and to long-established Chinese trade practices. However, Chinese trade officials are not entirely unresponsive to complaints about some of the uncertainties presently existing in U.S.-China trade relations.

It would be impossible, and unreasonable, to require the People's Republic of China to change its institutions and practices for foreign trade because they are unfamiliar to American businessmen, and I am not suggesting the adoption of any such narrow outlook. However, it would be in the interests of both nations if American trade negotiators, armed with the authority given to the President which I am advocating here, pressed for movement on the Chinese side that would increase the possibilities for U.S.-China trade and ease the problems of American companies doing business with China. Access to the Kwangchow Fair for more Americans, and with more advance notice, should be relatively easy to arrange; discussions on reciprocal protection of industrial and literary property and trademarks should begin; joint working parties of Chinese trade officials and American representatives of government and business should be formed to attack the problems which presently inhibit trade. These and other approaches to the normalization of U.S.-China trade ought to be expressed in any bilateral discussion of nondiscriminatory tariff treatment of Chinese goods. The discriminatory tariff is long overdue for abandonment, and it impedes the further development both of U.S.-China trade and U.S.-China relations generally. Even while its abandonment is discussed, however, Chinese and American trade negotiators should also be working to shape the outlines of a new and improved U.S.-China trade relationship.

I hope that the views expressed in this statement on the aspects of the Trade Reform Act to which it is addressed will be of interest to your Committee. With thanks again for the opportunity to submit this statement, I am,

Sincerely,

STANLEY B. LUBMAN.

Enclosures.

BIOGRAPHICAL STATEMENT ATTACHED TO STATEMENT OF STANLEY LUBMAN

Mr. Lubman was born in New York City in 1934, and was educated at Columbia University, from which he holds A.B., LL.B., LL.M., and J.S.D. degrees, and the University of Paris. After practicing with a large New York law firm and clerking for a Federal judge he was selected to be trained to specialize in Chinese affairs under the auspices of the Rockefeller Foundation, Columbia University and the Foreign Area Fellowship Program. From 1963 to 1965 he studied the Chinese language at Columbia, and 1965 to 1967 he did research and further language study in Hong Kong. From 1967 to 1972 he was a full-time member of the faculty of the University of California Law School in Berkeley, California. During 1969–1972 he made repeated trips to Hong Kong, Japan, Canada and Western Europe to study the experience of other developed nations in trading with China.

Since 1972, Mr. Lubman has been advising and representing American firms interested in trading with China, while continuing to teach as a lecturer at the University of California. He has also served as a consultant to the National Council for U.S.-China Trade. He and his wife, Judith, have attended four consecutive Canton Trade Fairs. After the first, in October-November 1972, he was invited to Peking for further negotiations and general discussions with various Chinese agencies responsible for foreign trade. He and his wife and two children returned to China in April-May 1973, when on Chinese invitation they traveled to Peking and Shanghai before attending the Spring, 1973 Canton Fair. The Lubmans have since attended the Fall, 1973 and the Spring, 1974 Fairs. Mr. Lubman testified before the Senate Foreign Relations Committee in June, 1971 on China's trade practices. His articles on Chinese law and on China's foreign trade have appeared in scholarly publications and in the *New York Times*, *Wall Street Journal*, and *Washington Post*.

Legal, Financial and Practical Aspects of Trade With the People's Republic of China

STANLEY B. LUBMAN

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Since President Nixon's visit to China signaled a new Sino-American rapprochement, trade between the two long-estranged Pacific giants has generated much interest in the United States, at times approaching euphoria. Some sizable transactions have already been consummated and others are in the offing. Although American businessmen and their advisors can expect that Sino-American trade will expand in the near future, the long mutual separation of the two countries since 1949 has led to much ignorance in each about the other. Characteristic practices and views to which the Chinese have adhered over the last twenty years, during which they traded widely even though not with the United States, may prove unfamiliar and confusing to Americans. Americans now interested in exploring, or engaging in,

* This article is based partially on research begun in 1969 on China's trade with developed countries which has centered on interviews with knowledgeable participants in, and observers of, the China trade in Hong Kong, Japan, Canada, the United Kingdom, France, and Western Germany. The article is also based on the author's involvement in China trade and on experiences during two visits to China, in October-November 1972 and April-May 1973, to attend the Canton Trade Fair and engage in negotiations and general discussions with Chinese trade officials in Peking and Shanghai.

trade with China would do well to prepare themselves by understanding Chinese perceptions of international commerce and Chinese practices that are likely to influence the conduct of the Sino-American trade.

Although this article is intended to serve as a general guide to dealing with China, the détente has progressed so rapidly that any attempt to discuss Chinese trade institutions and practices may be destined for rapid obsolescence. Yet observations of the experience of some of China's other trading partners over the years, as well as my own recent experiences in Canton and Peking, suggest that some useful statements likely to survive tomorrow's headlines can be made. It also seems possible to identify some present obstacles to expanded Sino-American trade and to predict, or suggest, likely or desirable future developments.

THE INFLUENCE ON CHINA'S FOREIGN TRADE OF CHINESE DEVELOPMENT STRATEGIES

Chinese foreign trade policies must be seen in the context of Chinese perceptions of China's economic development, to which two prominent strands of Maoist thought are particularly relevant. The Chairman has been called "Promethean" in emphasizing man's fight to transform nature and the ideological and practical gains to be derived from the exertions of China's masses in building a new nation.[1] Mao's thought has characteristically emphasized a voluntarism[2] which has been translated into practice in repeated efforts to mobilize and persuade China's masses to commit themselves to con-

[1] Schram, *The Political Thought of Mao Tse-tung* 99-100 (1969).

[2] See Vogel, "Voluntarism and Social Control," *Soviet and Chinese Communism, Similarities and Differences* 168-184 (Treadgold, Ed., Univ. of Washington 1967).

struct a new society in which they feel that their self-sacrificing participation is meaningful. The Cultural Revolution reminds us of the Chairman's concern to retain the mobilizational style and methods which were so successful in forging the twentieth century's greatest revolution.[3]

Within China's domestic economy the Maoist view has promoted much implementation of policy by voluntaristic mass action,[4] encouraged innovation both in organization and production, and stimulated decentralization and independence of local economic units.[5] The visitor to China is shown many vivid examples of the Maoist ideal: In a machine shop in a rural commune in the outskirts of Shanghai, I was shown shiny machine tools manufactured by the commune members themselves; in a commune in the South China countryside, commune members proudly showed me the equipment for a rice mill which they had designed and manufactured.

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[3] Interpretations of the Cultural Revolution seem almost as numerous as the participants. See, among others, Tang Tsou, "Revolution, Reintegration and Crisis in Communist China: A Framework for Analysis," 1 *China in Crisis; China's Heritage and the Communist Political System* 277-347 (Ho & Tsou, Eds., Univ. of Chicago 1968); Pfeffer, "Serving the People and Continuing the Revolution," 52 China Quarterly 620 (Oct./Dec. 1972); *China in Ferment, Perspectives on the Cultural Revolution* (Baum, Ed., Prentice-Hall 1971).

[4] On Chinese techniques in mobilizing the masses see Townsend, *Political Participation in Communist China* (Univ. of California 1967); Pfeffer, N. 3 *supra*.

[5] On Chinese economic policies and decentralization, see Gray, "The Economics of Maoism," Bulletin of the Atomic Scientists, *China After the Cultural Revolution* 115 (Vintage 1970); Donnithorne, "China's Cellular Economy; Some Economic Trends Since the Cultural Revolution," 52 China Quarterly 605 (Oct./Dec. 1972).

The basic emphasis on self-reliance has been reflected in China's foreign economic policy, which has centered on a commitment to creating the new China with as little trade and foreign aid as possible. Foreign debt has been shunned, too, so that almost all purchases have been paid for immediately without any credit asked for or desired. In the Maoist view, economic development accomplished by the exertion of the Chinese masses has been regarded as preferable to economic development stimulated by large infusions of foreign assistance and trade. Even if the results of self-reliance may be relatively slower to attain, the policy is deemed to produce other important social and political gains. Self-reliance fosters desirable political and social values and keeps the revolutionary spirit from eroding into a materialism and concern for individual welfare that conflict with dedication to the collective. Also, the lingering association between trade and foreign exploitation is still very strong. Belief in these policies was much reinforced by what the Chinese regard as the Soviet betrayal in 1960, when Soviet technicians and advisors sent to China were abruptly withdrawn. In the interest of political development and independence, then, the Chinese have been extremely cautious in expanding their foreign trade.[6]

Recently, however, Chinese foreign economic policy has changed markedly and China now appears more eager to engage in foreign trade than at any time since 1949.

[6] This policy is no abstraction, because it colors China's trade practices. For instance, when China has purchased whole plants from abroad, the presence of foreign engineers and technicians to assist in construction and start-up of the plant has been necessary. But sometimes out of eagerness to proceed independently, the Chinese have rid themselves of the foreigners by sending them home—too quickly—thereby leading either to their recall or to claims against the seller for allegedly defective performance of the plant.

Visitors to China are told that the policy of self-reliance remains primary, yet a secondary emphasis on "exchange of needed goods" has also become prominent. Recent developments in China's trade with all developed countries, including the United States, indicate that the Chinese have decided to increase both imports and exports. For instance, the Chinese have recently established a state corporation exclusively concerned with the importation of technology. Recent purchases of machinery, equipment, and whole plants from Europe and Japan, and signs of Chinese interest in licensing agreements in the petrochemicals field testify to heightened imports.[7] Recent visits to China by representatives of large American corporations indicate possible further developments in the near future.[8]

At the same time, the Chinese clearly wish also to increase their foreign exchange earnings through exports. The most primitive means of accomplishing this result, manifested at the Spring 1973 Canton Trade Fair, was to increase prices, often drastically, much to the dismay of foreign businessmen. But the Chinese are looking also to other means of increasing export earnings. Negotiators for various state trading corporations have evidenced willingness to design, package, and label Chinese products not only to assure that American legal requirements such as those of the FDA are met, but also by way of increas-

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[7] See, e.g., for a description of licensing agreement with Standard Oil of Ohio, "Sohio Makes Technological Inroad to Peking," Business International 155 (May 18, 1973).

[8] For instance, at or around the time of Spring 1973 Canton Fair, representatives of United States Steel, Borg-Warner, Rockwell International, McDonnell-Douglas, Baker Oil Tool, Continental Oil, Monsanto, and Dow, among others, were known to have visited Canton or Peking.

ing the responsiveness of Chinese producing units to foreign customers' market requirements. Officials both at the state trading corporations and at the China Council for the Promotion of International Trade (CCPIT) have expressed willingness to improve the quality and sophistication of Chinese manufactured goods so that they will sell more widely on foreign markets.

Despite the heightened interest in exporting more goods that are to the taste of their customers, the Chinese can adjust only slowly to American market demands. American businessmen have been quizzed repetitiously at the Canton Fair by Chinese trade officials about American legal standards and market preferences. Some of the Americans are puzzled about the sameness of the questions and the slowness with which the Chinese seem to employ the information they collect. But the Chinese are apparently busy shifting the responses to their questions both for their utility and for their truthfulness. Moreover, Chinese planners are long accustomed to not having to be as responsive to foreign market preferences as exporters in Taiwan, Hong Kong, and South Korea, and now they are cautious. This caution is well-placed, because they have only limited resources to allocate to redesigning export commodities. Because the Chinese factories which manufacture goods for export are often decentralized units in rural communes and urban neighborhoods, changing design and materials and training unskilled or semiskilled labor are necessarily time-consuming. But the will, albeit relunctant, is present, and should soon be manifested in production geared for particular markets. China is a readier and more accomodating trade partner than at any time since the establishment of the People's Republic.

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AN OVERVIEW OF CHINESE FOREIGN TRADE INSTITUTIONS

The Apparatus

Against the preceding background on Chinese foreign trade policy, it is useful to turn to a brief introduction to the Chinese entities responsible for foreign trade. The Foreign Trade Ministry should command first attention. The Ministry coordinates overall policy, administers China's customs regulations, supervises inspection of both imports and exports, negotiates some intergovernmental trade agreements, and directs the activities of eight trading corporations which are the principal negotiating agencies.[9]

The state trading corporations, like the Soviet entities on which they were apparently modeled, possess juridical personality and enter into contracts with foreigners. They are middlemen which represent China's producing units and end-users, and divide responsibility functionally for machinery; chemicals; metals and minerals; textiles; cereals, oils, and foodstuffs; light industrial products; native produce and animal by-products; and technical import, which is responsible for purchasing whole plants and licensing foreign technology.[10]

A third entity with foreign trade responsibilities is the Bank of China, which is exclusively concerned with international banking and has numerous branches around the world, principally in London, Singapore, Karachi, and

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[9] See Hsiao, "Communist China's Foreign Trade Organization," 20 Vand. L. Rev. 303, 305-306 (1967).

[10] Descriptions of the products handled by each corporation and their addresses are easily accessible in U.S. Dep't of Commerce, Domestic and Int'l. Business Administration, Overseas Business Reports OBR 73-16, *Trading with the People's Republic of China*, (May 1973).

Hong Kong. It buys and sells foreign exchange, extends short-term loans for exports and imports, and handles remittances from overseas Chinese firms. It is the bank with which foreign businessmen deal exclusively.[11]

The China Committee for the Promotion of International Trade (CCPIT), although nominally a nongovernmental organization, constitutes an essential arm of China's foreign trade apparatus. It sends trade missions to, and enters into trade agreements with, countries with which China has no formal diplomatic relations. It also organizes Chinese trade exhibitions abroad and foreign trade exhibitions in Peking, and has formal responsibility for the registration of trademarks and the arbitration of disputes between China and its trade partners.[12]

Of importance to the trader also are the Chinese Commercial Offices in various Chinese embassies outside the United States, and Chinese purchasing and trade missions which often visit Japan and Europe and will soon probably visit the United States. Until now, the Chinese Commercial Office in the Chinese Embassy in Ottawa has served as the principal North American point of contact for American businessmen. Its staff members have received product literature given to them by would-be sellers, discussed export possibilities with buyers, and served as a channel for invitations to the Canton Fairs. The new Chinese Liaison Office in Washington now has a commercial component that serves as the functional equivalent of a commercial office.

The Apparatus at Work

The Canton Fair

The mode in which China conducts foreign trade is perhaps most visible at the semiannual Canton Export

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[11] See also Hsiao, N. 9 *supra* at 311-312.
[12] *Id.* at 313-314.

Commodities Fair, at which most of China's export transactions and some import transactions are negotiated and concluded. To Canton each April 15-May 15 and October 15-November 15, more than twenty thousand foreign businessmen come to deal with the Chinese trading corporations mentioned previously. The Spring 1973 Fair was attended by eighty to a hundred Americans, with larger contingents from nations which have traded with China for a longer period of time than the United States; nearly 3,000 Japanese were present. The number of visitors from each nation does not reflect the volume of Chinese trade with those nations, since perhaps a majority of the visitors are overseas Chinese, chiefly from Southeast Asia.

Negotiating Purchases from China

Negotiations at the Fair reflect the impact of a variety of Chinese circumstances and policies which it is well to keep in mind. China's production of goods for export is limited and is increasing only slowly. As a result, despite China's recently heightened emphasis on foreign trade and on the related broadening of foreign contacts (not only with the United States, but with Japan, Italy, and West Germany as well), the supply of available goods cannot meet the demand. Consequently, the Fair is a gigantic exercise at which the Chinese negotiators *allocate* the output of many products, particularly agricultural products and textiles, among an ever-increasing number of potential buyers. Most recently, as has been noted, the Chinese increased the prices of their goods. For many buyers, the limited quantity and high Chinese prices have combined to lend negotiations an unwelcome take-it-or-leave-it aspect.

For all visitors to the Fair, but especially newcomers, the pace of negotiations is slow. The first-time visitor must introduce himself and his company at some length;

then, in addition to indicating what he wishes to buy, he will be expected both to display his expertise and inform the Chinese negotiators by discussing world market trends in the commodities he wishes to purchase. Many businessmen object to having to spend time and effort in these exercises, but the lesson taught is that they contribute to creating an atmosphere of trust and confidence. Often, there is not much discussion of the market information provided by the buyer; it is simply received, absorbed, and noted.

The expertise of Chinese negotiators varies greatly, as does their communicativeness. The American who seeks to inform himself about the organization of Chinese foreign trade institutions and about such matters as pricing policies will frequently find that the subject of the conversations has been changed, or that the Chinese will respond to his inquiries by saying that they "are not too clear" about the subject of discussion. Yet it should also be noted that with the new Chinese interest in increasing exports, Canton Fair veterans report that the affability and informativeness of Chinese negotiators have also increased.

After the preliminaries are concluded, the Chinese negotiator will inform the buyer of the selling price and and quantity that is available. Sometimes, especially in the case of certain commodities sold by the Native Produce Corporation such as spices and essential oils, the negotiators rather than stating a price will ask the buyer to make a bid. This mode of increasing the prices of Chinese commodities was particularly in evidence at the Spring 1973 Canton Fair. As for quantity, the buyer who wants large amounts must be prepared for a shock when the Chinese negotiator informs him of the amount that can be offered to him.

The buyer of essential oils, for instance, who desires five or ten tons of a particular oil may be told that perhaps the Chinese could sell him a drum or two. Some buyers simply wait out the entire Fair in the hope of persuading the negotiators to increase the amount they are willing to sell them. Throughout these negotiations, the Americans can have the dubious consolation of knowing that their European competitors encounter similar difficulties. The American "new friend" is told he cannot buy larger quantities because the Chinese must be loyal to their "old friends"; the "old friends" are meanwhile told that many "new friends" must be accomodated; both usually come away with less than they want.

The purchaser of Chinese exports which are not standardized and which involve questions of design, labeling, and packaging can expect particularly tedious negotiations. Chinese interest in meeting the needs of particular markets and particular customers has not been intense in the past, although it is growing. Chinese ability to make and implement changes in product design is limited. The American importer, long accustomed to having responsive manufacturers elsewhere in Asia meet his needs quickly, is apt to grow impatient. A particularly difficult problem has been caused by the impact of FDA regulations, which have already caused rejection, reconditioning, and relabeling of some Chinese shipments of foodstuffs to the United States. The Chinese have so far refused to accept responsibility for FDA rejection of Chinese goods, and the importer of Chinese foodstuffs may have to protect himself by insuring against that contingency. For the moment, then, discussions at the Fair of labeling and food and drug standards can be protracted and unsatisfactory. Chinese trade officials have stated that the reluctance of the trading corporations to adjust faster to the needs of the American market stems in part from the existence of stocks produced before such adjustments were necessary, and have predicted greater responsiveness in the future.

The Canton Fair thus may present the purchaser with some trying moments. He will find that the Chinese negotiators will hint that his competitors are buying without carping at small quantities, high prices, distant delivery dates, or other problems, so why shouldn't he? Or, he may find that after protracted negotiations, the Chinese will announce that they can increase the quantity they will sell him—but in return will expect him to make a concession on the price, which will be unchanged.

This brief description of buying at the Fair should suggest the importance of patience to the American who wishes to visit Canton to transact business. Some Americans who have attended the Fairs have found them time-wasting and onerous, especially if they have not troubled to inform themselves about the Chinese style at Canton. In Canton's humid weather (and without air conditioning), the slowness of negotiations and the smallness of the quantities available often turn buyers irritable and peevish, and frequently lead them to one of the Fair's principal diversions—boozy badinage among Europeans and Americans in the eighth floor bar of the Tung Fang (Eastern) Hotel until midnight; after which they return to their rooms, envelop themselves in mosquito netting, and, perhaps, brood on the mutual incomprehensibility of East and West.

Negotiating Sales to China

While purchasers encounter difficulties in Canton, so, too, do would-be exporters. The sale of capital goods often involves more exasperation, time, and energy than buying from China. Both at the Canton Fair and in Peking one readily sees the effect on negotiations of the complex Chinese foreign trade and planning bureaucracy. For instance, the foreigner negotiates with representatives of the Chinese trade corporations; he may never encounter the ultimate end-user of his product. This was once almost invariably true in the Soviet Union and elsewhere in Eastern Europe, but European Communist economic planners have in recent years permitted end-users and foreign sellers to negotiate directly.

Foreign sellers find it difficult to sell any but the most standardized products during the Fair, because of the slowness with which China's economic planning system works and the length of time which the Chinese require to decide to purchase. The Chinese negotiators come to Canton with their own "shopping list" which they do not reveal to exporters, and the foreigner who seeks to introduce a product not on the list will get nowhere in his attempts. He will not sell his product until it is eventually included in a subsequent "shopping list," as a result of decisions to plan for its purchase and to allocate foreign exchange for its payment.

However, even though the seller or his representative are limited at Canton, especially on their first visit, to making presentations and presenting technical literature to representatives who usually say or do nothing but promise to pass the literature on to their end-users, some insights may sometimes be gained from these first conversations, which can be characterized as prenegotiation exploration. Although sales may not result from such efforts, discussions may yield insight into the types of products and technology which the Chinese expect to purchase in the near future. Technical discussions of some complexity may result at the Fair, and the American seller may find (rarely, though) that he is invited to Peking or that he has been asked to provide further information that can serve as the basis for future negotiations in Peking.

IMPORTANT CONTRACT CLAUSES AND PROBLEMS ARISING UNDER THEM

If the setting and pace of negotiations in China are unfamiliar to Americans, so, too, are some of the contract clauses which they will be asked to accept. Some insight into Chinese commercial practice can be derived from a survey of some standard clauses and problems that have arisen under them.

Chinese Sales

The Chinese use two standard contract forms for sales of their goods. One is the one-page "sales confirmation" which contains only the bare essentials of the transaction.[13] It names the buyer and the seller, the commodity which is the object of the transaction, briefly describes its specifications and quality, and adds the unit price, total value, packing, shipment date, loading port and destination, insurance (Chinese sales are usually CIF, although C&F terms to the United States are increasingly common), terms of payment, shipping mark, and a standard clause providing for the finality of Chinese inspections of quantity, weight, and quality of the goods. The other common form, the standard "sales contract" contains all of the above clauses as well as provisions for the seller to advise the buyer by cable after shipment has been made, a vague force majeure claus and an arbitration clause which is discussed below.[14]

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[13] A standard "sales confirmation" is reproduced in Appendix A. In preparing the discussions of standard Chinese contract clauses, which follow below, in addition to my own research and conversations with traders, I have been assisted by Smith, "Standard Form Contracts in the International Commercial Transactions of the People's Republic of China," 21 Int'l & Comp. L.Q. 133 (1972); Reghizzi, "Legal Aspects of Trade with China: The Italian Experience," 9 Harv. Int'l. L.J. 85 (1968); Hsiao, "Communist China's Foreign Trade Contracts and Means of Settling Disputes," 22 Vand. L. Rev. 503 (1969).

[14] A standard "sales contract" is reproduced in Appendix B.

Some Chinese practices and attitudes with regard to the clauses in these simple contracts are worthy of note. Discussed below are payment, inspection and dispute settlement, and force majeure.

Payment

Payment for Chinese goods is usually made by irrevocable, transferable, and divisible letters of credit which are to be payable at sight, allow transshipments and partial shipments, and must reach the seller before the date of shipment (which is usually stated simply as a two-month period, i.e., "September/October"), and remain valid until fifteen days after expiration of the shipment period. At the time of writing, the letters of credit may be opened only through certain third-country banks with offices in the United States such as the Hong Kong and Shanghai Bank or the Chartered Bank. Once settlement has been effected of the Sino-U.S. claims which date from the early 1950s, direct banking relations can be expected to open quickly.[15]

Chinese sales contracts specify Chinese currency, the Jen Min Pi (literally, "people's currency"), as the medium of payment, with the result that the buyer must purchase Chinese currency from the Bank of China in order to pay his seller. The foreign buyer can protect himself against currency fluctuations only incompletely, since the Bank of China will not sell JMP forward for longer than six months.

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[15] Henry Kissinger announced in February that the United States and China were preparing to negotiate settlement of the claims "on a global basis in the immediate future," New York Times, Feb. 23, 1973, p. 1; Secretary of State Rogers and Chinese Foreign Minister Chi Peng-fei began discussions in Paris several days later, New York Times, Feb. 25, 1973, p. 1; further progress was reported after a second Rogers-Chi meeting in Paris, XI *China Trade Report* 9 (March 1973).

Settlement of the claims as the sole condition precedent to establishment of banking relations was stated to me in a conversation in Peking at the offices of the Bank of China in late November 1972.

Inspection and Dispute-Settlement

As indicated above, the standard Chinese export contract provides that Chinese inspection of the goods are final. The inspecting agency is the Chinese Commodities Inspection Bureau, which has offices in China's major ports and industrial centers. When Chinese export contracts contain arbitration clauses, they usually name the Foreign Trade Arbitration Committee (FTAC) of the CCPIT as the arbitral body whose jurisdiction is to be invoked if no agreement can be reached amicably. Some contracts with Americans have provided for arbitration "in a third country" approved by both sides, but no case is known in which arbitration has ever been held outside China in which China was a seller. Although the FTAC was established in 1954 and rules of procedure and a list of its members were published in 1956,[16] the Chinese seem most reluctant to have disputes settled by the FTAC or by any other trade arbitration tribunal. As a result, if a disagreement arises between an importer and the Chinese exporting corporation over the quality of the goods, the importer will usually find that the dispute can be settled, if at all, only after long and arduous negotiations with the Chinese exporter.

The Commodities Inspection Bureau unquestionably has high standards, but what recourse has the buyer who claims that the honey delivered to him was the wrong color, or that garments were improperly sized, or that furs were ruined by dampness and mold because of improper packing? The experience of European buyers suggests that the Chinese corporation will insist on the finality of the Commodities Inspection Bureau's inspection certificate. Even if the buyer seeks to go to arbitration, the Chinese will probably resist. Officials of CCPIT who discussed trade dispute-settlement with me during a

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[16] See the summary in Hsiao, N. 9 *supra* at 314-317.

recent visit to Peking indicated that the FTAC is not a standing body with regular members. Rather, when CCPIT receives a complaint, whether or not it is a formal claim and a demand for arbitration, it will select one person, a "foreign trade expert" who may or may not be on the list of FTAC members, to investigate the matter with the aim of proposing a compromise settlement.[17] Only in the rarest of circumstances will a dispute ever be settled by three arbitrators acting formally under FTAC rules.

The Chinese officials with whom the matter was discussed claimed that their stress on mediation and compromise has proven quite satisfactory to claimants. However, a number of Western European traders interviewed have spoken of Chinese refusal to recognize or to take measures to settle their claims. Instead, they say, the Chinese prefer to negotiate about the claim at a succeeding Canton Fair. Not only is much time taken up by the delay and by Chinese stubbornness but they also assert that the Chinese are loath to make payments on claims and prefer instead to offer the claimant some concession on future purchases. As a result, a claimant may receive a discount or a Chinese negotiator will suddenly exhibit willingness to modify the design or packaging of a product along lines that were previously urged but never agreed to.

[17] One such compromise settlement was described to me: A European buyer of plush complained that the fabric had been pressed down so hard during shipment that it could not be restored to its required texture. CCPIT appointed a textiles expert who recommended that the fabric be steamed. Several officials of CCPIT then visited a factory where steaming and its effects were demonstrated, and they decided to accept the recommendation of the expert and so notified the buyer, who then withdrew his claim.

Chinese treatment of claims for loss allegedly resulting from delayed deliveries is similar. Even though they may have had to delay delivery, the Chinese expect the buyer to keep his letter of credit valid until they are able to ship his goods. They are unwilling to pay the buyer for any losses he sustains as a result of the delay, but they can sometimes be persuaded at a subsequent Canton Fair to make some adjustments in the price or specifications of the product, thereby increasing the buyer's profit on the subsequent transaction and in part making up his prior loss.

Force Majeure

Chinese standard contracts have employed a variety of force majeure clauses. One skeletal version simply states:

> "The Seller shall not be held responsible for non-delivery or late delivery resulting from natural calamities and/or causes beyond their control. However, the Sellers shall undertake to notify the Buyers to this effect accordingly."

Another version enumerates "war, flood, fire, storm, heavy showers" and adds "any other causes beyond [Sellers'] control" as justification for extending the time of shipment or cancelling all or part of the contract.

Western experience under this clause seems to be scanty if not nonexistent. As noted above, the Chinese seem to expect buyers to extend their letters of credit for many months until delivery can be made. This expectation may exist even as to commodities subject to severe price fluctuations. Many buyers are reluctant to do otherwise, for fear of being considered "unfriendly."

The foregoing discussion should suggest that purchases from the Chinese are very much on Chinese terms. The buyer can usually take no steps to protect himself against late delivery. Only with difficulty, for example, can he protect himself against rejection of the goods by his nation's health authorities. Normally the buyer has little or no means of varying the terms on which China exports to the rest of the world.

Chinese Purchases

When the Chinese import goods the seller usually has greater opportunity to depart from standard contract clauses than buyers. Although some standard clauses are employed, some sellers, particularly of whole plants and of high technology products, have been able to negotiate clauses which provide them with somewhat greater protection than the Chinese clauses would have afforded them.

Some Characteristics of Negotiations

The seller to China would be wise to anticipate the setting in which he will find himself when he negotiates in Peking where major transactions are usually consummated. It is common for the Westerner, living alone in a hotel and possessing only expensive and unsatisfactory facilities for communicating by telephone and cable, locked in a slow-moving battle at the bargaining table, to feel strangely lonely and alienated.

A number of reasons combine to keep the pace of negotiations slow. The Chinese buyers will try to learn as much as possible about the technology involved in the seller's product without paying for their education; they often request particularly detailed price breakdowns so that they can determine weak points in the sellers' offer and also seek out opportunities to substitute cheaper foreign or domestically manufactured components than those proposed by the sellers. The buyers may also be very slow to answer some questions about the place and manner in which the sellers' product will be used, for fear of disclosing "economic intelligence." Sometimes such reluctance later leads to misunderstandings, because the product may not perform exactly according to contract specifications due to temperature variations or other unanticipated conditions affecting performance.

The seller must also be aware that the Chinese negotiators probably lack the authority to make the most important decisions. The Chinese negotiators sometimes request an adjournment for a day or two, or even for longer periods whose length may not be stated in advance. Although they are undoubtedly awaiting high-level approval, they frequently give no explanation for the adjournment, and sometimes the seller must simply wait for days until the Chinese are prepared to resume negotiations. The boredom may be broken by outings arranged by the ever-courteous buyers, but nonetheless the seller may tire of picnics and excursions to communes and fret to continue the negotiations and return home.

Some American sellers, aware of these problems and the opportunity cost represented by long negotiations in Peking which may occupy big executives, have tried to save time and money by engaging trading companies to represent them. Often American companies with Japanese licensees or partners have assumed that the least costly and possibly a particularly advantageous route to China lies through Japan. But American sellers which try to employ intermediaries are usually unaware of the Chinese distaste for such intermediaries, whose high commissions they do not want to have reflected in the price of the equipment they purchase. Also, a general Chinese preference for purchasing high-technology equipment from the source prods the Chinese state trading corporations to want to deal directly with the manufacturer. So far as Japanese intermediaries are concerned China's trade with Japan shows a considerable imbalance in favor of Japan, and the Chinese are probably reluctant to tip it any further in Japan's favor when they could purchase elsewhere. Unfortunately, while there may be many roads to Peking, there is no shortcut.

Standard Clauses and Problems Arising Under Them

Certain clauses which recur in Chinese purchase contracts should be examined closely because they reflect common Chinese assumptions about the transactions.[18] A review of Chinese practice under these clauses, whenever known, adds further insight to Chinese attitudes about international commerce.

As is well known, Chinese purchases from abroad are usually on F.O.B. terms. Although the standard contract forms do not use the term "F.O.B." some of its clauses spell out responsibilities of the parties in a manner consistent with the usual understanding of the implications of the term. For instance, the contract clearly specifies the documents, including a "clean on board ocean bill of lading marked freight to collect," which the seller must present to the Bank of China when he wishes to negotiate a draft drawn on the letter of credit opened by the Bank. Another clause states that the risk passes when the goods have been "passed over the vessel's rail and released from the tackle."[19]

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[18] A standard Chinese purchase contract is reproduced in Appendix C.

[19] But see Reghizzi, N. 13 *supra*: "Some Italian businessmen have expressed their perplexity and difficulty in reconciling this clause with the subsequent right of the Chinese to inspect the goods and present claims after so many days have passed from the shipping of the commodities."

Payment

Standard Terms

The standard contract requires the seller to cable the Chinese buyer thirty days before the date of shipment of the date of readiness for shipment, and to provide the information necessary to allow the buyer to determine the space that will be occupied in the vessel by the cargo. The contract further provides that when the goods are loaded the seller must advise the buyer by cable of the shipment. The standard payment clause provides that the Chinese buyer will, upon receipt of the above mentioned shipping advice, open an irrevocable letter of credit with the Bank of China, which is payable against presentation of a draft drawn on the Bank with the shipping documents detailed elsewhere in the contract.

Although it is common practice for the Chinese to insist on confirmed letters of credit when they sell, they are well-known for their reluctance to allow their own letters of credit to be confirmed when they buy. If during negotiations the seller may ask for a confirmed letter of credit, the Chinese negotiator will probably say that there is no need to obtain confirmation, and to insist on it is taken as an insult to the credit of the People's Republic of China.

As a result, the seller who has shipped the goods and presented the documents lacks control over both for some brief period of time. Chinese letters of credit have reportedly sometimes contained clauses allowing inspection of the goods after they have arrived. Such clauses would theoretically transform the letters of credit from irrevocable obligations into conditional promises to pay. This potentially troublesome practice has caused little difficulty, although rare delays in payment and deductions for alleged imperfections found on inspection have been known to occur.[20] Chinese practice is apparently not uniform and some letters of credit clearly indicate that the transaction is a documentary one as is customary in international trade, and that the Bank of China will pay by airmail transfer provided that the "detailed name of the commodity, specifications, quantity, price, manufacturer and packing shown in the documents are found, upon presentation, to be in conformity with [the contract]."

Considerable variation has occurred in the currency of payment employed. As in the case of Chinese sales, in recent years the Chinese have insisted on the use of their own currency as the medium of payment for their purchases. However, recent contracts with Boeing, RCA, and Western Union provide for payment in U.S. dollars.

Credit Terms

The standard terms are, of course, predicated on cash payment, and for many years the Chinese have been well-known for their refusal to purchase on any other terms. Recently, however, along with the general increase in foreign trade already mentioned, the Chinese have indicated a willingness to purchase on credit. The Chinese Minister of Foreign Trade made a statement to this effect when he visited Britain in early 1973.[21] There is some ambiguity in Chinese pronouncements on this subject, since they dislike the term "credit" and prefer instead to employ the euphemism "deferred payment."[22]

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[20] See also Smith, N. 13 *supra* at 140: "I have been told by British businessmen that in some cases of sales to the P.R.C. the letters of credit received only amount to 90 percent of the purchase price, and that the balance is sometimes used as a negotiating counter."

[21] A summary of Minister Pai's remarks is contained in XI *China Trade Report* 8 (No. 1, Jan. 1973).

[22] See, e.g., China Trade and Economic Newsletter, April 1973, No. 210, p. 2, reporting a statement by Li Hsi-fu, Vice-Chairman of the China Council for the Promotion of International Trade.

Regardless of the appellation used, Chinese attitudes on the financing of purchases of whole plants have changed. The Chinese recently purchased ethylene and butadiene plants from the Toyo Engineering Corporation of Japan, a vinylon plant from Kurary, and a third plant from Mitsubishi. The terms reportedly provide for a down-payment of 20 percent with the remainder payable at 6 percent over a five-year period. The Japanese Export-Import Bank, reversing a policy established in 1963, announced that it would finance the manufacturers.[23] Similarly, the Chinese Technical Import Corporation has agreed to purchase a plant to produce 50,000 metric tons of acrylonitrile from Asahi Chemical, Niigata Engineering, and Chori Trading of Japan. As part of the arrangement Standard Oil of Ohio agreed to a technology license for which the Chinese will pay $8 million over a period of five years.[24]

It seems likely that barter, which has not figured prominently in Sino-Western trade in recent years, will continue to be employed only rarely. Several years ago, the Chinese did purchase four sets of electrical generating equipment from an English company, and reportedly paid for one with an assortment of products which included chemicals, foodstuffs, and handicrafts.[25] By and large, though, the Chinese do not appear to favor barter because it results in the introduction of their products into second and third countries, where they compete with identical products purchased from China.

[23] Business International, Feb. 23, 1973, p. 59; South China Morning Post, March 26, 1973, and April 11, 1973; X *China Trade Report* 4 (No. 12 Dec. 1971).

[24] See source, N. 7 *supra*.

[25] On barter in Sino-Italian trade, see Reghizzi, N. 13 *supra* at 111-112.

Delivery

In contrast to the studied ambiguity of Chinese sale contracts on delivery dates, Chinese purchase contracts are quite exigent. A standard clause[26] provides for a penalty for late delivery which is fixed at a percentage of the contract price for each seven days up to a stated maximum, with a right given to the buyers to cancel the contract (as well as claim the penalty), if delivery is delayed beyond ten weeks. The maximum varies, but is not usually higher than 5 percent, which is common. Under some clauses the Chinese seem to have the right to cancel the contract for any late delivery, unless the force majeure clause applies or the buyer has agreed to extend the delivery date and accept the penalty.[27] At least one contract signed by an American seller at the Autumn 1972 Canton Fair set *no* maximum on the penalty for which the seller would be liable because of late delivery.

It is important to note the wide variety of experience that Western European sellers to China have had under these clauses. Some, particularly steel sellers, have reported the Chinese to be unrelenting in their insistence that the penalty be paid. Others have been able to receive Chinese agreement to extension of the delivery time without a penalty. The differences may depend on how needed the foreign imports may be, and may well be affected by whether the seller is also a buyer from China who can point to frequent delayed Chinese deliveries which have threatened or caused him economic loss.

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[26] See Appendix C, Cl. 19.

[27] See the clause in Smith, N. 13 *supra* at 149; the clause reproduced in Appendix C gives the buyer the right to cancel only after delivery has been delayed ten weeks.

Force Majeure

Sellers all over the world try to limit their liability for delayed delivery or nondelivery through the intervention of acts over which they have no control, and buyers are equally resistant. The China trade is an instance of highly stubborn and successful buyer resistance; the Chinese are extremely reluctant to define the circumstances that constitute force majeure. A common clause states that the seller is not liable for delay or nondelivery due to force majeure—which is nowhere defined in the contract. The clause further requires the seller to notify the buyer immediately and then follow that notification with "a certificate of the accident issued by the competent Government Authority where the accident occurs." If the "accident lasts for more than ten weeks," the Chinese buyers are given the right to cancel the contract.

But Chinese practice has not been uniform, and occasionally the Chinese have agreed to mention some of the events which can be considered as instances of force majeure, such as "wars and severe natural disasters." Other clauses refer to "accidents beyond [the Seller's] control" and one exceptional clause mentions "wars, earthquake, flood, fire, explosion and other force majeure circumstances agreed upon by both parties or approved by arbitration in the case of disagreement by both parties."[28] Western European sellers who have had to invoke force majeure claim that they have encountered no great difficulties with the Chinese, who have accepted the delay even though the actual cause was not specified in the contract.[29]

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[28] Reghizzi, N. 13 *supra* at 109. Sino-Japanese contracts are similar, as indicated by several in the author's possession.

[29] On the vagueness of the clause, see Reghizzi, N. 13 *supra* at 110: "So far no problems of the kind seem to have arisen, and the Chinese have recognized at least two cases of forces majeure confirmed by a declaration of the Chamber of Commerce of Milan."

Sellers Guarantees; Inspection

Chinese insistence on purchasing the highest quality Western goods and holding sellers to the absolute letter of their agreement, proverbial in the trade, is partly reflected in a standard clause which requires the seller to

> "guarantee that the commodity is made of the best materials, with first class workmanship, brand new, unused and complies in all respects with the quality, specifications and performance as stipulated in this Contract. The Sellers shall guarantee that the goods, when correctly mounted and properly operated and maintained, shall give satisfactory performance for a period . . . months counting from the date on which the commodity arrives at the port of destination."[30]

The guarantee period often extends to twelve or eighteen months.

The assertion of claims is governed by clauses such as the following:

> "Should the quality and specifications of the goods be not in conformity with the contract, or should the goods prove defective within the guarantee period stipulated in Clause 13 for any reason, including latent defect or the use of unsuitable materials, the Buyers shall arrange for a survey to be carried out by the Bureau, and have the right to claim against the Sellers on the strength of the Survey report."[31]

Other clauses are slightly different, and include "improper design, inferior quality, bad workmanship and the use of bad materials" as bases for claims.[32] The seller is also required to make his own inspection and issue certificates at the time of delivery specifying that the quality, specifications, quantity, weight, and performance of the goods conform to the contract terms.

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[30] Appendix C., Cl. 15.

[31] Appendix C, Cl. 16(3).

[32] Smith, N. 13 *supra* at 147.

Standard Chinese clauses also provide for a "preliminary inspection" by the China Commodity Inspection Bureau of the goods when they arrive with respect to "quality, specifications, quantity and weight." But in addition, where the contract provides also for a guarantee period as in most sales of machinery and equipment, the buyer may claim against the seller on the basis of a subsequent CIB survey within the guarantee period. Standard clauses regularly provide that claims can be made against sellers on the basis of the Bureau's surveys, which the Chinese usually insist should be final. The consequences of a claim, according to a standard clause, are rejection of the goods and refund of their value, reduction in the contract price, or replacement of defective parts.[33]

Chinese practice has caused some annoyance to Western European and Japanese sellers, and can be expected to create difficulties in Sino-American trade as well. So strict is Chinese insistence on adherence to the contract that several European manufacturers have been known to encounter Chinese complaints or even refusal to accept the goods when they shipped at no added cost pieces of machinery that were newer models than those actually specified in the contract. Some European sellers have complained that sometimes the tests used by the Chinese differ from the tests normally used in Europe; this difficulty can, of course, be obviated by specifying in the contract the relevant tests and standards which will be employed by the Chinese when the goods are delivered. In other cases, the equipment may be so advanced that the Chinese may lack technical expertise or highly sophisticated testing equipment. Some compromise has been possible in these cases, but sometimes only with difficulty.

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[33] See Appendix C, Cl. 17.

It does not seem possible to grant much additional contractual protection to the seller by providing for joint inspection by representatives of seller and buyer. Some contracts signed by European sellers are known to have been concluded in which the Chinese have agreed to send personnel to the seller's plant prior to delivery of machinery for a complete plant, but one contract of this type expressly states that the Chinese inspectors sent to Europe lack authority to countersign the certificates of quality which the seller was obligated to supply. The contract further states that the attendance of Chinese inspectors does not affect the seller's guarantee. The same contract also provides for the seller to send his own representatives to the plant site to inspect machinery and equipment at their delivery, yet his guarantee remains unaffected. Regardless of the inspection arrangements agreed to by the parties, it is most unlikely that the Chinese will give up their practice of subjecting imported machinery and equipment to meticulous inspection.

The experience of sellers under these clauses has led many to marvel at the care with which the Chinese conduct inspections and the finickiness of their claims. Where other buyers of vehicles are content to purchase small spare parts by volume, such as kilograms of piston rings, the Chinese count them one by one; where other buyers of steel pipe x-ray the pipe at random for cracks, the Chinese x-ray every inch and make claims for hairline cracks which most buyers will ignore. The seller, then, must be prepared for extraordinarily detailed inspections and for some uncommon claims.

Unfortunately, the present imperfect framework of Sino-Western trade is one in which easy opportunity for face-to-face contact between representatives of buyers and sellers and the resulting possibility of informal claim settlement are rare. It may be that sending the seller's personnel to the site to engage in joint inspection with Chinese personnel can at least help in this respect, although Chinese rigor in these matters has apparently not abated in such arrangements with European sellers. Also, bureaucratic reasons may affect Chinese practice in asserting and settling claims, because no Chinese official is eager to bear the responsibility of ordering or accepting delivery of defective goods from abroad; nor do they wish to be responsible for failing to assert a claim based on defects or for wrongly settling such a claim. As a result, negotiations by Westerners who have dealt with the Chinese over a period of years are often conducted against a background of unresolved claims previously asserted by the Chinese and which serve as bargaining counters during negotiations on other contracts.

Dispute Settlement

Consistent with the tenaciousness described above with which the Chinese assert, and resist settlement of, claims is Chinese practice in settling foreign trade disputes. The Chinese have a record of rigorously avoiding not only litigation but any third-party participation smacking of adjudication. The usual clause provides that "All disputes in connection with this Contract or the execution thereof shall be settled amicably through negotiations." Only in the event that such negotiations fail, continues the clause, will the parties resort to arbitration before the Foreign Trade Arbitration Tribunal in Peking. Some sellers have been able to obtain Chinese consent to arbitration in Sweden or in Switzerland. Yet regardless of the forum selected by the contract, the Chinese have been extremely reluctant to consent to refer to arbitration any dispute arising out of a foreign trade contract.

Reflecting the Chinese distaste for arbitration, it has been impossible to obtain any account of any trade arbitration involving the Chinese held in Peking or elsewhere.

Some traders say that they will never ask for arbitration because they believe that the Chinese consider such a request to be "unfriendly," and therefore a threat to prospects for future business. A few traders have said in private conversations that they have either formally requested or informally hinted that they were about to request arbitration, and that they have thereby produced prompt settlement. In other instances, however, the Chinese have been known not to respond at all. In one such case, they are reported to have ignored the formal invocation of an arbitration clause while continuing to correspond with the European seller involved; eventually the claim was compromised. Moreover, there is some evidence to suggest that the seller will have to yield even when he is convinced that the Chinese claim is groundless or exaggerated, in order to preserve the air of compromise.

It appears likely, then, on the basis of admittedly scanty information, that American sellers seeking to negotiate arbitration clauses will encounter Chinese resistance to choosing any place but Peking. More important, regardless of the forum chosen the seller who becomes involved in a dispute can expect the Chinese to insist politely but firmly on "amicable negotiations," and to seek a compromise solution rather than an arbitrated one.

CONCLUSION

It is impossible in the space available here to discuss some of the other important practical aspects of trade with China, such as the obstacles which presently impede trade and the likelihood of their removal. The new warmth of Sino-American relations seems conducive to the settlement of some of those problems in the near future, so that extended discussion is probably not called for. Still, some of the most important problems should be raised, even if in passing.

U.S. Tariff Treatment of Chinese Goods

Not only from the Chinese point of view but in terms of its impact on the overall Sino-American trade relationship, the lack of most-favored-nation treatment for Chinese imports presently constitutes a major obstacle to expanded United States-China trade. The tariff duties presently applicable to Chinese goods are those of the Smoot-Hawley Tariff of 1931, America's highest, and fail to reflect bilateral tariff reduction agreements signed by the United States since 1950 or multilateral reductions concluded under the auspices of GATT. The differential frequently makes importation of Chinese goods unprofitable. So, for instance, a bamboo basket from Taiwan is dutiable at a rate of 25 percent ad valorem while double that duty is levied on a Chinese basket of the same material.[34] Even sets of those famous Chinese ping-pong balls are assessed at 30 percent ad valorem, while non-Communist balls can bounce in at 8 percent.[35] The present tariff structure, a legacy of the Cold War, should be revised as quickly as possible. At this time, August 1973, the President's attempt to obtain broad authority to change tariff rates, which would include the authority to grant most-favored-nation treatment to nations that do not presently receive it, has been held up in Congress by the attempt of a large number of Senators to deny most-favored-nation treatment to the Soviet Union unless it liberalizes its emigration policies. Regardless of how the issue of most-favored-nation treatment for the Soviet Union fares, it should not be denied to China, a promising trade partner.

Chinese trade officials interviewed on a number of occasions in China as well as in Canada and the United States have pointed to the lack of most-favored-nation

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[34] Tariff Schedule of the United States, Ann. § 222.40 (1972).

[35] *Id.* at § 734.30.

treatment as discriminatory and as a trade barrier. The implication seems clear that it not only inhibits the expansion of Chinese exports to the United States but affects Chinese decisions to purchase from the United States. Although the Chinese have not been rigidly insistent on a bilateral balance of trade, they have hinted that the present tariff situation has a chilling effect on two-way trade because they are being denied access to a particularly profitable market.

Other Problems of American Law

Vexing problems continue to be raised by U. S. export controls. Those controls have been relaxed recently, and China is at least now treated equally with the Soviet Union (replacing the total embargo). Moreover, licensing policy is presently under continuous review and further relaxation may soon be implemented. At the present, however, the size of the list of American products which can be exported to China only under a special license is lengthy enough to hamper sales of such high-technology products as computers and some electronic instruments. Also, the uncertainties of a prospective seller as to whether he will be granted a license as well as the slowness of the licensing procedure necessarily overshadow any negotiation he may have with the Chinese.

FDA regulations also cause difficulty for the Chinese who find that meeting American standards may create burdens on Chinese producing units to which adjustments may be difficult. Even though Chinese trade officials with whom I have discussed the problem understand that the regulations are not intended to discriminate against Chinese imports, they seem to regard the rigor of some of the standards and the discretion vested in FDA inspectors as constituting nontariff trade barriers. The remedy for this problem can only be slow education of the Chinese on the content and administration of the regulations. Indeed, Chinese trade officials have increasingly expressed willingness to begin to manufacture goods that will meet American legal specifications.

The Need to Establish a Sound Framework of Commercial Relations

Despite the rapid expansion of Sino-American trade and commerical contact, time has been too short to permit the evolution of a stable commercial relationship. Chinese distrust of, and unfamiliarity with, the West probably continues to influence Chinese negotiations. Newcomers must explain themselves and demonstrate their "sincerity." Western claims are not settled easily; Chinese claims derive in part from the desire to hold the Western seller to the highest standards of performance. The contracts also reflect a reluctance to conform openly to standard international usages such as INCOTERMS and Uniform Customs and Practices for Documentary Credits. Western dispute settlement is shunned.

Yet the prospect at present is for greater Chinese flexibility and for adoption to some standard ways of doing business. Recent developments in China's foreign policy which have prompted China to multiply contacts and intercourse with many other nations and the related Chinese interest in foreign trade together impel China to move closer to accepting common international practices and usages. This does not mean that China will necessarily soon adhere to the many international agreements which help to establish the legal context of international trade. On the contrary, the Chinese attitude seems to be one of restraint so far as adherence to multilateral agreements is concerned. Rather, the Chinese have preferred to order their commercial relations with the rest of the world on a bilateral basis, and there are signs that they currently regard this as an appropriate way in which to structure commerical relations with the United States.

Officials of CCPIT have expressed interest during Peking conversations in settling some problems which presently impede trade with the United States, and have specifically called attention to a bilateral agreement as an appropriate vehicle. At present, for instance, patents and trademarks originating in the United States cannot be protected in China. China has no patent system as such and agrees to protect foreign trademarks only if the country of origin is one with which China has an agreement for reciprocal protection. Chinese officials have expressed some interest in assuring the protection of Chinese marks in the United States. Also, in our conversations several officials recently expressed their understanding of the need to give licensors of technology assurances that patented technology will be protected from disclosure to third countries. It seems likely that both sides will work toward agreement on reciprocal protection of trademarks, while the Chinese will probably grant protection to foreign patents on a transaction-by-transaction basis with licensors. Agreement on reciprocal protection of all industrial property seems desirable, and hopefully will become the subject of direct negotiations in the near future.

Other Americans have similarly found the Chinese receptive to an agreement on reciprocal protection of industrial property, the establishment of shipping and air links, and means of settling trade disputes. By the summer of 1973, it already seemed possible that the outlines of a stable Sino-American trade relationship could be defined in a bilateral agreement that could be negotiated within the near future. Not all the problems that presently impede trade can be dealt with by such an agreement, but even partial resolution would do much to remove the barriers which have been erected during more than twenty years of Sino-American enmity and estrangement.

Needed: Remedies for Ignorance

Finally, although the effects of more than twenty years of mutual isolation cannot be quickly overcome, it is to be hoped that the great gaps which presently exist in American and Chinese knowledge about the other country can begin to be dissipated. Some of the consequences of that ignorance on both sides have already been observed. In the first year of United States-China trade, too many American corporations put themselves into the hands of dubious China experts and would-be intermediaries who claimed to have connections in Peking. Hucksterism and traders' quest for publicity have also marked United States-China trade. Some companies, faced with their lack of knowledge about China and their inability to distinguish authentic expertise from puffery and downright deception, chose not to pursue China as a source of business at all, preferring to wait for the appearance of more reliable sources of information and more secure routes of doing business. In the meantime, the Chinese have slowly been collecting information about the American economy.

Unfortunately the only remedy to American business ignorance of China is hard work coupled with patience. Responsible organizations such as universities, bar associations, and the National Committee for United States-China Relations have organized conferences and seminars on China trade. The newly organized National Council for United States-China Trade can be expected to play a valuable educational role. Also, as American businessmen negotiate with their Chinese counterparts and accumulate experience in the revived United States-China trade, they will undoubtedly share their impressions and insights with others. Initial American excitement and frenzy over the new trade has now given way to the beginnings of demystification of China for the businessman and his advisors. We can only hope that actual knowledge, too, may not be far away.

APPENDIX A

SALES CONFIRMATION

Sellers: China National Native Produce & Animal By-Product Imp. & Exp. Corp.

Address:

No:

Date: May 1973

Signed at Kwangchow

Cable Address:

Buyers: [Deleted]
Address:

Cable Address:

The undersigned Sellers and Buyers have agreed to close the following transactions according to the terms and conditions stipulated below:

1. Name of Commodity: Bamboo baskets.
2. Specification: No. 2611, a set of 2 pieces.
3. Quantity: 200 sets.
   with ... % more or less both in amount and quantity allowed at the Sellers' option.
4. Unit Price: At RMB 3.-per set CIC2% Hong Kong.
5. Total Value: RMB 600.-(Say Renminbi Yuan Six Hundred Only).
6. Packing: In wooden cases.
7. Time of Shipment: During September/October 1973.
8. Loading Port & Destination: From Swatow to Hong Kong.
9. Insurance: To be effected by the Sellers covering FPA (excluding S.R.C.C.) as per the C.I.C. for 100% of invoice value.
10. Terms of Payment: By Confirmed, Irrevocable, Transferable and Divisible Letter of Credit to be available by sight draft, to reach the Sellers before 15th August, 1973 and to remain valid for negotiation in a Loading port until the 15th day after the aforesaid Time of Shipment.
11. Shipping Mark:
12. Remarks: Beneficiary of the Credit: China National Native Produce & Animal By-Products Import & Export Corporation, Kwangtung Branch, Swatow Office.

THE SELLERS THE BUYERS

APPENDIX B

CONTRACT

No.
Date: April , 1972

China National Light Industrial Products Import & Export Corporation (Address: 82, Tung An Men Street, Peking. Cable Address: INDUSTRY PEKING, hereinafter called the Sellers) and [the buyer] (hereinafter called the Buyers) hereby agree to sign this Contract on the terms and conditions stipulated below:

1) Commodity Name, Specification, Unit Price, Total Value, Packing, Shipping Mark, etc. are as per the attached list, which constitutes an integral part of this Contract.
2) Terms of Payment: The Buyers shall open through Hong Kong & Shanghai Banking Corporation in U.S.A. an irrevocable, transferable, divisible Letter of Credit payable at sight with TT reimbursement clause, allowing transshipment and partial shipment in favor of China National Light Industrial Products Import & Export Corporation, Shanghai Arts & Crafts Branch, reaching 25 days before the stipulated time of shipment, valid in China till 15 days after the stipulated time of shipment, with 5% more or less in value permissible.
3) Shipping Terms:
   a) Port of Shipment: China port.
   b) Port of Destination: San Francisco, U.S.A.
   c) Time of Shipment: During November/December, 1972.
   d) Transshipment and Partial Shipment are allowed. The Buyers shall not stipulate names of Shipping Company and Carrying Vessel in their covering Letter of Credit.

4) Shipping Advice: After the shipment is made, the Sellers shall notify the Buyers by cable the Contract Number, Commodity Name, Quantity, Value, Name of Carrying Vessel and the Shipping Date. The Sellers shall have the right to ship 5% more or less in quantity of the lot for shipment.
The above quantity difference is to be settled at the Contract price hereof.

5) Documents:

	original(s)	copies
Invoice	1	3
Clean on Board B/L	1	1
Packing List	1	2

6) Force Majeure: The Sellers shall not be held responsible for nondelivery or late delivery resulting from natural calamities and/or causes beyond their control. However, the Sellers shall undertake to notify the Buyers to this effect accordingly.

7) Disputes and Arbitration: Disputes if any arising from the execution of this Contract shall be settled through negotiation and consultation between the Buyers and the Sellers. If no settlement can be reached therefrom, the case under dispute may then be referred to the Foreign Trade Arbitration Committee of the China Council for the Promotion of International Trade, or a competent Arbitration Committee in a third country approved by the two Contractual Parties for arbitration. Arbitration Fees are to be borne by the losing party.

8) Insurance: To be covered by the Buyer.

This Contract is made in two originals in Chinese and English. The two versions are of equal validity.

BUYERS: [Deleted]

SELLERS:

China National Light Industrial
Products Import & Export
Corporation.

APPENDIX C

CONTRACT

No.
Peking, Date:

The Buyers: China National Machinery Import and Export Corporation
Erh Li Kou, hsi Chiao, Peking.

Cable Address:

The Sellers:

This Contract is made by and between the Buyers and the Sellers: whereby the Buyers agree to buy and the Sellers agree to sell the undermentioned commodity according to the terms and conditions stipulated below:

1. COMMODITY, SPECIFICATIONS, QUANTITY AND UNIT PRICE:
2. TOTAL VALUE:
3. COUNTRY OF ORIGIN AND MANUFACTURERS:
4. PACKING:
   To be packed in strong wooden case(s) suitable for long distance ocean transportation and well protected against dampness, moisture, shock, rust, and rough handling. The Sellers shall be liable for any damage of the commodity and expenses incident thereto on account of improper protective measures taken by the Sellers in regard to the packing.
5. SHIPPING MARK:
   On the surface of each package, the package number, measurement, gross weight, net weight, and the wordings "DO NOT STACK UP SIDE DOWN," "HANDLE WITH CARE," "KEEP AWAY

FROM MOISTURE," the lifting position and the following shipping mark shall be stenciled legibly with fadeless paint:

6. TIME OF SHIPMENT:
7. PORT OF SHIPMENT:
8. PORT OF DESTINATION:
9. INSURANCE: To be covered by the Buyers after shipment.
10. TERMS OF PAYMENT:

    The Buyers, upon receipt from the Sellers of the shipping advice specified in Clause 12 hereof, shall, in 15-20 days prior to the date of delivery, open an irrevocable Letter of Credit with the Bank of China, in favor of the Sellers, for an amount equivalent to the total value of shipment. The Credit shall be payable against the presentation of draft drawn on the Opening Bank and the shipping documents specified in Clause 11 hereof. The Letter of Credit shall be valid until the 15th day after shipment.
11. DOCUMENTS:
    (1) The Sellers shall present the following documents to the paying bank for negotiation:
        a) One full set of Clean "On Board" ocean Bills of Lading marked "FREIGHT TO COLLECT" and made out to order, blank endorsed, and notifying the China National Foreign Trade Transportation Corporation at the port of destination.
        b) Five copies of Invoice, indicating contract number and shipping mark (in case of more than one shipping mark, the invoice shall be issued separately).
        c) Two copies of Packing List with indication of shipping weight, number, and date of corresponding invoice.

d) Two copies of Certificate of Quality and Quantity issued by the Manufacturers as specified in Item (1) of Clause 16.

e) Certified copy of cable to the Buyers, advising shipment immediately after the shipment has been made.

(2) The Sellers shall within 10 days after the shipment is effected, send by airmail one copy each of the above-mentioned documents with the exception of Item (e) of this Clause; one set to the Buyers and the other set to the China National Foreign Trade Transportation Corporation at the port of destination.

12. TERMS OF SHIPMENT:

a. The Sellers shall, 30 days before the date of shipment stipulated in the Contract, advise the Buyers by cable/letter of Contract No., commodity, quantity, value, number of package, gross weight and measurement, and date of readiness at the port of shipment for the Buyers to book shipping space.

b. Booking of shipping space shall be attended to by the Buyers' Shipping Agents Messrs. Sinofracht Chartering and Shipbroking Corporation, Peking.

c. Sinofracht, Peking, or their Port Agents (or Liners' Agents) shall send to the Sellers 10 days before the estimated date of arrival of the vessel at the port of shipment, a preliminary notice indicating the name of vessel, estimated date of loading, Contract No. for the Sellers to arrange shipment. The Sellers are requested to get in close contact with the shipping agents. When it becomes necessary to change the carrying vessel or in the event of her arrival having to be advanced or delayed the Buyers or the Shipping Agency shall advise the Sellers in time. Should the vessel fail to arrive at the port of loading within 30 days after the arrival date advised by the Buyers, the Buyers shall bear the storage and insurance expenses incurred from the 31st day.

d. The Sellers shall be liable for any dead freight or demurrage, should it happen that they have failed to have the commodity ready for loading after the carrying vessel has arrived at the port of shipment on time.

e. The Sellers shall bear all expenses, risks of the commodity before it passes over the vessel's rail and is released from the tackle. After it has passed over the vessel's rail and been released from the tackle, all expenses of the commodity shall be for the Buyers' account.

13. SHIPPING ADVICE:

The Sellers, immediately upon the completion of the loading of the commodity, shall notify by cable the Buyers of the contract number, name of commodity, quantity, gross weight, invoiced value, name of carrying vessel, and date of sailing. If any package of which the weight is above 9 metric tons, width over 3400 m.m., or height on both sides over 2350 m.m., the Sellers shall advise the Buyers of weight and measurement of each package. In case the Buyers fail to arrange insurance in time due to the Sellers not having cabled in time, all losses shall be borne by the Sellers.

14. TECHNICAL DOCUMENTS:

(1). One complete set of the following technical documents written in English, shall be packed and despatched together with each consignment.

a) Foundation drawings.

b) Wiring instructions, diagrams of electrical connections, and/or pneumatic hydraulic connections.

c) Manufacturing drawings of easily worn parts and instructions.

d) Spare parts catalogues.

e) Certificate of quality as stipulated in Item 1 of Clause 16.

f) Erection, operation, service, and repair instruction books.

(2) The Sellers shall in addition send to the Buyers by airmail the respective technical documents as stipulated in paragraphs a, b, c, d, and f of Item 1 this Clause within . . . months after the signing of this Contract.

15. GUARANTEE OF QUALITY:

The Sellers shall guarantee that the commodity is made of the best materials, with first class workmanship, brand new, unused, and complies in all respects with the quality, specifications, and performance as stipulated in this Contract. The Sellers shall guarantee that the goods, when correctly mounted and properly operated and maintained, shall give satisfactory performance for a period of ... months counting the date on which the commodity arrives at the port of destination.

16. INSPECTION:

(1) The Manufacturers shall before making delivery make a precise and comprehensive inspection of the goods as regards the quality, specification, performance, and quantity/weight, and issued certificates certifying that the goods are in conformity with the stipulations of this Contract. The certificate shall form an integral part of the documents to be presented to the paying bank for negotiation of payment but shall not be considered as final in respect of quality, specification, performance, and quantity/weight. Par-

ticulars and results of the test carried out by the manufacturers, must be shown in a statement which has to be attached to the Quality Certificates.

(2) After arrival of the goods at the port of destination, the Buyers shall apply to the China Commodity Inspection Bureau (hereinafter called the Bureau) for a preliminary inspection in respect of the quality, specifications, and quantity/weight of the goods and a Survey Report shall be issued therefore. If any discrepancies are found by the Bureau regarding specifications or the quantity or both, except when the responsibilities lie with insurance company or shipping company, the Buyers shall within ... days after the arrival of the goods at the port of destination, have the right to reject the goods or to claim against the Sellers.

(3) Should the quality and specifications of the goods be not in conformity with the contract, or should the goods prove defective within the guarantee period stipulated in Clause 13 for any reason, including latent defect or the use of unsuitable materials, the Buyers shall arrange for a survey to be carried out by the Bureau, and have the right to claim against the Sellers on the strength of the Survey report.

17. CLAIMS:

(1) In case that the Sellers are liable for the discrepancies and a claim is made by the Buyers within the time-limit of inspection and quality guarantee period as stipulated in Clause 15 and 16 of this Contract, the Sellers shall settle the claim upon the agreement of the Buyers in one or the combination of the following ways:

(a) Agree to the rejection of the goods and refund to the Buyers the value of the goods so rejected in the same currency as contracted herein, and to bear all direct losses and expenses in connection therewith including interest accrued, banking charges, freight, insurance premium, inspection charges, storage, stevedore charges, and all other necessary expenses required for the custody and protection of the rejected goods.

(b) Devalue the goods according to the degree of inferiority, extent of damage, and amount of losses suffered by the Buyers.

(c) Replace new parts which conform to the specifications, quality, and performance as stipulated in this Contract, and bear all the expenses and direct losses sustained by the Buyers. The Sellers shall, at the same time, guarantee the quality of replaced parts for a further period according to Clause 13 of this Contract.

(2) The claims mentioned above shall be regarded as being accepted if the Sellers fail to reply within 30 days after the Sellers receive the Buyers' claim.

18. FORCE MAJEURE:

The Sellers shall not be held responsible for the delay in shipme or nondelivery of the goods due to Force Majeure, which might occur during the process of manufacturing or in the course of loading or transit. The Sellers shall advise the Buyers immediately of the occurrence mentioned above and within fourteen days thereafter, the Sellers shall send by airmail to the Buyers for their acceptance a certificate of the accident issued by the competent Government

Authorities where the accident occurs as evidence thereof. Under such circumstances the Sellers, however, are still under the obligation to take all necessary measures to hasten the delivery of the goods. In case the accident lasts for more than ten weeks the Buyers shall have the right to cancel the Contract.

19. LATE DELIVERY AND PENALTY:

Should the Sellers fail to make delivery on time as stipulated in the Contract, with exception of Force Majeure causes specified in Clause 16 of this Contract, the Buyers shall agree to postpone the delivery on condition that the Sellers agree to pay a penalty which shall be deducted by the paying bank from the payment under negotiation. The penalty, however, shall not exceed 3% of the total value of the goods involved in the late delivery. The rate of penalty is charged of 0.3% for every seven days, odd days less than seven days should be counted as seven days. In case the Sellers fail to make delivery ten weeks later than the time of shipment stipulated in the Contract, the Buyers shall have the right to cancel the Contract and the Sellers, in spite of the cancellation, shall still pay the aforesaid penalty to the Buyers without delay.

20. ARBITRATION:

All disputes in connection with this Contract or the execution thereof shall be settled friendly through negotiations. In case no settlement can be reached, the case may then be submitted for arbitration to the Arbitration Committee of the China Council for the Promotion of International Trade in accordance with the Provisional Rules of Procedures promulgated by the said Arbitration Committee. The Arbitration shall take place in Peking and the decision of the Arbitration Committee shall be final and binding upon both parties; neither party shall seek recourse to a law court or other authorities to appeal for revision of the decision. Arbitration fee shall be borne by the losing party.

21. SUPPLEMENTARY CONDITION:

This Contract is made in two original copies, one copy to be held by each Party in witness thereof.

The Buyers: The Sellers:

UNITED STATES-MEXICO CHAMBER OF COMMERCE,
Washington, D.C., April 9, 1974.

STATEMENT SUBMITTED BY THE UNITED STATES-MEXICO CHAMBER OF COMMERCE TO THE SENATE FINANCE COMMITTEE ON H.R. 10710, TRADE REFORM ACT

Introduction

The United States-Mexico Chamber of Commerce is a newly organized trade association with headquarters at 1800 K Street, N.W., Washington, D.C. 20006. Its objectives are to foster good business and trade relations between Mexico and the United States by conducting research and analysis of problems arising in the commerce of the two countries, by keeping its members informed on such matters, by representing the interests of various sectors of trade and commerce of the two countries before appropriate bodies and entities, by disseminating information to the public, and by such other activities as may be appropriate.

The Mexican Ambassador to the United States, His Excellency Jose Juan de Olloqui is Honorary President of the Chamber. Charles A. Meyer, formerly Assistant Secretary of State for Latin American Affairs is Chairman of the Board of Directors. Edward W. Clark of Chevy Chase, Maryland is Executive Secretary. Included among the Directors are representatives of leading business and trade organizations of Mexico and leading businessmen of the United States.[1] A membership campaign for the Chamber is now in progress.

Although the committees of the Chamber, including one which will focus on problems of trade policy, are still in formation, this statement is submitted with respect to H.R. 10710 because it is apparent that this legislation will have major influence on relationships in the economic area between the United States and Mexico.

Overview of United States-Mexico Economic Relations

It is a commentary on the closeness of the economic relations between Mexico and the United States that the Mexican peso for many years has followed the dollar, and thus there have been no major bilateral currency readjustments. The fluctuations in the international value of the dollar have had, of course, major impacts upon Mexico's foreign trade—impacts which make its purchases cheaper or dearer and its exports easier or more difficult, without any control on Mexico's part. This is true because the United States is by far Mexico's largest market (70 percent) and largest source of imports (60 percent).

The trade between the United States and Mexico in 1973 totaled $5.2 billion with a favorable balance of $600 million in favor of the United States. The United States shipped $2.9 billion to Mexico and received $2.3 billion. Almost one-half of U.S. exports consisted of machinery and transportation equipment. Mexico is the fifth best foreign customer of the United States.

Imports from Mexico consisted mostly of agricultural products, minerals, and manufacturers produced under the Border Cities Program, which is discussed below. Mexico is the source of 85 percent of U.S. imports of fresh vegetables and 60 percent of U.S. imports of fresh fruits. Mexico is also the principal source of U.S. cattle on the hoof imports.

The Mexican economy has been buffeted over the past several years by the same storms of inflation and currency fluctuation that have beset the United States, with the addition of more than the normal share of floods and earthquakes.

The Mexican economy is characterized by a combination of free private enterprise with strong government leadership. Together they are endeavoring to strengthen the agricultural sector, heavy industry and foreign trade, with the view to enhancing the livelihood of the Mexican people as rapidly as possible. Mexican industry has reached its present stage of development by mobilization of domestic capital resources with important assistance from foreign investment, principally from the United States and Europe. Mexico is aware that foreign capital is necessary if sound development is to continue. At the same time they believe that foreign investments should be conducted under specific rules

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[1] The United States-Mexico Chamber of Commerce is a binational organization which takes positions reflecting the interests of its members. Because a portion of its support comes from business organizations and companies in Mexico, it is registered with the Department of Justice as agent of foreign principals under 22 U.S. Code, Section 611.

and conditions, including the principle of majority participation by Mexican capital. The National Commission on Foreign Investment was set up to coordinate the activities of the various departments of the Executive branch of the Mexican Government in this field. This was misunderstood in some circles as indicating that Mexico would turn its back on foreign investment, which is far from true.

In Mexico fears have arisen from various actions taken within the United States in recent years, directed at importations from Mexico of tomatoes, strawberries, and other fresh fruits and vegetables, of steel mill products, and sulfur. One of the objectives of the United States-Mexico Chamber of Commerce is to help see that such issues are resolved with due regard for the interests of both countries, and with better understanding on each side of the problems of the other.

Another recent action, United States limitations on exports of ferrous scrap, have caused serious problems for the steel industry of Mexico. Because Mexico is a developing country, articles made of steel such as automobiles are used much longer, and Mexico's rate of scrap generation is much lower than that of the United States. Expansion of steel production for the needs of the Mexican economy is peculiarly dependent on U.S. scrap, from which it has historically been obtained. There will be an acute problem for the Mexican industry if it is not possible to increase the allocations above those of the first two quarters of 1974.

Perhaps the most interesting development in United States-Mexico economic relations in recent years is the Border Industrialization Program, which results from the unique geographic and economic situation in which the two countries find themselves. Components are exported from the United States and assembled in Mexico for return to the United States and for competitive export to third countries. It is estimated that the value of output from the border plants in Mexico in 1973 was $600 million, of which $350 million represented parts imports from the United States. The value added by manufactures was thus equivalent to about 17 percent to total Mexican exports. This program has greatly stimulated economic activity on both sides of the border. Such a program follows the economic law of comparative advantage, just as does the location of plants within the United States.

The economic logic is not strictly dependent on the use of Items 806.30 or 807.00 of the Tariff Schedules of the United States, providing for duty-free treatment of the American goods returned, nevertheless, these are without doubt of siderable importance. Duty is exacted on the value added abroad. The only portion on which there is no duty collected are those components which are made in the United States themselves. This is in accordance with the principle of "effective duties" which is applied by a number of industrialized countries, and which is not unique to the United States. These provisions of course are not limited to Mexico, but the common frontier makes it possible to integrate production on both sides, and thus it is a natural thing for both countries. The program has been a boon to employment on both sides of the border. The United States Tariff Commission found in its 1970 report that repeal of Items 806.30 and 807.00 would not benefit employment in the United States.

For these reasons, the United States-Mexico Chamber of Commerce strongly favors the retention of Items 806.30 and 807.00 in the U.S. law. We call attention to the able discussion of this subject in the testimony on March 21, 1974 before the Committee by the Chamber of Commerce of the United States, as follows:

"By facilitating the sequential process, whereby parts manufactured in the United States and sent abroad for assembly or further processing, items 806.30 and 807.00 allow American industry to reduce production costs and therefore the final price of its products sold. The Tariff Commission has concluded that suspension of these items 'would not markedly reduce the volume of imports of the articles that now enter the United States under these provisions.' Rather, they would continue to be 'supplied from abroad by the same concerns but in many cases with fewer or no U.S. components.'

"It has been charged that these tariff items provide an incentive for U.S. industry to export labor intensive jobs. However, without the ability to reduce costs through duty-free importation of components, the U.S. industries involved would be even less competitive, both domestically and internationally. The Tariff

Commission study found that, in 1969, foreign assembly operations utilizing these operations employed approximately 121,000 workers. In the United States 37,000 jobs were directly dependent on these operations.

"The Commission study concluded that in the event of the items' suspension, 'there is little basis to presume that there would be a significant increase in U.S. production,' and thus 'only a small portion of the foreign employment would be returned to the United States.' The employment effect, therefore, would be negative since the larger loss in American jobs directly dependent on these operations would more than offset any gain on returned employment."

Importation under Items 806.30 and 807.00 has recently encountered major problems with U.S. Customs. After years in which the U.S. Customs Service did not specify with exactness the administrative requirements with respect to these importations, Customs became extremely severe. There can be no quarrel with the correct enforcement of the law, but it is widely believed that some of the claims which have been made for forfeiture values on the basis of incorrect customs entries are unjustified, and that importers are being made to suffer for lack of clarification of the requirements on the part of the Customs Service itself.

Position of the United States-Mexico Chamber of Commerce on H.R. 10710

In general, the Chamber endorses the bill which is pending before this Committee as desirable in the interest of international trade, including the trade with Mexico. It would be a great mistake if the United States were to falter in its course of seeking to establish more and more rule of law in international economic affairs. The serious problems of 1973 and 1974 of shortage of materials and high prices indicate not that trade negotiations are undesirable, but that they are more important than ever. Mexico is participating in the international negotiations, which have already begun.

With respect to Title II of the bill, providing for relief against imports, we understand the sentiment of the Congress that the Trade Expansion Act of 1962 did not give sufficiently effective relief, at least in the earlier years, but we caution against an undue swing of the pendulum in the other direction. There are provisions of H.R. 10710 which could easily be interpreted to go too far. We trust that this Committee will make clear, if it approves the language of H.R. 10710, that serious injury is nevertheless still intended to mean something very significant, and not a trifling matter.

Special comment is called for on the provisions of Title III, Chapter 3, of the bill relating to countervailing duties. Exporters from Mexico have had experience of the provisions of Section 303 of the Tariff Act with respect to countervailing duties in several vexatious proceedings, which fortunately have not led to the imposition of countervailing duties. Although the legislative provision is extremely general, the United States Treasury Department historically has exercised judiciousness in applying the law principally in those cases where the international trading community recognizes that the incentives to the exports are excessive. The United States-Mexico Chamber of Commerce submits that the law as written in 1897 is primitive, and unless elaborated administratively, could be a major and unfair impediment to trade. This is highlighted by the fact that there is no test of injury whatsoever. The Chamber considers this to be outlandish, since it would be injurious to the United States economy and to American consumers to impose higher duties on a product the exportation of which was assisted by a foreign government, unless some group in the United States was suffering a substantial injury, the test of which is provided in the General Agreement on Tariffs and Trade. We think that H.R. 10710 is seriously deficient in not providing an injury test for dutiable articles as its does for nondutiable articles.

It is important to recognize that incentives to exports are widely practiced by all trading countries, including the United States, and that there are a number of measures used by the United States which could come under the terms of "bounty or grant" in their widest application. Moreover, incentives to export are essential to the development programs of the developing countries, such as Mexico. We do not believe that any of these Mexican incentives are subject to the Countervailing Duty Law as applied within the terms of the GATT. Furthermore, we submit that when the United States sits down with other trading nations to elaborate a set of rules, as is contemplated, to govern subsidies and incentives it should consider the possibility that acts are appropriate on the part of the developing nations which may not be allowed in the case of the highly industrialized nations.

Since such negotiations may not be quickly concluded, it is vital that the Secretary of the Treasury or the President have discretion to countervail only in those cases where serious injury is caused to some American interest by a measure which is clearly out of harmony with internationally accepted standards, and where the harm to the United States economy is found to outweigh the interests of the exporting country.

Finally, with respect to Title V of the bill, we welcome the provision for a generalized system of preferences for the developing nations. The United States Government has formally supported this principle since 1968. Other industrialized nations have already put such preferences into effect. It is important that the United States proceed to do so.

We hope that the elaborate procedures and safeguards which are provided in Title V will not be allowed to defeat the main objectives of this provision. For instance, if textiles and footwear are excluded, as may well be the case under the present provisions, this will seriously limit the value of the generalized preferences to many developing countries. We urge that the United States select styles of footwear and textiles that need not be excluded from the preferences.

It is also important that the word "article" be interpreted in a manner which is neither too broad nor too narrow, as regards the safeguards of Section 504 of the bill. If, as a general proposition, exports are to be excluded which have reached the value of $25 million and the word "article" is interpreted broadly, then this provision may too easily defeat the preferences. On the other hand, if the test that the article not have attained 50% of total U.S. imports from a particular country in any calendar year is applied too narrowly, then again the effect may negate the value of the preferences for a particular article which one country is proficient in making.

Statement of the International Sino-American Trade Association (ISATA)

This statement is submitted by the International Sino-American Trade Association on behalf of its members in connection with the consideration by the Committee on Finance of the U.S. Senate of the Trade Reform Act (H.R. 10710).

The International Sino-American Trade Association (ISATA), 1701 Pennsylvania Avenue, N.W., Washington, D.C. 20006, is a trade association whose membership comprises firms and individuals interested in the development of trade and investment between the United States and the Republic of China (Taiwan). A list of the current membership of ISATA is appended to this statement. Because the Board of Foreign Trade, which is an agency of the Ministry of Economic Affairs of the Republic of China, contributes substantial initial funds for the establishment and operation of ISATA, the Association is registered with the Department of Justice under the Foreign Agents Registration Act. A copy of ISATA's current foreign agent registration is appended.[1]

Also appended is a summary of the points contained in this submission.

We have analyzed the Trade Reform Act in terms of potential impact on trade and investment between the United States and the Republic of China, and our comments are accordingly limited to those sections which have such potential direct impact.

General Authorities

The general authority which would be granted to the President to enter into trade agreements during a period of five years, to modify duties within certain limitations, and to negotiate the elimination or reduction of non-tariff barriers is desirable, since the implementation of such agreements on a reciprocal basis would undoubtedly stimulate the economic growth of the United States and other countries to the mutual benefit of all. It is, we suggest, desirable to broaden the limits of the President's authority to modify duties in this section of the bill, since specific procedures and limitations contained elsewhere in the bill provide adequate guidelines and limitations on the use by the President of the basic authority.

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[1] This was made a part of the official files of the committee.

PRENEGOTIATION PROCEDURES

It is suggested that the procedures intended to safeguard the interests of American industry prior to the negotiation of tariff concessions are deficient in one major respect—they fail to provide objective criteria for either the inclusion of specific articles in, or the exclusion of such articles from, the lists of articles to be offered for negotiation.

Section 131(a) provides that the President shall furnish lists of articles to the Tariff Commission for consideration by the Commission. No criterion is provided to guide the President in establishing the list of articles in the first instance. Unless an article is included in the lists provided to the Tariff Commission, the Commission would not be authorized to consider and render its advice with respect to such article. It is suggested that it would be desirable to add a sentence to the language of subsection (a) to the effect that, generally, such lists will include without limitation all articles of present or potential interest to the foreign trade of the United States.

The remainder of this section is marked by the absence of any express criteria for reservation of articles once listed. It provides only for an investigation by the Tariff Commission and report to the President on the "probable economic effect" of modifications of duties on the domestic industry producing like or directly competitively articles and specifies the various economic indicators which the Commission is to examine.

Section 132 would authorize the President to seek information and advice from various departments of the Government, or other unspecified sources, and from "selected industry, labor and agriculture groups". Section 133 would provide for the holding of public hearings by an interagency committee to hear any interested party with regard to proposed negotiations. Finally, section 134 would restrain the President from negotiating a tariff concession on any article with respect to which he had not received a report of the Tariff Commission or the 6-month period for reporting had not expired.

The significant thing here is that none of these sections provides a specific criterion to guide the President in determining whether particular articles shall be reserved from negotiation. It is true that subsequent section 128 provides that the President shall not reduce the duty or other import restrictions on any article when he determines such reduction would threaten to impair the national security and that articles subject to restriction under the present Escape Clause, the present National Security Amendment, or the tariff relief provision of this proposed act would mandatorily be reserved. However, the only criterion of general applicability is that the President shall reserve any article "which he determines to be appropriate" for reservation.

It is recommended that a more specific criterion than what the President "determines to be appropriate" be provided for the reservation of articles from negotiating lists. Such express criteria are highly desirable in order to assure the equitable treatment of all articles of all industries in the true public interest.

IMPORT RELIEF

Chapter 1 of Title II of the bill provides a mechanism for "import relief", which is in effect a substantially revised Escape Clause. We consider it desirable that there be a realistic and workable escape mechanism for those American industries which should in fact suffer economic detriment from increased imports, at least for a reasonable period during which readjustment to changed conditions of competition can be made. It is suggested, however, that the escape mechanism proposed by the bill would operate almost automatically to interpose increased duties, quantitative restrictions, or other limitations negating the benefits of reciprocal tariff reductions.

Section 201(b) would eliminate the present causal requirement between trade agreement concessions and increased imports and would substitute "substantial cause" for the present "major part" criterion. This change we consider to be desirable, since the existing Escape Clause has proven to be both unrealistic and virtually unworkable in this respect.

However, it is suggested that the removal of the long-standing criterion of causal connection between a past trade agreement concession and increased imports virtually negates the selective relationship of the principal criteria to actual conditions in the trade and substitutes an artificial criterion which significantly broadens the number of imported articles which could be restricted under this authority.

It is recommended that a causal relation between a past concession and increased imports be retained.

PRESIDENTIAL ACTION AFTER INVESTIGATION

Section 202 provides for the first time in Escape Clause history specific criteria for presidential decision upon affirmative recommendations for import relief from the Tariff Commission. We suggest that such criteria are highly desirable since they interject more certainty into the ultimate decision-making process.

FORM OF IMPORT RELIEF

Section 203(a) would permit the President, in addition to increasing duties, imposing quotas, or a combination of both, inter alia to negotiate orderly marketing agreements with foreign countries. This, we submit, is a desirable alternative to unilateral restraints. There is, however, a potential ambiguity in the non-signer language appertaining to such orderly marketing agreements contained in section 203(h)(2). It is not clear whether the phrase "among countries accounting for a significant part of United States imports" contained in that subsection contemplates an agreement between the United States and one other country only or whether there must be an agreement between the United States and two or more other countries. It is suggested that it would be desirable to clarify this language to bring it in line with the non-signer provision presently contained in section 204 of the Agricultural Act of 1956 by expressly making it the United States and two or more other countries.

ADJUSTMENT ASSISTANCE FOR WORKERS

Chapter 2 of Title II provides for the granting of adjustment assistance to workers following a determination on the basis of criteria which are substantially less difficult than the present criteria for worker and firm readjustment assistance and less difficult to meet even than the criteria for import relief provided in Chapter 1 of this title.

The worker assistance provisions are highly desirable, as an alternative to import restraints.

COUNTERVAILING DUTIES

Chapter 3 of Title III would substantially amend the countervailing duty statute.

This amendment, if the present legislative history is allowed to stand, could have a very severe negative impact on a substantial volume of exports from Taiwan to the United States. In the Ways and Means Committee's explanation of the Administration's proposed Trade Reform Act, the Committee stated that:

"The Treasury Department considers rebates or remissions of taxes not directly related to an exported product or its components as being grants or bounties within the meaning of the countervailing duty law." (Committee Print, p. 76)

This statement refers to the Treasury's determination in the Canadian Michelin Tire case, and probably includes within the scope of the Treasury view the various tax incentives provided by the Republic of China for the encouragement of new investment, and similar laws in many other developing countries as well.

In its report accompanying H.R. 10710, the Ways and Means Committee stated in this regard: "your committee, in recommending this amendment, does not express approval or disapproval of the standard employed by the Treasury Department in administering the countervailing duty law with regard to the treatment under that law of rebates or remissions of direct and indirect taxes." (House Report No. 93-571, p. 69)

The amendment would also require the Secretary of the Treasury to act within one year, which in effect deprives the Secretary of "no-action" discretion in applying the Michelin Tire precedent in inequitable situations.

Against the legislative history thus created, if this provision were applied rigorously against exports from Taiwan manufactured with benefit of the investment encouragement laws, very large amounts of countervailing duty would ultimately be assessed with devastating impact on trade.

It is therefore recommended that there be included in section 331 an express exclusion of less-developed countries from the applicability of the countervailing duty statute, when the "grant of bounty" involves the rebate of indirect taxes such as those commonly used in investment encouragement statutes.

BALANCE OF PAYMENTS AUTHORITY

Section 122 would authorize the President to take various actions to correct disequilibrium in the United States balance of payments, which in the case of a serious balance of payments deficit could be the imposition of a temporary import surcharge or of temporary quantitative limitations. Subsection (c) of section 122 authorizes the President to deviate from the most-favored-nation principle in applying such restrictions. It is suggested that subsection (c) should contain an express provision that, in applying restrictions to selected countries, the President should give due regard to voluntary efforts being made by individual countries to correct a persistent balance of payments surplus of such country in its payments balance with the United States.

The Republic of China, enjoying an increasing balance of payments surplus in its payments account with the United States over the past four years, determined as a matter of policy to take energetic administrative measures in 1973, 1974, and 1975 to redirect its trade in such a way as to greatly reduce or eliminate its payments surplus vis-a-vis the United States. For example, targets have been established to increase total imports from the United States of various industrial semi-manufactures and finished products from $91.4 million in 1972 to $178.9 million in 1973, to $234.4 million in 1974, and to $295.5 million in 1975. Similarly, purchases of basic agricultural commodities for 1973 were increased to about $252 million from $163.5 million in 1972. A list of commodities and products for which an increase in exports from the United States to Taiwan is actively sought is appended as Attachment A.

It is seen from the foregoing that the Government of the Republic of China is taking energetic steps to reverse its balance of payments surplus with the United States and to bring the payments account into a more stable relationship. Such efforts, it is suggested, should be given due consideration by the President in any eventual restrictions imposed by the United States to correct balance of payments disequilibrium, and it would be desirable if the legislation were expressly to provide for such due account to be given.

GENERALIZED PREFERENCES FOR DEVELOPING COUNTRIES

Title V would provide duty-free treatment for certain articles from designated beneficiary developing countries for a period of ten years. Such authority is highly desirable as a means of overcoming many of the problems of economic development in many of the less-developed areas of the world.

The developing countries which would be beneficiaries of such preferences are not designated by name, but such designation is left in the discretion of the President with certain general guidelines. We suggest that it would be more desirable for the Congress to fix as of now those countries which could be designated by the President as beneficiary developing countries. While some countries have enjoyed in recent years substantial increases in agricultural and industrial growth and in per-capita income and other indices of economic progress, the dividing line between the developed and the developing countries is well-established and should be fixed by the Congress as of this time. We suggest that the delineation of developed from less-developed countries set out in Executive Order No. 11285, pursuant to section 4916 of the Internal Revenue Code (26 USC 4916), should be assigned as the basis for the designation of beneficiary developing countries for the purposes of the proposed preference system.

SUMMARY OF POINTS

1. ISATA supports the grant of authority to the President to enter into trade agreements during a 5-year period, to modify duties without limitation, and to negotiate the elimination or reduction of non-tariff barriers.

2. The pre-negotiation procedures contemplated by the bill are deficient in two major respects: first, they fail to provide objective criteria for determining which articles are to be included in the preliminary lists of articles to be transmitted

to the Tariff Commission for evaluation, and, second, no express criteria are provided for determining whether articles once evaluated are to be reserved from negotiation. It is recommended that such specific, objective criteria be provided.

3. The import relief provision is essentially anti-import, removal of the requisite causal connection between trade agreement concessions and subsequently increased imports broadens the range of articles which would be subject to potential restrictions.

4. The specific criteria on which presidential decision is to be based following an affirmative recommendation from the Tariff Commission for import relief are desirable and should be retained in the Committee's bill.

5. The additional flexibility granted to the President in effecting import relief through the mechanism of orderly marketing agreements is desirable. However. there is an ambiguity as to whether the non-signer provision applicable to such agreement requires an agreement between the United States and only one other signatory country or between the United States and more than one other signatory country. It is recommended that this ambiguity be resolved.

6. The worker adjustment assistance provisions are desirable.

7. The amendment of the countervailing duty statute, in conjunction with the attendant legislative history created by Treasury practice and the Ways and Means Committee Report, would result in the application of countervailing duties to a large number of products which are presently manufactured in Taiwan for export to the United States with the benefit of indirect tax forgiveness or rebates under various laws designed to encourage new investment. It is recommended that, to avoid such severe negative impact on imports from Taiwan and other developing countries, an express exclusion of less-developed countries from the applicability of this particular basis of countervailing duty be inserted in the bill.

8. With regard to the balance of payments authority, it is recommended that an express provision be inserted which would require the President to give new consideration to efforts being made voluntarily by individual countries to correct a persistent balance of payments surplus between such country and the United States. The example is cited of very considerable voluntary efforts being made at the present time by the Government of the Republic of China to reduce or eliminate its balance of payments surplus vis-a-vis the United States.

9. The proposed scheme of generalized tariff preferences for developing countries is highly desirable. However, it is recommended that the Congress define precisely what countries would be eligible as beneficiary developing countries on the basis of the present definition of less-developed countries contained in Executive Order No. 11285 pursuant to section 4916 of the Internal Revenue Code.

Attachment A

Rustoleum
Sulphur, various forms
Conduits, cast iron
Siphons, cast iron
Tubes and pipes, various
Conduits, steel, high-pressure hydro-electric
Bends, steel, for high-pressure hydro-electric conduits
Offsets, cast iron
Joints, tubes and pipes, cast iron
Tubes boiler, for central heating apparatus
Fittings, pipe, for central heating systems
Nuts, for tubes and pipes, cast iron
Wood pulp, sulphate and sulphite, dissolving grades
Acetate pulp
Rayon pulp
Viscose pulp
Chemical wood pulp, dissolving grades, n.e.s.
Carbon black
Potassium fertilizers and potassium fertilizer materials (other than crude natural potassium salts), n.e.s.
Beef tallow (rendered)
Vacuum pumps
Air compressors
Oil Well drilling machinery

Alloys, aluminium-copper-magnesium-manganese, unwrought (aluminum predominating), malleable
Alloys, aluminum-copper unwrought, (aluminium predominating) malleable
Alloys, aluminium-magnesium-silicon, unwrought (aluminium predominating), malleable
Alloys, aluminium-manganese-magnesium, unwrought (aluminium predominating)
Alloys, aluminum-zinc-copper, unwrought (aluminum predominating), malleable
Boren, aluminium master alloy ingot
Alloys, aluminium unwrought, malleable, n.e.s.
Ingots, aluminum
Pellets, aluminium
Grains, aluminium
Aluminium, unwrought
Ingots, aluminium alloys
Pellets, aluminium alloys
Grains, aluminium alloys
Aluminium, unwrought, n.e.s.
Aluminium, alloys unwrought, n.e.s.
Plates, aluminium, various
Sheets, aluminium, various
Foil, aluminium, various
Conducts fittings of steel, high-pressure hydro-electric, 6 in.
Waste and scrap, iron or steel pipes and tubes, fit only for remanufacturing
Pots, coffee, aluminium, include enamelled, not electric
Kettles, not electric, aluminium
Saucepans, aluminium
Pails for domestic use, aluminium
Home sewing machines, various
Benzoic acid
Sodium benzoate
Citric acid
Sodium carbonate (soda ash)
Sodium carbonate, light
Sodium carbonate, dense
Miscellaneous sodium carbonates
Sodium bicarbonate
Poly vinyl choride (PVC)
PVC resin compound or powder
PVC adhesive
Ethylene chloride and vinyl acetate copolymer
GP Polystyrene used as materials
Foamed Polystyrene used as materials

ISATA MEMBERSHIP

Asia Electrical Appliances Corporation.
Balfour, Guthrie & Company.
Cheng Shin Rubber Ind. Co., Ltd.
Cheng Yee Trading Co., Ltd.
Chen Ta Fiber Corporation.
Chenta Rayon Co., Ltd.
Chia Cheng Enterprise Co., Ltd.
Chia Wei Electrical Appliance Corp.
Chi Ho Fiber Corporation.
China External Trade Development Council.
China Pottery Arts Co.
China Trade Development Co., Ltd.
Chin Hsiang Real Estate Corporation.
Chin Kang Enterprises Co., Ltd.
Chiu Yu Manufacturing Co., Ltd.
Chuan Ching Co., Ltd.
Chung Ho Textile Corp.
Chung Hsin Textile Corporation.
Chunghua Trade & Development Corporation.
Chung Tai Medicine Corporation (Tainan).

Connell Rice & Sugar Company, Inc.
Diligens Knitting Co., Ltd.
Eagle Textile Industry Corporation.
Fan Ming Trade Co. Ltd.
Far East Decoration Lighting Corporation.
Far Eastern Textile Co.
Federal Industries, Inc.
Fei T'ung Enterprise Corporation.
Formostar Garment Co., Ltd.
Fu Chu Corporation
Fu Hsing Textile Corporation.
Fu I Industrial Co., Ltd.
Fu Shing Mfg. & Lumber Co., Ltd.
General Textile Mfg. Co., Ltd.
Green Giant Company.
Hai Sheng Corporation.
Hai Wan Corporation.
Hao Kuang Electrical Appliances Corporation.
C. L. & Howard Co. Ltd.
Hsinchu Glass Works, Ltd.
Hsin Hua Tai Chung Wool Weaving Corporation.
Hsing Fu Enterprises.
Hsing Kuang Standard Underwear & Dyeing Corp.
Hsin Ta Feng Plastic Goods Manufacturing Corporation.
Hualey Knitwears, Ltd.
Huan Ming Trade Association.
Hua Sheng Enterprise Co., Ltd.
Hua Ta Electrical Appliances Enterprise Corporation.
Hung Fa Trading Co., Ltd.
I Hsin Textile Corporation.
In Ming Trade Co. Ltd.
I Yuan Electrical Appliances Corporation.
Jeou Yue Industry Co., Ltd.
Kai Nan Lumber & Wood Mfg. Co., Ltd.
Ka Kin Plastic Goods Manufacturing Corporation.
K'ang Chia Enterprises.
King Knitting Co., Ltd.
Kuang Nan Enterprise Corporation.
Leader Textile & Fiber Industries, Ltd.
Li Chuan Enterprises Company, Ltd.
Li Tai Fiber Weaving Corporation.
L Kuang Electrical Appliances Corporation.
Port of Long Beach, California.
M. G. Maher & Company, Inc.
Matsushita Electric (Taiwan) Co., Ltd.
Mattel, Inc.
MEI Ning Corporation.
Mei Yung Knitting & Dyeing Co. Ltd.
Min Hsing Cotton Mill, Ltd.
Nan Tai Enterprise Corporation.
Nan Ya Plastic Corporation.
New East Textile Co., Ltd.
Ning Ming Corporation.
Pao Hsin Textile Corporation.
Pei Te Tsu Trading Co., Ltd.
Ruenhua Dyeing & Weaving Co., Ltd.
Sanhwa International Corporation.
San Shang Hang Corporation.
San Ta Yee Enterprises Co., Ltd.
Sarkes Tarzian, Inc.
Seaward Taichung Wool Textile Co.
Seltex Factors.
Shiang Yee Enterprises Corporation.
Sheng Pao Electrical Appliances Corporation.
Shinkong Synthetic Fibers Corporation.
Sun Feng Mao Chi Weaving Corporation.
Sung-I Cotton Mill, Ltd.

Sung Ta Corporation.
Sun Kwong Textiles Co.
Tah Tong Textile Company, Ltd.
Tai Ch'iao Fiber Manufacturers Corp.
Tai Hua Local Produce Co.
Tai Lun Enterprise Co., Ltd.
Tai Lung Knitting Corporation.
Tai Lung Trade & Development Co. Ltd.
Tai Shan Electrical Appliances Corporation.
Taiwan Chemical Fiber Manufacturers Association.
Taiwan Chemical Products Corporation.
Taiwan Cotton Spinners Association.
Taiwan Handicraft Export Association.
Taiwan Knitting Corporation.
Taiwan Knitting Industry Association.
Taiwan Machinery Trade Association.
Taiwan Mushroom Packers United Export Corporation.
Taiwan National Enterprise Corporation.
Taiwan San Yang Electrical Machinery Corporation.
Taiwan Sung Hsia Electrical Appliance Corporation.
Taiwan Tung Lin Electronics Corporation.
Tai Yuen Textile Co., Ltd.
Tang Jung Steel Corporation.
Ta Tung Corporation.
Ta Young Knitting Corporation.
Ta Wu Trading Co., Ltd.
Ta Yung Steel Factory Co., Ltd.
Tein Chi Co.
Ting Lung Corporation.
Tobishi Electronic Ind. (Taiwan), Ltd.
Tung Fa Oil Co., Ltd.
Tung Feng Electrical Industry Corporation.
Tungmen Fiber Corporation.
Tung Yang Co.
Tung Yu Electrical Appliances Corporation.
Union Textile Corporation.
Universal Electric Appliance Corporation.
Universal-Marusan Corporation.
USI Far East Corporation.
Wang Tien Woolen Textile Co., Ltd.
Wang Ti Wool Weaving Corporation.
Wei Li Electrical Appliance Corporation.
Wen Ming Enterprise Corporation.
Wilber-Ellis Company.
Wu Fu Yuan Co., Ltd.
Yee Shiang Fiber Co.
Yee Sing Chon Company, Inc.
Yung Ta Knitting Corporation.
Yu Peng Corporation.
Yu Tai Enterprise Co., Ltd.
Ying Hua Dyeing & Weaving Corporation.
Yung Shiang Chemical Fiber Co.

Statement of the Society for Animal Protective Legislation, Washington, D.C., Christine Stevens, Secretary

Amending the Trade Reform Act to Deny Most Favored Nation Status to USSR Until It Agrees to Ten-Year Moratorium on Commercial Killing of Whales

On behalf of the Society for Animal Protective Legislation, I urge that Title IV of H.R. 10710 be amended to include a requirement for adherence to an international moratorium of ten years on the commercial killing of whales on the part of the Union of Soviet Socialist Republics if this nation is to be eligible to receive nondiscriminatory treatment (most-favored nation treatment).

Following Senate and House approval of resolutions requesting the Secretary of State to call for a ten-year moratorium on commercial whaling, the United

States delegation at the Stockholm Conference on the Human Environment (1972) proposed a similar resolution, and it was adopted by a vote of 53 to 0. The following year, at Geneva, the international vote was again unanimous. This year, at Nairobi, a unanimous vote was again taken on the issue. Nevertheless, at International Whaling Commission meetings the USSR and Japan aggressively oppose the moratorium and even refuse to adhere to modest restrictions voted by three-quarters majorities in the Commission.

The plight of the great whales is desperate. But the two nations who, between them, kill approximately 90% of all whales destroyed each year, seem determined to continue till only a few poor survivors wander the seas and it is no longer profitable to send out the huge factory ships that are equipped to dispose of a vast whale carcass in thirty minutes.

In presenting the Albert Schweitzer Medal last December to Scott McVay, Dr. Lee M. Talbot, Senior Scientist of the Council on Environmental Quality, said in part, "The results of the Stockholm Conference included agreement on over 100 specific actions, on United Nations environmental institutions and a declaration of environmental principles; yet the issue which became the symbol of the Conference was the whale. There is probably no living thing today that has come to be as representative and symbolic of our environmental awareness as the whales.

"Whales have become a focal point for international conservation concern. They have represented a true tragedy of the commons. They have been all-too exemplary of the over-exploitation and abuse of the environment and its resources by shortsighted human action. In the past they represented a significant natural resource. With successful conservation, they may again in the future. More than that, they represent what is widely believed to be a high order of intelligent being. The public responds to whales because of their unique size, their social structure, their songs, and from what many believe to be their kinship to us as intelligent mammals, and their continuing plight and endangerment at the hands of a handful of greedy industries and peoples. Beyond all this, whales no longer represent a truly significant economic or food resource. If we prove unable to manage whales, it does not augur well for our ability to manage any of the other species for which there is so much greater incentive of exploitation. In other words, if we cannot find a way to manage whales successfully, it is unlikely we will be able to do so successfully with any other component of our living environment."

The United States is the world leader in seeking to save the great whales. But persuasion has failed dismally when applied to the last two nations to conduct pelagic whaling. Stronger methods *must* be applied if the whales are to be saved. The time is short. The technology used to track the whales down is sophisticated: it includes radar, helicopters, fixed-wing aircraft, fast catcher boats accompanied by the huge factory-ship, and the most despicable of killing methods, the explosive harpoon. Shot from a cannon, the grenade-tipped harpoon explodes deep in the body of the whale. Often an hour or more of agony follows.

Dr. Harry Lillie who sailed as a ship's surgeon gave the following first-hand description: "The present-day hunting harpoon is a horrible 150-pound weapon carrying an explosive head which bursts generally in the whale's intestines, and the sight of one of these creatures pouring blood and gasping along on the surface, towing a 400-ton catching vessel by a heavy harpoon rope, is pitiful. So often an hour or more of torture is inflicted before the agony ends in death. I have experienced a case of five hours and nine harpoons needed to kill one mother blue whale. If we could imagine a horse having two or three explosive spears driven into it, and then made to drag a heavy butcher's truck while blood poured over the roadway until the animal collapsed an hour or more later, we should have some idea of what a whale goes through."

The American people are demanding in stronger and stronger tones a cessation of whale killing. Attached are a sampling of editorial comment which reflects the feeling of the nation from coast to coast.

[From the Chicago Sun-Times]

RUSSO-JAPANESE WAR AGAINST WHALES

WASHINGTON.—The subject is whales, but don't go away.

I know, you've been bugged to boredom in recent years by stories about vanishing species of life on Earth. And you're sick and tired of the railings regarding every moving object from the tsetse fly to the aardwolf.

But this time, believe me, they aren't crying "aardwolf." There's a genuine threat to the world's whale population, and you don't have to be a marine biologist or a student of Herman Melville to understand the implications of any possible extinction of the whales.

Whales are a unique form of life on Earth, mammals whose physiology and minds remain a series of mysteries to science—riddles which, on unraveling, might tell us more about the origin of life than all our outer-space exploration. But the problem seems to be that the Russians and Japanese have other views on the subject. Specifically, they see in whales not the mysteries of the universe but the makings of daily food for hounds in Leningrad and pancake makeup for Tokyo geishas.

This is the only conclusion to be drawn from the whale-hunting policies being pursued, with a vengeance, by the Soviet and Japanese governments. For there is, you see, a latter-day Russo-Japanese war going on, an alliance of the whale hunters of those two countries against the world's remaining whale population. And if we can believe the experts, it's nothing less than a war of total extermination—what commercial technocrats of those countries might even call a final solution to the whale problem.

As such things go, it's a lovely war for Russo-Japanese hunters, with fat profits for themselves and a neat rate of enemy casualties. Take, for example, the finback whale of the Antarctic: depleted in recent years from 380,000 to 77,000. The rate of slaughter for other whale species, such as minke and sperm, tells much the same story.

Were the Russians and Japanese carrying on their joint war against whales out of some national urgency—that is, to serve some fundamental human need—it might be understandable, if not excusable. But that isn't the case. Whale products in the Soviet Union and Japan, as indicated, are going into items such as dog food and cosmetic additives. In brief, frivolous items of conspicuous consumption which critics of America, particularly those from the Communist sphere, like to invoke as evidence of capitalist consumer decadence.

Indeed, the Russo-Japanese whale war constitutes one of those shortsighted exercises in slaughter-for-profit which congenitally anti-American propagandists have over the years attributed to greedy capitalism. But the fact is that this country has taken the lead in efforts to bring about an international agreement to halt the indiscriminate killing of whales.

Last June, U.S. representatives at the London meeting of the International Whaling Commission succeeded in getting a majority of commercial fishing nations to agree on minimum conservation measures designed to permit whale species to replenish. Along with a majority of countries, the United States is also seeking a 10-year moratorium on all whale fishing.

All to no avail in changing the ways of the Russians and Japanese, who followed the same aggressive approach in asserting fishing rights in North American regions.

Currently, a joint congressional resolution sponsored by Sen. Warren Magnuson (D-Wash.) and others would require that the U.S. State and Commerce departments review our entire trade agreement structure with the Russians and Japanese. What the Magnuson resolution says, in effect, is that since all else has failed, some form of direct economic pressure is needed if the world's diminishing whale population is to be rescued from slaughter.

To be sure, the rescue of whales isn't the kind of big-stroke dramatics that can win anyone a Nobel Peace Prize. But the cessation of the unconscionable war to exterminate these unique creatures is nevertheless a matter our peripatetic secretary of state might consider taking up, in no uncertain terms, with his Russian and Japanse friends in those well-publicized travels along the via pacifica.

[From the Hartford Times]

WILL THE GREAT WHALES NOW BECOME EXTINCT?

(By Bill Clede)

Whales have been a concern of conservationists for years. Now the concern has become a controversy.

The National Wildlife Federation in a strongly-worded letter to President Nixon, has urged an American boycott of Japanese and Russian products in response to "these countries' short-sighted and callous whaling activities."

According to NWF Executive Vice President Thomas Kimball, Japan and the Soviet Union have been unwilling to revise their whaling practices.

"The best scientific information available points towards the extinction of at least some of the eight species of great whales," Kimball said, "unless all whaling nations are willing to revise their practices to the degree necessary to insure the survival of these huge marine animals."

The Japanese and Soviets are now the only ones engaged in major whale-killing efforts, according to Kimball. The United States phased out its last whale fleet in 1971 and has banned the importation of all whale products.

The British, Norwegians and Dutch left the major hunting grounds—the Antarctic and North Pacific—a few years ago when the supply of whales dropped so low that expeditions became unprofitable.

While Kimball admits there is a dearth of comprehensive and reliable population statistics on whales, scientific indications and declining whale harvests point to a major survival threat for most species of whales.

In the past 50 years, more than two million whales have been killed to produce lubricants, cosmetics, soap, paint, shoe polish and margarine. The Japanese and Russians eat whale meat but Kimball claims its contribution to the protein budget is small.

Over the past three whaling seasons, the kill has averaged 37,000, a decline blamed on fewer whales. The quota for the 1973–74 season, set by the International Whaling Commission, is 37,500.

Last year, the Japanese mounted four whaling expeditions and the Russians three. Each consists of a factory ship and a fleet of small, fast catcher boats.

At the U.N. Conference on the Human Environment last year, a unanimous vote called for a 10-year moratorium on whaling. This past June, the American delegation urged the moratorium at ~~the~~ International Whaling Commission.

"At the meeting, both Russia and Japan declared their unwillingness to abide by an earlier decision made by all 14 member nations to give the Commission a stronger Secretariat," Kimball explained. "And the Japanese voted against three principal conservation decisions and the Russians opposed two."

Only Japan opposed the Commission recommendation to limit the 1973–74 harvest of fin whales to 1,450 and phase it out by 1976, according to Kimball. The United States had urged a complete moratorium. Once estimated to number a half million, the population of fin whales is now put at some 80,000.

Both the Soviets and Japanese have said they will not limit their take of minke whales to 5,000 this year, the same as last year. Japan had agreed, then the Soviets decided to harvest the minke, beat Japan to the Antarctic hunting waters and took the first 3,200, limiting the Japanese catch to some 2,500.

Kimball says Japan is using its own scientific figures this year to justify taking up to 12,230 minke whales.

"Since Japan and Russia are acting within the legal constraints of the IWC charter," Kimball said "that body is apparently helpless to act."

[From the New York Post]

Protest Japan Whale Killing

A dozen members of various humane, animal protection and environmental groups picketed the offices of Japan Aid Lines at 655 Fifth Av. at noon, to protest Japan's killing of whales.

The demonstrators contend that the Japanese have ignored quotas set by the International Whaling Commission. They said the total number of whales killed by the Japanese this year would be nearly 20,000.

[From the Los Angeles Times]

Show Goes on as Whale Friends Mount Boycotts

(By Gordon Grant)

The passage of the California gray whales down the coast this year has, in a small way, sprouted international implications in part of Orange County.

High school students in the Capistrano Unified School District have endorsed a boycott on all Japanese-made imports, from automobiles to cameras, as a protest against Japan's repeated refusals to take part in a worldwide moratorium on the slaughter of whales.

Similiar boycotts are in effect in other parts of the United States under sponsorship of the American Cetacean Society, the Animal Welfare Institute, Friends of Animals, Project Jonah (a worldwide organization) and, locally, the Capistrano Environmental Center.

The 14 nations of the International Whaling Commission, which meets annually, considered a 10-year moratorium on killing of whales at the 1973 conference in London. Only Japan and Russia opposed the plan, and those two countries alone account for 90% of the whales taken every year.

"The fact is," said Phillip Grignon, marine biologist and assistant principal of Dana Hills High School, " that whaling is a minor industry in Japan compared to its other products."

"The purpose of our boycott here and of those in San Francisco school districts and elsewhere is to make Japanese businessmen ponder on whether their other exports should suffer because of one of their smaller industries."

Capistrano school district students are distributing leaflets listing the major Japanese products under boycott, including automobiles, photographic equipment and electronic gear such as radios and television sets.

On the lighter side, the migration of the gray whale is being celebrated with the second annual Festival of the Whales at Dana Point Harbor. Held on Jan. 25 through Feb. 3, the program includes daily whale-watching trips aboard sportfishing boats, lectures, and displays by schools and marine culture groups.

[From the Courier-Journal & Times]

SAVE-A-WHALE DRIVE OPPOSES JAPAN, U.S.S.R.

(By Irston R. Barnes)

The ruthless killing of whales has long outraged thoughtful people everywhere. Five of the major species—the blue, humpback, gray, bowhead and right whales—are already so reduced in numbers that commercial exploitation is no longer profitable. So the whalers have now turned to the Antarctic fin, minke, sperm and sei whales, continuing their slaughter with contemptuous disregard for world opinion. But now, thanks to the organizing efforts of the Animal Welfare Institute, you can join in a save the whale campaign by boycotting all products of Japan and Russia.

Leadership in arousing public opinion to preserve whales was taken by the Society for Animal Protective Legislation in sponsoring a congressional resolution instructing our State Department to seek to negotiate a 10-year moratorium on the killing of all species of whales. In June 1972, the United States delegation urged a 10-year moratorium at the Stockholm United Nations Conference on the Human Environment; it was approved by 53 nations with none opposing.

Japan and Russia have since made that United Nations action an exercise in futility. At the International Whaling Commission meeting in London later in June of 1972, the same moratorium was rejected by the 14-nation commission, the United States being supported only by the United Kingdom, Argentina and Mexico. The IWC has been aptly called "the whalers' club"; it has been quite incapable of protecting whales as an economic resource. But in the June 1973 meeting, the IWSC split 8-5 on the moratorium with Denmark not voting, the action failing for want of a 75 per cent majority.

The IWC June 1973 meeting, with the added support of Norway, Iceland and South Africa, then adopted new quotas designed to reduce the kill. The quota for Antarctic fin whales was set at 1,450, a cut of 25 percent, with all hunting to end in 1976. (The world whale population is estimated to have fallen 80 per cent in less than 30 years.) Area quotas were established for Antarctic sperm whales; only a portion of the quota could be taken in one region. The quota on minke whales was held at 5,000.

In September 1973, Japan announced it would disregard the IWC's action and set its own quotas in line with "Japanese interests." Russia subsequently announced that it too would not observe the IWC quotas.

In recent years, Japan and Russia have killed 85 to 90 per cent of the whales slaughtered. With highly efficient ocean fleets, Japanese and Russian whalers have pursued the great mammals to their last refuge, the Antarctic seas. With spotter aircraft, sonar-equipped pursuit raft, factory ships and tankers, the carnage has been carried on with devastating efficiency.

In justification of their "right" to exterminate these great mammals, the Japanese say that they need the meat to feed their people. The Russians make no apologies, not even the profit motive, for their rapacious greed.

The fact is that whale meat has constituted less than 1 per cent of the protein in the Japanese diet. Until stopped in early 1971 by our endangered species and marine mammals laws, the Japanese exported some 12 million pounds of whale meat to this country as pet food! The Russians have used much of their whale meat to feed minks and sables on fur farms!

The Animal Welfare Institute (P.O. Box 3650, Washington, D.C. 20007), in association with Friends of the Earth and other conservation groups, has now launched a boycott against Japanese and Russian products. For this notable initiative, I have sent my first conservation contribution of 1974 to AWI and I am going to display their bumper sticker: "Stop the Whale Killers. Boycott Japanese goods."

[From the Indianapolis Star]

EXCEPT RUSSIA, JAPAN

NATIONS WANT WHALING MORATORIUM

(By Jeffrey Hunt)

The moment may be at hand to do something effective about the continuing slaughter of the world's whale population—and if so it has arrived none too soon, for unless the relentless slaughter of the whales made possible by modern technology is brought under control these impressive creatures face certain extinction.

For some reason not altogether clear to me, American conservatives have not on the whole been notable for their interest in—and savor the irony here—conservation. There exist, to be sure, outstanding exceptions such as New York's Senator James Buckley.

But what is at stake in conservation is a principle profoundly conservative, and one that goes beyond the preservation of this species or that, however desirable in itself such preservation might be. The issue involves man's fundamental attitude toward the world around him; or in other words, it involves the sort of being he himself chooses to be. The purely exploitative attitude toward the non-human world has its roots in the utilitarian tradition of the 19th century—a liberal tradition. I might add. And it is no coincidence that this attitude entailed not only a gross exploitation of nature but of other human beings as well. Prior to the 19th century the dominant tradition was one of careful stewardship.

With two flagrant exceptions, the nations of the world now favor a 10-year moratorium on commercial whaling. Such a moratorium was approved 53–0 by the nations attending a Stockholm conference on the subject in 1972. It was unanimously approved in Geneva in 1973. In 1972, the U.S. Senate and House of Representatives voted unanimously for the moratorium.

Japan and the Soviet Union are the large-scale whale killers at present, and both have been refusing to go along with the moratorium. Both, however, ought to be especially vulnerable to international pressure just now.

Judging by the reception Premier Kakuei Tanaka received during his recent tour through neighboring Asian countries. Japan's international reputation is none too favorable. In fact, Japan is increasingly being perceived as a modern version of Victorian Birmingham-Manchester-Leeds, an example of runaway overdevelopment pursued without regard to any other considerations. The attitude of the Japanese toward their whaling is a prime symbol of this: a willingness to slaughter the whales for short-run profit despite the certainty of long-run disaster.

The less said about the international reputation of the Soviet Union the better, and thank you very much. Mr. Solzhenitsyn. But the Soviets do desire expanded trade relations with the West, and people like Senator Buckley might well be able to put pressure on them concerning their ocean-going abatoirs.

Modern whaling is a peculiarly messy business, far different from the adventurous Moby Dick hunts of yesteryear.

"The present-day hunting harpoon," writes one eyewitness, "is a horrible 150-pound weapon carrying an explosive head which generally bursts in the whale's intestines, and the sight of one of these creatures pouring blood and gasping along the surface towing a 400-ton catching vessel is pitiful. So often an hour or more of torture is inflicted before the agony ends in death. I have experienced a case of five hours and nine harpoons needed to kill one mother blue whale. If we could imagine a horse having two or three explosive spears driven into it, and then made to drag a heavy butcher's truck while blood poured over the roadway until the animal collapsed an hour or more later, we should have some idea of what a whale goes through."

Conservationists organized as the Animal Welfare Institute, P.O. 3650, Washington, D.C., have plenty of good ideas about ways of letting the Japanese and the Soviets know how we feel.

[From the Miami Herald]

Japan's Whalers Harpoon Decency

Hurtling beyond man's solar system is a piece of rocketry bearing a message to any form of intelligent life that might inhabit planets beyond the Milky Way. That message shows man and woman offering open-handed friendship from Earth.

We wonder at the sincerity of the message, considering what men of this plant do to other intelligent beings. There is no effort to communicate except with spears and guns.

We are thinking now of the whale, a highly intelligent mammal that is being hunted to the point of extinction. The whale is being butchered for such noble purposes as canned pet food. Can intelligent life out in the galaxy expect any more tenderness than that?

The cruelest killers of the whale are the Japanese who have decided to ignore the quotas set for certain endangered species by the 14-nation International Whaling Commission last June in London. Even the Russians had gone along to make the vote 13–1, but with the subsequent rejection by Japan, the Soviet Union announced it would not be bound by its own approving vote.

It is a measure of Japanese efficiency that the country's whaling industry is reported to have set a schedule of slaughter that we will reduce the whale population to commercial extinction levels at the same time Japanese's factory ships become too old to operate economically.

Considering that Karl Marx was such an expert on the subject of exploitation, certain that it would wither away in a workers' paradise, it is interesting that conservationists have concluded that the Soviet Union's actions and attitude toward slaughter of whales is "more greedy, imperialistic and exploitive than any capitalistic nation, with the exception of Japan."

World opinion has had no effect on the greedy Japanese. It has not even been easy to get American grocers to stop stocking whale products on their shelves.

But perhaps there is hope in the tightening fuel crisis and the tripling of prices by the Arab oil nations. The Japanese might have to make a choice between fuel for their whaling fleet and fuel for their busy camera and automoble assembly lines.

It is something to hope for frequently, like every 12 to 14 minutes when another intelligent giant that lives in Earth's seas will be harpooned.

[From the New York Times]

Whale Products To Be Boycotted

2 in France Dramatize Fate of Disappearing Species

Paris, January 5 (Reuters).—Two young French ecologists, determined to dramatize the fate of whale species they say are threatened with extinction, plan to draw up a blacklist of whole products in France and to join the crew of a ship planning to sabotage whale hunts.

Nicolas Desplats and Georges Dewez, both 23 years old, are leading the European side of Project Jonah, a campaign by individuals in eight countries to get Japan and the Soviet Union to halt their harpooning.

So far, with the campaign still in its infancy here, their petition for support has gained 10,000 signatures, including those of an oceanologist, Jacques-Yves Cousteau, a volcanologist, Haroun Tazeff, and an Arctic explorer, Paul-Emile Victor.

The project originated in 1969 in the United States, then spread to Britain and on to France, Australia, South Africa, Norway, Sweden and Canada.

Mr. Dewez says that whale hunting by the Japanese and Russians has brought seven species of whole close to extinction.

The blacklist of products to be boycotted will include those using whale oil, such as lipsticks, candles, linoleum and glycerin. Whale meat is used for cat and dog food.

In another move, a delegation will call on Emperor Hirohito for a suspension of whale hunting for 10 years so that the threatened species can have a chance to replenish their ranks.

[From the Minneapolis Tribune]

THE ENDANGERED WHALES

Whaling has undergone quite a change since the Captain Ahabs of the 19th century set out from their New England ports to risk their lives in pursuit of the mighty leviathan. There isn't much risk for today's whalers, and the leviathan isn't so mighty compared with the whaler's factory ships, electronic gadgetry and explosive-tipped harpoons. Today, a whale is killed every 14 minutes, and the risk—a very real one—is that there soon may not be any whales left to kill.

Already, the right, blue, humpback and gray whales have been hunted to commercial extinction. Under existing quotas, the fin whale will probably soon reach that status. (Whalers couldn't find enough fin whales to meet last year's quota of 1,000.) The United States recognized the potential for extinction in 1971, when eight kinds of whales were placed on the endangered species list, and it banned the importation of whale products. The United Nations Human Environment Conference last year voted 55 to 0 for a 10-year moratorium on whaling to provide time for the remaining whales to rebuild their numbers. But the International Whaling Commission, dominated by the whaling industry, would not go along with the moratorium proposal.

So the hunt goes on, with Japan and the Soviet Union accounting for most of it. Whales are slaughtered for their meat (almost all of going into pet food or use on commercial fur farms) and for byproducts that go into such preparations as lipstick, shoe polish and car wax. But all those products can be made inexpensively—some more inexpensively—from other materials. Why hunt whales, then? Mainly because the remaining whaling nations have a lot of money tied up in ships and other equipment. Rather than have those investments go to waste, the whaling nations (which also include Norway, South Africa and Peru) are ready to keep on hunting whales until there are too few whales left to make it commercially feasible.

That day may come sooner than anticipated. Japan has informed the International Whaling Commission that it will not abide by its already too-high quotas on sperm and minke whales and will not, as the commission urged, phase out the killing of fin whales by 1976. Since the commission has no enforcement powers, the Japanese will apparently be able to take those actions with impunity.

What the loss of the whale will mean to the ecology of the sea—and. ultimately, the planet—can't be guessed. The results may soon become apparent, however, unless Japan and the other whaling nations can somehow be persuaded that they have no right to deprive the world of one of its wonders for the sake of short-term economic gain.

[From the New York Times]

THE WHALE KILLERS

Japan would have the world believe that it must eliminate the whales of this planet to satisfy the protein needs of its people. There is every reason for the world to believe, instead, that Japan's declared refusal to abide by the quotas set by the International Whaling Commission last June has much more to do with greed than with need.

Whale meat constitutes no more than 1.5 per cent of Japan's animal protein intake, and substitutes can easily be found. If the country were indeed dependent on whale meat, why were millions of pounds of that commodity being regularly shipped to the United States for pet food until 1971, when its import here was forbidden under the Endangered Species Act? Would not a nation really so dependent on whale meat make every effort to preserve the source of that food instead of recklessly slaughtering it into extinction?

The fin whale, the killing of which the commission voted to phase out, is reported to have declined from 380,000 at the end of World War II to some 77,000 today. Japan, which belongs to the commission, objected to the phase-out and has now served notice that it will not comply. Neither will it observe the quota set for the minkle whale or the Southern Hemisphere area quota fixed for the taking of sperm whales.

The Soviet Union, which accepted the two latter restrictions, is now reneging on the ground that the Japanese have done so. A coalition of conservationist organizations, in a more drastic appraisal, found the Russian behavior "more greedy, imperialistic and exploitive than that of any capitalist nation, with the exception of Japan." Together the two powers account for 85 per cent of the annual whale catch.

The same coalition is asking its members to refrain from buying Japanese products until Japan abandons a policy of "unrestrained rapacity," not only toward whales but toward dolphins, porpoises, endangered sea turtles and other marine creatures, The organized boycott is far from an ideal response in the complicated world of international relations, but Japan and the Soviet Union can take the move as a measure of the outrage felt by civilized people.

If the singing humpback whale and the magnificent blue are not to be followed to the brink of extermination by other whale species, Japan and Russia will have to be effectively impressed with the fact that world opinion is against them. It was not enough for them, apparently, that the United Nations Conference on the Human Environment went on record by a vote of 53 to 0 for a ten-year moratorium on the killing of all whales.

[From the Houston Post]

WHALE OF A QUOTA

(By Harold Scarlett)

Connoisseurs of bumper stickers may soon see a new one riding the roads: "Stop the Whale Killers. Boycott Japanese Goods."

How's that again?

Well, it seems Japan recently announced that it would ignore the catch quotas set on several endangered species of whales by the 14-nation International Whaling Commission last June in London.

The Japanese said they would set their own quotas on Antarctic fin, minke and sperm whales in line with Japanese "interests."

So an alliance of conservation and humane organizations has declared a trade war on Japan. The declaration was accompanied by some of the harshest words hurled at the Land of the Rising Sun since Pearl Harbor days.

Accusing the Japanese government of "bowing to the blind greed of the major Japanese whaling companies," the U.S. conservation groups continued:

"Japan has pursued a policy of unrestrained rapacity, not only toward whales but toward dolphins, porpoises, endangered sea turtles and other marine creatures . . . in contemptuous disregard for international opinion."

The "don't buy Japanese" groups include Friends of the Earth, Animal Welfare Institute, Fund for Animals, Defenders of Wildlife, Environmental Policy Center, Animal Protection Institute, Let Live, Inc., and the Society for Animal Protective Legislation.

They are urging their members and other concerned citizens not to buy Japanese radios, TVs, auto, motorcycles, cameras and so on—and to write to dealers explaining why they are not buying Japanese goods.

Conservation aside, the allout Japanese pursuit of whales does seem pretty stupid from the standpoint of economics and common sense.

It's like killing the goose that lays the golden eggs. Or like a rancher pole-axing his prize breeding bull for a midnight snack, and the heck with tomorrow.

The Japanese, in rejecting the quotas, argue that the careful scientific studies of the international commission are all wet—that they can kill more fins, minkes and sperms without wiping them out completely.

But the Japanese in years past were saying the same thing about the mighty blue and humpback whales. And they are now virtually extinct.

The blue whale is the largest creature that has ever lived on earth. The humpback is best known for its mysterious "song" that has inspired symphonies and been made into a record album.

There is now a total, worldwide ban on the killing of blues and humpbacks, as well as gray, bowhead and right whales.

At the commission's June meeting in London, the U.S. delegation for the second year in a row pressed for a 10-year moratorium on all commercial whaling.

But it failed by an 8-5 vote, short of the required three-fourths majority.

The Soviet Union is refusing to observe the new quotas along with Japan. But, of course, there are few Soviet goods in this country to boycott.

The Japanese claim they need the whale meat to feed their people. However, the conservation groups say whale meat provides less than 1 per cent of the total Japanese protein intake—and the quota whales only a fraction of that.

They also point out that in early 1971, before they were stopped by new endangered species and marine mammal laws, the Japanese exported 12 million pounds of whale meat to the U.S. for pet food.

Are we really that desperate? With substitutes aplenty, do we really have to slaughter these great leviathans of the deep for pet food and lipstick oil?

[From the Los Angeles Evening & Sunday Herald Examiner, Oct. 22, 1973.]

U.S. Protests Japanese, Russ Stand on Whales

WASHINGTON (AP)—The United States asserted Sunday that the governments of Japan and the Soviet Union have refused to comply with international decisions for conservation of whales and said their actions constitute "a serious setback to protection of the world's whale population."

Dr. Robert M. White, U.S. commissioner to the International Whaling Commission, said the government has protested strongly to both countries and has urged them to reconsider their actions.

White said Japan has objected to an IWC decision to cease taking Atlantic Fin whales by June 30, 1976, and Japan and the Soviet Union have objected to IWC decisions to set a catch quota of 5,000 for Minke whales during the next season.

White also said both countries have objected to catch quotas, by specific areas, on Sperm whales in the Southern hemisphere for the next season.

White said the decisions on whale conservation were made by an overwhelming majority of the members of the International Whaling Commission at a meeting in London last June.

[From the New York Times, Nov. 18, 1973.]

Conservationists Assail the Soviet

WASHINGTON, Nov. 17—A coalition of national conservation groups has chided the Soviet Union's refusal to comply with international conservation measures for whales as "more greedy, imperialistic and exploitive than any capitalist nation, with the exception of Japan."

The conservation groups, operating under the name Project Monitor, charged that by "helping to wipe out this irreplaceable resource for the sake of an easy profit Russia is violating its own Marxist-Leninist principles and is surpassing the worst excesses of capitalism."

Dr. Robert M. White, the United States commissioner to the International Whaling Commission held last June in London, disclosed last month that both Japan and the Soviet Union had refused to comply with conservation decisions that came out of the meeting.

Dr. White termed the actions of those two nations a "serious setback to protection of the world's whale population."

[From the Weekly Newsmagazine]

Help for Whales

Once every 17 minutes, a great whale is killed, its back blown open by a grenade-tipped harpoon, its blood spewing into the ocean. The chief purpose: the manufacture of cosmetics, margarine, transmission oil and pet food.

To regulate the slaughter, the 14 nations of the International Whaling Commission[1] meet annually. For the most part, they listen to the Japanese and

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[1] The U.S., Japan, U.S.S.R., Britain, France, Canada, Australia, Norway, Denmark, Iceland, South Africa, Argentina, Mexico, Panama.

the Russians, who account for almost 90% of the whales killed every year, explain why they have a right to "harvest" yet more of the world's largest animals. At this year's meeting in London, however, the U.S. pushed hard for a ban on all whaling. The result: the most rancorous conference in the I.W.C.'s 27-year history—and a possible reprieve for whales.

The great, gentle creatures need it. Of an estimated original population of some 4.4 million whales, no more than a few hundred thousand are left. Five species (blue, humpback, gray, bowhead and right) have already been so widely hunted that further killing is forbidden. Fin whales are at the danger point. Only sei, minke and sperm whales are still abundant enough to exploit—and their numbers are rapidly dwindling.

Unhappy Club. U.S. delegates started their offensive by challenging the whaler's self-serving estimates of remaining supplies. Says Dr. Lee Talbot, the U.S.'s chief scientific representative: "For the first time the I.W.C. recognized the high degree of unreliability of the basic information on which quotas were determined." Then the meeting turned to the business of setting more realistic quotas than last year's total of 38,600. That meant politics.

"Whales come under no nation's exclusive national jurisdiction and as such are an international trust in which all nations should have a voice," argued Robert M. White, U.S. commissioner to the I.W.C. Citing the overwhelming vote to end whaling at last year's U.N. environmental conference in Stockholm, he called for a ten-year moratorium to allow whale herds to regenerate. The proposal won eight votes. Though a 75% majority (eleven votes) was needed for the measure to be enacted, the Russians and Japanese were shocked. "Suddenly," says Talbot, "the I.W.C. ceased being a happy club for whalers."

Goaded by U.S. arguments, even the minor whaling nations—notably Norway, Iceland and South Africa—turned against Japan and the U.S.S.R. The quota for Antarctic fin whales was cut by 25% (to 1,450), and hunting them will be banned in 1976. The rules on Antarctic sperm whales were changed by dividing the ocean into regions; instead of killing virtually all sperm whales in a herd, whalers now can catch only a portion of their quota in any one region, then must move on. On minke whales, even the Russians opposed the Japanese and voted to hold the quota to 5,000 instead of increasing it to 8,000.

Economics, as well as conservationist zeal, explains the changes. As the number of whales gets smaller and smaller, the cost of hunting them gets bigger and bigger. Russia and Japan alone can afford ocean-based whaling fleets, complete with spotter aircraft, factory ships, tankers and fast, sonar-equipped catcher boats. Moreover, the market for whale products is shrinking as cheaper substitutes are developed. The Japanese justify their enormous catch (14,477 whales last year) by saying they need the meat to feed their people, but in fact whale meat represents less than 1% of their protein diet. The Russians have an even weaker argument; much of their whale meat is sent to fur farms to feed minks and sables.

Both nations can officially disregard I.W.C. quotas if they announce such a decision before October. But that seems unlikely, for it might well lead to an embarrassing vote of censure by the U.N.

TEXACO, INC.,
New York, N.Y., April 5, 1974.

Re Trade Reform Act of 1973, H.R. 10710, proposed amendments to title V (tariff preferences).

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LONG: I write on behalf of the Rule of Law Committee, the members of which are listed in the attachment. Major goals of the Committee are to encourage the adoption of measures which will promote a favorable climate for international investment and trade and worldwide economic development.

Title V of H.R. 10710, the Trade Reform Act of 1973, provides for the extension of tariff preferences by the President to certain less developed countries. As presently drafted, the President is directed to take into account, in determining whether to grant or withdraw tariff preferences to a particular country, whether that country has nationalized, expropriated or seized ownership or control of property of United States citizens, or of property substantially beneficially owned by United States citizens, without provision for the payment of prompt, adequate and effective compensation.

We think that these considerations for the granting and withdrawal of tariff preferences are prudent and appropriate, insofar as they go. However, we believe that such considerations should be a prerequisite and not merely a "consideration" to the grant of preferences. If a country has expropriated the property of a U.S. national without provision for prompt, adequate and effective compensation, the President should not be authorized to confer tariff preferences upon the offending countries. Moreover, the President should be required to withdraw tariff preference status from a country enjoying such preferences if it should expropriate U.S. owned property in violation of international law. Our proposed amendments to Sections 502 and 504 of H.R. 10710 would provide for the appropriate modifications.

The objective of the tariff preference program is to promote economic and social development by encouraging direct investment in industries producing manufactured and semimanufactured products, and by expanding less developed country export earnings from the products of those industries. The benefits of the tariff preference system will not be automatic for most less developed countries: rather, any benefits will grow over time as the less developed countries are able to build industries to produce these manufactures and semimanufactures. To create these industries and take advantage of tariff preferences, the developing countries will urgently need private investment and industrial know-how, particularly from sources abroad. The encouragement of private industry to invest and to transmit its skills and know-how to the developing countries will be fundamental to the success of tariff preferences, for investment is essential to economic development—the major purposes of the tariff preference system.

Tariff preferences alone, however, will not attract investment to a potential exporting country. Of crucial importance to the development process is a country's investment climate and attitude toward investment. If the investment climate is fair, then tariff preferences could well be effective to induce the kind of investment which will contribute toward long term economic growth and stability in the country. On the other hand, if the investment climate is unfavorable and the host country maintains a hostile attitude toward investment, there will be little if any investment and little if any economic growth.

Our country has been willing to contribute significantly to the economic and social development of the less developed countries. This willingness has been manifested by substantial public and private contributions to the economic development process. In recent years, however, support for these programs has declined. In my opinion, a substantial cause for this declining interest has been the attitude of certain less developed countries toward the United States and particularly toward U.S. investment in those countries. In order to restore support for economic development and some measure of confidence in its potential, consistent steps by the United States are required.

The United States should not, through the establishment of a tariff preference system or otherwise, encourage its nationals to invest in countries where their property may be in jeopardy. For these reasons, we think that the Congress should remove all doubt as to whether tariff preferences will be available to countries who have expropriated without compensation the property of U.S. nationals. Our proposed amendments to Sections 502 and 504 of H.R. 10710 should accomplish that result.

The proposed amendments include one additional modification to the expropriation standards proposed by the Executive Branch. They add the phrase "including contract rights or interests" after the word "property", to confirm the view that for purposes of these provisions, property must be considered to include not only conventional equity interests and tangible property, but also contract rights. International investment and the transfer of technology and know-how take many forms today; in fact, contractual arrangements rather than direct equity ownership or control by foreigners are becoming increasingly favored by a number of less developed countries. Notwithstanding this change in the form of the relationship, the commitments and the expenditures of resources are generally unchanged. For this reason, if the amendments are to have any substantial effect, they must recognize the variety of forms of investment which exist in the world today.

Very truly yours,

CECIL J. OLMSTEAD,
Chairman, Rule of Law Committee.

Enclosure.

RULE OF LAW COMMITTEE

Atlantic Richfield Company.
Bethlehem Steel Corporation.
Chase Manhattan Bank.
First National City Bank.
Gulf Oil Corporation.
Standard Oil Company of California.
Texaco Inc.

AMENDMENT

(Amendment to Sec. 502, H.R. 10710)

On page 140, line 8, at the end of paragraph (2) of Sec. 502(b), strike the period (.) and insert "; or".

On page 140, following line 8, immediately below the end of paragraph (2) of Sec. 502(b), insert the following:

(3) if such country has nationalized, expropriated, or seized ownership or control of property, including contract rights or interests of a United States citizen, or of any corporation, partnership or association not less than 50 percent beneficially owned by citizens of the United States, without provision for the payment of prompt, adequate and effective compensation.

On page 140, line 19, at the end of paragraph (3) of Sec. 502(c), strike "; and", and insert a period (.) following the word "country".

On page 140, strike lines 21 through 24.

On page 141, strike lines 1 and 2.

COMMENTARY

(Amendments to Sec. 502, H.R. 10710)

The purpose of this amendment is to prohibit the President from designating as a "beneficiary developing country" under Title V, any country that has expropriated the property of American citizens in violation of international law. In its present form, Section 502 merely provides that the President should take into account, prior to designating a country as a "beneficiary developing country", whether that country has expropriated the property of U.S. citizens in violation of international law.

One of the purposes in according preferential tariff treatment under Title V is to encourage economic development by providing incentives to business investment and commercial growth in developing countries. A country which expropriates property of U.S. nationals in violation of international law creates a climate inimical to business investment and commercial growth. The United States should not encourage U.S. enterprise to invest in a country, only to have those investments illegally expropriated.

The amendment also recognizes that may of the investments of U.S. nationals are in the form not only of conventional equity ownership and title to tangible property, but also in the form of countract rights. Accordingly the amendment confirms that contract rights are property for purposes of this paragraph.

AMENDMENT

(Amendment to Sec. 504, H.R. 10710)

On page 143, line 13, at the end of paragraph (2) of Sec. 504(b), strike the period (.) and insert "; or".

On page 143, following line 13, immediately below the end of paragraph (2) of Sec. 504(b), insert the following:

BEST AVAILABLE COPY

(3) such country has nationalized, expropriated, or seized ownership or control of property, including contract rights or interests of a United States citizen, or of any corporation, partnership or association not less than 50 percent beneficially owned by citizens of the United States, without provision for the payment of prompt, adequate and effective compensation.

COMMENTARY

(Amendment to Sec. 504, H.R. 10710)

The purpose of this amendment is to require the President to withdraw or suspend the designation of a country as a "beneficiary developing country" if that country expropriates the property of, or breaches its contracts with, U.S. citizens in violation of international law.

A contract abrogation or an expropriation of property without payment of prompt, adequate, and effective compensation creates a climate unfavorable to business growth and development. The purpose of according preferential treatment under Title V is to encourage business growth and development in develing countries. It would thus be self-defeating for the United States to continue to accord such preferential tariff treatment to a country which hampers its own economic growth by expropriating property in violation of international law.

Statement of Freeport Minerals Company

Summary

Concerning proposed amendments to the Antidumping Act

1. Freeport strongly approves the proposed provision which would result in sales at less than cost in this country being treated as sales at less than fair value. Selling at less than cost is condemned as an unfair trade practice in every industrialized nation of the world, but is permitted under the Antidumping Act in its present form. The amendment proposed would correct this substantial defect in the present law.

2. Freeport approves proposed Subsection (c) to Section 201 which would require hearings at various stages of an antidumping proceeding, but urges that affected domestic producers be given an unqualified right to appear at such hearings. Such an unqualified right is granted to foreign manufacturers but denied to affected domestic producers by the proposed language.

3. Freeport urges that the Trade Reform Act be amended to provide specifically for judicial review of all antidumping findings. Such review is now available to importers in many instances but there is grave doubt as to its availability to domestic industries in any instance. Almost no one who has considered this problem, including Treasury, objects to such review, and considerations of fairness and clarity require that specific provision for such review be made.

Concerning proposed amendments to the countervailing duty law

1. Freeport strongly approves the proposed provision which would make this law applicable to duty-free commodities. The injury that can be done by subsidized merchandise which is duty-free is not less than the injury that can be done by subsidized merchandise which is dutiable.

2. Freeport urges that Section 303 be amended to make it clear that countervailing duties are applicable to private subsidies as well as to those granted by governments and their agencies. Language in a number of cases decided by the Courts and in Treasury statements makes it clear that the countervailing duty law is regarded as dealing only with bounties or grants bestowed by foreign governments.

3. Freeport urges most strongly that the proposal to grant to the Secretary of the Treasury the right to suspend countervailing duties, in certain instances, for four years be eliminated or substantially altered. Such a provision would subject the Secretary and the entire executive branch of Government to intolerable pressure from foreign governments to suspend such duties wherever a

colorable assertion could be made that trade negotiations were underway or might soon be commenced. Such a provision would completely emasculate, and for practical purposes repeal, the countervailing duty law.

STATEMENT

This statement is submitted in connection with the Finance Committee's consideration of H.R. 10710, The Trade Reform Act of 1973. Freeport Minerals Company ("Freeport") appreciates this opportunity to present this statement of its position to the Committee.

Freeport is a major domestsic producer of elemental sulphur and of phosphoric acid in Louisiana. It mines and processes kaolin clay in Georgia and explores for and produces oil and gas in Louisiana, Texas and other states, and it develops and tests minerals processing techniques and conducts other research at a laboratory and pilot plant in Louisiana. Subsidiaries of the Company operating in the United States and in foreign countries mine and concentrate copper and potash, are developing a major nickel-cobalt mining and refining project, and explore for deposits of these and other minerals.

Because Freeport has operations in many parts of the world, it understands the need for open and free trade between nations and supports legislation which it believes will contribute to such trade. For this reason, the Company supports the principal provisions of the Trade Reform Act of 1973.

The Trade Reform Act recognizes an important difference between free and fair trade on one hand, and unfair trade practices on the other. Such practices are condemned by GATT and by all major trading nations. This statement is concerned with six provisions of the Trade Act dealing with unfair trade practices; three concern the Antidumping Act of 1921 and three the countervailing duty tax.

With regard to the Antidumping Act, Freeport wishes first to express its strong approval of the proposed amendment to that Act which would require the Secretary of the Treasury, under certain circumstances, to disregard sales made in the importer's home market if those sales are below cost, in the determination of "fair value." Second, Freeport agrees that hearings should be made compulsory at both the Treasury and Tariff Commission stages of an antidumping investigation, as proposed subsection (c) to § 201 of the Antidumping Act would require, but urges that the domestic complainant and other affected domestic producers be afforded an unqualified right to appear at any such hearings. The proposed amendment presently gives such a right only to the foreign producer. Third, Freeport urged this Committee to amend the Antidumping Act to provide specifically for judicial review of all antidumping findings.

With regard to the countervailing duty law, Freeport approves strongly of the change which would make that law applicable to duty-free imports. Freeport believes strongly, however, that the Committee should make it clear that the countervailing duty law applies to private as well as to governmental subsidies. Finally, Freeport opposes most vigorously the proposed new subsection (e) to Section 303 of the Tariff Act, which would allow the Secretary of the Treasury to withhold for four years the application of a countervailing duty which was called for by the law.

Antidumping Act—sales below cost

Freeport believes strongly that the proposed amendment to Section 205 of the Antidumping Act of 1921 which deals with sales below cost is long overdue and should be adopted at this time. Under the present law, a foreign producer which sells its goods in this country at less than the cost of producing them is protected from attack under the Antidumping Act if it also sells its goods in its home market at less than their cost.

The proposed provision would remedy this defect in the present law by allowing the Secretary of the Treasury to disregard, in appropriate circumstances for purposes of the "fair value" determination, sales in the home market of the country of exportation if such sales were made at prices which represented less than the cost of production of the merchandise in question. The amendment would require the Secretary, whenever he determines that sales below cost have been made, to disregard such sales in determining foreign market value if those sales have been made over an extended period of time and in substantial quantities, and if those sales are determined by the Secretary not to be at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade.[1]

Pursuant to this amendment, whenever there are sales that must be disregarded by virtue of their having been made below cost, the remaining home market sales made at no less than cost will be used as the basis for the "fair value" determination if there are enough of those sales at or above cost to constitute a satisfactory basis for the determination of foreign market value. Otherwise, the Secretary will utilize the constructed value of the merchandise in question pursuant to Section 206 of the Antidumping Act (19 U.S.C. Section 165), in order to arrive at the foreign market value. Whenever sales below cost are disregarded, either alternative—using the remaining sales made at or above cost if present in adequate amounts, or using constructed value— will serve to allow Treasury to make a proper determination.

The practical effect of determining foreign market value by disregarding sales below cost will often be great, and the ability to make the vital foreign market value determination in that way will correct an important deficiency in the present Antidumping Act. Under the present law, if the cost of production of a certain item is $50.00, and that item is sold for $40.00 in the home market and for $40.00 in the United States (all prices being factory netback prices), the sale is deemed to be at fair value, and the importer's below cost sales cannot be subjected to dumping duties. Treasury has consistently taken the position that the present law does not permit it to disregard sales below cost in the home market when Treasury is making the all-important determination of foreign market value, and Treasury would have to disregard such sales in order to find that the below cost sales in the United States, in a case like that described above, constitute sales at less than fair value on which dumping penalties could be imposed.

Treasury recently conducted a formal review of the appropriateness of disregarding below cost sales in the home market which lasted nearly a year, and concluded that such sales would continue to be used in its determination of foreign market value. *See*, F.R. Doc. 73-7922 (April 20, 1973); *See also*, Treasury rulings in *Elemental Sulfur from Canada*, and *Papermaking Machinery and Parts from Sweden and Finland*.

Below cost selling has long been regarded throughout the industrialized world as a practice that must be restrained in the interests of healthy competition. As this Committee knows, such sales are unlawful under various U.S. antitrust and unfair trade practice laws. The Attorney General's National Committee to Study the Antitrust Laws concluded that below cost selling "inevitably frustrates competition." (At 165 (1955)).

Indeed, it is so well established that below cost sales are destructive of competition, that the mere proof of such sales, without more, can be considered adequate proof of predatory intent and injury for purposes of the Robinson-Patman Act. (15 U.S.C. § 13(a)). *See*, for example, *Cornwell Quality Tools Co. v. C.T.S. Co.*, 446 F.2d 825, 831 (9th Cir. 1971), Cert. denied 404 U.S. 1049 (1972) where the Ninth Circuit Court of Appeals held that if there were sales below cost, predatory intent could be inferred and the requisite anticompetitive effect could be established by proof of such predatory intent. *See also Utah Pie Co. v. Continental Baking Co.*, 386 U.S. 685, 697-703, n.14 (1967); *National Dairy Prods. Corp. v. FTC*, 412 F.2d 605 (7th Cir. 1969); *Balian Ice Cream Co. v. Arden Farms Co.*, 231 F.2d 356, 368 (9th Cir. 1955).

Companies that sell below cost in violation of the Robinson-Patman Act are subject to private actions for treble damages (15 U.S.C. § 15). Section 3 of the Robinson-Patman Act (15 U.S.C. § 13(a)) makes it a crime to sell "goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor." The phrase "unreasonably low prices" has been construed to mean sales below cost. *United States v. National Dairy Prods. Corp.*, 372 U.S. 29 (1963).

Sales below cost can also violate Section 2 of the Sherman Act, which prohibits unlawful monopoly, conspiracies to monopolize and attempts to monopolize (15

[1] These stipulations insure that the amendment would not, for example, prevent a foreign producer from selling a closed-out item below cost, or a manufacturer of a high research and development cost item, such as a new type of aircraft, from selling its initial production below cost.

U.S.C. § 2). That Act has been interpreted by the curts to proscribe the use of below cost selling to injure competitors.

A seller engaged in such practices is subject to criminal and civil liability, as well as to private treble damage actions. *See*, e.g., *United States* v. *Times Printing Co.*, 1970 Trade Cas. ¶ 73,090 (D. Tenn. 1970).[2] The proposed amendment to the Antidumping Act would not permit the imposition of dumping duties on imports that are sold at less than cost unless the Tariff Commission found that the below cost sales were likely to injure U.S. industry or were preventing a U.S. industry from being established.

It is clear from the foregoing that below cost sales are widely condemned by U.S. antitrust and unfair trade practice laws. Yet despite this strong policy, foreign manufacturers are free, under the present Antidumping Act, to injure U.S. industries by below cost sales provided their home market sales are below cost as well. The proposed provision of the Trade Reform Act of 1973 which would amend the Antidumping Act to prohibit injury to American industries by a predatory practice that is illegal when engaged in by domestic producers, is thus of great importance. We urge that it be retained in the final version of the Bill.

Antidumping Act—The right to appear at hearings

Section 321 (b) of the Trade Reform Act would incorporate a new provision in § 201 of the Antidumping Act that would require the Secretary of the Treasury, and the Tariff Commission, prior to making any determinations pursuant to subsection (a) of § 201 (*i.e.*, the "less than fair value" and "injury" determinations), to conduct a hearing. While this proposed subsection would grant to the foreign manufacturer an unqualified right to appear at such hearing by counsel or in person, the subsection goes on to provide that: "any other person . . . may make application and, upon good cause shown, may be allowed by the Secretary or the Tariff Commission . . . to intervene and appear at such hearing . . ."

While Freeport agrees that a hearing should be required both at the Treasury and the Tariff Commission stages of an antidumping investigation, Freeport believes that it should be abundantly clear that a domestic party which claims to be injured should have the same unqualified right to appear, both before the Treasury at its hearing and before the Tariff Commission at its hearing, as is granted to the foreign manufacturer. The economic stake of the domestic complainant, for example, in the investigation which it instituted is obvious, and it is difficult to imagine why it should be forced to file an application asking permission to intervene in any such hearing. Under existing Treasury and Tariff Commission procedure, the party who filed the complaint invariably has the right to appear, and logic and equity would compel that the complainant, at least, be given the same statutory right to appear in all hearings relevant to its complaint as is given to its adversary.

Antidumping Act—judicial review

Over the years there has been substantial uncertainty as to whether domestic producers have the right to judicial review of a negative antidumping determination.

The report of the Ways and Means Committee states that the Committee believes no amendment is necessary to the Antidumping Act in order to ensure judicial review of negative antidumping determinations because domestic producers now have the right to such judicial review. In this regard, the Committee apparently relied entire~~ly on a~~ September 27, 1973 letter from Treasury's General Counsel, Edward C. Schmults, to Chairman Wilbur D. Mills. Mr. Schmults' letter candidly admits that ". . . there can be no certainty on this question in the absence of an attempt to have a negative determination reviewed in the Customs Court . . .". Indeed, even though staggering expenses are often involved

[2] Below cost sales may violate other laws as well. Section 5 of the Federal Trade Commission Act (15 U.S.C. § 45) prohibits any "unfair method of competition" in commerce, including the use of sales below cost to injure competition. *See*, e.g., *E. B. Muller & Co.* v. *FTC*, 142 F. 2d 511 (6th Cir. 1944). In fact, below cost sales are often the primary proof of a predatory motive. Further, sales below cost violate the statutes of the majority of states, are grounds for private injunctive suits in many, and are grounds for the recovery of damages in some. *See* 2 CCH Trade Reg. Rep. ¶ 6821, 6825; 4 CCH Trade Reg. Rep. ¶ 30,000, *et seq.*

in prosecuting an action before the Tariff Commission, no representative of a domestic industry which was unsuccessful before the Commission has ever attempted, as far as we can determine, to obtain review in the Customs Court. We believe that this is because the prevailing belief among counsel for domestic producers is that the chances of obtaining review are virtually nil.

The only case which we have been able to find in which a United States industry attempted to appeal a negative Treasury determination under the Antidumping Act was *North American Cement Corp.* v. *Anderson*, 284 F.2d 591 (D.C. Cir. 1960). In that case, the domestic producer attempted to obtain review, in the United States District Court, of the Secretary's determination that there were no less than fair value sales. The District Court dismissed the complaint for lack of jurisdiction, and the District of Columbia Court of Appeals affirmed. The Appellate Court rejected the domestic industry's petition on the ground that the Customs Court has exclusive jurisdiction over *all* Customs matters, including even such basic issues as the constitutionality of the Antidumping Act. The Court of Appeals did not hold or state that the Customs Court would have taken jurisdiction in the *North American Cement* case had it been brought there, nor did it in way suggest that it would have been error if the Customs Court had refused to hear the case. Its opinion was limited to a simple holding that the District Court had no jurisdiction over any matter within the purview of the Antidumping Act.[3]

While it is thus clear that the District Court will not hear an antidumping matter, it is by no means clear that the Customs Court would entertain a domestic appeal in this area either. There is no statutory basis for an appeal to the Customs Court to which a domestic producer can point. The Antidumping Act itself clearly spells out the method by which an *importer* can appeal a Tariff Commission's affirmative determination to the Customs Court (19 U.S.C. § 169), but no word in the Act purports to give the domestic industry the right to appeal a negative determination.

Treasury's position that judicial review is presently available for domestic producers appears to be based upon Section 516 of the Tariff Act of 1930 (19 U.S.C. § 1516). Treasury argues that dictum in one Customs Court case—*Hammond Lead Products, Inc.* v. *U.S.*, 61 Cust. Ct. 137, CD 3552 (1968) which involved countervailing duties and which was reversed by the Court of Customs and Patent Appeals (440 F.2d 1024 (1971))—is not inconsistent with dictum in the earlier Court of Appeals decision in *North American Cement*, *supra*, which suggested that any appellate review of antidumping matters must be within the exclusive purview of the Customs Court.

Section 516 of the Tariff Act provides procedures whereby American Manufacturers may protest Treasury Department classification, appraisal and rate of duty determinations. The Section provides for review of these matters by the Secretary of the Treasury and otherwise lays the complex and lengthy procedural trail a manufacturer must follow in order to perfect an appeal to the Customs Court pursuant to 28 U.S.C.A. § 2632.

Under the specific terms of § 516, there is no indication that the failure to impose special dumping duties under the Antidumping Act is the sort of matter contemplated in the jurisdictional phrase "believes that the appraised value is too low, that the classification is not correct, or that the proper rate of duty is not being assessed . . .". There is even less reason to believe that the language of Section 516 could be read to include an appeal from a negative "injury" determination by the Tariff Commission.

The thrust of Section 516 is quite clear. If a domestic manufacturer believes a product should be classified under one TSUS item and it is classified under a different item, the American manufacturer may protest, and, if necessary, bring a proceeding in the Customs Court. But it requries an agonizing stretch of imagination to encompass within Section 516 a right of appeal from a negative "injury" determination that simply has nothing to do with classification.

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[3] *United States* v. *Hammond Lead Products*, 58 C.C.P.A. 129, C.A.D. 1017 (1971) referred to in the Treasury letter, does not deal with the question whether a domestic industry can appeal from a negative antidumping finding. That case deals only with the right of an appeal from a negative countervailing duty determination, and its holding was that no such right of appeal existed. The Trade Reform Act contains a specific provision to cure this deficiency.

We urge that the Trade Reform Act of 1973 be amended to provide expressly for judicial review of all antidumping determinations. Virtually everyone who has ever dealt with this question, including Treasury, favors such judicial review, and an appropriate amendment should clearly be reported out by this Committee. This Committee previously approved such an amendment in the Trade Act of 1970, and provision for appeal from countervailing duty determinations under a parallel unfair trade practice statute is made in the Trade Reform Act.

Countervailing duty law—duty-free imports

Section 303 of the Tariff Act of 1930, commonly known as the countervailing duty law, provides that whenever any country, political subdivision, person, partnership, association, cartel or corporation shall pay or bestow any bounty or grant upon the manufacture or production or export of any article of dutiable merchandise, a countervailing duty shall be imposed, equal to the amount of the bounty or grant, on the importation of that article into the United States.

In its present form, the law is mandatory and the Secretary *must* apply countervailing duties to any dutiable merchandise which he determines is benefiting from a bounty or grant. Section 331(a) of the Trade Reform Act would extend the provisions of the statute to duty-free items, subject however to the additional requirement in the case of these items, that the Tariff Commission find that an industry in the United States is being or is likely to be injured or is prevented from being established as a result of the importations benefiting from the bounty or grant.

Freeport urges adoption of Section 331(a). It should be obvious that injury can occur as a result of a bounty bestowed upon a duty-free import just as it can as a result of a bounty bestowed upon a dutiable import. In the past, commodities imported duty free into this country have presented grave threats to the health of domestic industries. Elemental sulphur, potash and cadmium, for example, enter this country duty-free, but imports of these commodities at less than fair value within the meaning of the Antidumping Act were found by the Tariff Commission to have injured competing U.S. industries. If these imports had benefited from a bounty, instead of being imported at less than fair value, the injury to domestic producers could have been equally great and the present law, without change, could provide no relief.

Freeport believes that the decision to amend Section 303 to extend the provisions of the countervailing duty to nondutiable items is a wise and proper one, and the requirement that injury to a domestic industry be shown will prevent the imposition of countervailing duties in any instance in which they are not truly justified. This Committee previously reported, in the Trade Act of 1970, a similar provision extending the countervailing duties law to dutiable imports.

Countervailing duties law—private subsidies

By its terms, Section 303 refers to countries, political subdivisions, persons, corporations and virtually any other entity imaginable. Yet, there appears to be a well-established practice in the Customs Court and in the Treasury Department of referring to the countervailing duty provisions as though they are applicable only to bounties or grants bestowed by governments. A recent series of Customs Court cases referred to the sort of bounties that result in countervailing duties as bounties granted "by reason of the action of a foreign government." *See*, e.g., *U.S.* v. *Hammond Lead Products, Inc.*, 440 F.2d 1024, 58 C.C.P.A. 129, 134. Cert. denied 404 U.S. 1005 (1971). *See also* the lower court opinion in *Hammond Lead*, where the Customs Court noted that the statutory language concerning a grant "implies the conferring by the sovereign power . . ." *Hammond Lead Products, Inc.* v. *U.S.*, 306 F. Supp. 460, 466 (U.S. Cus. Ct., 1st Div. 1969).[4]

[4] Other Customs Court decisions, too, have assumed that the countervailing duty law is applicable only to governmental subsidies. *See*, e.g., *Miller & Co.* v. *United States*, 34 C.C.P.A. Customs 101 (1946); *Mueller & Co.* v. *United States*, 28 C.C.P.A. Customs 249, 115 F.2d 334 (1940); *F. W. Woolworth Co.* v. *United States*, 28 C.C.P.A. Customs 239, 115 F.2d 348 (1940); *Heathcoat & Co.* v. *United States*, 34 C.C.P.A. Customs 122 (1946); *Energetic Worsted Corp.* v. *United States*, 224 F. Supp. 606 (Cust. Ct. 3d Div. 1963); *United States* v. *Itoh & Co.*, 16 C.C.A. 56 (1928).

The feeling at Treasury also appears to be that only govenmental subsidies or bounties are cognizable under the law. In February, for example, Matthew J. Marks, Deputy Assistant Secretary of the Treasury for Tariff and Trade Affairs, in a speech before the National Institute on Customs, Tariffs and Trade, American Bar Association, San Diego, California, stated that: ". . . (u)nlike the Antidumping Act, which deals with international price discrimination practices of private companies, the countervailing duty law almost invariably deals with the action of foreign governments." (Page 10 of Mr. Marks' address, February 15, 1974).

The uncomfortable feeling that arises from court decisions such as *Hammond Lead* and from remarks such as Mr. Marks' is that neither the Customs Court nor Treasury views the countervailing duty provisions in any context other than that of bounties or grants bestowed by foreign governments.

In many cases the bounty or grant in issue is one bestowed by a government, but it is by no means only a government or political subdivision that can bestow an injurious bounty or grant. A private or corporate subsidy can be bestowed as well, and such a subsidy was intended to fall within and should fall within the ambit of the countervailing duty law. A wholly-owned subsidiary, for example, could sell its product below cost while the parent corporation supported the operation from profits of sibling corporations; or, in a slightly different case, below cost sales in one or two markets (*e.g.*, the home market and the U.S. market) could be sustained from profitable operations in other markets. Or an imported product could be sold below cost and subsidized by a profitable co-product or by-product. The use, in certain markets, of selected below cost or at cost sales has long been condemned under U.S. antitrust laws and should not be countenanced under the countervailing duty law. *See* e.g., *Utah Pie Co.* v. *Continental Baking Co.*, 386 U.S. 685 (1967).

The present language of Section 303, as well as the language of the proposed amendments thereto, would easily support an interpretation of the countervailing duties law which would make it applicable to a bounty bestowed by a person or corporation. However, in light of the language of numerous court decisions and of Treasury statements which assume that countervailing duties are imposed only in the case of bounties bestowed by governments, Freeport urges that clarifying language be inserted by amendment into the Trade Reform Act—the addition of the words "or public or private" before "corporation" would be adequate for the purpose—or that if the Committee does not feel that such an amendment is necessary, that its report on the Trade Reform Act contain a clear statement that no such change was made because none was believed necessary since, in the opinion of the Committee, private as well as governmental subsidies are clearly within the reach of Section 303.

Countervailing duties—four-year suspension by the Secretary

One of the most far reaching amendments to the Tariff Act accepted by the House of Representatives is the addition of a new subsection (e) to Section 303. That amendment would authorize the Secretary not to impose countervailing duties under Section 303 if, after conducting whatever investigation he deemed appropriate, he determined that such imposition "would be likely to seriously jeopardize the satisfactory completion of the negotiations contemplated by sections 101 and 102 of the Trade Reform Act of 1973 . . .". While the Secretary's authority to refrain from imposing countervailing duties is limited to one year in cases involving merchandise produced by facilities owned or controlled by the government of a developed country, his moratorium authority is a full four years in all other cases.

Freeport believes that such a provision would completely emasculate the countervailing duty law and urges most strongly that the Committee eliminate or substantially alter the proposed subsection (e).

The present countervailing duty law is mandatory. If the Secretary determines that a bounty or grant is being paid or bestowed on imports, he must assess a countervailing duty. The authority conferred upon the Secretary by the proposed subsection would change what was a mandatory statute to a discretionary one.

Where once the Secretary was commanded by law to impose duties if he found that a bounty had been granted, he would now have virtually untrammeled discretion to withhold the imposition of such a duty.

No standards would guide the Secretary as to what might "seriously jeopardize satisfactory completion" of an international trade negotiation—a negotiation which might not even have yet begun. Indeed, so much discretion is given the Secretary to suspend countervailing duties that his actions would appear to be free from effective challenge in any court. Under the proposed provisions providing for judicial review of negative decisions by the Secretary, domestic manufactures could hardly disprove a Secretarial finding that the imposition of a countervailing duty would "seriously" jeopardize "satisfactory" completion of trade negotiations. What constitutes "satisfactory completion"? What "trade negotiations" are referred to? And what countervailing duty would "seriously" jeopardize their satisfactory completion? The Secretary's authority is so broad as to amount to a *de facto* repeal of the countervailing duty law.

Moreover, it appears inevitable that the existence of this discretion in the Secretary would result in unwelcome and embarrassing political pressure from foreign governments—pressure that would not arise if the Secretary did not have such discretion. A Treasury Secretary imposing mandatory duties on goods from another counrty, has no alternative but to do so and his act is not, therefore, an unfriendly one. A Secretary with discretion, however, is a representative of the executive branch of our Government who is *electing* to impose a duty, and the country from which the goods came is bound to take offense. The net result would very likely be that countervailing duties would often be threatened but never be imposed.

How could the Secretary fail to respond to a representation by a foreign government that the imposition of countervailing duties would seriously jeopardize contemplated trade negotiations? To ignore such a representation would be to call the bearer of the message (or his government) a lair! And the Secretary might often find himself in this position in cases in which the Tariff Commission had already found that a domestic industry was being injured and in which suspension of the duties would let that injury continue for four long years. The Secretary would also find himself in this position in clear cases of the most flagrant subsidies, cases in which the framers of the new language probably did not contemplate the use of the suspension device, but in which considerations of foreign policy would make it impossible for the Secretary, since the law gave him discretion, to act solely on the merits.

Furthermore, the distinction between facilities owned or controlled by the government of a developed country, and facilities not so owned or controlled is unworkable. The degree of control over its own industry exercised by Japan, France, Italy and many other countries makes the line between free enterprise and controlled facilities absolutely invisible. Yet to apply a one-year suspension in the case of goods imported from any western country or Japan on the ground that the production facilities are government controlled may provoke an angry rebuke from the government involved. Again, the net result would have to be that all doubts would be resolved in favor of the subsidized imports.

We recognize, of course, that international trade negotiations are complex and in many instances exceedingly delicate. To the extent, therefore, that some discretion must be given the Secretary to withhold countervailing duties, Freeport urges that this discretion be limited to the power to suspend, for one year only, countervailing duties arising out of specific practices which are, themselves, *at that time* the subject of trade negotiations between the United States and the exporting country.

Freeport is grateful for this opportunity to express its views on the above matters which it believes are of great importance to itself and to the nation. If any further information ~~or~~ explanation would be of use to the Committee in its consideration of these matters, Freeport would appreciate being given the opportunity to furnish it. Inquiries should be addressed to A. F. Rothwell, Vice President, Freeport Minerals Company, 161 East 42nd Street, New York, New York 10017.

Statement of the Cigar Association of America, Inc.

The Cigar Association of America, Inc. (the Association) welcomes this opportunity to comment on H.R. 10710 (the Trade Reform Act of 1973) as passed by the House of Representatives. Regular Association members produced more than 80 percent of the nearly 7 billion traditional cigars made in the United States and Puerto Rico in 1973. Additionally, our members grow cigar tobaccos in Connecticut and Pennsylvania, distribute the majority of cigars sold throughout the United States and perform a variety of services for the domestic cigar industry. In all its phases, this industry provides upwards of 30,000 jobs throughout the United States and Puerto Rico.

Liberal trade policy vital to U.S. interests

The Association believes that the national interest is best served by a trade policy which seeks to expand international trade on a freer and fairer basis, and in that vein we support the reciprocal reduction of artificial trade barriers contemplated by H.R. 10710. We feel it is incumbent upon the United States to assume the leadership role in the direction of a world economy that will collectively benefit from a freer flow of goods and services across national borders. A policy aimed at encouraging economic interdependence among nations will help to bring about a more efficient allocation of resources within a multinational sphere, as well as promoting international political cooperation.

Artificial trade barriers tend to inhibit the production of goods throughout the world, thereby deterring, rather than stimulating, economic growth. Furthermore, in today's climate, where many commodities are in short supply, such barriers serve to aggravate an already intolerable level of inflation at home and abroad. Dismantling such trade barriers would contribute substantially to the economic welfare of the United States and of our trading partners.

While H.R. 10710 would continue the liberal trade policy followed by the United States since 1934, it would also strike out in new directions to deal with many of the new imperatives present in the world today. These include: the increased importance of non-tariff barriers in relation to tariffs (which have been considerably reduced during the post-war period); the opportunity for more fruitful East-West trade; and the commitment of industrialized countries to participate in a system of tariff preferences for developing countries. The Association believes that the provisions in the bill designed to cope with these problems are desirable.

Potential benefits of H.R. 10710 for U.S. cigar industry

Titles I and V of the bill are of particular interest to our membership. Title I would not only grant the President authority to negotiate tariff reductions, but would also, for the first time, give him broad authority to negotiate reductions in, or the elimination of, non-tariff trade barriers. Title V would establish a temporary system of generalized preferences for beneficiary developing countries to foster the diversification and stability of their economies. The enactment and successful implementation of these titles could have a significant beneficial impact on the competitive position of our industry vis-a-vis its foreign competitors by facilitating lower product costs to domestic consumers and by greatly enhancing export opportunities.

International trade in cigars is severely hampered by extensive import restrictions among major consuming countries, both in the form of very high tariff levels and stringent non-tariff barriers. (See Table 1) Because the blend characteristics of American cigars have been well accepted throughout the world, it is believed that a substantial reduction in the trade barriers such as those described in Table 1 could give considerable impetus to American cigar exports. Since price to the consumer is an important factor, reduced trade barriers abroad would enable American cigar manufacturers to take fuller advantage of favorable exchange rate adjustments in the last few years and the cost savings inherent in their large-volume production methods. The Association further believes that the extension of duty-free treatment on U.S. imports of certain raw materials (i.e., cigar filler-type tobaccos) under the provisions of Title V, in tandem with the reciprocal reduction of trade barriers on cigars, would significantly strengthen the competitiveness of the American cigar industry at home and abroad.

Applicability of title V to cigar filler-type tobaccos

Title V would authorize the President to extend duty-free treatment to certain products from beneficiary developing countries for a period of ten years. The enactment and implementation of Title V would fulfill a United States agreement to participate in such a Generalized System of Preferences (GSP) entered into in 1970 with other industrialized countries.

It should be noted that Title V contains a number of limitations which assures that the extension of GSP treatment would not have an adverse impact on American jobs or on American industry, and otherwise would be consistent with our foreign policy and international economic goals. Thus, Section 504 provides that a product from a particular beneficiary developing country would not be eligible for duty-free treatment if that country accounted for 50 percent or more of total U.S. imports of that product or more than $25 million worth in U.S. imports of that product. As hereinafter explained, imports of cigar filler-type tobaccos would not exceed these limitations.

The Association believes that the extension of GSP treatment to cigar filler-type tobaccos, covered by the commodity descriptions in TSUS items 170.40, 170.42–45, 170.47–49, 170.60 and 170.62–64, would not only help the battle against domestic inflation without affecting employment in the domestic industry, but would also increase the competitiveness of American cigars in foreign markets, and would be of significant benefit to the people of the affected producing countries. In this context a distinction should be made between cigar filler-type tobaccos, and cigar wrapper tobaccos and cigarette tobaccos. Whereas there is adequate domestic production of cigar wrapper tobaccos and cigarette tobaccos—which suggests that these types of tobacco would not be eligible for GSP treatment—the production of domestic cigar filler-type tobaccos[1] is far short of consumption and is steadily declining as more and more acreage is being converted to industrial use or to the growing of more profitable food crops. (See Table 2.)

Virtually all of the cigar filler-type tobaccos imported into the United States for consumption by the domestic cigar industry comes from the Philippines, Indonesia and nations of the Caribbean and Latin America. The Association believes that most of them would qualify as beneficiary developing countries under Section 502 of the bill. All such tobaccos are subjected to their first processing in the country of origin. This normally consists of assorting, cleaning, fermenting and packing in bales under pressure for shipment, and may also involve threshing or cutting.

In the years 1972 and 1973, about 90% of the cigar filler-type tobaccos by weight and value imported into the United States for consumption came from Latin America and the Philippines. In 1973, over 15 million pounds, representing slightly more than 20% by weight of total cigar filler-type tobacco imports for consumption in the United States, came from the Republic of the Philippines. Philippine imports in 1973 were followed in importance by those from Brazil with 11.1 million pounds, Mexico with 10.2 million pounds, the Dominican Republic with 10.1 million pounds and imports from Colombia of 7.0 million pounds.

In terms of value, imports for consumption from the Philippine Republic has been one of the leaders in this country's use of foreign tobaccos. However, because of their lower prices, the percentage of the total dollar value imported was considerably lower than the percentage in pounds. In 1973, it represented only 15.9% and in 1972 it was 25.1% of total dollar value. Mexico was first in value of imports in 1973, totalling 19.0% (11.4% in 1972); in the second place position in terms of dollars of imports was the Dominican Republic with 17.7% (18.4% in 1972) ahead of Brazil with 13.1% in both years. (See Table 3)

Much of the same pattern is apparent for the entire preceding decade. For the period 1963–1973, the substantial majority of cigar filler-type tobaccos im-

[1] Domestic cigar filler tobaccos are classified by the U.S. Department of Agriculture as Type 41 (Pennsylvania), Types 42–44 (Ohio) and Type 46 (Puerto Rican) tobaccos.

ported for consumption has come from countries which we believe would be eligible for GSP treatment. (See Tables 4a and 4b)

It should also be noted that, in keeping with the purpose of Title V, GSP treatment for cigar filler-type tobaccos would inure primarily to the benefit of the more economically deprived rural areas of the developing countries mentioned above. Expanded foreign markets for cigar filler-type tobaccos from these regions would provide employment and economic opportunities. Moreover, U.S. imports of such tobaccos complement, rather than displace American-grown cigar tobaccos because consumers' tastes demand blends in which foreign tobaccos are mixed with domestic types.

Enactment of H.R. 10710 urged

Over the years the United States has provided much of the impetus, initiative and leadership in the furthering of multilateral trade negotiations. As a result of our efforts all of the participating countries have improved their terms of trade and concomitantly increased their economic welfare. Without U.S. participation in efforts to liberalize trade on a multi-lateral basis, there can only be a reversal of the gains enjoyed in the past by all of the participants. In effect, we would be encouraging detrimental bilateral trade agreements, proliferation of tariff and non-tariff barriers and economic nationalism. This can only lead to a misallocation of economic resources to the detriment of producers and consumers throughout the free world. For all of these regions we urge the passage of H.R. 10710 (the Trade Reform Act of 1973).

TABLE 1.—IMPORT DUTIES ON CIGARS IN SELECTED FREE WORLD COUNTRIES

Country and duty basis	Product description	Duty	Remarks
United States [1] (f.o.b.)	Cigars valued at 15¢ and over. (MFN).	$0.95/lb + 5 percent ad valorem.	Estimated average weight of imported cigars with a declared value of 15¢ and over is 18 lb per 1,000. Combined estimated duty by weight and ad valorem would be the equivalent of 11.8 percent ad valorem (f.o.b.).
	Cigars valued at under 15¢. (MFN).	$1.91/lb + 10.5 percent ad valorem.	Estimated average weight of imported cigars with a declared value of under 15¢ is 10 lb per 1,000. Combined estimated duty by weight and ad valorem would be the equivalent of 41.7 percent ad valorem (f.o.b.). Weight of products is net weight of imported article excluding wrapping and packaging materials.
European Economic Communities: [2]			
Be-Ne-Lux (c.i.f.)	Cigars	30 percent ad valorem	
France (c.i.f.)	Cigars	52 percent ad valorem	Imports under control of French tobacco monopoly.
Germany (c.i.f.)	Cigars	52 percent ad valorem	
Italy (c.i.f.)	Cigars	52 percent ad valorem	Imports under control of Italian tobacco monopoly.
Austria: [3] (c.i.f.)	100 kg cigars	$5.55/lb	Imports under control of Austrian tobacco monopoly; weight of product includes all packaging materials.
Spain: (c.i.f.)	100 kg cigars	$2.70/lb	Imports under control of Spanish tobacco monopoly; weight of product includes all packaging materials plus a 40 percent surcharge for individuals.
Switzerland: (c.i.f.)	100 kg cigars put up in retail packages.	$2.97/lb	Weight of product includes all packaging materials.
Japan: (c.i.f.)	Cigars	200 percent ad valorem	Imports under control of Japanese tobacco monopoly.

[1] Philippine cigars receive preferential treatment of a duty-free quota (1,300,000 cigars in 1973) under the Laurel-Langley Act; such treatment will cease after July 3, 1974.

[2] Import duties to nonmember countries; member countries receive duty-free treatment.

[3] Import duties to nonmember countries of EFTA.

Note: Imports to a Government monopoly are duty free. U.S. dollar equivalents of foreign exchange rates as of Mar. 22, 1974.

Source: "Changes in Import Duties on Tobacco in Free World Countries 1957-69," U.S. Department of Agriculture, Foreign Agriculture Service, September 1970; "Tariff Schedule of the United States Annotated, 1972," U.S. Tariff Commission.

TABLE 2.—ACREAGE, PRODUCTION, AND DISAPPEARANCE OF DOMESTICALLY GROWN FILLER-TYPE TOBACCOS, 1963–73

[Farm-sales-weight]

Crop year	Type 41 (Pennsylvania seedleaf)			Types 42–44 (Ohio filler)			Type 46 (Puerto Rican filler)			Total all types		
	Acreage (acres)	Production (thousand pounds)	Disappearance (thousand pounds)	Acreage (acres)	Production (thousand pounds)	Disappearance (thousand pounds)	Acreage (acres)	Production (thousand pounds)	Disappearance (thousand pounds)	Acreage (acres)	Production (thousand pounds)	Disappearance (thousand pounds)
1960	31,000	52,700	47,562	4,300	6,600	6,429	28,500	27,500	28,007	63,800	86,800	81,998
1963	28,000	51,800	41,633	3,500	6,786	8,684	30,000	32,000	29,800	61,900	90,586	80,117
1964	27,000	45,900	54,618	3,700	5,754	7,947	30,800	37,900	26,658	61,500	89,554	89,223
1965	27,000	51,300	52,973	3,700	5,420	6,145	17,000	16,174	27,024	47,700	72,894	86,142
1966	21,000	36,225	51,681	3,200	6,032	6,757	9,000	12,038	23,355	33,200	54,295	81,793
1967	21,000	38,325	41,920	2,300	3,634	6,244	7,600	10,786	16,903	30,900	52,745	65,067
1968	21,000	37,275	40,896	2,050	3,424	5,395	6,000	7,626	16,152	29,050	48,325	62,443
1969	20,000	36,500	44,309	1,700	2,805	4,724	4,700	6,104	12,645	26,400	45,409	61,678
1970	17,000	30,600	40,868	1,650	2,888	4,070	3,200	4,471	8,770	21,850	37,959	53,708
1971	15,200	24,472	41,291	2,050	3,793	4,596	4,806	6,728	9,041	22,056	34,993	54,928
1912	13,000	18,200	34,659	2,350	4,183	4,388	4,756	6,743	10,222	20,106	29,126	49,269
1973[1]	14,000	23,100	----------	2,200	3,630	----------	[2] 4,500	[2] 6,500	----------	20,700	33,230	----------

[1] Preliminary.
[2] Estimated.

Source: "Tobacco Crop Report," as of January 1974, Tobacco Crop Reporting Board, U.S. Department of Agriculture.

TABLE 3.—CIGAR LEAF TOBACCOS (UNSTEMMED, STEMMED FILLER AND SCRAP) IMPORTED FOR CONSUMPTION—1971, 1972, AND 1973

QUANTITY AND VALUE, BY COUNTRY OF ORIGIN, RANKED BY QUANTITY IMPORTED

Country	Quantity (1,000 lbs.)			Percent of total			Declared value (thousand)			Percent of total		
	1973	1972	1971	1973	1972	1971	1973	1972	1971	1973	1972	1971
Summary:												
Latin American countries	52,173	36,138	28,590	69.4	61.7	47.7	$34,207	$22,388	$18,107	76.9	68.7	61.5
Philippine Republic	15,298	18,462	27,336	20.3	31.5	45.6	7,084	8,165	8,923	15.9	25.1	30.3
Miscellaneous other countries	7,726	3,925	3,989	10.3	6.7	6.7	3,166	2,026	2,392	7.1	6.2	8.1
Total	75,197	58,525	59,915	100.0	100.0	100.0	44,457	32,579	29,422	100.0	100.0	100.0
Country of origin (ranked by quantity):												
Philippine Republic [1]	15,298	18,462	27,336	20.3	31.5	45.6	7,084	8,165	8,923	15.9	25.1	30.3
Dominican Republic [1]	10,128	8,129	7,829	13.5	13.9	13.1	7,886	5,988	5,942	17.7	18.4	20.2
Brazil [1]	11,137	7,251	4,771	14.8	12.4	8.0	5,827	4,283	2,573	13.1	13.1	8.7
Colombia [1]	6,990	6,912	4,883	9.3	11.8	8.1	3,757	3,374	2,392	8.5	10.4	8.1
Paraguay [1]	4,735	3,444	2,376	6.3	5.9	4.0	1,635	1,106	819	3.7	3.4	2.8
Mexico [1]	10,187	4,538	2,870	13.5	7.8	4.8	8,428	3,711	2,401	19.0	11.4	8.2
Argentina [1]	5,518	3,022	3,284	7.3	5.2	5.5	2,537	1,222	703	5.7	3.8	2.4
Honduras [1]	1,398	1,106	1,527	1.9	1.9	2.5	1,662	1,162	1,503	3.7	3.6	5.1
Nicaragua [1]	789	718	691	1.0	1.2	1.2	1,214	874	1,196	2.7	2.7	4.1
Peru	1,102	760	----------	1.5	1.3	----------	917	337	----------	2.1	1.0	----------
Cuba (removals from bond)	13	2	91	(2)	(2)	.2	8	1	105	(2)	(2)	.4
Costa Rica [1]	49	128	147	.1	.2	.2	50	91	156	.1	.3	.5
Ecuador [1]	128	128	121	.2	.2	.2	286	239	317	.6	.7	1.1
Indonesia [1]	4,483	2,586	1,800	6.0	4.4	3.0	1,110	1,065	887	2.5	3.3	3.0
Miscellaneous other countries	3,243	1,339	2,189	4.3	2.3	3.7	2,056	961	1,505	4.6	2.9	5.1
Total filler and scrap tobacco	75,197	58,525	59,915	100.0	100.0	100.0	44,457	32,579	29,422	100.0	100.0	100.0

[1] The association believes these would qualify as lesser developed countries under sec. 502, title V, Trade Reform Act 1973.

[2] Less than 0.05 percent.

Source: U.S. Bureau of the Census, imports of merchandise for consumption, FT-135, December 1973. Tabulation above excludes scrap tobacco imports not usually used in cigar manufacturing from Turkey, Greece, Lebanon, Canada, Cypress, India, Korea, Syria, Yugoslavia.

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TABLE 4A.—TOTAL QUANTITY OF CIGAR FILLER (STEMMED, UNSTEMMED, AND SCRAP) IMPORTED FOR CONSUMPTION. 1963–73

[Thousands of pounds]

Country of origin	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973
Argentina [1]	388	474	417	337	944	815	1,330	1,992	3,284	3,022	5,518
Brazil [1]	2,486	4,604	4,167	4,119	3,625	4,909	4,364	4,581	4,771	7,250	11,137
Columbia [1]	5,507	8,322	5,588	4,494	3,761	4,473	4,839	4,475	4,883	6,912	6,990
Costa Rica [1]	56	22	23	78	156	150	52	129	139	128	49
Cuba	5,557	4,285	2,371	1,741	1,134	475	212	154	90	2	13
Dominican Republic [1]	5,565	10,029	8,390	4,001	5,410	6,972	6,408	7,851	7,829	8,129	10,128
Honduras [1]	60	355	512	598	719	1,047	1,234	1,275	1,526	1,106	1,398
Indonesia [1]	1,044	2,369	1,349	1,083	1,160	1,353	1,641	2,197	1,800	2,586	4,483
Jamaica [1]	203	126	238	100	61	99	42	16	2	23	130
Mexico [1]	594	1,111	1,823	2,533	1,854	2,230	2,319	2,267	2,871	4,539	10,187
Netherlands	114	108	56	87	90	82	112	111	3	33	54
Nigeria	3	2	1		69					5	35
Paraguay [1]	470	724	1,312	1,557	1,792	1,238	2,324	2,961	2,376	3,444	4,735
Peru	200	23	256	200	265	711	13	418	338	760	1,102
Philippine Republic [1]	13,808	14,446	14,091	17,230	17,012	19,239	22,890	22,484	27,337	18,461	15,298
Spain	261										
Other	98	137	310	313	664	744	1,125	2,074	2,667	2,124	3,940
Total cigar filler	36,414	47,136	40,903	38,489	38,716	44,537	48,932	52,986	59,916	58,525	75,197

[1] The association believes these would qualify as lesser developed countries under sec. 502, title V, Trade Reform Act, 1973.

Note: Imports for consumption represent tobaccos clearing customs upon arrival, plus previously imported tobaccos withdrawn from customs bond. Excludes entries in the "Scrap" classification that probably were not for eventual use in cigars—scrap imports from Candaa, Cyprus, Greece, India, Lebanon, Syria, Turkey, and Yugoslavia.

Source: U.S. Bureau of the Census, "Imports of Merchandise for Consumption," FT 110, FT 125, FT 135, IM 145 and IM 146.

TABLE 48.—VALUE OF TOTAL CIGAR FILLER (STEMMED, UNSTEMMED AND SCRAP) IMPORTED FOR CONSUMPTION 1963-73

[In thousands of dollars]

Country of origin	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973
Argentina [1]	171	273	174	167	403	291	357	547	703	1,222	2,537
Brazil [1]	1,810	3,059	2,234	2,324	2,207	2,928	2,620	2,659	2,572	4,282	5,827
Columbia [1]	2,395	3,836	2,707	2,318	1,738	2,240	2,651	2,442	2,392	3,374	3,757
Costa Rica [1]	29	17	8	60	118	135	36	112	157	91	50
Cuba	5,538	4,162	2,377	1,613	879	606	303	159	105	1	8
Dominican Republic [1]	4,001	6,507	7,012	2,770	3,879	4,963	4,590	5,601	5,942	5,988	7,886
Honduras [1]	49	410	581	783	865	1,238	1,472	1,429	1,504	1,161	1,662
Indonesia [1]	652	1,435	767	653	684	699	883	1,009	887	1,065	1,110
Jamaica [1]	210	161	181	90	53	84	29	18	2	38	178
Mexico [1]	292	696	1,328	1,875	1,498	1,839	2,076	1,933	2,400	3,712	8,428
Netherlands	57	74	52	43	98	45	64	54	9	21	20
Nigeria	5	6	4		337					3	13
Paraguay [1]	110	200	335	315	368	263	700	819	908	1,105	1,635
Peru	67	7	87	64	88	243	4	251	169	337	917
Philippine Republic [1]	4,289	4,618	4,409	5,170	5,102	5,962	7,539	7,103	8,923	8,165	7,084
Spain	87										
Other	43	117	264	402	723	943	1,327	1,886	2,748	2,013	3,345
Total cigar filler	19,807	25,638	22,580	18,647	19,040	22,539	24,652	26,052	29,422	32.579	44,457

[1] The Association believe these would qualify as lesser developed countries under sec. 502, title V, Trade Reform Act 1973.

Note: Imports for consumption represent tobaccos clearing customs upon arrival, plus previously imported tobaccos withdrawn from customs bond. Excludes entries in the "Scrap" classification that probably were not for eventual use in cigars: Scrap imports from Canada, Cyprus, Greece, India, Korea, Lebanon, Syria, Turkey, Yugoslavia.

Source: U.S. Bureau of the Census, "Imports of Merchandise for Consumption," FT 110, FT 125, FT 135, IM 145 and IM 146.

STATEMENT OF THE SLIDE FASTENER ASSOCIATION

The Slide Fastener Association, 366 Madison Avenue, New York, New York, wishes to indicate generally its support for the proposed Trade Reform Act, but wishes to call to the Committee's attention specific undesirable impacts which several of the proposed provisions could have on our industry.

The 16 members of the Slide Fastener Association, embracing approximately 37 manufacturing establishments dispersed over some 14 states, account for an estimated 80 percent of the total production of slide fasteners in the United States. A list of member firms is appended to this statement.

The most significant common problem of the slide fastener industry in recent years has been a rapid and quantitatively significant increase in imports of competing slide fasteners primarily from Japan.

It will be noted that imports increased steadily from 26.6 million units in 1968 to 100.4 million units in 1972, which represents an average annual increase of 40 percent sustained over a four-year period. 1973 will show approximately the same trend.

Table 1 covers only direct imports of complete slide fasteners. More than double that number enters the United States indirectly in finished garments of foreign origin. These indirect imports are shown on Table 2 through the year 1972. Full data are not yet available for 1973, but the same trend is evident. From Table 2 we further see that the impact of imports on the domestic industry has nearly doubled over the past five years, reaching in 1972 16.4 percent of domestic sales and 14.1 percent of U.S. consumption.

The Committee will therefore understand our vital concern with any trade legislation.

1. Negotiating authority

Chapter 1 would give the President unlimited authority to modify duties to carry out trade agreements entered into within five years from the date of enactment of this legislation.

In general, and certainly in a theoretic sense, the potential economic stimulus inherent in the mutual reduction of tariff barriers would appear to be desirable. However, we believe that the application of the tariff-reducing authority to certain industries, and particularly to the slide fastener industry would be counter-productive to the underlying purposes of this legislation.

TABLE 1.—IMPORTS OF SLIDE FASTENERS, 1968–73

Year	Slide fasteners valued not over $0.4 each (TSUS 7457000)		Slide fasteners valued over $.04 each (TSUS 7457200)		Total units (millions of units)
	Quantity (millions of units)	Value (dollars)	Quantity (millions of units)	Value (dollars)	
1968	24.9	600,749	26.6	1,851,295	51.5
1969	24.1	613,104	42.1	2,933,198	66.2
1970	24.5	636,445	55.0	4,162,455	79.5
1971	21.8	632,080	65.3	5,454,271	87.1
1972	21.6	652,661	100.4	9,288,061	121.6
1973 [1]	18.3	585,142	87.7	9,266,782	106.0

[1] January–November.

Source: Bureau of Census, Department of Commerce.

TABLE 2.—DOMESTIC SALES, IMPORTS, AND U.S. CONSUMPTION OF SLIDE FASTENERS, 1968–72

[Millions of units]

Year	Domestic sales [1]	Imports of slide fasteners [2]	Imports of slide fasteners in finished garments [3]	Total imports	Apparent U.S. consumption	Percent total imports of domestic sales	Percent total imports of consumption
1968	2,277.7	51.5	157.5	209.0	2,486.7	9.2	8.4
1969	2,156.3	66.2	172.9	239.1	2,395.4	11.1	9.9
1970	2,042.6	79.5	247.4	326.9	2,369.5	16.0	13.8
1971	2,109.3	87.1	254.9	342.0	2,451.3	16.2	14.0
1972	2,337.0	121.6	261.5	383.1	2,720.1	16.4	14.1

[1] Slide Fastener Association, Inc.
[2] Bureau of Census, Department of Commerce.
[3] Estimated on basis of slide fastener utilization factors applicable to American-made garments.

With regard to that quantity of slide fasteners which enters the United States incorporated into finished garments, we suggest that the world-wide textile and apparel trade problem is much too complex to be regulated for the mutual benefit of all by simply reducing or modifying individual tariff rates in any one country, or through bilateral actions. We suggest that it would not be appropriate to apply the negotiating authority to textiles in order to reduce tariff rates. The world capacity to produce and consume apparel and other textiles must be developed in a balanced way, which development can, we suggest, be accomplished with optimum benefit to all countries only by a multilateral agreement, similar to the long-term agreement on cottons, to cover all apparel and textile trade in all three major fibers.

With regard to the application of the tariff-reducing authority to slide fasteners imported directly, we suggest that no useful purpose would be accomplished, and in fact a great deal of harm would be done to the domestic industry, by further reducing the present tariff rates on slide fasteners and parts. The quantities and rates of increase of these imports in recent years make it clear that the stimulation of imports does not require any further reduction in tariffs. The only effect of further reducing the tariff on these products would be to lower even more the price of competing imports, to the greater detriment of the domestic industry. The foreign producers of slide fasteners do not need lower duties to capture the U.S. market—they are doing an aggressive job under existing duty rates, as is evident from the rapid increase in imports.

2. Prenegotiation requirements

It is reassuring to see that the proposed legislation contains a number of procedures designed to place before the President the maximum of facts concerning the probable impact of tariff reductions on individual industries. As is evident from the foregoing, the slide fastener industry is justified in feeling particularly exposed to further tariff reductions, and the ability to present our case for reservation of slide fasteners to the ultimate decision maker is quite important to us. It is disappointing, however, to note that no clear criteria are provided for the reservation of articles from the negotiating lists. Aside from articles already subject to restraint under the National Security Amendment or the Escape Clause under Section 128, the only criterion is any reason the President "deems appropriate". We suggest that considerably more certainty would result from making reservation mandatory when the quantity of imports has reached a given percentage of domestic consumption, has displayed a rapid increase in recent years, and has caused or threatens economic distress to the domestic industry. Certainly such a limit is indicated in the case of the slide fastener industry.

3. Import relief

The proposed provisions for import relief represent a considerable improvement over the existing Escape Clause. We hope that the Committee will see fit to recommend the enactment of the import-relief provision as it presently exists in proposed form. The need for an effective Escape Clause is all the more emphasized by the fact that this legislation, in subsequent sections, would make possible the extension of most-favored-nation duty treatment to various communist countries, some of which are substantial producers of slide fasteners, and would provide for the elimination of tariffs on slide fasteners from a large number of less-developed countries.

To conclude, we hope that the Committee will first take into account the special nature of the textile problem, insofar as it should relate to various provisions of the proposed legislation; second, provide a more precise criterion for the reservation of articles from negotiation of further tariff reductions based on quantity, rate of increase of imports, and effect upon domestic industry; and third, that the Committee will recommend passage of an Escape Clause which will provide realistic relief to domestic industry.

SLIDE FASTENER ASSOCIATION, INC.

Acme Associates, Inc., 2103 44th Avenue, Long Island City, N.Y.
Adams Industries, Inc., 5-3 48th Avenue, Long Island City, N.Y.
American Robin, Inc., Division of Richford Industries, Inc., 6250 Northwest 35th Avenue, Miami, Fla.
Coats & Clark, Inc., 430 Park Avenue, New York, N.Y.
Flair Zipper Corp., 28 West 23rd Street, New York, N.Y.
General Zipper Corp., 48-15 32d Place, Long Island City, N.Y.
Ideal Fastener Corp., Industry Drive, P.O. Box 427, Oxford, N.C.
Murlen Fastener Corp., 313 West 37th Street, New York, N.Y.
National Fastener Co., Inc., 5 West 31st Street, New York, N.Y.
Pilling Chain Co., Inc., 90 Bay String Avenue, West Barrington, R.I.
Scovill Manufacturing Co., 99 Mill Street, Box 1820, Waterbury, Conn.
Serval Slide Fasteners, Inc., 36-30 Lawrence Avenue, Flushing, N.Y.
Slide-Rite Manufacturing Co., 42-37 Crescent Street, Long Island City, N.Y.
Talon Division of Textron, 626 Arch Street, Meadville, Pa.
Texas Fastener Corp., 1937 Irving Boulevard, Dallas, Tex.
Zipper Products Corp., 126 13th Street, Brooklyn, N.Y.

SUMMARY

1. Rapidly increasing imports of slide fasteners from Japan pose a substantial threat to the slide fastener industry.

2. Textiles generally, and apparel specifically, should be reserved from any further reciprocal tariff reductions, and trade in these products should be regulated for the benefit of all countries through a multilateral long-term arrangement covering all fibers.

3. Slide fasteners as such should not be subjected to any further duty reductions, and to that end reservation of articles from negotiation should be based on the express criteria of whether imports are equal to a given percentage of domestic consumption, have increased rapidly, and are threatening economic distress to the domestic industry.

4. The slide fastener industry envisages the need in the near future to escape from the effects of further increased imports resulting from various provisions of this and similar past legislation, and for that reason strongly supports the import relief provisions.

Statement by William A. Dungan, President, The Cordage Institute of the United States

Mr. Chairman and members of the committee, I submit this statement as President of the Cordage Institue of the United States, which is composed of the rope and twine manufacturers who produce approximately 60% of the total of all manilla, sisal and man-made fiber rope and coarse twine produced in the United States. We appreciate the opportunity to submit this statement for consideration as you hold your deliberations on this important piece of legislation.

We are in general agreement that the President must have increased flexibility in trade negotiations and that this requires some increase in the authority of the Executive to eliminate, reduce, or increase custom duties and to take actions on nontariff trade barriers. As a small industry which has been eroded by imports and is being eroded at an increasing pace, we express our concern to you and our strong recommendations that the Congress provide in the Trade Bill that exercise of Presidential authority be subject to appropriate safeguards—statements of Congressional policy and standards and adequate provision and time for hearings on tariff and nontariff actions having substantial adverse effects on domestic industry.

H.R. 10710 is a substantial improvement over the Administration proposal H.R. 6767, which was transmitted to the Congress on April 10, 1973. The Bill, as passed by the House, does include provisions for Congressional review and veto and limitations on Presidential authority which should provide some protection to American industry and some assurance as to the manner in which the Trade Reform Act of 1973 would be implemented by the Executive Branch. However, despite the welcome addition of the provisions for Congressional policy, standards and review, our small but vital industry has a deep concern about threats to the future of small industries in the United States under a liberalized trade policy.

In summary, we urge that it be the policy of the United States expressed by the Congress in legislation and by the Executive Branch in implementation of the legislation that:

1. In no sector of industry essential to our economy should the United States become substantially or wholly dependent upon foreign sources of production.
2. Even in an international atmosphere of freer world trade there should be a limit on the extent to which imports of a given product should be allowed to take the United States market.
3. That limit should be designated at least in Executive Branch policy.
4. An excess of imports over that limit would be a prima facie case for the granting of import relief.

LIMITING PRESIDENTIAL AUTHORITY

Even with the safeguards presently written into H.R. 10710, the President would still have broad authority and great discretion as to whether he actually grants import relief even when he finds that domestic industry has suffered serious injury and that imports were a substantial cause of such injury. It is our opinion that such authority and discretion on the part of the Executive must still have further limitations. The President should be required to grant import relief if the penetration of the U.S. market by foreign nations exceeds a given level.

It may not be practical to state a quantitative limit in the Bill itself, but the Congressional policy on the matter can be enunciated there with a requirement that the method of determination of the critical level of market penetration or the critical level, industry by industry, be prescribed in Regulations.

MONITORING IMPLEMENTATION BY THE EXECUTIVE BRANCH

The keynote of trade arrangements must be reciprocity. Reciprocity requires ability on the part of the Executive Branch to compare the U.S. domestic industry with the comparable industry in the foreign nation. The data and the systems of classification and analysis presently existing in the Executive Branch do not, in our view, provide the basis for evaluation of reciprocity and for appraisal of the effect of imports on domestic industry. In the case of the cordage industry, a variety of items must be examined to determine the exact nature of the imports. The tariff schedules must be set up in a way to parallel more closely the domestic industry.

A grant of broad authority to the Executive in trade as in any other field must be made with assurance that the Executive Branch has the ability to monitor the effect of actions under the grant, to analyze their significance and to report to the Congress and to the people.

We cannot emphasize too strongly the importance of good classifications and good statistical reporting on imports. In our own industry, a major item of imports—braided cordage—was for some years obscured because of the tariff schedules and the lack of specificity in government reporting. It is now reported separately by the Tariff Commission and the Bureau of the Census, thus allowing accurate determination of its inroads into the domestic market.

EFFECT OF IMPORTS ON THE CORDAGE INDUSTRY

In 1970 the Cordage Institute testified before this Committee concerning the effect of imports on the cordage section of the textile industry. At that time we pointed out that U.S. producers of cordage from natural fibers were having a smaller and smaller percentage of a shrinking market, and we predicted that the rate of imports would continue to increase. We also pointed out that imports of synthetic cordage were at an accelerating rate. Our estimate at that time was that the rate of increase in imports of synthetic cordage would provide a striking parallel to the historical rises of imports of cordage from natural fibers. Subsequent events have borne out the validity of those estimates. We repeat the very words we used in the 1970 testimony: ". . . there is still time to save some of the market for cordage made from man-made fibers, and the survival of the industry will depend upon this fact."

Imports of hard-fiber industrial twine and agricultural twine have been taking an increasing and overwhelming portion of the U.S. market. In agricultural twine, imports in 1972 were 92.9% (or \$33.4 million) of the U.S. market against 14.9% in 1950. In industrial twine, imports reached 90.2% (or \$4.4 million in 1972) against 48.0% in 1950. Only in the case of hard-fiber rope, where the bulk of manila rope imports are presently controlled by an absolute quota, have domestic producers been able to retain a significant portion of the market. But even in the case of hard-fiber rope, in 1972 imports accounted for 42.7% (or \$4.2 million), and domesstic production 57.3%. In 1950, imports made up only 6.3% of the market. (See attached exhibits.)

The effect of increasing imports has been to force closure of many mills. In 1950 there were 22 major domesstic companies producing hard-fiber rope and twine in 23 mills. Today there are only 6 major companies operating 6 mills for producing hard-fiber ropes and twines. Many of these have reduced their spinning capacity, and all are operating at a greatly reduced level of production and sales.

This situation has been aggravated in recent years by the fact that some of the countries which have been supplying raw hard fibers to the U.S. producers have now entered the field of production of finished ropes and twines. In order to promote the sale of these products, they are pricing the raw fibers sufficiently high and their finished products sufficiently low that the U.S. producer buying the raw fiber is at a competitive disadvantage. The U.S. producer is thus being effectively blocked out of many parts of the domestic market by a set of circumstances over which he has no control.

At the same time that our industry has been facing the major external force of imports we have been undergoing a transition as new made-made fibers have become available for the production of rope and twine. For the first time in the history of the U.S. cordage industry the development of suitable man-made fibers for cordage products has eliminated total reliance on offshore sources for either raw materials or finished products. The direction of the industry is clearly one of greater and greater use of man-made fibers for there the future of our domestic cordage industry lies. The U.S. cordage industry has been the leader in the use of these new fibers. The industry has been the leader, too, in employing the most efficient production processes so as to provide the product to the consumer at low prices. Our industry is out in front with the new technology, but here also imports are of increasing concern. Despite the highly efficient domestic production, there has been a dramatic rise in the rate of imports into the United States of cordage made from man-made fibers. Although imports still have a relatively small percentage of the total synthetic cordage market, the rate of increase is startling. If the 1972 and 1973 data are repeated in subsequent years, we will soon be faced with an annual doubling of the rate of imports of synthetic cordage.

Under a liberal trade policy, theoretically each nation should produce and sell, both domestically and to its neighbors, those goods for which it has special resources and capability. Without adequate safeguards, this can lead to a situation in which the United States loses a domestic industry entirely. This would be catastrophic from the consumer's viewpoint. It would be equally disastrous for the Government with its responsibility for national security. If the U.S. becomes wholly dependent on imports in any industry such as cordage, U.S. consumers become totally at the mercy of foreign interests. In addition, in time of national emergency, we must have the capability to produce cordage for defense purposes and at a quickly expanded rate.

FARM TWINE AND THE COST TO THE CONSUMER

One example of the effect of imports on our industry and on the American consumer: The reduction in farm-twine-spinning capacity demonstrates dramatically what can happen when import duties are removed. In 1950, the year in which farm twines were made duty free, there were 15 companies in the United States producing such twines. One by one they gave up the production of farm twines until at the present time one company is manufacturing the domestically produced hard-fiber farm twines. Today, the International Harvester plant in New Orleans is, in effect, the sole commercial producer of such farm twines, and it, too, has materially curtailed operations. The future availability of the Harvester plant will depend entirely on its ability to retain some part of our domestic market.

Farm twine provides a dramatic illustration of what a domestic producer can be faced with. In December 1973 one country was sending farm twine into the United States at a cost of 33.0¢ per lb. for the finished product. At the same time that country was sending in the raw fiber, from which the U.S. company would produce the farm twine, at about 45–47¢ per lb. In this situation the U.S. producer was at a disadvantage of 12 to 14¢ per lb. even before he began the manufacturing process.

The inroad of imports into the domestic market has contributed to the present shortage of twines for the American farmer to use in baling his products. Our Institute called the attention of the Secretary of Agriculture to this problem on October 11, 1973. A copy of our letter is attached.

NATIONAL SECURITY PROVISIONS

Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) contains provisions in subsection (a) for "prohibition on decrease or elimination of duties or other import restrictions if such reduction or elimination would threaten to impair national security." It provides further for investigations by the Director of the Office of Emergency Preparedness (now the Secretary of the Treasury) to determine effects of imports on national security and calls for the President and the Director of the Office of Emergency Preparedness (now the Secretary of the Treasury) to take into consideration "the impact of foreign competition on the economic welfare of individual domestic industries." It also provides that ". . . any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive imports shall be considered."

In our view this national-security provision has had little meaning. Since enactment of the Trade Expansion Act of 1962, only 7 investigations of national-security impact have been made: 6 at the petition of private parties, 1 at the request of the President, and none at the request of Government departments and agencies noted as potential requesters under 19 U.S.C. 1862(b).

We note that Section 128 of H.R. 10710 has reference to the security provisions of Section 232 of the Trade Expansion Act and reserves from negotiations or from reduction or elimination of duty any article for which the President has determined that such action would threaten the national security. Since only one finding of threat to the national security has been made by the President—that for imported petroleum in 1959—it seems doubtful that the new Section 128 would have any real significance. It is our opinion that national security as used in connection with international trade should be interpreted most broadly so that the U.S. does not allow imports to so cripple any domestic industry that we become wholly dependent on foreign sources of supply. In today's world, narrow definitions of national security will not suffice.

ADJUSTMENT ASSISTANCE

Because of the closing of cordage mills during the past 20 years the matter of adjustment assistance to individual workers has been a matter of special concern to our Institute as a whole and to some of the member companies. The provisions contained in chapter 2 of Title 2 appear appropriate to provide services to separated employees.

In our statement to the House Ways and Means Committee, we urged the inclusion of provisions for adjustment assistance for business itself, particularly small businesses which suffer subtantially or are closed as a result of actions in international trade. We are pleased to see the addition of Chapter 3, Adjustment Assistance for Firms, and recommend that the Bill as passed by the Senate include such provisions.

SUMMARY OF STATEMENT

1. The domestic Cordage Industry has had a smaller and smaller percentage of a shrinking market in cordage products from natural fibers.

2. Imports have continued to increase and now take 90.2% ($4.4 million) of the U.S. market in industrial twine and 92.9% ($33.4 million) in agricultural twine.

3. The agricultural twine situation illustrates how tariff decisions can reduce competition by elimination of domestic products, which leads to increasing the price the U.S. consumer must pay and to uncertainty as to supply.

4. The pattern of increased imports in natural-fiber cordage is now being repeated (as the Cordage Institute predicted in 1970) in the man-made-fiber cordage field and at an even greater rate.

5. We favor a Trade Reform Act such as H.R. 10710 with appropriate safeguards in the form of Congressional policy and standards for the exercise of the broad authorities granted.

6. We urge the establishment of standards of import injury under which action by the President to grant import relief would be mandatory.

7. We regard the improvement of classification and of statistical reporting by the Executive Branch as essential to the proper administration of the Trade Reform Act.

8. We urge caution in those duty and nonduty trade actions which might endanger small domestic industries.

9. The national-security test of Section 232 of the Trade Expansion Act referred to in Section 406 of H.R. 6767 should be broadened so that it encompasses any major damage to a domestic industry.

Respectfully submitted.

CORDAGE INSTITUTE,
Washington, D.C., October 11, 1973.

Hon. EARL L. BUTZ,
The Secretary of Agriculture,
Washington, D.C.

MY DEAR MR. SECRETARY: The purpose of this letter is to alert you to an increasingly short supply situation with regard to baler twine and to express our concern about the need for Federal action to prevent a catastrophic situation for U.S. farmers in 1974 and 1975.

The Cordage Institute represents substantially all of the manufacturers of rope and twine in the United States. The members of the Insttiute are not presently manufacturers of farm twine, but a potential for manufacture from synthetic fibers does exist within our industry. International Harvester Company, which works closely with us but is not a member of the Institute, is a major manufacturer of this product in the United States.

Natural fibers for the production of rope and twine have been in increasingly short supply as against a growing demand. This situation has been complicated by a drought in Tanzania, which produces about 31.5% of the world's production of sisal, the fiber from which farm twine has traditionally been manufactured. This shortage has been reflected in a doubling of the price of sisal fiber during the past year. This is, of course, reflected in the prices which the farmer must pay for twine to bind his crops.

It is the judgment of the Cordage Institute that there will be serious shortage of farm twine in 1974 and 1975. We are not in a position, however, to analyze the total supply/demand situation in order to appraise the exact nature and extent of the shortage. Many of the items of information required for such analysis, both on the international front and domestically, are beyond our control and our resources. We urge, however, that your Department conduct a supply-requirements study to analyze the situation and to evaluate the possible courses of governmental action.

The Cordage Institute has been supporting a shift from natural fibers to synthetic fibers as the eventual solution to the problem of fiber supply for rope and twine manufacturing. There are at present, however, no economic incentives for the U.S. industry to develop additional production capability to meet the twine need. We have appealed to the Director of the Cost of Living Council for exemption of synthetic twines from price controls in Phase IV so as to provide manufacturers sufficient incentive to make the capital investments necessary to increase production.

I offer the assistance of the Cordage Institute in your review and evaluation of what we consider to be a serious national problem.

Very truly yours,

WILLIAM A. DUNGAN, *President.*

CORDAGE INSTITUTE EXHIBITS

Statistical and graphical illustrations (number 1–7), depicting the relationship of imports and U. S. production to the total U. S. hard-fiber market and showing rate of imports of cordage of man-made fibers.

EXHIBIT 1

AGRICULTURAL TWINE

HARD FIBER

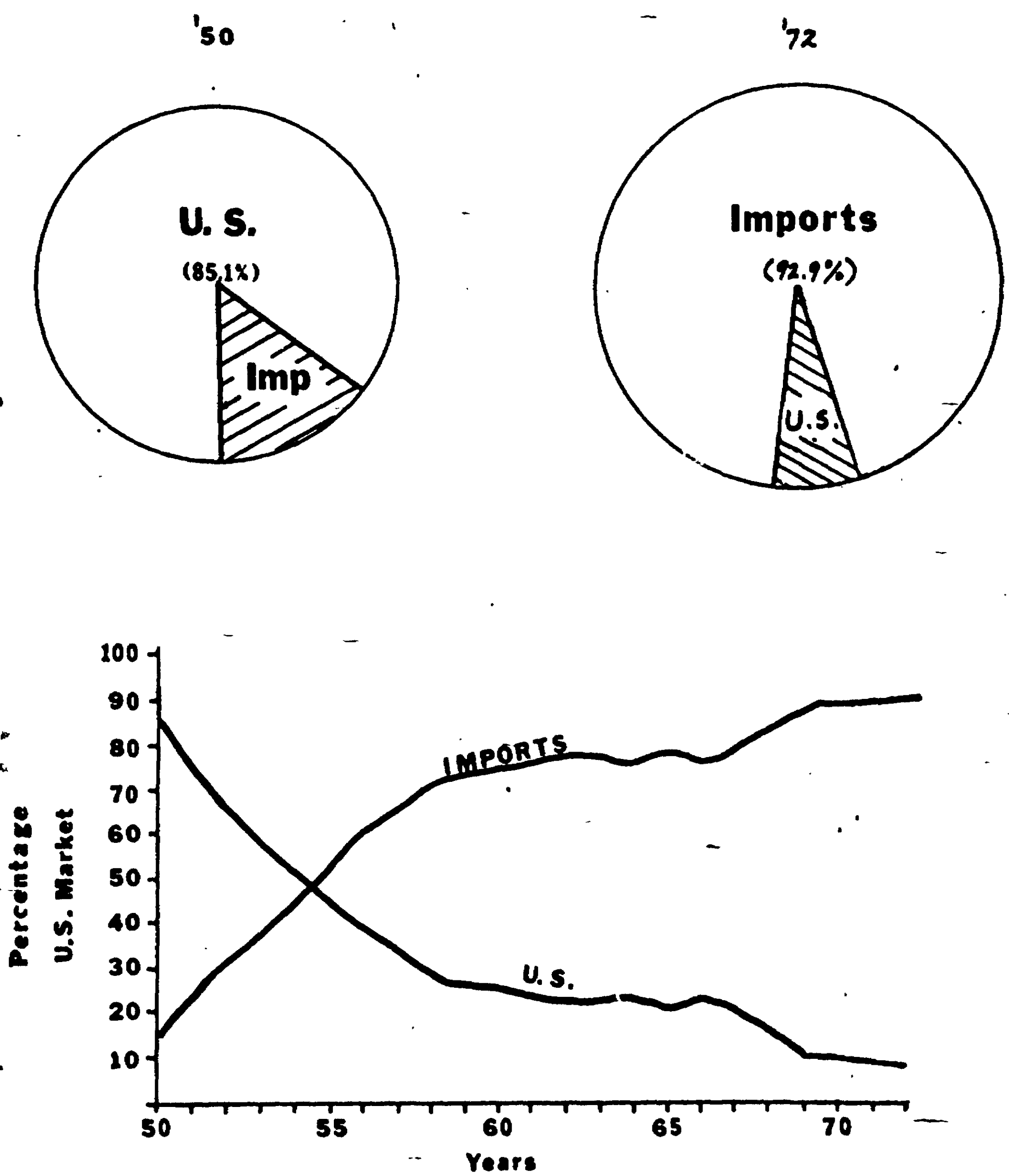
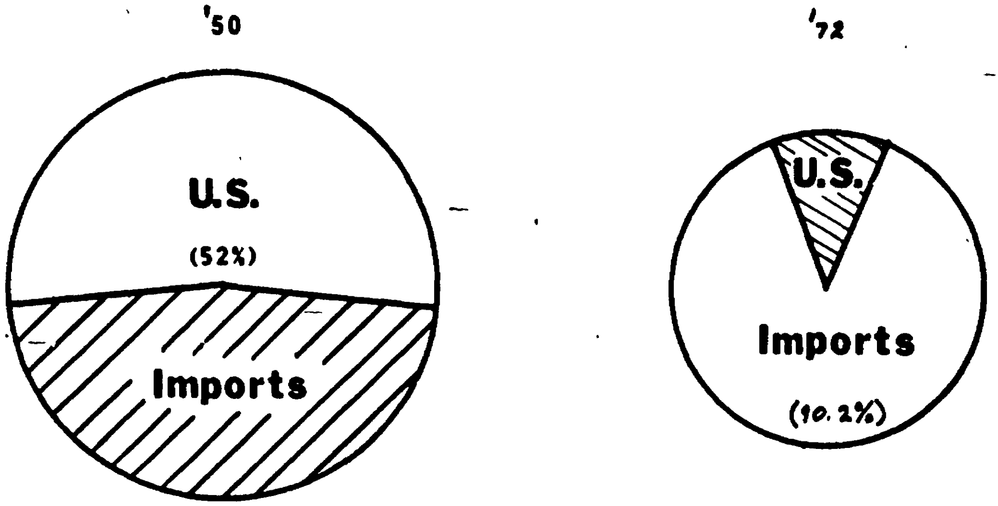


EXHIBIT 2

INDUSTRIAL TWINE

HARD FIBER



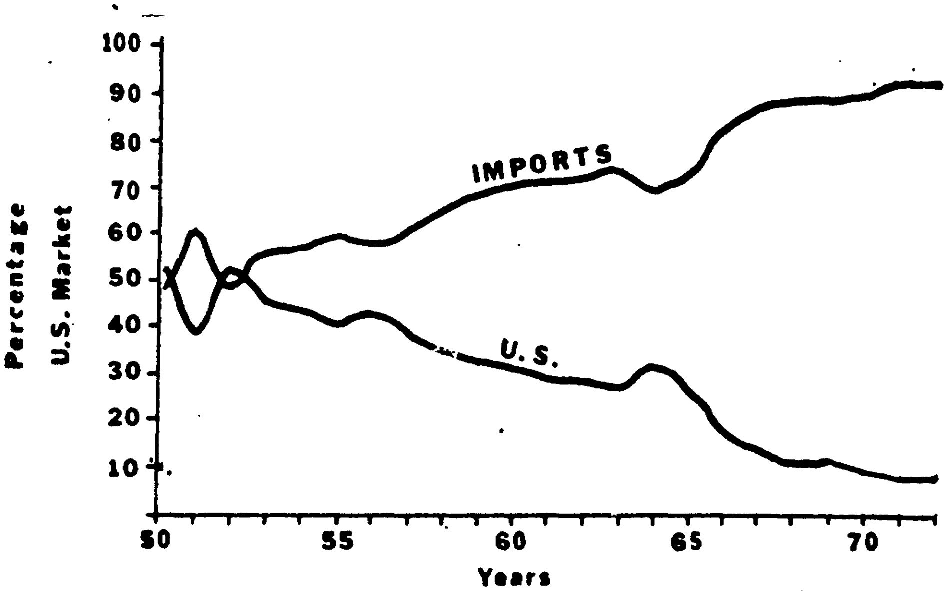
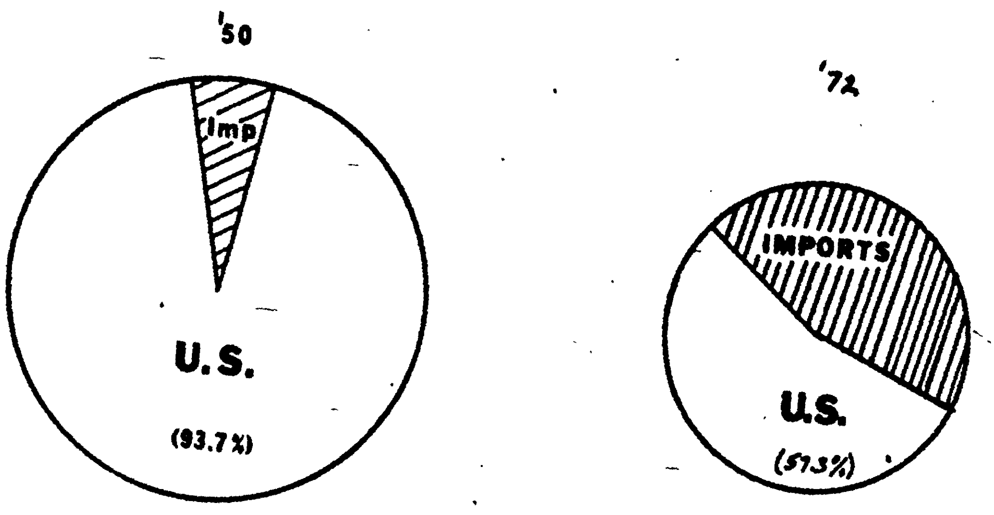


EXHIBIT 3

ROPE

HARD FIBER



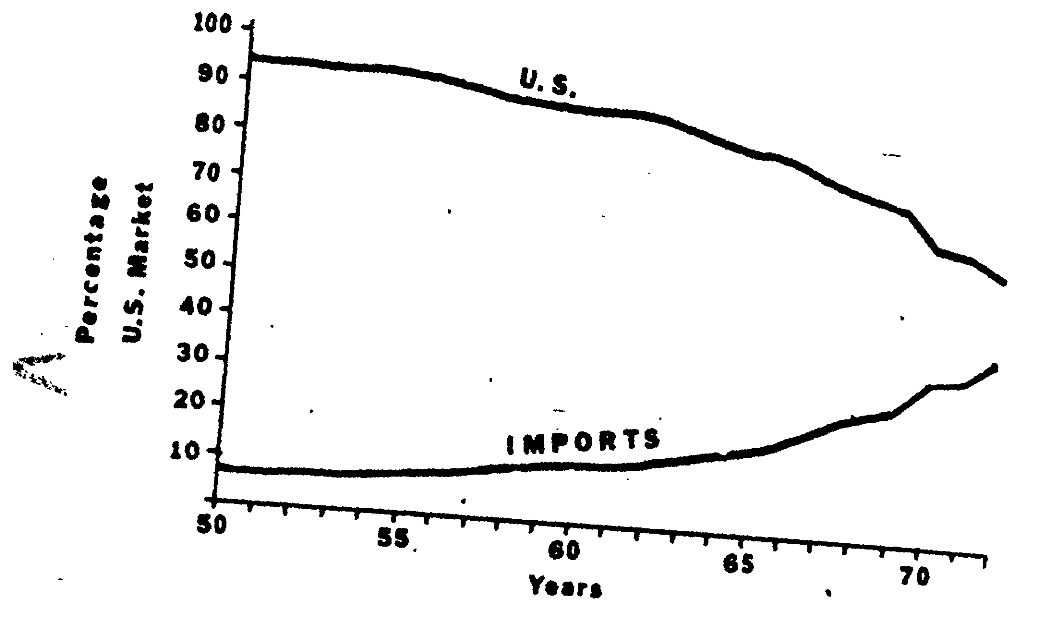


EXHIBIT 4

AGRICULTURAL TWINE

HARD FIBER

(units in million lbs.)

SOURCE (2)	'50 (1)	'52	'54	'56	'58	'60	'62	'64	'66	'67	'68	'69	'70	'71	'72
Canada	16.8	30.2	28.7	27.6	24.4	20.8	24.6	25.6	37.4	25.1	18.2	14.0	14.0	7.2	6.6
Mexico	13.9	39.5	63.5	78.0	109.8	103.7	134.1	102.0	73.8	76.6	54.7	65.3	65.6	72.9	83.2
Netherlands	*	2.0	16.2	21.7	27.3	16.9	22.6	21.9	33.6	27.3	30.5	24.5	25.9	13.3	21.1
Portugal	*	*	*	*	*	14.3	36.3	36.2	47.8	46.4	44.6	43.5	42.2	48.4	44.3
Other	1.3	6.1	19.5	40.0	63.6	50.6	59.7	47.8	71.6	85.3	105.7	104.0	97.3	146.4	123.3
(A) Total Imports	32.0	77.8	127.9	167.3	225.1	206.3	277.3	233.5	264.2	260.7	253.7	251.3	245.0	288.2	278.5
U.S. Commercial Sales	161.5	144.0	135.7	91.3	76.0	56.2	66.3	63.4	70.4	58.4	39.8	25.4	27.2	23.4	20.0
U.S. Prison Sales	21.2	18.0	16.9	16.0	14.2	16.0	15.2	11.2	14.0	9.0	7.6	6.1	4.0	2.2	1.3
(B) Total U.S. Producers	182.7	162.0	152.6	107.3	90.2	72.2	81.5	74.6	84.4	67.4	47.4	31.5	31.2	25.6	21.3
A+B= Total U.S. Market	214.7	239.8	280.5	274.6	315.3	278.5	358.8	308.1	348.6	328.1	301.1	282.8	276.2	313.8	299.8
Percentage U.S. Market (Imports)	14.9	32.5	45.6	61.0	71.5	74	77.2	75.8	75.7	79.4	84.2	88.8	88.7	91.8	92.9
Percentage U.S. Market (U.S. Producers)	85.1	67.5	54.4	39.0	28.5	26	22.8	24.2	24.3	20.6	15.8	11.2	11.3	8.2	7.1

*Included in "Other"

1 Includes adjustments for baler twine reported under industrial twine

2 Each country listed has at least 10% of the total imports for one year or more

EXHIBIT 5

INDUSTRIAL TWINE

HARD FIBER

(units in million lbs.)

SOURCE [2]	'50 [1]	'52	'54	'56	'58	'60	'62	'64	'66	'67	'68	'69	'70	'71	'72
Mexico	26.9	16.9	24.9	27.8	29.0	30.6	31.3	22.1	18.7	16.7	18.0	15.1	14.6	17.0	16.7
Canada	4.1	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Portugal	*	*	*	*	2.2	5.9	10.1	11.2	18.2	13.5	13.8	14.8	12.7	10.5	10.7
Other	2.0	.8	1.9	3.2	4.6	3.3	3.1	1.6	1.8	1.9	1.8	1.2	1.0	.9	1.2
(A) Total Imports	33.0	17.7	26.8	31.0	35.8	39.8	44.5	34.9	38.7	32.1	33.6	31.1	28.3	28.4	28.6
U.S. Commercial Sales	35.0	18.2	20.3	22.5	18.3	16.8	16.8	15.0	7.3	4.2	3.4	3.3	2.6	2.4	2.3
U.S. Prison Sales	.8	.4	.5	.6	.7	.7	.8	.8	1.0	1.0	1.0	.9	.8	.7	.8
(B) Total U.S. Producers	35.8	18.6	20.8	23.1	19.0	17.5	17.6	15.8	8.3	5.2	4.4	4.2	3.4	3.1	3.1
A+B = Total U.S. Market	68.8	36.3	47.6	54.1	54.8	57.3	62.1	50.7	47.0	37.3	38.0	35.3	31.7	31.5	31.7
Percentage U.S. Market (Imports)	48.0	48.7	56.3	57.2	65.5	69.4	71.6	68.8	82.3	86.0	88.4	88.1	89.3	90.2	90.2
Percentage U.S. Market (U.S. Producers)	52.0	51.3	43.7	42.8	34.5	30.6	28.4	31.2	17.7	14.0	11.6	11.9	10.7	9.8	9.8

* Included in "Other" or no imports that year

1 Baler Twine extracted. Reported under Agricultural Twine

2 Each country listed has at least 10% of the total imports for one year or more

2687

EXHIBIT 6

ROPE

HARD FIBER

(units in million lbs.)

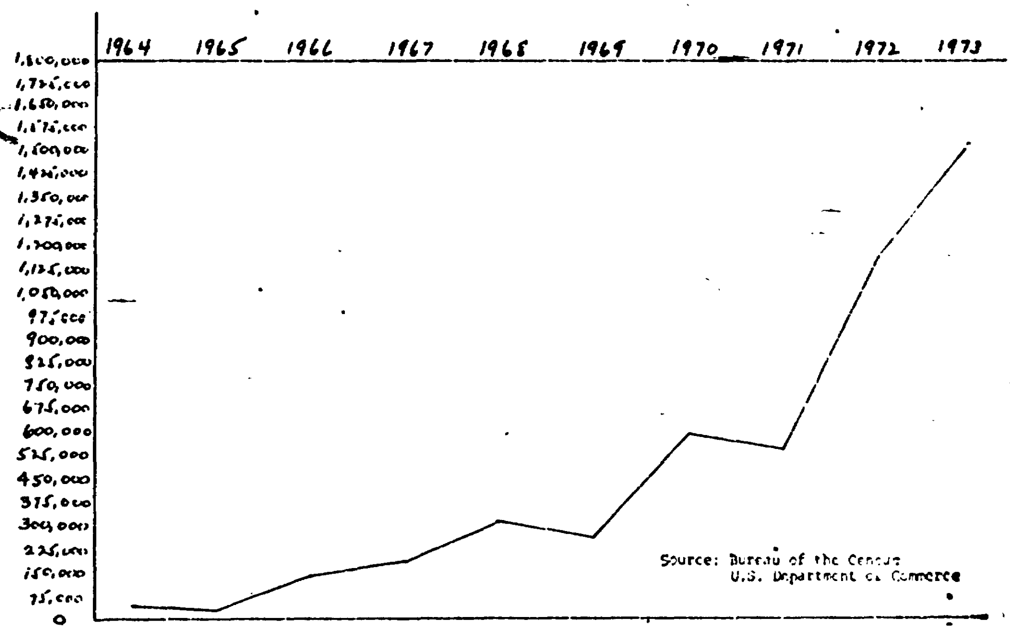
SOURCE (1)	'50	'52	'54	'56	'58	'60	'62	'64	'66	'67	'68	'69	'70	'71	'72
Philippine Rep.	4.3	4.4	2.5	5.5	5.4	4.6	5.2	5.8	5.7	5.8	5.5	5.1	5.9	5.2	6.8
Portugal	*	*	*	*	*	.4	.4	1.2	1.8	1.9	1.8	2.5	3.0	2.7	2.4
Mexico	1.3	2.5	2.1	2.5	3.0	3.5	3.3	4.3	6.1	5.8	6.8	5.8	5.8	7.5	10.3
Other	1.7	1.3	1.6	.9	1.9	1.4	1.5	1.7	2.5	3.9	3.5	3.0	3.7	2.3	2.8
(A) Total Imports	7.3	8.2	6.2	8.9	10.3	9.9	10.4	13.0	16.1	17.4	17.6	16.4	18.4	17.7	22.3
U.S. Commercial Sales	107.2	109.0	83.3	101.5	82.3	67.0	64.4	56.8	62.9	53.5	47.2	40.3	35.0	32.5	29.7
U.S. Prison Sales	1.0	.6	.6	.4	.3	.3	.3	.2	.2	.2	.2	.2	.2	.2	.2
(B) Total U.S. Producers	108.2	109.6	83.9	101.9	82.6	67.3	64.7	57.0	63.1	53.7	47.4	40.5	35.2	32.7	29.9
A+B=Total U.S. Market	115.5	117.8	90.1	110.8	92.9	77.2	75.1	70.0	79.2	71.1	65.0	56.9	53.6	50.4	52.2
Percentage U.S. Market (Imports)	6.3	7.0	6.9	8.0	11.1	12.8	13.8	18.6	20.3	24.5	27.0	28.8	34.3	35.1	42.7
Percentage U.S. Market (U.S. Producers)	93.7	93.0	93.1	92.0	88.9	87.2	86.2	81.4	79.7	75.5	73.0	71.2	65.7	64.9	57.3

* Included in "Other" or no imports that year

1 Each country listed has at least 10% of the total imports for one year or more

EXHIBIT 7

IMPORTS OF CORDAGE MADE FROM MAN-MADE FIBERS INTO THE U.S. FOR CONSUMPTION (POUNDS)



STATEMENT OF WILLIAM J. SCHIEFFELIN III, CHAIRMAN, SCHIEFFELIN & C.O NEW YORK, N.Y.

This Statement is submitted by Schieffelin and Company, New York, New York, in support of the basic purposes of the Trade Reform Act of 1973, H. R. 10710 and specifically to endorse authority contained in Section 102, "Nontariff barriers to and other distortions of trade."

Schieffelin and Company has for almost 200 years engaged in the business of importing and selling wines and spirits throughout the United States. Accordingly, we have been seriously affected by the so-called Wine Gallon/Proof Gallon method of assessing duty and Internal Revenue taxes on imported bottled distilled spirits since 1868.

Domestic and imported distilled beverages are subject to the U.S. internal revenue tax of $10.50 on each proof gallon, or wine gallon, when below proof.[1] Both the internal revenue tax and the duty are calculated on a proof-gallon basis if the product imported for consumption is 100 proof or above. A proportionate amount of the base tax and duty is added when the product is above proof—100 proof. Each gallon (wine gallon) imported below 100 proof is subject to the internal revenue tax of $10.50 and is also dutiable at the rate specified "per gallon" in the TSUSA.[2]

The dual basis of taxation recognized in Section 5001(1), i.e.: wine gallon-proof gallon, opreates inequitably as between bottled domestic and bottled imported distilled spirits. The burden imposed upon imported bottled spirits is readily apparent when one considers the practice of the domestic industry and the times at which the tax attaches to domestic and imported spirits..

The tax on domestically produced spirits is levied at the time of their withdrawal from bond; on the other hand the tax and duty on imported spirits are

[1] 26 USCA 5001(A)(1)—"There is hereby imposed on all distilled spirits in bond or produced in or imported into the United States an internal revenue tax at the rate of $10.50 on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof r wine galln."

[2] The term "proof" refers to the ethyl alcohol content of a liquid at 60 degrees Fahrenheit stated as twice the percent of ethyl alcohol by volume, e.g., a gallon of pure ethyl alcohol is 200 proof and is equivalent to 2 proof gallons. A "proof gallon" is the equivalent of a U.S. gallon containing 50% of ethyl alcohol by volume, i.e., 100 proof. A "wine gallon" is a standard U.S. gallon of liquid measure equivalent to a volume of 231 cubic inches. The term is normally applied to spirits that are less than 100 proof, i.e., less than 50% alcohol by volume.

levied at the time of importation. Since it is a universal practice in the U.S. distilling industry to withdraw spirits from bond in proof or over proof condition and thereafter to dilute the spirits to below proof for bottling and sale, the domestic distiller always pays the tax on a proof gallon basis. Thus, the tax of $10.50 per proof gallon paid by the domestic distiller is reflected in the cost of the domestic spirits thereafter diluted and bottled at, for example, 86 proof to the extent of only 86% of $10.50, or $9.03 per wine gallon. Imported bottled spirits are necessarily below proof at time of importation and, therefore, the tax and duty are assessed on a wine gallon basis. The resulting tax amounts to $10.50 per bottled gallon, or $1.47 more per gallon than the actual tax paid by the domestic distiller, plus, of course, customs duties.

The wine gallon/proof gallon basis of taxation no longer serves a valid purpose with regard to *domestic spirits*, and *it has never served a valid purpose with regard to imported spirits.*

This method of tax collection was initiated in 1868 with respect to domestically produced spirits only and was designed to combat a then existing and prevalent fraud which was possible only because a widespread corruption among the tax inspection officials operating at domestic distilleries and warehouses. Later, this method of tax collection was apparently extended to Customs duties on imported spirits, without any consideration being given to the purpose behind its original adoption. In 1917, when imported spirits became subject to internal revenue taxes, the method of collection which had been inaugurated almost 50 years earlier, to combat a domestic fraud, which by that time had been long ceased to exist, became applicable to imported spirits.

WINE GALLON/PROOF GALLON ASSESSMENTS ON IMPORTED SPIRITS SHOULD BE ABOLISHED

I. A major objective of proponents of H.R. 10710 is to authorize negotiation of the reduction or elimination of non-tariff barriers and other distortions of international trade. This objective is clearly set forth in the pending Section 102. The Administration's position with respect to the reduction or elimination of non-tariff barriers finds its counterpart in the views of many of the United States' major trading partners, including the European Community (EC), which have long urged action of this type as part of multilateral trade agreements.

II. The present method of Internal Revenue taxation and assessment of Customs duty on the wine gallon/proof gallon basis has been recognized by the U.S. Government as a non-tariff barrier. In fact, the United States has long been criticized in GATT for wine gallon method of tax assessment. See GATT Committee on Trade in Industrial Products, "Inventory of Non-Tariff Barriers" ("Protection" by means other than tariffs), GATT Document COM. IND/6/Add. 5 (1968). Although this document was classified by GATT, the EC authorized the United Kingdom to inform the U.S. Customs Court in *Schieffelin & Co., Beitzell & Co., Inc.* v. *U.S.*, 61 C.C.R. 397, C.D. 3640, (1968) that the report notes EC protest against the United States' excise tax system for spirits imported in bottles, as contrary to Article III of GATT. The Government of Canada, in the same case on appeal to the Court of Customs and Patent Appeals, likewise authorized counsel to advise the Court that the Canadian Government raised the same issue in GATT.

III. The unfairness of the wine gallon/proof gallon method of assessing taxes and duties on imported spirits has, as previously stated, been conceded to be undesirable by the Executive Branch of the United States Government.

The Department of State is on record as to the discriminatory nature of the wine gallon basis for tax assessment. A letter of October 12, 1954 from the Assistant Secretary for Economic Affairs, Department of State, to the Commercial Minister, British Embassy, on the subject of the wine gallon tax stated: "The Department shares your views that the effect of this tax is to discriminate against imported distilled spirits."

This position was affirmed during a GATT Working Party meeting in April 1970, when foreign representations were made that the United States' wine gallon tax was discriminatory. The United States, representative at this meeting acknowledged that the tax had a "non-tariff barrier" effect that discriminated against imports of bottled distilled spirits. See GATT Working Party on Border Tax Adjustments—Draft Report Spec (70) 31/Rev. 1, 28 April 1970, at 80.

Similarly, the Treasury Department in an analysis of the 1951 Customs Simplification Act, in commenting on the section of the bill which would have abolished the wine gallon/proof gallon method of assessment, said that the section of the Internal Revenue law which provides this method of assessment ". . . operates inequitably as between domestic and imported distilled spirits, since the domestic spirits are always or nearly always above proof at the time of tax payment while imported beverage distilled spirits are generally under proof at the time of importation."

Abolition of the wine gallon/proof gallon method of taxation and duty assessment on imported spirits cannot be expected to affect the domestic spirits industry in any significant way.

(a) Consumer demands for different kinds of spirits tend to be taste related, rather than cost related. The simple example of the private party, including the cocktail party, at which drinks are served without cost to the guest, demonstrates dramatically that the guest chooses his drink on the basis of his or her taste preferences. It is also apparent that vodka, gin, and whisky blend with neutral grain spirits, which are available in good quality and which are relatively inexpensive, have not destroyed the market for straight domestic whiskys, including quality bourbons. Similarly, the availability of good bourbon and other straight whiskys at reasonable prices has not destroyed the marked for higher priced domestic blends. Indeed, the market for domestic bonded, straight, and blended straight whisky actually increased during the decade 1963 to 1972, despite enormous growth in consumption of other spirits including gin, vodka, rum, brandy, cordials, and other specialties. (During this decade the consumption of non-whisky spirits rose from less than 79 million wine gallon in 1963 to more than 158 million wine gallon in 1972).

(b) Any spectre of imported Scotch becoming a new factor to undercut the market for American whiskys by reason of the abolition of the wine gallon/proof gallon method of duty assessment can be laid to rest by reason of the fact that Scotch of good quality is already entering the United States free of this discriminatory method of assessment. The Scotch in question is, of course, that which is brought to the United States at or over-proof in bulk, and bottled in this country. It is evident that if the American demand for Scotch whisky continues to grow, as it has been growing in recent years, it will continue to be met, even if the wine gallon/proof gallon method of assessment is not eliminated. Continuation of this non-tariff barrier cannot lead to an increase in consumption of domestic whisky, nor can it prevent consumers from purchasing Scotch which comes in free of discriminatory duties and taxes.

(c) Given the fact that taste preferences dictate the type of spirits which a particular individual will consume, it is apparent that the principal effect of abolishing the wine gallon/proof gallon method of assessment will be to make Bottled in Scotland Scotch Whisky, which is now relatively high priced in the United States market, more competitive with those brands of Scotch whisky which avoid assessment of the wine gallon/proof gallon basis by being imported in bulk.

CONCLUSION

Continuation of existing discriminatory assessment of tax and duty on imported bottled spirits serves to penalize producers and the U.S. consumers, of high quality Scotch whisky imported from the United Kingdom in bottles.

Abolition of the wine gallon/proof gallon method of taxation and duty assessment in the context of expected international trade negotiations, will have no adverse effect on U.S. producers of distilled spirits and can be expected to bring about foreign concessions of importance to United States industries.

Respectfully submitted.

STATEMENT OF GULF RESOURCES & CHEMICAL CORP.

Gulf Resources & Chemical Corporation appreciates this opportunity to present this statement and supporting legal memorandum in connection with the Finance Committee's consideration of H.R. 10710, the Trade Reform Act of 1973.

Through its divisions and subsidiaries, Gulf Resources is a diversified producer of metals, minerals and chemicals. Its major products are coal; nonferrous metals, including lead, zinc, silver, gold, antimony and cadmium; lithium chemicals and metals; and chemical fertilizers. In addition, the Company has a major interest in Great Salt Lake Minerals & Chemicals Corporation, which extracts and markets potassium sulfate, sodium sulfate and sodium chloride from Great Salt Lake.

Although Gulf Resources' operations are primarily in the United States, its products are sold worldwide, and it thus sympathizes with the need for open and free trade. It is for this reason that the Company supports the principal international trade objectives of the Trade Reform Act of 1973.

There is, of course, a vast difference between free and open trade and unfair trade, and the Trade Reform Act itself recognizes this distinction. The latter—unfair trade practices—is condemned by every industrialized nation. We are quite concerned with several sections of the Trade Act that deal with unfair trade practices. In particular, this statement discusses very briefly a number of provisions of the Antidumping Act of 1921. A memorandum of law, which is attached to this statement, discusses each of these provisions in detail.

Specifically focusing on the Antidumping Act—with which Gulf Resources is intimately familiar as a result of its subsidiary's, The Bunker Hill Company, involvement in the recent Australian and Canadian primary lead cases—we strongly urge this Committee to amend that Act in a number of ways.

First, the Act should be amended to provide for judicial review of negative antidumping findings. While the Antidumping Act at present specifically provides for judicial review of affirmative antidumping determinations, neither that Act nor any other accords domestic industries the right of judicial review of negative determinations. As discussed in the attached legal memorandum, the relevant court cases do not offer any encouragement to a domestic producer's challenging in court a negative determination.

Second, Gulf Resources supports the basic idea of proposed subsection (c) of Section 201 of the Antidumping Act, which would make hearings compulsory at both the Treasury and Tariff Commission stages of an antidumping investigation, but urges that the domestic complainant be afforded the unconditional right to appear at any such hearings. The proposed amendment presently gives that right only to the foreign producer.

Third, Gulf Resources urges this Committee to amend the Antidumping Act to provide expressly for cumulation of injury when there is injury or a likelihood thereof by reason of the combined effects of less than fair value sales from more than one country. While the Tariff Commission has invariably cumulated when the question has been presented to it, there have, on occasion, been some Commissioners who have stated in dissent that cumulation is improper. Importers, not unnaturally, have also taken this view. Because of the lack of complete certainty regarding this issue, Gulf Resources therefore urges this Committee to amend the Act to provide for cumulation of injury.

Finally, Gulf Resources urges this Committee to amend the Antidumping Act to clarify and codify the limited conditions under which a dumping finding can be revoked by the Treasury Department. Treasury's longstanding policy on revocation has been to revoke if, and only if, two conditions are satisfied: (1) that there be a substantial period of time (a minimum of two years) without less than fair value sales, and 2 that each importer involved give assurances that it will not sell at less than fair value in this country. Codification of this policy is needed because, even under these limited circumstances, Treasury's authority to revoke under the Act is unclear.

This concluds Gulf Resources' statement in regard to the Trade Reform Act of 1973. If we can answer any questions in regard to this statement, we would be happy to do so.

LEGAL MEMORANDUM IN SUPPORT OF STATEMENT OF GULF RESOURCES & CHEMICAL CORPORATION BEFORE THE SENATE COMMITTEE ON FINANCE ON THE TRADE REFORM ACT OF 1973

I. JUDICIAL REVIEW OF NEGATIVE FINDINGS

There has existed for many years substantial uncertainty whether domestic producers have the right to appeal a negative antidumping determination to a court.

The Ways and Means Committee was firmly in favor of such a right of appeal, but believed that no amendment was necessary to the Antidumping Act in order to ensure judicial review of negative antidumping determinations because domestic producers now have that right. The Committee reached this conclusion by relying heavily on a September 27, 1973 letter from Treasury's General Counsel, Edward C. Schmults, to Chairman Wilbur D. Mills. Although that letter does suggest that there already exists the right of judicial review of negative determinations, the actual availability of such relief is highly speculative.

Mr. Schmults' letter does not categorically assert that there exists a right of review for domestic producer, but rather candidly admits ". . . there can be no certainty on this question in the absence of an attempt to have a negative determination reviewed in the Customs Court. . . ." This portion of Mr. Schmults' letter is most revealing, for even though huge expenses are involved in prosecuting an action before the Tariff Commission, no representative of a domestic industry has ever attempted, to our knowledge, to obtain review in the Customs Court of a negative determination. I would suggest the reason for this is that the prevailing belief among counsel representing domestic producers is that the chances of successfully obtaining review of a negative Tariff Commission determination are virtually non-existent. This is certainly Gulf Resources' view.

Only one judicial decision has dealt with an attempt to appeal a negative determination. *North American Cement Corp.* v. *Anderson*, 284 F.2d 591 (D.C. Cir. 1960). There, a domestic producer attempted, without success, to obtain judicial review—in the United States District Court—of the Secretary's negative less than fair value sales determination. The complaint was dismissed by the District Court for lack of jurisdiction; the District of Columbia Court of Appeals affirmed. The stated reason behind the Court of Appeals opinion was that the Customs Court has exclusive jurisdiction over all Customs matters. There was absolutely no indication in the Court of Appeals' opinion that the Customs Court would have heard the case had it been brought there, nor did the court intimate that it would have been error if the Customs Court did not hear the case. The holding in *North American Cement* was simply that the *District Court* lacked jurisdiction to entertain an appeal from the Secretary's negative less than fair value determination. See also *J. C. Penney Co.* v. *U.S. Treasury Dept.*, 439 F.2d 63 (2d Cir.), *cert. denied*, 404 U.S. 869 (1971), where the Second Circuit held that plaintiff's exclusive forum to challenge Antidumping Act matters was the Customs Court.

It is accordingly quite clear that the District Court will not entertain an appeal from a negative antidumping determination. Unfortunately, it is rather unlikely that the Customs Court would entertain a domestic appeal from a negative antidumping determination either. There is simply no jurisdictional predicate for an appeal to the Customs Court upon which a domestic producer can logically rest.

The Antidumping Act itself offers no comfort to a domestic representative attempting to appeal a negative determination to the Customs Court. While that Act does detail the method by which an *importer* can appeal Treasury's and the Tariff Commission's affirmative determinations to the Customs Court (19 U.S.C. § 169), there is nothing in the Act that remotely gives the domestic industry the right to appeal a negative determination.[1]

The basis for Treasury's position that judicial review is presently available for domestic producers is Section 516 of the Tariff Act of 1930 (19 U.S.C. § 1516). In particular, the rather shaky predicate for its position is that dictum in one Customs Court case, *Hammond Lead Products, Inc.* v. *U.S.*, 61 Cust. Ct. 137, CD 3552 (1968), involving countervailing duties,[2] is not inconsistent with dictum in the earlier D.C. Court of Appeals decision in *North American Cement, supra. North American Cement* suggested that any appellate review of antidumping matters that might exist is within the exclusive jurisdiction of the Customs Court.

Section 516 of the Tariff Act deals with the procedure by which an American manufacturer may protest Treasury Department classification, appraisal and rate of duty determinations.

The Section, in general, details the procedure a domestic manufacturer must follow in order to appeal to the Customs Court pursuant to 28 U.S.C.A. § 2632.

There would appear to be little reason to believe under the actual language of Section 516 that the failure to impose special dumping duties would be the type of matter referred to in the jurisdiction conferring phrase "believes that the appraised value is too low, that the classification is not correct, or that the proper rate of duty is not being assessed . . ." Even less likely is there any reason to believe that the language of Section 516 could be read to include within its ambit an appeal from a Tariff Commission negative injury determination.

The essence of Section 516 is obvious. If a domestic manufacturer believes a product should be classified under a particular TSUS item but Customs classifies it under a different item, recouse lies for the American manufacturer to protest, and, if necessary, institute a Customs Court proceeding. It is, however, a long stretch of imagination to find within Section 516 a right of appeal

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[1] United States v. Hammond Lead Products, Inc., 440 F. 2d 1024, 58 C.C.P.A. 129, C.A.D. 1017 (1971), cited in the Schmults letter to Chairman Mills as support for Treasury's belief that a domestic right of review now exists, does not deal with the question whether a domestic industry can appeal from a negative antidumping finding. Instead, *Hammond Lead* deals with the right of an appeal from a negative countervailing duty determination, and its holding was that no such right of appeal lay. The Trade Reform Act provides for judicial appeal from negative countervailing duty decisions.

[2] This case was subsequently reversed by the Court of Customs and Patent Appeals, 440 F. 2d 1024 (1971).

from a negative injury determination that has in actual fact nothing to do with classification.

Moreover, the procedure under Section 516 is long and cumbersome. A petition must be filed and a determination rendered, with no statutory limit. Delays of a year or more must be considered routine before any kind of relief can be obtained. Section 516 is far from an ideal means for perfecting an appeal from a negative determination if, as appears most unlikely, it is an appropriate vehicle at all.

We strongly urge the amendment of the Trade Reform Act of 1973 to provide expressly for judicial review of negative antidumping determinations. Insofar as virtually everyone who has dealt with this question, including Treasury, is in favor of such judicial review, an appropriate amendment should be reported out by this Committee. This Committee, it should be added, approved such an amendment in the Trade Act of 1970.

II. RIGHT TO INTERVENE IN HEARINGS

The Trade Reform Act would add a new subsection "c" to Section 201 of the Antidumping Act. That subsection (§ 321(b) of the Trade Reform Act) would require the Secretary of the Treasury, and the Tariff Commission, to conduct a hearing prior to making any determinations pursuant to subsection (a) of Section 201 (*i.e.*, the less than fair value and injury determinations). As presently written, the subsection would grant only the foreign manufacturer the *right* to appear at such hearing. The subsection in relevant part provides that: "any other person . . . may make application and, upon good cause shown, may be allowed by the Secretary or the Tariff Commission . . . to intervene and appear at such hearing . . . ."

While Gulf Resources fully supports the idea of a hearing, both at the Treasury and the Tariff Commission stages of an antidumping investigation, it is clear that the domestic party who filed the complaint and thereby initiated the investigation should have the right to appear both before the Treasury at its hearing and before the Tariff Commission at its hearing. The complainant's economic stake in the investigation it instituted is obvious, and it is impossible to comprehend why it should be forced to file an application asking permission to intervene in any hearing relevant to its complaint. Under existing Treasury and Tariff Commission procedure, the complainant invariably has the right to appear—as did Bunker Hill in the recent Australian and Canadian lead cases. Logic and equity would compel the complainant's being given the statutory right to appear in all hearings concerning its complaint.

III. CUMULATION OF INJURY

For some years, there has been a degree of uncertainty in the Tariff Commission as to whether the cumulative effect of injury from less than fair value sales from several countries should or must be considered in arriving at an injury determination. Historically, many Commissioners have always taken the view that cumulation is appropriate, but this practice has never received the unanimous support of the full Commission. In fact, on occasion, some individual Commissioners have expressed opposition to cumulation.

Because it is obvious that a domestic industry can be injured just as much by the cumulative effect of imports from, *e.g.*, five countries, as by the same amount of imports from one country, we recommend that the uncertainty in this area be dissipated by the addition of the underscored language to Section 201 of the Antidumping Act of 1921 (19 U.S.C. § 160), as follows:

"Whenever the Secretary of the Treasury . . . determines that a class or kind of foreign merchandise *from one or more sources and/or countries* is being, or is likely to be, sold in the United States . . . at less than fair value, he shall so advise the United States Tariff Commission, and the said Commission shall determine . . . whether an industry in the United States is being or is likely to be injured . . . by reason of the importation of such merchandise . . ."

The cumulation issue has been in the Customs Court only once to our knowledge. In that case [*City Lumber Co.* v. *United States*, 290 F. Supp. 385 (Cust. Ct. 1968), *aff'd.*, 311 F. Supp. 340 (App. Term 1970), *aff'd.*, 457 F. 2d 991 (C.C.P.A. 1972)], the Customs Court left no doubt that cumulation was perfectly proper. It expressly found that the Commission's cumulation of injury (from Portuguese, Belgian and Swedish cement) was an exercise of duly conferred authority, was not *ultra vires*, and did not result in the Commission's exceeding its statutory authority.

The reason we urge this amendment is not that we think cumulation is not now perfectly proper and legal under the Antidumping Act, but that on a number of occasions, some dissenting Commissioners have rejected cumulation. A recent decision in point is *Primary Lead Metal from Australia and Canada*, AA 1921–134/135, in which the dissenting Commissioners opposed cumulation. The Commission's majority opinions, however, have, when the issue has been presented to it, invariably cumulated. While, prior to 1968, there was a great deal of confusion as to the propriety of the Commission's cumulating injury, much—but not all—of that uncertainty was dispelled in *Pig Iron from East Germany, Czechoslovakia, Romania and the USSR*, AA 1921–52/55 (1968). There, after a lengthy exposition of the reasons compelling the cumulation of injury, Vice Chairman Sutton stated:

"I must conclude . . . that the purposes and language of the statute *require* that the Commission's determination take into account the combined impact of LTFV imports of cold pig iron from *all* of the countries in question." AA 1921--52/55 at 10. (Emphasis added.)

What is more, as Vice Chairman Sutton so well pointed out, there is absolutely nothing in the statute or its legislative history or indeed in common sense that remotely suggests that injury to an industry is to be condoned when combined sources are involved so long as the LTFV imports from each source, when considered alone, do not cause injury. *Id.* at 6. Commissioner Sutton's view on cumulation was, as noted earlier, affirmed in the only court case which, to our knowledge, has ever discussed this issue.[8]

The Commission has, without fail, although not without occasional dissent, since the *Pig Iron* decision in 1968, cumulated in every case involving imports from multiple sources. *See, e.g., Potassium Chloride (Muriate of Potash) from Canada, France and West Germany*, AA 1921–58/60 (1969); *Pig Iron from Canada, Finland and West Germany*, AA 1921–78/80 (1971); *Sheet Glass from France, Italy and West Germany*, AA 1921–78/80 (1971); *Printed Vinyl Film from Brazil and Argentina*, AA 1921–117/118 (1973); and most recently in *Primary Lead Metal from Australia and Canada*, AA 1921–134/135 (1974).

The purpose of the Antidumping Act is, of course, to protect domestic industries against an unfair practice which Congress feared might injure them. It has long been properly recognized by the Customs Court, the Commission and most Commissioners that an industry can be injured as much by few LTFV imports from a number of countries as it can by many LTFV imports from one country. The statutory question to be resolved by the Commission is, of course, whether a domestic industry is being, or is likely to be, injured by LTFV sales. As Commissioners Clubb and Moore succinctly stated in *Potassium Chloride (Muriate of Potash) from Canada, France and West Germany*, AA 1921–58/60 (1969):

". . . an industry can be as much injured by small amounts of LTFV imports from many different sources as it can by the same total amount from one source. Accordingly, for purposes of making the injury determination, the source of the imports is not important. It is their combined effect on the domestic industry which controls." AA 1921–58/60 at 26.

This consistent pattern of Tariff Commission holdings, fully supported by the only Customs Court learning on the subject, notwithstanding, a number of importers from time to time argue that cumulation is not proper and some Commissioners support them in that view. Consequently, a clarifying amendment, as proposed above, would serve to dispel any confusion that remains in this area or, in the alternative, a statement from this Committee that no such amendment is needed because the statute is clear that cumulation is proper, would possibly have the same effect.

IV. REVOCATION POWER

There presently exists in the Antidumping Act no provision authorizing the revocation of a dumping finding. The Treasury Repartment, however, has promulgated a regulation regarding revocation (Section 153.41 of the Treasury Regulations), and has established certain criteria, pursuant to which it will revoke a finding of dumping. Under Treasury's practice, there are two absolutely indispensable prerequisites to revocation: (1) that there be no less than fair value sales for a substantial period of time—Treasury's unwritten rule is reported to be a two-year period although in practice the actual time period has been longer—and (2) that the importers involved give assurances to the Treasury Department that they will not again sell at less than fair value in this country.

[8] City Lumber Co. v. United States, 290 F. Supp. 385 (Cust. Ct. 1968), *aff'd.*, 311 F. Supp. 340 (App. Term 1970), *aff'd.*, 457 F. 2d 991 (C.C.P.A. 1972).

See, e.g., Chromic Acid from Australia, in which case a full 8½ years of no less than fair value sales passed before the finding of dumping was revoked, and then only after assurances had been given that there would be no future sales in the United States at less than fair value.

See also, *Azobisformamide from Japan*, in which case the dumping finding was revoked in 1969, after some four years of no less than fair value sales, and after the importers gave assurances that they would not again sell at less than fair value in this country; and *Potassium Chloride (Potash) from Canada*, in which case the notice of tentative determination to modify or revoke the dumping finding was published January 9, 1974, some four-plus years after the finding of dumping, and only after each Canadian firm involved gave assurances that future sales of potash to the United States would not be at less than fair value. This policy was once again reiterated as recently as March 21, 1974, in *Ceramic Wall Tile from the United Kingdom*. In this case, a period of 3½ years had elapsed without any less than fair value sales, and the importer involved had given assurances that future sales would not be made at less than fair value.

Gulf Resources fully supports the authority of the Treasury Department to revoke finding under these limited circumstances, and suggests that a new section be added to the Antidumping Act to provide Treasury the power to revoke a dumping finding if, but only if, a substantial period of time—defined as a minimum of two years—has passed without any less than fair value sales and if each importer involved has given binding assurances to the Treasury that it will not again sell at less than fair value in this country.

The amendment is needed because some importers have suggested that Treasury has the power to revoke a dumping finding absent a substantial period of time without less than fair value sales and absent assurances, if there have been changes in economic circumstances subsequent to the Tariff Commission's injury determination. What these importers actually seek is a Treasury reevaluation of the injury determination. Treasury, of course, has no authority in any way to consider the injury question, which question, since 1954, must be determined exclusively by the Tariff Commission.

Such an attempt to cause Treasury to revoke a finding of dumping based on injury concepts has been made by a Canadian importer in the *Primary Lead Metal from Canada and Australia* cases. Indeed, the importer in the Canadian case has actually urged the Department of Treasury to revoke the dumping finding even though only a few months have passed from the time the Tariff Commission issued its injury determination, and even though assurances of no future less than fair value sales have never been given. In fact, the importer has actually promised to sell at less than fair value if given the opportunity.

What is more, the essence of the importer's case is that the Tariff Commission's injury determination is wrong, and what it in fact seeks is a relitigation of the injury determination before the Treasury Department. Such is, of course, wholly inconsistent with the 1954 amendments to the Antidumping Act, and there is no question but that Treasury lacks authority to revoke under these circumstances. The correct route of appeal, of course, for this importer is to take his case to the Customs Court.

A specific amendment to the Antidumping Act, expressly providing under what circumstances revocation can be obtained, is desirable and should be reported out of this Committee. Treasury's longstanding policy of revocation only if a substantial period of time (a minimum of two years) has elapsed without any less than fair value sales and only if assurances have been given that there will be no future less than fair value sales is a proper one and should be codified.

Statement of the National Metal & Steel Corp.

(By Joseph S. Schapiro, President)

Summary

This statement deals solely with an issue which is not contained in the Trade Reform Act of 1973 as adopted by the House of Representatives. It supports the Mondale-Ribicoff amendments which would deal with export controls in the pending trade legislaton by authorizing the negotiation of an international agreement with respect to these controls and by authorizing the United States to impose retaliatory export controls in the event that a foreign country imposes restrictions on exports to the United States. The proposals do not deal with the issue of imposition of export controls by the United States because of scarce sup-

plies within the United States since this subject already is regulated by the Export Administration Act.

These comments support the proposal to grant the President authority to conclude an international agreement within the context of GATT.

With respect to retaliatory export controls, a number of suggested revisions are proposed. These include:

(a) Criteria for Controls—

(i) a determination should be made as to the economic, social or environmental consequences within the U.S. of the retaliatory controls;

(ii) controls should not be permitted unless the foreign action has a significant effect on U.S. economic or foreign policy interests; and

(iii) a preferred order of retaliatory controls should be included in the legislation similar to the order of import relief measures in § 203 of the Trade Reform Act.

(b) Procedural Safeguards—

(i) more extensive hearing rights should be accorded to exporters who would be affected by the controls; and

(ii) judicial review of the administrative decision to impose controls should be granted.

(c) Adjustment Assistance—assistance should be granted to workers or employers injured by the imposition of retaliatory controls.

STATEMENT

This statement is submitted to the Finance Committee in support of a proposal put forward by Senators Mondale and Ribicoff for an amendment to H.R. 10710 in the Senate concerning retaliatory export controls. The statement suggests several modifications to the "Mondale-Ribicoff amendments" which will strengthen the purpose of this legislation while at the same time assuring fair and equitable treatment to the United States export community.

One year ago when the Trade Reform Act of 1973 was being drafted, the primary U.S. interest in trading relations with other countries appeared to be obtaining access to the markets of foreign countries for our exports. Today, as a result of a change in the fundamentals of supply and demand for certain ~~products, and the~~ recent oil embargo, a second objective for U.S. trade policy has surfaced—access to needed supplies for the United States.

Partially in response to recent events, a significant new answer to the problem of access to supplies has been put forward for consideration. Before discussing this specific proposal, it is important for the Committee to focus on one vital aspect of the issue of export controls. The question with regard to export controls which is before the Finance Committee is whether these controls are an appropriate retaliatory device to be used by the United States in the event that a foreign country restricts exports to the U.S. either because the product is in short supply in the foreign country or because the foreign country is using export controls for political purposes. The question of export controls to limit U.S. exports because of a scarcity of supply of that commodity within the United States is not at issue. This matter is regulated by the Export Administration Act. This law traditionally has been subject to the jurisdiction of the Banking, Housing and Urban Affairs Committee in the Senate. The Export Administration Act expires on June 30, 1974. Hearings with respect to its renewal already have commenced before that Committee. Thus, there remarks do not address questions arising under the Export Administration Act.

The Mondale-Ribicoff Amendments to the Trade Reform Act of 1973

~~Senator~~ Mondale, joined by Senator Ribicoff, has proposed amendments to the Trade Reform Act of 1973 which: (1) would direct the President to negotiate international rules to (a) assure access to supply, (b) outline when export controls may be imposed, and (c) authorize multilateral sanctions; and (2) would authorize the President to retaliate against illegal or unreasonable export restraints imposed by a foreign country by (a) placing import or export restrictions on that country's products, (b) denying it economic and military assistance, credits and investment and credit guarantees, and (c) prohibiting U.S. investments in that country.

I. *International Code*

With respect to the forthcoming trade negotiations and the role of the General Agreement on Tariffs and Trade (GATT), it is clear that there is much that should be accomplished. Importantly, a GATT code on export controls is needed to provide international ground rules for the assurance of supplies. The present GATT framework on export controls is woefully inadequate. Despite the general admonition of the GATT against export controls in Article XI(1), there are five grants of authority to control exports within the GATT. These exceptions are, in effect, a grant of authority to control rather than a limitation on the use of mechanisms to regulate exports.[1]

(1) Article XI(2)(a) of the GATT *allows* export prohibitions or restrictions to be applied temporarily to prevent or relieve critical shortages of foodstuffs or other products that are essential to the exporting party;

(2) Article XX(g) *allows* export controls that relate to the conservation of exhaustible natural resources;

(3) Article XX(i) *allows* restraints on exports needed to ensure essential quantities of domestic materials to a domestic processing industry during periods when the domestic price of such materials is held below world price as part of the government stabilization plan;

(4) Article XX(j) *allows* export controls when "essential to the acquisition or distribution of products in general or local short-supply, when all such contracting parties of the GATT are entitled to an equitable share of the international supply of such products . . ."; and

(5) Article XXI *allows* export controls when necessary for the protection of essential security interests.

In short, the GATT allows export controls in a variety of circumstances and imposes relatively minor limitations on their use.

The world appears to be entering an era when many materials are in scarce supply. The indiscriminate imposition of export controls in this stiuation must be avoided to the greatest extent possible. Accordingly, a GATT code on export controls based on the well-known GATT principles of national treatment and nondiscrimination should be negotiated to assure that export controls are to be presumptively invalid.

In the type of code that should be negotiated, the principle of national treatment would be assured. This means simply that signatories would pledge to treat foreign buyers in the same manner as they treat domestic buyers. Specific derogations from this substantive norm would have to be included. Two derogations from the norm of national treatment should be permitted—one for true short-supply situations, as defined by highly articulated criteria, and the other for national security reasons.

The problem of the use of export controls for purely political reasons—for example, the oil embargo of this year—is more thorny. It would seem desirable to have broad guidelines for the use of political export controls.

Second, a GATT code on export controls should require consultations between affected parties before the imposition of export controls.

Finally, the GATT code should provide for a mandatory phase-out of export controls after a designated period of time. No extensions beyond the designated period of time should be permitted without a new justification for the imposition of export controls.

II. Retaliatory Controls

The second part of the Mondale-Ribicoff amendments, which would delegate to the President the authority to retaliate against "illegal or unreasonable" export restraints, also is desirable public policy, but should be revised in several technical areas to assure fairness to U.S. exporters. Before discussing specific revisions, however, three general guidelines should be considered by the Finance Committee when drafting legislation dealing with access to supplies.

A. General Considerations

First, measures seeking to assure access to supplies should be designed to avoid retaliation by other countries against exports from the United States.

Second, any export restraints that are enacted should be carefully drafted to avoid overlapping existing statutory authority designed to deal with the regulation of exports from the United States, such as the Export Administration Act of 1969, the Trading with the Enemy Act, and the Economic Military Assistance Act. Such an overlap would only create a confusing legal situation.

Finally, the Congress should manifest a preference for cooperative international action to assure access to supplies, rather than unilateral actions, which

[1] See Jackson, World Trade and the Law of GATT (1969), at 502 where the author concludes: "The combined effect of these exceptions . . . leave very little, if any, effective GATT policing of export control policy."

tend to undermine confidence in the continued ability of the United States to supply its trading partners with needed commodities.

B. Specific Suggestions

The revisions to the Mondale-Ribicoff amendments which are desirable fall into three categories: (i) criteria to be met before controls may be imposed; (ii) procedural safeguards before controls may be imposed; and (iii) adjustment assistance for workers and employers injured by the controls.

1. *Criteria for Controls.*—Because retaliatory export controls are harmful to the domestic exporter and increase the risks of a trade war, the ground rules for their imposition should be narrowly circumscribed by Congress. Thus, for example, controls should be permitted only after a determination has been made that their imposition will not have significant, adverse economic, social or environmental consequences within the United States. Second, controls should not be permitted unless the foreign action precipitating the United States controls has had a significant effect on U.S. economic or foreign policy interests. Third, the legislation should include a provision similar to § 203 of the Trade Reform Act which establishes a preferred order of import relief measures. A preferred order of retaliatory measures against foreign export controls, thus, should require the President to consider increased tariffs or quotas on imports from the offending country before resorting to export controls.

2. *Procedural Safeguards.*—Any legislation permitting the counterembargoes should have procedural safeguards to permit the interests of those exporters harmed by the proposed controls to be heard. The ability to export is a property interest of great value and should not be confiscated without full due process hearing rights. The use of such a hearing procedure might even induce the foreign country to remove or reduce its own export controls. Second, judicial review of the administrative decision to impose controls should be granted.

3. *Adjustment Assistance.*—Since the use of retaliatory export controls involves the limitation of exports solely for national economic policy reasons, the injured businessman should not be required to bear the full loss. If the United States chooses to use an economic weapon for national purposes, society as a whole should bear the burden of the use of this weapon. The cause-and-effect relationship between government action and private injury would be more direct under the export limiting effects of the Mondale-Ribicoff amendments than is true of import-related actions under existing trade law. The need for some form of adjustment assistance to the injured workers and firms, thus, is even more compelling when export controls are imposed.

STATEMENT OF HEAVY DUTY TRUCK MANUFACTURERS ASSOCIATION, SUBMITTED F. MURRAY CALLAHAN, ESQ., GENERAL COUNSEL

Our Association is pleased to have an opportunity to comment on the matter of Trade Reform. This Committee is presently considering H.R. 10710 "to stimulate U.S. economic growth and stimulate and promote economic relations with foreign countries." The development and expansion of world trade has been a constant bipartisan policy of this country ever since the disastrous protectionist wars of the 1930's depression era. Developed and developing nations alike have benefited from the sometime erratic but always forward progress in increased commerce between countries. The United States for many years prided itself on being its own source of agriculture and raw materials, a producer of the full range of manufactured goods and a self-contained market for everything necessary in life.

Since World War II, we find that America is deficient in many raw materials; i.e., oil, copper, tin, etc. and that there are some manufactured goods that can be produced in better quality and more efficiently by our trading partners. At the same time, the great technological skills of American industry and American workers keeps the United States the worlds largest producer of heavy duty trucks, airplanes, space components, computers, etc. This interchange of goods and services between this country and other nations is what we call international trade. The cumulative experience of the members of this committee undoubtedly makes you temporary dislocations, and the equation will never be perfectly in balance. Such aberrations, however, should never be an excuse to impede the continued growth of this trade.

Opposition spokesmen have repeatedly attacked the House passed trade legislation, H.R. 10710, and other responsible trade bills on the grounds that such measures merely result in the export of production capacity and jobs abroad. Many international trade experts believe that the unions' so-called job loss calculations are not only inconsistent but unproven. Apparently, such calculations are made by using the deterioration in the United States balance of trade and determining how many jobs would be needed to produce goods equal in value to the deteriorating balance. The fault with that reasoning is quite apparent. There is a total lack of evidence that domestic production would have increased by the amount of the value of the imports had there been no such imports.

Contrariwise, Federal Reserve Governor Andrew F. Brimmer has reported "that the foreign trade sector of the U.S. economy may be generating more than 750,000 jobs even allowing for the number of jobs that might be displaced by competitive imports." Mr. Brimmer's figures include American jobs resulting from exports and also those generated by imports such as longshoremen, teamsters, workers at distribution facilities, salesmen, etc.

Employment figures among multinational corporations belie the charge that they are exporting jobs. During the period 1966 to 1970, the multinationals increased their domestic payrolls at the average of 2.7 percent per year compared to the national average of 1.8 percent, according to the Commerce Department survey. *In other words, multinational companies increased employment at a rate 50 percent faster than other firms.* The multinationals had an increase in employment from 7,968,000 in 1966 to 8,851,000 in 1970. Further, reports the Commerce Department, in manufacturing, the average annual rate of domestic employment growth from 1966 to 1970 for the multinational companies, as compared to all United States firms, was especially dramatic: 1.9 percent versus 0.2 percent, almost 10 times as great. The Commerce Department also found that domestic payroll costs of the multinationals per employee were substantially higher than the average for all United States firms.

The Tariff Commission's objective and expert analysis of the employment issue notes that the multinational companies "are the backbone of the demand side of the U.S. labor market, the firms which not only have the biggest quantitative punch in terms of numbers of people they hire, but also—generally lead their industries in terms of labor compensation."

Legislative history also does not support the contention that current tax laws are obsolete, and we urge rejection of any proposed changes in multinational tax treatment. In 1962, when Congress reviewed the tax treatment of foreign subsidiaries of U.S. companies, it exhaustively considered major legislation with respect to controlled foreign corporations operated by U.S. companies abroad. The conclusion was reached that foreign tax credit and deferral of income of foreign subsidiaries were essential to avoid penalizing American-owned businesses by placing them at a disadvantage vis-a-vis foreign competitors, which are not subject to double taxation. Recognized, also, was the necessity for retaining earnings abroad to meet the needs for working capital and improved facilities. The Revenue Act of 1962 embodies these concepts. This legislative action was taken not during a period of isolationism but when America was beginning to experience the growing competitive power of nations recovering from war ravaged economies.

The same Congress also enacted the Trade Expansion Act of 1962 which authorized the Export-Import Bank to expend billions of dollars, if necessary, to insure American exporters against defaults by customers. Business was urged to sell to world markets and the wartime system of "E" Awards (this time meaning exorts) was re-established for outstanding export activity.

The program succeeded for a number of years with a resulting substantial favorable trade balance. Unfortunately, several years ago that balance tipped against the United States. The trade balance recently returned to America's favor and should result in a large surplus were it not for the unexpected and unneeded increase in the cost of foreign oil.

The reason for the decline in U.S. trade balance was not the U.S. tax laws, but the changing nature of the world's political economy and the rise of preferential trading areas and trade agreements.

This change began at the end of World War II and the United States played a major role in bringing it about. Initially, the General Agreement on Tariffs and Trade (GATT) signed by 24 nations in 1947, provided for the gradual bargaining down of tariffs in multilateral tariff negotiations on an unconditional, most favored nation basis. This evidenced interest in an ultimate goal of nondiscrimination in international trade.

However, subsequent developments, with United States acquiescence, resulted in the rise of preferential tariff practices. Thus, in 1973, we find that the effective merger of the European Economic Community (Common Market) and the

European Free Trade Association (EFTA) combined 16 nations into an enormous preferential trading bloc with substantial advantages for members. In addition, members of this bloc have entered into treaties with countries of Africa and Asia which are also discriminatory in terms. A six nation preferential trading bloc (LAFTA) exists in South America. As nations with the help of U.S. economic aid, began developing domestic industry, they imposed import controls, licensing regulations, "local content" requirements and other non-tariff restrictions designed to favor business activities situated within their own borders.

Thus, in the early 1960's, while the United States Government was exhorting American businessmen to go abroad, the manufacturer found himself faced with growing and formidable barriers to the traditional form of export; i.e., manufacture in the United States and ship abroad. He did, and still does, run into the discriminatory practices mentioned above. To help surmount these difficulties, it became necessary for him to affiliate with or reestablish foreign based facilities as an adjunct to direct export from the U.S.

The most common form of non-tariff barrier is the license requirement of many countries. Many other nations which buy from U.S. truck manufacturers require the American concerns to have a license. The licenses are very limited in number per country and give the holders in effect an exclusive advantage over other American producers which are not licensed. It would be in the best interest of the purchasing country and the American producers if such license requirements were removed and the competitive forces of the free market were to determine whose product was bought. Another non-tariff barrier is the requirement of many purchasing nations that a certain percentage of the finished product be locally produced. These and all other artificial trade barriers should be removed. This Committee could render invaluable assistance to our export program by finding the means through which these trade barriers can be eliminated in bilateral or multilateral negotiations. The non-tax provisions of certain proposed legislation treat the international trade problem as one which can be solved unilaterally by the imposition of restrictions tied to an historical base, supplemented by specific quotas where found necessary.

The proponents of arbitrary quota legislation find such controls necessary because "the torrent of imports that has already wiped out whole industries will gradually erode our industrial base." In short, by reducing our level of imports we would solve our deficit trade balance and protect our domestic industry.

Some industry spokesmen have contended that there have been what they call import surges. But we question that it is necessary to advocate a policy restrictive of imports.

Certain imports are unquestionably necessary for domestic production and a reduction could hurt us. The U.S. Department of Commerce has estimated for example, that under a quota formula, the import of capital goods needed by American manufacturers to keep up with foreign competition would be reduced about 31% from 1971 levels.

Other imports also play an important part in the functioning of our economy. An across-the-board reduction of imports fails to take into account the effect of such a cut on various segments of our industry geared to such imports and dependent thereon. Oil is one commodity which comes readily to mind as requiring special treatment in the light of the energy crises, but there are many others.

The Department of Commerce further estimates that on an average the major exporters to the United States would lose an average of nearly 30% of such exports if quotas were enacted. A reduction on this scale is bound to adversely affect various elements of the American economy.

Another predictable result from the dropping of imports is that removal or lessening of competitive factors would spur price increases in the United States, further fueling inflation at a time when that too is a major problem.

From the other side of the water, it is obvious that a 30% drop in shipments to the United States could and would provoke retaliatory action. In 1971, the export of American manufactured goods totalled $43,497,000. Retaliatory tariffs or quotas could reduce this substantially, also with adverse results to the American industry.

If it be argued that retaliation is not important because the reduction in imports will bring about a trade balance and increase domestic employment even if exports are reduced, such a position would be difficult to sustain. U.S. studies demonstrate that the job content of the domestic production that would replace imports is less than the job content of our exported goods. Confirming this is the Leontief Paradox named after Professor W. Leontief of Harvard who studied the subject exhaustively over twenty years ago.

But over and above the foregoing considerations, it must be concluded that arbitrary quotas would represent a turning back of the clock, a negating of the efforts which our government has initiated or supported since World War II ended, in the interest of international peace and stability. Foreign trade is one, if not the most, potent mechanism for achieving peace and economic security among nations. Unilateral quotas, on the other hand, are totally out of phase with the fact of an increasingly interdependent world.

The new legislation proposed by the Administration in the "Trade Reform Act of 1973" represents a much more realistic approach to the problem. This legislation would give the President power to negotiate a reduction or removal of tariffs and of non-tariff barriers to free trade, with appropriate provision for Congressional review. This would permit him to open up foreign markets to U.S. goods and to establish a system of safeguards to assist domestic companies who can demonstrate injury from imports.

The United States' goal should be to open up world agricultural markets and to make them truly responsive to market influence; to reduce the high tariffs that continue; and to eliminate the numerous non-tariff barriers which have been discussed above.

In essence, the new legislation proposed flexibility and a course of action based on multilateral negotiations instead of unilateral restriction. Such an approach is geared to the realities of today's economic world. American investment abroad has meant "more and better jobs for American workers, has improved our balance of trade and our overall balance of payments, and has generally strengthened our economy." A U.S. truck manufacturer recently said that if it did not export over 3,000 trucks a year where would those engaged in the manufacture of such vehicles find comparable, profitable employment.

Even assuming that the studies referred to are optimistic the cause for any peripheral problems, if they exist, does not lie with the tax laws but with the fact that the United States is not in the dominant position it occupied at the close of World War II. The development of stronger economies abroad, increasing foreign competitive power, has produced an attitude more analogous to that of a free agent in world trade than that of a dependent on U.S. aid. The competitor will compete.

American workers who owe their jobs to business abroad must agree with the Tariff Commission when it says that, "the adoption of generalized restrictions on multinational corporation activity might produce an undesired effect, namely a decline in employment. . . ."

In summary, historical experience and reasoned analyses arrive at the same conclusion, namely that an arbitrary, unilateral policy of limiting trade stifles the economic progress of the nation adopting such a program and that a reasoned, responsible approach to expanding trade between nations assists economies and concomitantly aids in the development of better political and social relations between trade partners.

INTERNATIONAL HOUSE,
New Orleans, La., January 10, 1974.

Hon. RUSSELL B. LONG,
Chairman of the Finance Committee, U.S. Senate, Dirksen Senate Office Building Washington, D.C.

DEAR MR. CHAIRMAN: You are well familiar with the role of International House, the first World Trade Center, and the traditional position of this organization of 2400 members regarding liberalized trade legislation. Also, it would be superfluous to tell you about the importance of the free flow of trade to New Orleans, the nation's second largest port.

However, I am taking the liberty of adding this organization's voice to that of our Port in requesting your personal support of the Trade Reform Act of 1973 (HR 10710), without protectionist riders, and preferably with improvements for more negotiating authority, less escape clauses, a better adjustment assistance policy, less restrictive arrangements for the developing countries, and more realistic provisions for East-West trade.

Also, may we respectively request that the position of this 30-year old organization be considered a formal testimony within the public hearings on the trade bill now before the Finance Committee which you will chair.

The Soviet Union is the third most important customer for the Port of New Orleans and a World Trade Center is now being constructed with American assistance in Moscow with which International House maintains close working relationship for the expansion of two-way trade. With this background, permit me, Senator, to stress the damaging effect that an amendment prohibiting most-favored nations tariffs and/or U.S. credits to the USSR would have.

If the trade bill now before your Committee limits the free development of U.S.-Soviet economic and political relations serious harm could result to a broad range of American interests and those of its principal trading partners and allies. Current multilateral trade negotiations aimed at dismantling nontariff barriers and providing the underdeveloped countries with expanded access to markets of the industrialized world on an equitable basis could only be successful if the U.S. possesses a negotiating authority of considerable freedom contained in the Trade Reform Act. It would reflect on the wisdom of the Senate if it were to strip the Act from the amendment requiring presidential certification for Soviet adjustments of their internal laws on emigration to serve political expediencies of misguided domestic pressure groups, as a condition for receiving trade concessions. Such measure would not only be discriminatory but also unworkable, and most probably highly counterproductive of any laudable effort to influence the Soviet government to change its position on emigration.

Sincerely,

PAUL A. FABRY.

STATEMENT OF THE INTERNATIONAL HOUSE

International House, a Louisiana trade promotion organization with a business and professional membership of 2300, has been a proponent of free trade ever since its inception in 1943. Working in conjunction with the New Orleans Port, which has also endorsed the following statement, International House *strongly opposes protectionist legislation*, and supports the Trade Reform Act now before the Senate Finance Committee. As the first World Trade Center and a founder of the Association binding together 88 centers around the globe, we are glad to re-state our traditional position favoring liberalized trade legislation and emphasizing the importance of the free flow of trade to New Orleans, the nation's second largest port.

We are taking the liberty of adding this organization's voice to that of our Port in supporting the Trade Reform Act of 1973 (HR 10710), without protectionist riders, and preferably with improvements for more negotiating authority, less escape clauses, a better adjustment assistance policy, less restrictive arrangements for the developing countries, and more realistic provisions for East-West trade.

The Soviet Union is the third most important customer for the Port of New Orleans and a World Trade Center is now being constructed with American assistance in Moscow with which International House maintains close working relationship for the expansion of two-way trade. With this background, the damaging effect that an amendment prohibiting most-favored nation tariffs and/or U.S. credits to the USSR would have is self-evident. If the trade bill now before your Committee limits the free development of U.S. Soviet economic and political relations serious harm could result to a broad range of American interests and even more of its principal trading partners and allies.

Current multilateral trade negotiations aimed at dismantling nontariff barriers and providing the underdeveloped countries with expanded access to markets of the industrialized world on an equitable basis could only be successful if the U.S. possesses, a negotiating authority of consideable freedom contained in the Trade Reform Act. It would reflect on the wisdom of the Senate if it were to strip the Act from the amendment requiring presidential certification for Soviet adjustments of their internal laws on emigration to serve political expediencies, as a condition for receiving trade concessions. Such measure would prove to be unworkable and most probably highly counterproductive of any laudable effort to influence the Soviet government to change its position on emigration. One should also remember that the U.S.A. no longer has monopoly on either its agricultural or its manufactured products, thus forcing the USSR to go to other countries for same would be to the detriment of our labor, industry, and overall economy.

Enactment of this legislation is essential to provide the necessary authority and the legislative mandate for the United States to exercise the leadership which is now required in negotiations with other nations to achieve and maintain a more open, non-discriminatory and fair world trading system.

APRIL 9, 1974

F. B. INGRAM, *President.*
PAUL A. FABRY, *Managing Director.*

AMWORTH INDUSTRIES CORP.,
Hempstead, N.Y., April 4, 1974.

Mr. ROBERT A. BEST,
Chief Economist, Senate Finance Committee, Dirksen Senate Office Building, Washington, D.C.

To: Hon. Members of the Committee.

We, Amworth Industries Corporation, wish to thank you in advance for the opportunity to submit a position of our views to the Public Hearings on the Trade Reform Act of 1973.

For many years our company has been privileged to act as exclusive buyer and importer, within the territory of the United States, of sheet glass and sheet glass products manufactured in Hungary. The fact that Hungary has not been enjoying nondiscriminatory tariff treatment has created undue hardships for all concerned.

Beside the economic advantages to be gained by our country by having nondiscriminatory trade practices, it would seem that these nondiscriminatory trade practices would do more to promote the advantages of our political and economic way of life than those advantages afforded by military aid.

How does it appear to all the nations of the world for us to raise our voice in protest against Arab countries for their discriminatory oil policy or against the European Common Market for their discriminatory trade practices when, we the accuser, practice discriminatory measures against other nations of the world.

Discriminatory trade practices do not solve ideological differences. Respect, confidence and the willingness to practice nondiscriminatory trade with all nations regardless of ideological differences will give us the right to raise our voices, with effect, against the moral and economic injustices of other nations of the world.

The only possible defense for the present discriminatory trade practice is to protect U.S. Business and Industry against unfair competition. However, this defense falls by the wayside when it is common knowledge that the same products manufactured or produced in those countries affected by the non favored nation duty rate are also being imported from countries, whose economic conditions are on the same level and who enjoy the favored nation duty rate.

We, therefore, submit that there is no political or economic advantage to be gained by the United States in continuing these unfair trade restrictions and we believe that they should be eliminated as soon as possible.

In view of the foregoing, Amworth Industries Corporation hereby states its full support of the Trade Reform Act of 1973 presently before your committee.

Respectfully submitted.

EUNICE WILSON, *President.*

STATEMENT OF THE NATIONAL ASSOCIATION OF SCISSORS & SHEARS MANUFACTURERS, BY J. F. FARRINGTON

On behalf of the members of the National Association of Scissors and Shears Manufacturers, I welcome this opportunity to present our views on the Trade Reform Act (H.R. 10710) and the impact it would have, if enacted, on the destiny of our small industry.

The National Association of Scissors and Shears Manufacturers is the only trade association of domestic manufacturers of scissors and shears. The Association's membership is composed of five United States firms producing approximately 85% of the scissors and shears manufactured in the United States.

The proposed Trade Reform Act of 1973 appears to contain something for everyone. We have read the bill and found provisions that we could fully support, and I am sure our competitors, the importers, can do the same thing. The bill would provide the President with wide and sweeping authority in foreign trade. We can understand that the President does not want to be restrained or restricted in the negotiation of new trade agreements. However, the Constitution gives the Congress not the President the power to lay duties and regulate commerce with foreign nations. If this legislation is reported by the Finance Committee we urge that it include specific detailed guidelines for trade agreement negotiations and retain control and oversight in this important area in the Congress. H.R. 10710 in its present form is a blank check to the executive branch to do as they please with tariffs and other important trade matters.

Our industry is small in value of output, number of workers, or by any other yardstick that may be used to measure it. But our product, scissors and shears, is a basic, valuable tool used in every school, retail establishment, office, factory, hospital and home. They are essential to our health, education and general welfare.

I, and other representatives of our industry, have appeared before this committee and other Congressional committees, the Tariff Commission, and inter-agency committees during the past 40 years in an effort to keep a healthy, viable scissors and shears industry in the United States.

ADAM SMITH AND FREE TRADE

Title IV of H.R. 10710 would give the President the authority to extend "most favored nation" treatment to the Communist nations. Use of this authority would give us problems such as we have never seen. During the past 25 years the lower cost labor and other advantages of German, Italian and Japanese producers have not been able to completely decimate our domestic industry. But we shutter to think what 800 million Chinese could do. We don't believe this is what Adam Smith had in mind 200 years ago when he wrote on free market economics in the "Wealth of Nations."

The free trade theory is based on a completely free market i.e. no government enterprises or subsidies; uniform business laws uniformly enforced etc. This is not the case in the real world today. We have minimum wage rates safety standards and many other laws and regulations that govern our business activities but not the production of imported goods.

Tariffs are a practical way of dealing with the "imperfections" in international markets. The alternative of adjustment assistance is not a sound economic program.

DECLINE OF DOMESTIC INDUSTRY AND INCREASE IN IMPORTS

Today there are only six manufacturers of scissors and shears in the United States whereas before the import duty on scissors and shears was reduced in 1950 and 1951 there were approximately 50 firms. The majority of these 50 firms manufactured scissors and shears exclusively. Since the duty reductions in 1950 and 1951 there has been a steady deterioration of the domestic industry. The most recent casualty was the A. Lincoln Company of Bridgeport Conn. which closed in 1972.

Since 1950 no new firm has been established to produce scissors and shears in the United States. Also since 1950 imports of scissors and shears have rocketed from 825616 pairs to 25012111 pairs in 1973 (See Table I following:)

TABLE I.—U.S. IMPORTS FOR CONSUMPTION: SCISSORS AND SHEARS

[As reported by the Bureau of the Census]

Year	Quantity (pairs)	Foreign value in U.S. dollars	Year	Quantity (pairs)	Foreign value in U.S. dollars
1946	11,131	9,756	1960	11,470,885	3,289,464
1947	20,776	16,162	1961	10,112,482	3,299,798
1948	76,178	59,632	1962	12,777,082	3,812,436
1949	150,372	117,608	1963	9,986,907	3,708,054
1950	825,616	377,843	1964	10,319,828	3,846,582
1951	2,213,031	892,255	1965	11,420,141	4,220,236
1952	3,121,741	1,174,758	1966	12,857,003	4,775,651
1953	4,540,006	1,503,542	1967	15,097,759	5,653,493
1954	4,396,123	1,593,668	1968	18,615,175	6,822,320
1955	5,671,816	1,984,722	1969	20,025,091	7,625,660
1956	5,981,033	2,265,258	1970	20,119,385	8,369,624
1957	6,578,527	2,321,373	1971	19,201,395	8,619,749
1958	7,297,269	2,745,469	1972	25,626,893	11,371,810
1959	11,956,375	3,193,557	1973	25,012,111	13,763,133

Since the end of World War II there has been very little real growth in the domestic market. Therefore, imports have displaced domestic production. Using 1958 prices, the wholesale value of scissors and shears sold in the United States was $25 million in 1948 and $30 million in 1972. The 1948 sales of $25 million were almost all scissors and shears produced in the United States, whereas in 1972 only $16 million was produced in the United States and $14 million imported. Therefore during this period the wholesale value of imports *increased* $14 million while shipments of domestic manufacturers *decreased* $9 million.

The wholesale value of scissors and shears imported in 1972 was equal to approximately 76% of domestic producers' shipments and this does not take into account imports of scissors and shears in sewing and manicure sets. Imports of these items are shown in Table II below:

Table II.—U.S. imports for consumption—Sewing and manicure sets

[As reported by the Bureau of the Census, foreign value in U.S. dollars]

Year	Value
1964	2,845,527
1965	3,094,484
1966	3,631,557
1967	3,157,892
1968	3,330,778
1969	3,751,339
1970	4,023,643
1971	3,338,507
1972	3,755,174
1973	4,584,070

RECENT INCREASES IN IMPORTS

During the past five years (1968–1973) imports of higher-priced scissors and shears have increased 107%, medium-priced imports have increased 34% and lower-priced imports have increased 85%. During this same period, imports of sewing and manicure sets have increased 38%.

The reason that imports have been able to dominate the domestic market can b egiven in four words: "low foreign wage rates." The wages paid in Italy, West Germany and Japan—the major import sources—are much less than the wages paid in the United States. The current import daty on scissors and shears falls short of closing the gap between United States and foreign wage levels.

INDUSTRY'S CONCERN OF AUTHORITY IN H.R. 10710

In view of this situation, I believe you can understand why we are seriously concerned with the open-ended authority to further reduce tariff levels in Title I of H.R. 10710. We saw what happened when duties on scissors and shears were slashed in 1950 and 1951. As shown in Table I, imports increased from 150,372 pairs in 1949 to 3,121,741 pairs in 1952. We again saw what happened when the import duties were again cut as a result of the "Kennedy Round." Imports of scissors and shears, on which the duty was cut, increased 130% in the five-year period 1967–1972.

PROBLEMS WITH THE "ESCAPE CLAUSE"

Title II of H.R. 10710 provides for relief from injury caused by import competition. Strengthening of the "escape clause" is long overdue. We have tried to go the "escape clause" route. We have had two cases before the Tariff Commission without any resulting benefit to our industry. These cases are discussed in detail in an appendix attached to this statement. We question that any industry has received any real help through an escape clause action.

We are skeptical that there will be any improvement if H.R. 10710 is enacted. Our skepticism is based on the fact that Section 202 provides for what the President "may" do if he receives an affirmative finding from the Tariff Commission.

We do not believe that relief for serious injury should be limited to any specific period of time as it is in Section 203. We do not concur in the use of adjustment assistance as an answer to import competition. Granted it may be needed for workers who have lost their jobs. But we believe that the jobs should be retained in the United States by the use of tariffs, quotas or other means necessary to keep fair competition between domestic and foreign producers. The workers in our industry do not want adjustment assistance; they want jobs where they can use their skills.

In conclusion, I want to point out that we have never asked that an embargo be placed on the import of scissors and shears. All we have requested and all we want is a fair, competitive opportunity in the U.S. market. We have not had a fair competitive opportunity since 1950 and, as a result, there are just a few of us "still hanging in there." Anything you do now is too late for the 40 firms that have closed since 1948 and their former employes. It is for more than selfish reasons we want to retain a viable domestic scissors and shears industry. We believe that where there is a capability of domestic production of an article as important as scissors and shears we should retain a domestic industry. Today, we are importing 1500 full-time jobs in our imports of scissors and shears. Let's not make it 1501 if it means putting one more person out of work in the United States.

APPENDIX

TARIFF COMMISSION INVESTIGATIONS OF THE SCISSORS AND SHEARS INDUSTRY

The Tariff Commission in 1954 found that imports of scissors and shears valued at more than $1.75 per dozen "threaten serious injury" to our domestic industry. The Commission recommended to the President that the duty on imports of these scissors and shears be increased.

The President declined to accept the recommendation of the Tariff Commission. Representatives of the Association presented testimony to the Commission in 1958 pointing out errors in the President's letter of May 11, 1954 declining to accept the Tariff Commission's recommendation. The President in his letter to the Chairman of the Tariff Commission said: "The volume of imports has leveled off since the high point in 1952, with the rate of importations during 1953 and early 1954 somewhat below that of 1952." The statistics published by the United States Bureau of the Census do not bear out this statement. The quantity of scissors and shears valued over $1.75 per dozen imported increased from 2,139,781 pairs in 1952 to 2,874,490 pairs in 1953 and 3,236,634 in 1954. The value of these imports increased from $1,106,482 in 1952 to $1,403,439 in 1953 and $1,504,523 in 1954.

The Association on August 29, 1958 filed with the Tariff Commission an application for a second investigation under Section 7 of the Trade Agreements Extension Act of 1951. The Tariff Commission instituted the investigation on September 3, 1958 and on February 25, 1959 made a report finding "that scissors and shears are not being imported in such increased quantities, either actual or relative to domestic production, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products." The domestic industry in making application followed the determination made by the Tariff Commission in 1953–54 that the minimum importers' selling price of imports entered in the over-$1.75-per-dozen classification is about $4.80 per dozen. The effect of imports of scissors and shears valued over $1.75 per dozen was applied to domestic shipments valued over $4.80 per dozen. The Tariff Commission in the second investigation did not follow their earlier determination. However, in the 1959 report it was stated that "The Commission's finding and conclusion would not have been different had it considered the domestic industry to be coextensive with the domestic production of scissors and shears valued at more than $4.80 per dozen."

The members of the Association challenge this statement. An important table in the Tariff Commission report was designated as Number 9. In this table shipments of the domestic industry of scissors and shears of *all* values were added to imports of *only* scissors and shears valued over $1.75 per dozen to obtain apparent consumption and the ratio of imports to consumption and to shipments.

The ratio of imports to consumption and shipments were shown as follows:

[In percent]

Year or period	Ratio of imports to— Consumption	Shipments
1953	14.0	16.2
1954	14.8	17.3
1955	15.0	17.6
1956	15.3	18.0
1957	16.9	20.1
January–September:		
1957	15.6	18.3
1958	16.3	19.4

To be consistent, either shipments of the domestic industry valued over $4.80 per dozen should be compared with imports valued over $1.75 per dozen, *or* all imports should have been compared with all shipments of the domestic industry. Either of these proper comparisons would have given a true picture and one entirely different from that shown in Table 9.

Had only scissors and shears valued over $4.80 per dozen been compared with imports valued over $1.75 per dozen the table would have been as follows:

[In percent]

Year or period	Ratio of imports to— Consumption	Shipments
1953	38.2	61.0
1954	42.6	73.2
1955	38.2	60.9
1956	40.9	67.7
1957	45.0	79.3
January–September:		
1957	44.7	78.2
1958	47.7	89.2

The Tariff Commission report of 1959 noted that there had been an increase in shipments by domestic producers during the period under study, 1953 to 1957. However, the report did not note that even with the increase the shipments in 1957 were still far below the level prior to the duty reductions in 1950 and 1951. Also, as shown in the previous table, imports increased at a much more rapid rate, as imports went from 61% of shipments in 1953 to 79% in 1957, and 89% during the first nine months of 1958.

The Tariff Commission in the 1959 report stated, "The increase in consumption was much greater than the increase in imports that also took place after the Commission's previous report of March 1954 . . ." This is not borne out by the statistics included in the report. The data developed by the Tariff Commission and included in the report shows that imports increased 72% from 1953 to 1957, while apparent consumption increased only 46%.

The Tariff Commission went on in the report to state that, "The significant general broadening of the total domestic market for scissors and shears was a development that could not be foreseen in 1954 when the Commission previously investigated the articles herein under consideration." The data developed by the Tariff Commission shows an increase of 54% from 1954 to 1955 in domestic shipments of scissors and shears valued over $4.80 per dozen. However, the U.S. Department of Commerce in a report prepared by the Bureau of the Census and released June 19, 1958 shows an increase of only 14% from 1954 to 1955 in the domestic shipments of scissors and shears valued over $4.80 per dozen. The statistics in the Bureau of the Census report were prepared from data obtained from 25 establishments, which was substantially complete coverage of the industry.

Also, it is important to note that the Tariff Commission investigation shows a *decrease* of 8% in the shipment of scissors and shears from 1955 to 1957, while during the same period there was an *increase* of 20% in imports and 3% in apparent consumption.

STATEMENT ON BEHALF OF AMERICAN ASSOCIATION OF UNIVERSITY WOMEN, LEGISLATIVE PROGRAM COMMITTEE, BY DR. DEBORAH P. WOLFE, CHAIRMAN, DR. JEWEL G. MAHER AND MRS. VIRGINIA FIESTER, MEMBERS

As representatives of the American Association of University Women and its Legislative Program Committee, we wish to express our appreciation for the opportunity to present this statement in support of H.R. 10710—The Trade Reform Act of 1973.

The American Association of University Women (AAUW) has a membership of approximately 180,000 women graduates, organized into 1,787 branches throughout the fifty states, Guam, Puerto Rico and the District of Columbia. AAUW is affiliated with the International Federation of University Women.

AAUW has supported a liberal trade policy since the original reciprocal Trade Agreements Act of 1934. In June 1973 at our last national convention held here in Washington, our members from all parts of the United States again strongly endorsed support for liberal and equitable trade policies. A further indication of the interests of AAUW members in international relations has been their participation in two-year study/action programs on such topics as "Revolution in Modern China" (1965–1967), "Growing Gap Between the Rich and Poor Nations" (1967–1969), and "Global Interdependence: Budgeting for Earth" (1973–1975).

GENERAL STATEMENT IN SUPPORT OF H.R. 10710

Needs, Challenges and Opportunities for Expansion of Trade

Reciprocal trade legislation over the years has served our economic interests as a nation; acted as a stimulus to industry and labor; and benefited consumers by providing them access to a wide variety of goods and services, often at favorable prices because of forces of competition, national and international. The economic achievements of our new competitive centers of economic strength—the European Community (EC) and Japan, are due in large part to trade agreements negotiated within the framework of the General Agreement on Tariffs and Trade (GATT). The less developed countries (LDCs) have also realized relatively substantial gains in economic growth through trade. However, because of the breaches of the GATT, and major economic and structural changes in the world economy, the current system for negotiating trade agreements hampers rather than enhances economic expansion through the free flow of trade at home and abroad. The United States and its trading partners will need a more equitable, prospective and cooperative approach if they are to successfully meet the problems, challenges and opportunities in the emerging global economy. Passage of The Trade Reform Act of 1973, with some modifications, would be a good first step toward seeking solutions to problems which have evolved with the growth of the competitive trade blocks, the increased trade among and with the developing countries, detente with China and Russia, denial of market access to raw materials and other scarce resources as well as global inflation.

Challenges and opportunities for the expansion of international trade are almost as great as the needs for expansion. A whole new galaxy of independent states have come into existence. There is an ever growing numbr of people, with an ever growing demand for the world's goods and services. The developed and developing countries, in combination, possess the capital, technology, natural resources, entrepreneurial ability and skilled and semi-skilled labor forces, if effectively allocated, to produce and distribute vastly more goods and services, and more economically, than are being produced today.

Endorsement of Basic Objectives and Procedures of H.R. 10710

We endorse the basic objectives and approaches of The Trade Reform Act of 1973. We fully support the principle of granting the President authority to reduce tariffs, and the mandate to seek to decrease or eliminate non-tariff barriers through agreements with other countries. We subscribe to the provisions which, if properly implemented, will protect the interests of all interested sectors of the American economy, including consumer interests and the general public, and encourage their participation in the decision-making process involving their interests—public hearings, assistance from advisory committees from the private sector, assistance from appropriate governmental commissions and departments, congressional advisors and congressional veto. We subscribe to the principle of using an adequate and equitable adjustment assistance program as a viable alternative to import restrictions which protect inefficient and noncompetitive producers, to the extention of nondiscriminatory treatment to all trading partners, and to the extention of a system of generalized tariff preferences to the developing countries.

Because we believe in trade based on comparative advantage in the market place, we generally oppose the imposition of restraints on competition at home and in international markets. Protecting inefficient and noncompetitive producers through trade restrictions is more likely to discourage than to stimulate those producers to maximize efficiency of production and become competitive again in world markets. We therefore support trade legislation which will encourage economic expansion through an equitable global trading system.

RECOMMENDATIONS

Title I: Negotiating and Authority

We concur with the provision that actions taken under Title I should extend to the products of all countries. Regarding staging requirements for reducing tariffs and considering the likely possibilities of continued rapid and dramatic changes in the world economy and closely related areas of concern, we recommend that your Committee consider granting the President authority to reduce tariffs at a more accelerated rate than three percent per annum when in his judgment, it would further the interests of the United States as well as those of our trading partners. In view of recent restrictions on the export of petroleum and the prospect of international cartels which withhold supplies and fix prices of raw materials, we recommend that the President be given authority to negotiate agreements providing for international standards to govern export limitations of scarce resources, so as to assure all countries reasonable access to scarce resource markets. In the past 20 years, more raw materials have been used than in all history prior to 1950. Competition for these non-renewable resources is likely to lead to trade wars, if not outright military conflicts, if access to them is not assured. Competition for food, where people are more directly involved, could cause problems of greater concern than problems caused by competition for productive resources if an equitable system of distribution is not established by the international community. The United States and Canada are more dominant in the world grain market than the Mideast is in oil. The United States, the "breadbasket" of the world, exports approximately 25 percent of its agricultural crop annually and supplies the world with approximately 90 percent of the soybean exports. We recommend that the President be given authority to negotiate international standards for export control.

Trade restrictions tend to prove counter-productive. This applies to imposing surcharges and import restrictions to products to deal with balance-of-payments. A sounder approach would be one which would encourage more economic production of quality goods and services at prices which could compete favorably in international markets. Voluntary trade restrictions have the same economic effect as those of involuntary restrictions, including increases in prices of goods and services affected, directly or indirectly. The resulting inflation may increase rather than decrease unemployment. However, we recognize that imposing restrictions to deal with specific situations may be justified. Inequitable trade practices by monopolistic private companies abroad, or inequitable trade policies of other governments may warrant counter-measures to protect efficient and competitive American firms at home and American consumers. They should have a second purpose—to encourage the removal of monopolistic and inequitable trade practices and policies by private enterprises and governments respectively.

Title II: Relief from Injury Caused by Import Competition

Congress can shape a trade bill which will encourage American producers to meet the challenge facing them today, the challenge of regaining a favorable competitive position in the international markets. We suport a trade adjustment assistance program which provides a viable alternative to the imposition of restrictions on imports, whch perpetuate inefficiency and low productivity; a system which will result in research and development, innovation, the efficient allocation and use of productive resources and an increase in productivity of labor; a system which is equitbale, adequate to get the specific job done, carefully administered and which provides for timely elimination of benefits. We favor benefits to eligible employees which will help them to make the transition to new jobs without undue hardship to them or to their families.

Title III: Relief from Unfair Trade Practices

We wish to limit our recommendations with reference to the provisions of Title III without taking a position with reference to the remaining provisions. We recommend that the one-year discretionary period given the Secretary of the Treasury to refrain from imposing countervailing duties on merchandise produced by facilities owned or controlled by the government of a developed country when the investment in or operation of such facilities is subsidized, be extended to a period of four years. We recommend that the Secretary of the Treasury be required to consider the effect on the demestic interests of American industry and consumers when he exercises his discretion in connection with his responsibilities involving countervailing duties.

Title IV: Trade Relations with Countries Not Enjoying Nondiscriminatory Treatment

The extension of nondiscriminatory treatment to all trading partners would expand international trade and encourage greater international cooperation. AAUW firmly supports the concept of nondiscriminatory trading agreements with all countries (with tariff preferences for the developing countries).

Title V: Generalized System of Preferences

AAUW continues to support a system of tariff preferences for the imports of the developing countries, within an open world trading system. We believe that the United States, with a gross national product (GNP) and per capita income greater than that of any other country, a nation with one-sixth of the world's population which consumes one-third of the world's non-renewable resources, can well afford to take the lead in helping the less developed nations to develop viable economies. We have consistently enjoyed a trade surplus with low-income countries in Africa, Asia and Latin America and most recently Russia and China. In 1972, we exported almost as much to the developing countries as to the European Community (including the United Kingdom) and Japan—more than $16 billion. United States corporations' investments of $20 billion in the developing countries are gaining at an annual rate of ten percent.

Two-thirds of the world's population live in the developing countries. Seventy percent of these countries earn almost two-thirds of their export receipts from three commodities or less. A prerequisite to their development of viable economies is the establishment of processing and manufacturing concerns which generate employment opportunities and the diversification of products for export. Tariff preferences for their exports would help them earn the foreign exchange necessary to finance the purchase of machinery, technology, etc. needed for further development of their economies. We believe that the United States will benefit from a system of tariff preferences for the developing countries to which we look for important raw materials and for markets for our products.

Title VI: General Provisions

We believe that Section 606 regarding control of drugs should be eliminated from The Trade Reform Act of 1973, because it is inappropriate for inclusion in trade legislation and can be handled best through other means.

SUMMARY

AAUW endorses the basic objectives and approaches of The Trade Reform Act of 1973. We fully support granting the President authority to reduce tariff barriers and the mandate to seek to decrease or eliminate non-tariff barriers through reciprocal trade agreements. We subscribe to the principle of using an adequate and equitable adjustment assistance program as an alternative to import restrictions, as an incentive to American industry and labor to become competitive in foreign markets. We favor a system of generalized preferences for imports of developing countries and the extension of nondiscriminatory treatment to all trading partners. Because most trade barriers in the long run are counterproductive, we recommend that Congress not incorporate in trade legislation measures to protect special interest groups at the expense of American consumers and the free flow of trade.

Expansion of trade through an equitable global trading system will require a fair international investment system and an effective international monetary system. And the emergence of the multinational corporation as the dominant force in international trade must be considered by our government and the governments of other countries when they negotiate international economic rules and guidelines—standards of conduct for international trade, investment and monetary policy. An equitable system of taxation at home may encourage American companies to produce more of their goods and services within the boundaries of the United States, increase employment opportunities for American workers and lower the tax burden of United States citizens.

We urge the passage of a liberal trade bill at an early date.

IMPORTED HARDWOOD PRODUCTS ASSOCIATION, INC.,
April 11, 1974.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee,
U.S. Senate, Washington, D.C.

DEAR CHAIRMAN LONG: This statement is submitted on behalf of the Imported Hardwood Products Association (IHPA) and concerns the pending Trade Reform Act of 1973 (H.R. 10710). IHPA is a national trade association representing approximately one hundred active regular members all of whom import hardwood products into the United States. These members are headquartered in the United States and employ many thousands of people in this country. In addition, IHPA has more than one hundred and twenty associate member companies involved in serving the imported hardwood industry.

IHPA agrees with the main thrust of H.R. 10710 which we believe is to reduce U.S. and foreign barriers to world trade, the impact of which would stimulate greater exports as well as imports and create a healthier domestic economy.

IHPA is particularly in agreement with providing the President with authority to reduce and where appropriate eliminate tariffs. One appropriate area for the elimination of tariffs is in the importation of hardwood products. There is a shortage of domestic hardwood. Imports of wood products should be considered a resource, such as many other materials, as this supplements the nation's needs while, at the same time, conserves our national timber resources. Imports of hardwood also diminish domestic price spiraling attributable to shortages such as the rising prices in housing. With a few minor exceptions imported hardwoods do not compete with domestic products as they are different and not indigenous to the United States. In fact, imported hardwoods supplement the domestic product. The imported wood and products have also created an expanded domestic wood processing industry. There are many other reasons why tariffs on imported hardwoods should be eliminated and IHPA therefore supports legislation that would give the President authority to take such steps in situations where they are clearly warranted.

The Common Market countries (EEC) have already given preferential treatment to some developing nations, eliminating duties, as have Japan and Australia. The United States on the other hand still pays duties on plywood, cores, and veneers, hardboard, and particleboard. Though H.R. 10710 would provide preferential treatment to developing countries there are serious limitations in the way the bill is now written. Preferential treatment would not apply to imports from a developing country if that country supplies fifty percent of the total value of U.S. imports of the article to the United States, or if U.S. imports of that article exceed twenty-five million dollars. IHPA believes that these limitations are unnecessary and inconsistent with the overall thrust of the bill, as well as the positions of competing countries. This is particularly true in an industry such as ours where imports do not interfere, indeed they supplement, the domestic market. It would seem only just and fair to give developing nations at least the same treatment they receive from other countries around the world in a situation where it only adds to our domestic economy and does not detract. IHPA respectfully requests that these limitations concerning preferential treatment to developing nations as they appear in the House passed version of the bill be eliminated.

Thank you for the opportunity to present our views.

Sincerely yours,

ED A. STAMM, *President.*

STATEMENT OF EUGENE L. STEWART, GENERAL COUNSEL OF THE TRADE RELATIONS COUNCIL OF THE UNITED STATES, INC.

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Mr. Chairman and members of the committee, I am Eugene L. Stewart, General Counsel and Executive Secretary of the Trade Relations Council of the United States, Inc. This is a national trade association whose members include manufacturing corporations, large and small, and trade associations of selected manufacturing industries. The manufacturing activities of the Council's members represent in the aggregate a fair cross section of U.S. manufacturing activity in most major industry sectors.

I. BASIC POSITION IN REGARD TO H.R. 10710

We oppose the enactment of the bill in its present form because it essentially confirms the effort of the Executive Branch to secure a virtually unlimited grant of power by the Congress to the President to reduce or eliminate duties; modify customs valuation, quantity determination, and marking rules; and modify or repeal other domestic laws which relate directly or indirectly to the importation of merchandise into the United States.

H.R. 10710 would delegate to the President power to reduce low duties to zero, to cut moderate duties by 60%, and to cut higher duties by 75%. This is more power than Congress has ever given a President in the history of the trade agreements program. There are no binding guidelines to govern the President's decision, though the bill provides a number of discretionary guidelines for him to follow should he choose to do so.

The bill carries forward to an advanced degree the development of a free trade philosophy, now to be ratified as U.S. domestic law, which pays only lip service to the fact that the economic and political conditions which are prerequisites to the functioning of the economic law of comparative advantage (free trade) do not exist in the real world.

Moreover, the bill in its substance reflects no recognition of the fact that the high wage-high cost American standard of living makes many efficiently conducted manufacturing enterprises sensitive to import competition from low wage-low cost foreign producers. The conditions and circumstances which give foreign producers a competitive advantage in the United States market at low tariffs also serve to deny import-sensitive U.S. producers any real opportunity to compete in export markets.

Regrettably, the bill ratifies the policy developed so systematically by the Executive Branch in recent years that the President's trade agreement authority is intended to be used almost exclusively to promote the economic interests of export-oriented sectors of the economy.

Once the deep tariff cuts authorized by the bill are made, there is no real possibility of restoring the tariff to the former level. The so-called "escape clause" is by this bill reformed to a degree, but the substantive difference between present law and the amendments in the bill is slight. On the key provision of the clause (namely, the criteria for relief), present law requires that it be established that increased imports are the major factor in causing serious injury; the new trade bill would modify that so that increased imports must be a substantial cause, which is defined to mean *a cause not less important than any other cause.* This change in language will produce very little improvement in the frequency with which escape clause petitioners can secure an affirmative determination of serious injury caused by imports in a Tariff Commission investigation.

The bill contains some additional criteria which must be considered under the escape clause which will have the effect or tendency of reducing still further the chances of success in an escape clause proceeding. These additional criteria are: the interests of consumers, the public interest, and the extent to which the affected domestic industry has adopted a plan of adjustment to overcome through its own efforts the effect of import competition.

Finally, in the rare case where an increase in duties or the imposition of quotas is approved by the President in an escape clause proceeding, the relief is to be limited to five years, subject to a single extension of two years if the President finds, based upon a new Tariff Commission investigation, such action to be in the national interest. Within the five-year period in which for all intents and purposes escape clause relief will be in effect, the tariff increase or quota imposed must begin to be phased out during the third year.

Without providing any real guidelines, the bill would give the President virtually unlimited authority to enter into trade agreements to provide for the elimination of nontariff barriers (this term means any provision of domestic law which foreign interests claim to have an import-restricting effect). In particular, we oppose the grant of power to the President to repeal by "agreement" the following important provisions of U.S. customs valuation law:

(*a*) The American Selling Price basis for value for benzenoid chemicals, rubber-soled footwear, canned clams, and wool knit gloves; and

(*b*) The "Final List" of products subject to appraisement for customs value on the basis of the "old" value rules which under the terms of the Customs Simplification Act of 1956 were not to be subjected to the new value rules enacted into law by that statute if the Secretary of the Treasury determined that the effect of the new rules would be to reduce customs value and duty by 5% or more.

The Council represents the principal medium-sized producer of synthetic organic dyestuffs and pigments. The domestic industry producing these finished benzenoid chemicals exists and provides employment to its skilled work force primarily because of the safeguard which the American Selling Price Valuation provides against unfair competition by members of the European dye and chemical cartel. The American Selling Price Valuation basis as applied to imported synthetic organic dyes and pigments is not in fact a barrier to expanding trade as evidenced by the following table. The table demonstrates that the United States has a balance of trade deficit in such products which increased from $34.2 million in 1970 to $59.5 million in 1972. The members of the Western European free trade group, which demand elimination of ASP have, as shown by the table, increased their trade with the United States with the result that our deficit for those countries has increased from $59.7 million to $86.3 million in 1972.

TABLE 1.—ORIGIN AND DESTINATION OF FOREIGN TRADE OF U.S. MANUFACTURING INDUSTRIES, 1970-72

[28152B—Synthetic organic dyes, pigments, lakes, and toners (includes 28153)]

[In thousands of dollars]

Country or geographic area	1970			1971			1972		
	Imports	Exports	Net balance	Imports	Exports	Net balance	Imports	Exports	Net balance
North America	330	13,113	12,783	384	13,646	13,261	893	16,558	15,664
Canada	328	11,801	11,473	361	12,367	12,006	870	14,878	14,008
Mexico	1	634	632	21	512	491	24	748	724
South America	0	3,494	3,494	0	4,043	4,043	0	4,888	4,888
Venezuela	0	1,090	1,090	0	1,012	1,012	0	1,017	1,017
Peru	0	86	86	0	188	188	0	192	192
Chile	0	130	130	0	64	64	0	125	125
Brazil	0	1,028	1,028	0	1,425	1,424	0	2,005	2,005
Argentina	0	543	543	0	770	770	0	934	934
Western Europe Free Trade Group	71,396	11,713	−59,682	100,013	13,439	−86,573	104,148	17,815	−86,332
European Economic Community	46,655	8,739	−37,916	70,949	10,932	−60,016	75,895	14,759	−61,136
Netherlands	555	1,041	487	592	1,442	850	581	2,034	1,454
Belgium and Luxembourg	17	1,921	1,904	74	3,210	3,136	388	3,312	2,924
France	2,588	901	−1,686	4,056	1,202	−2,853	4,584	1,762	−2,821
West Germany	37,507	1,325	−36,181	54,720	1,070	−53,649	56,458	2,051	−54,406
Italy	784	1,256	472	2,007	1,417	−589	2,242	2,166	−75
United Kingdom	5,205	2,165	−3,089	9,451	2,428	−7,022	11,427	3,302	−8,125
Denmark	0	129	129	49	164	114	215	131	−83

European Free Trade Association	24,741	2,974	−21,766	29,064	2,507	−26,557	28,253	3,056	−25,195
Austria	0	8	8	3	31	28	5	51	46
Portugal	0	34	34	1	38	37	0	63	68
Sweden	45	231	185	24	321	297	20	322	301
Switzerland	24,694	2,659	−22,034	29,073	2,075	26,960	28,226	2,521	25,704
Finland	1	43	42	0	41	41	1	95	94
Other Western Europe	131	674	543	322	846	524	231	947	716
Norway	0	92	91	0	237	237	1	72	71
Other	130	582	452	322	609	287	230	874	645
Eastern Europe	47	14	−32	300	17	−282	232	88	−143
Czechoslovakia	0	1	1	0	2	2	0	5	5
Poland	47	0	−46	274	0	−273	228	0	−227
Russia	0	0	0	0	6	6	0	0	0
Yugoslavia	0	11	11	0	4	4	4	27	23
Romania	0	0	0	0	0	0	0	55	55
East Germany	0	0	0	0	0	0	0	0	0
Asia	5,616	12,649	7,032	7,363	10,906	3,543	6,875	10,762	3,888
Middle East	0	252	252	1	187	186	0	257	257
Israel	0	66	66	0	93	93	0	103	103
Egypt	0	57	57	0	8	8	0	8	8
Southeast and Southern	40	8,238	8,198	586	5,935	5,350	528	4,219	3,691
India	40	303	263	586	116	−468	528	78	−448
Singapore	0	24	24	0	15	15	0	33	33
Eastern	5,576	4,159	−1,416	6,776	4,784	−1,992	6,347	6,286	−59
South Korea	2	297	295	0	255	255	0	314	314
Hong Kong	1	990	989	1	1,343	1,342	6	1,520	1,515
Taiwan	2	110	108	1	202	200	25	326	301
Japan	5,572	2,758	−2,813	6,774	2,984	−3,789	6,316	4,125	−2,190
China	0	0	0	0	0	0	0	0	0
Australia and South Pacific	16	1,113	1,097	28	1,190	1,162	138	1,572	1,434
Africa	0	487	487	1	496	495	8•	614	605
Republic of South Africa	0	387	387	1	394	393	0	0	0
Total	77,536	43,165	−34,370	108,413	44,347	−64,065	112,524	53,171	−59,353

Source: Trade Relations Council of the United States, Inc., "Employment, Output, and Foreign Trade of U.S. Manufacturing Industries (6th edition), 1974.

The implications of the repeal of the Final List procedure by trade agreement will be a reduction in duty on all articles listed by the Secretary by amounts ranging from a low of 5% to a high as great as 80%, and this reduction will occur quite apart from any direct reduction in rates of duty which the President may grant under the other provisions of the bill. In any event, on a weighted average basis we estimate that the overall reduction in duty of Final List items will be 20% ± 10%. Many products of members of the Council are proctected against undervaluation by their inclusion among the hundreds of products on the Final Iist.

The President is not required in any trade agreement repealing ASP or the Final List to substitute converted rates of duty, which would provide "substantially equivalent tariff protection" for the items whose valuation base would be changed by such an agreement.

If the President chooses to do so, however, he may ask the Tariff Commission to determine the converted rates of duty which would afford such substantially equivalent protection. But he may, without disclosing such equivalent rates to Congress, reduce such converted rates to the numerical level of the rates before conversion, and do so in the same trade agreement which provides for the elimination of the American Selling Price or the Final List.

Regrettably, H.R. 10710 does not require the President to inform the Congress of the Tariff Commission's separate determination of the probable economic effect upon the affected domestic industries of reductions in the numerical rates of duty, or the elimination of the American Selling Price, the Final List, or other nontariff trade barriers, or of the combination of such actions.

The taking effect of the reductions in numerical rates of duty is to be staged over a period of years, but the taking effect of the elimination of the American Selling Price, and of the Final List valuation bases, and the reduction of the converted rates (if the President chooses to substitute such rates for the current numerical rates) to the level of the current numerical rates, are not to be staged. *Those changes, which may involve a loss of protection equal to or greater than that produced by a reduction in numerical rates alone, would take effect immediately upon the lapse of the 90-day period following submission of the agreements to Congress if neither House of Congress adopts a resolution of disapproval by a majority vote of the members present and voting.*

H. R. 10710 is profligate in the amount of power it would give the President, and it is fatally defective in the manner in which it would delegate such power.

As interpreted by the Supreme Court of the United States, an attempted delegation by the Congress of powers reserved to it under the Constitution is valid only if the Congress lays down in the legislation a guiding standard or an intelligible principle which carefully defines the particular facts and circumstances which when found to exist are to constitute the basis for authorized actions by the President under the delegated authority.

The initial Trade Agreements Act in 1934 contained such a guiding standard or intelligible principle, as did its successive extensions until 1962. The precision of the earlier legislation was considerably blurred by the vaguer criteria for action set forth in the 1962 Act. The bill now pending before you, H. R. 10710, would complete the journey from specifically delineated standards and principles to such generalized expressions of hope as to permit the President to act without regard to any particular intention on the part of the Congress.

The circumstances which confront this Committee and the Congress at this time are especially poignant in this context. The Executive used the very large grant of power given to it in the Trade Expansion Act of 1962 to make very deep reductions in U.S. import duties on manufactured products. While the intent of the Congress was that the Executive would secure reciprocal concessions from our trading partners adequate to provide U. S. exports with equivalent access to the markets of the nations which would enjoy the benefit of the U. S. tariff concessions, the hard and regrettable fact is that this objective was not achieved by the Executive in the Kennedy Round negotiations.

Based upon the percentage of trade between the United States and the other linear participants, *the United States received concessions applicable to 62.6% of its exports whereas the other linear participants received concessions on 74.4% of their exports.*

It is of significance that by 1971 U. S. imports from the linear participants had increased to $19,607.0 million in contrast with U. S. imports from such participants in 1964 of $6,546.5 million. By contrast, U. S. exports to the linear participants increased by a far smaller amount during this period: from $10,826.6 million in 1964 to $18,652.4 million in 1971.

As a result of the severe disparity in the rates of growth of U. S. imports versus U. S. exports in trade with linear participants, we experienced a sharp shift in our balance of trade from a surplus position in 1964 to a deficit position in 1972. How can these results square with the Administration's assertion that the United States in fact received reciprocity in the Kennedy Round?

How is a measurement of the effects of the Kennedy Round to be undertaken if the economic performance of the U. S. economy, industry by industry, prior to the Kennedy Round is not to be compared with the economic performance at the latest period of time post-Kennedy Round for which data are available?

In its attempts to refute this point, the Administration directs attention to the percentage reductions in duty by the main linear participants in the Kennedy Round, but neglects to mention what the comparative tariff levels were prior to the Kennedy Round negotiations. The Secretary of State was responsive to this issue in his 1972 United States Foreign Policy Report. After referring to the currency realignments of 1971 and 1973, he states:

"But monetary steps must now be supplemented by elimination of previously tolerated trading practices and restrictions that put extra burdens upon the dollar or upon the American exporter or investor. *Changes are particularly necessary to make our access to Japanese markets more equivalent to their access to ours. They also are needed in Europe, where in the course of enlargement of the Common Market some obstacles to U. S. exports have been extended more widely, especially in agriculture, and where our trade account went into deficit in 1972 for the first time.*" (Emphasis added) (Department of State Bulletin, May 7, 1973, p. 552)

Looking at data for U.S. commercial agricultural exports to the prime EEC market as a percentage of total exports to the EEC, you will observe that the products on which nonvariable import levies have been imposed by the EEC have not suffered a change in their share of that market; on the other hand, products subject to variable import levies have suffered a sharp drop in their share of exports to the EEC subsequent to the Kennedy Round negotiations.

This result should be contrasted with the statement of U.S. objectives early in the Kennedy Round of negotiation, as declared by the late and revered Christian A. Herter, then the President's Special Representative for Trade Negotiations. In Brussels, Belgium, on September 3, 1965, Ambassador Herter declared:

"For agricultural products, our objective is that agreed by the ministers at the onset of the Kennedy Round, the creation of 'acceptable conditions of access to world markets for agricultural products in furtherance of a significant development and expansion of world trade in such products * * *.'" (Department of State Bulletin, February 22, 1965, p. 251)

Ambassador Herter took note of the fact that 25% of the United States' total exports (pre-Kennedy Round) were agricultural. He stated that "it is extremely difficult to see how a genuinely reciprocal bargain could be struck in the Kennedy Round unless we can achieve liberalization of this portion of our trade as well as our industrial exports." (*Ibid.*, p. 252)

While Ambassador Herter lived, it was his declared policy in regard to the Kennedy Round that, "The United States will enter into no ultimate agreement until significant progress is registered toward liberalization in agriculture as well as in industrial products." (Address by Secretary of Agriculture Freeman, New York City, May 21, 1964)

The record shows that the moral resolve articulated by Ambassador Herter did not survive his untimely death.

Even in the case of nonagricultural products, this Administration seems strangely unable to face up to the facts as to the lack of reciprocity for U.S. products in the Kennedy Round. Only 85% of the concessions received by the United States were in the form of duty *reductions*, whereas 99% of the concessions granted by the United States were in the form of duty reductions. Furthermore, of the duty reductions granted by the United States, 80% ($3,913.2 million) were greater than or equal to 50%. In contrast, only 55% of the concessions granted to the United States in the form of duty reductions ($2,532.8 million) were greater than or equal to 50%.

Our comments on this point are supported by the data in the following tables.

TABLE 2.—TOTAL EXPORTS OF THE UNITED STATES AND HER MAJOR TRADING PARTNERS, 1960-71

[Dollar amounts in thousands of U.S. dollars]

	United States	Japan	Canada	EEC	EFTA: Total	EFTA: Of which the United Kingdom
1960	$20,412	$4,055	$5,554	$29,744	$19,139	$10,213
1961	20,755	4,236	5,811	32,311	19,816	10,308
1962	21,446	4,916	5,935	34,211	21,083	10,933
1963	23,014	5,452	6,466	37,554	22,865	11,791
1964	26,300	6,673	7,681	42,575	24,642	12,353
1965	27,189	8,452	8,109	47,930	26,958	13,238
1966	29,998	9,776	9,551	52,645	28,877	14,132
1967	31,243	10,442	10,564	56,140	29,507	13,869
1968	34,199	12,972	12,602	64,206	31,948	14,838
1969	37,462	15,990	13,812	75,687	36,838	16,894
1970	42,590	19,318	16,187	88,516	42,237	19,351
1971	43,497	24,010	17,675	100,880	47,191	22,354
Average annual percent change:						
1960-67	+6.3	+14.7	+9.8	+9.5	+6.4	+4.7
1968-71	+8.8	+23.2	+13.8	+15.8	+12.5	+12.5

Source: United Nations: "Statisical Yearbook 1972;" "Yearbook of International Trade Statistics, 1963." OECD, "Trade by Commodities, Market Summaries: Exports," January-December 1971.

TABLE 3.—U.S. COMMERCIAL AGRICULTURAL EXPORTS TO THE WORLD AND TO THE EEC, 1961-72

[Million dollars]

	Total U.S. commercial exports	U.S. commercial exports to the EEC: Variable levy	U.S. commercial exports to the EEC: Nonvariable levy	U.S. commercial exports to the EEC: Total	Percent of total exports to the EEC: Variable levy	Percent of total exports to the EEC: Nonvariable levy
1961	$3,541	$442	$715	$1,157	12.5	20.2
1962	3,555	480	671	1,151	13.5	20.2
1963	4,064	447	724	1,171	11.0	17.8
1964	4,704	526	890	1,416	11.2	18.9
1965	4,880	623	853	1,476	12.8	17.5
1966	5,528	640	924	1,564	11.6	16.7
1967	5,117	527	933	1,460	10.3	18.2
1968	5,039	470	897	1,367	9.3	17.8
1969	4,917	334	935	1,269	6.8	19.0
1970	6,217	447	1,112	1,559	7.2	17.9
1971	6,625	448	1,381	1,829	6.8	20.8
1972 [1]	8,338	539	1,570	2,109	6.5	18.8

[1] Preliminary.

Source: U.S. Department of Agriculture, Economic Research Service, "Foreign Agricultural Trade of the United States," March 1973.

TABLE 4.—U.S. FOREIGN TRADE WITH COUNTRIES MAKING LINEAR CONCESSIONS IN DUTY IN THE KENNEDY ROUND, 1964

[In millions of dollars, c.i.f. basis [1]]

	U.S. imports from—									U.S. exports to—								
		Imports subject to tariff concessions									Imports subject to tariff concessions							
		Duty reductions									Duty reductions							
	Total	More than 50 percent	50 percent	25 to 49 percent	1 to 24 percent	Total	Duty free bindings	Free bindings	Total	Total	More than 50 percent	50 percent	25 to 49 percent	1 to 24 percent	Total	Duty free bindings	Free bindings	Total
AGRICULTURAL [2]																		
EEC	219.6	1.6	16.6	45.5	30.0	93.7	28.1	0.1	121.9	999.2	31.8	19.9	51.3	117.4	220.4	0.3	17.6	238.3
Japan	24.2		21.0	.8	.1	21.9			21.9	506.3	160.4	25.4	32.1	1.4	219.3		25.4	244.7
United Kingdom	16.7		4.8	.1		4.9			4.9	336.9	26.4	20.1	9.9		56.4		13.7	70.1
Austria	1.7		1.2	.2		1.4			1.4	11.6		3.5	1.9	.1	5.5		.7	6.2
Denmark	63.3		8.7	.1		8.8	49.1		57.9	78.4	.6	3.8			4.4		11.5	15.9
Finland	1.3		1.2			1.2			1.2	17.6	.2	7.3	2.7		10.2		2.7	12.9
Norway	.7		.4			.4			.4	33.7	2.0	2.4			4.4		6.4	10.8
Sweden	1.9		.2	.1		.3			.3	59.9	1.4	9.7	.2	1.0	12.3	1.0	22.0	35.3
Switzerland	8.6	.3	7.7	.1		8.1			8.1	51.3	10.7	1.6	5.9	1.9	20.1	1.6		21.7
Subtotal	77.5	.3	19.4	.5		20.2	49.1		69.3	252.5	14.9	29.3	10.7	3.0	56.9	2.6	43.3	102.8
Total	338.0	1.9	61.8	46.9	30.1	140.7	77.2	.1	218.0	2,094.9	233.5	93.7	104.0	121.8	553.0	2.9	100.0	655.9
NONAGRICULTURAL																		
EEC	2,728.4	22.5	1,763.3	73.2	217.3	2,076.3	6.6	11.0	2,093.9	3,623.6	13.8	1,280.7	321.4	888.0	2,503.9	.3	286.8	2,791.0
Japan	1,882.4	11.6	931.2	78.8	414.2	1,435.8		5.2	1,441.0	1,827.5		584.5	55.1	27.3	666.9	.3	264.7	932.0
United Kingdom	1,176.4	8.5	738.2	25.3	58.9	830.9		23.2	854.1	1,225.0	33.3	261.2	350.7	187.1	832.3	22.1	56.5	910.9
Austria	59.4	2.5	41.5	3.9	3.4	51.3	.1	.3	51.7	86.1		17.7	5.4	2.4	25.5		17.0	42.5
Denmark	70.1	2.9	36.6	.8	3.5	43.8		.4	44.2	116.3		26.6	33.8	8.3	68.7		33.8	102.5
Finland	79.3	3.3	25.0	.1	3.5	31.9			31.9	70.6		41.0	.3	7.3	48.6		8.0	56.6
Norway	129.8	31.0	26.4	.3	45.3	103.0		.3	103.3	90.0		32.5	4.9	6.2	43.6	.7	16.7	61.0
Sweden	216.1	4.9	125.0	3.0	27.0	159.9		.5	160.4	303.5	20.9	93.7	61.6	22.5	198.7	10.2	58.9	267.8
Switzerland	243.1	1.9	136.9	3.8	9.0	151.6		1.1	152.7	253.5	16.1	110.8	56.6	24.7	208.2	31.8	1.6	241.6
Subtotal	797.8	46.5	391.4	11.9	91.7	541.5	.1	2.6	544.2	920.0	37.0	322.3	162.6	71.4	593.3	42.7	136.0	772.0
Total	6,585.0	89.1	3,824.1	189.2	782.1	4,884.5	6.7	42.0	4,933.2	7,596.1	84.1	2,448.7	889.8	1,173.8	4,596.4	65.4	744.0	5,405.9
Grand total	6,923.0	91.0	3,885.9	236.1	812.2	5,025.2	83.9	42.1	5,151.2	9,691.0	317.6	2,542.4	993.8	1,295.6	5,149.4	68.3	844.0	6,061.8

[1] U.S. imports have been increased by 10 percent to adjust from f.o.b. to c.i.f. basis.
[2] Except grains.

Source: Office of the Special Representative for Trade Negotiations, "Report on U.S. Negotiations," General Agreement on Tariffs and Trade, 1964–67 Trade Conference, Geneva, Switzerland.

TABLE 5.—AVERAGE DEPTH OF TARIFF REDUCTIONS GRANTED BY THE UNITED STATES IN COMPARISON WITH THAT OF OTHER LINEAR PARTICIPANTS IN THE KENNEDY ROUND

[Dollar amounts in millions, c.i.f. basis [1]]

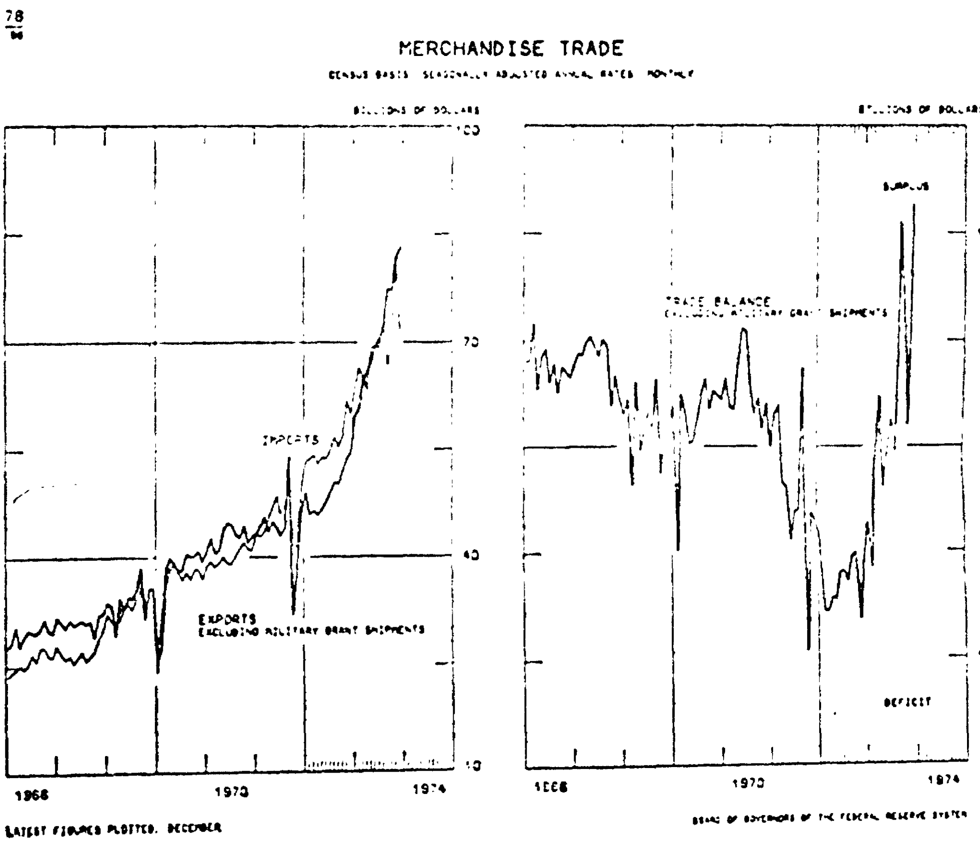
	U.S. imports from linear participants			U.S. exports to linear participants		
		As a percent of—			As a percent of—	
	Amount	Total duty reductions	Total tariff concessions	Amount	Total duty reductions	Total tariff concessions
Total imports	$6,923.0			$9,691.0		
Total tariff concessions	$5,151.2			$6,061.8		
Total tariff concessions as a percent of imports	74.4			62.6		
Total nonagricultural imports [2]	$6,585.0			$7,596.1		
Total tariff concessions on nonagricultural imports	$4,933.2			$5,405.9		
Total tariff concessions on nonagricultural imports as a percent of total nonagricultural imports	74.9			71.2		
Bindings	$48.7		1.0	$809.4		15.0
Duty	6.7		.1	65.4		1.2
Free	42.0		.9	744.0		13.8
Duty reductions	4,884.5	100.0	99.0	4,596.4	100.0	85.0
More than 50 percent	89.1	1.8	1.8	84.1	1.8	1.5
50 percent	3,824.1	78.3	77.5	2,448.7	53.3	45.3
25 to 49 percent	189.2	3.9	3.8	889.8	19.4	16.5
1 to 24 percent	782.1	16.0	15.9	2,173.8	25.5	21.7

[1] U.S. imports have been increased by 10 percent to adjust from f.o.b. to c.i.f. basis.
[2] Except grains.

Source: Office of the Special Representative for Trade Negotiations, "Report on United States Negotiations," General Agreement on Tariffs and Trade, 1964–67 Trade Conference, Geneva, Switzerland.

The tragedy of the Kennedy Round is threefold: The United States expended enormous bargaining power in the form of tariff concessions on industrial products without securing the required access for our exports of agricultural products through appropriate concessions by the EEC and other developed nations; the deep reductions in import duties on industrial products made by the United States were not reciprocated by concessions of equivalent value applicable to U.S. exports of industrial products; and the depth and extensiveness of U.S. tariff concessions on industrial products seriously weakened the competitive position of a broad cross section of U.S. industries in the domestic market.

The Kennedy Round tariff concessions were made effective in five annual stages, 1968 through 1972. The following chart shows quite dramatically how during this period U.S. imports were stimulated to a rate of increase which substantially exceeded the rate of growth of U.S. exports. The consequence, as shown by the chart, is the plunging trade balance which was such a major factor in the turmoil in foreign exchange markets in the past two years. It required the unprecedented shock treatment of two formal devaluations of the dollar by the United States and further informal devaluation of the dollar resulting from the floating of the world's major currencies to achieve a "turn-around" in our trade balance, as shown by the chart.



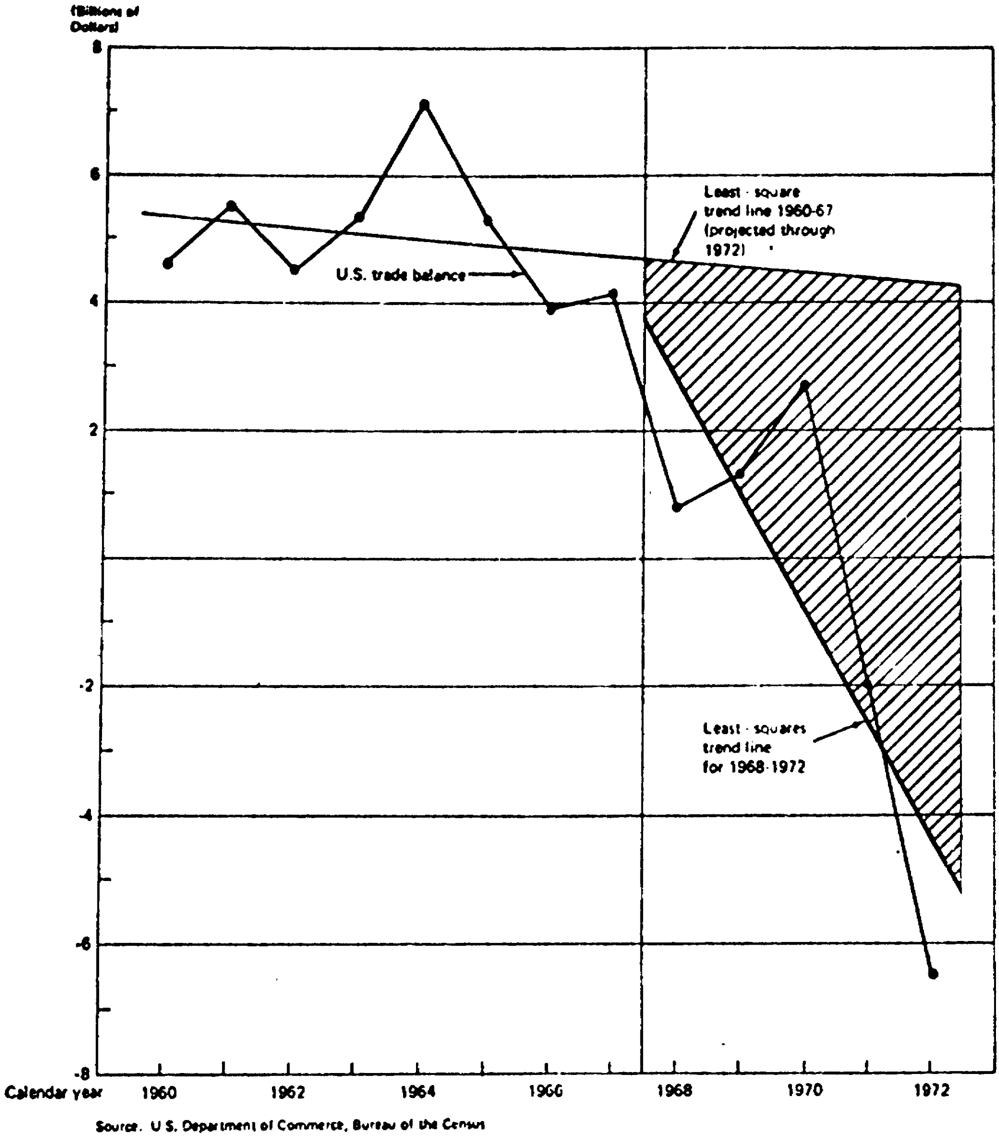
The Kennedy Round tariff reductions were a major cause of the trade deficit. It is unmistakably evident from the trend lines of the U.S. balance of trade on the following graph for the periods 1960–1967 and 1968–1972 that the plunging trade deficit shown in the latter time period is completely out of phase with the trend indicated by the data for the pre-Kennedy Round years.

The crosshatch area on the graph shows the wide discrepancy between the trade balance projected for the post-Kennedy Round years based on the pre-Kennedy Round trend line versus the actual trend line for the post-Kennedy Round years. The data for the balance of trade trend from 1960 to 1967, while indicating a slightly decreasing trend, certainly do not correlate with or justify the dimensions of the catastrophe which followed execution of the Kennedy Round agreement.

Under these circumstances, viewing the dimensions of the failure of the U.S. negotiators in the Kennedy Round, armed with the vast authority given by the Congress to the President in the Trade Expansion Act of 1962, the Council is unable to give its support to a new and even larger grant of power than the 1962 Act to the President for a new round of negotiations. If the results of a new round of negotiations are as harmful to U.S. interests as the Kennedy Round of negotiations, it were far better that the authority not be granted and that the negotiations not take place.

Chart I

U.S. MERCHANDISE FOREIGN TRADE BALANCE



Source. U.S. Department of Commerce, Bureau of the Census

The President and his spokesmen have referred to the disadvantage which confronts U.S. exports because of the host of nontariff barriers and other discriminatory arrangements which inhibit equitable access for U.S. exports to the markets of other countries. The President is armed with considerable authority to cope with nations who discriminate against U.S. exports and who unreasonably and unfairly burden U.S. commerce.

Section 338 of the Tariff Act of 1930 and Section 252 of the Trade Expansion Act of 1962 give the President virtually plenary power to withdraw tariff concessions from countries who have not honored their commitments to us to provide equivalent access for U.S. exports to their countries. The provisions of the General Agreement on Tariffs and Trade also permit action by the United States as a Contracting Party to withdraw tariff concessions from nations whose actions have nullified or impaired the value of concessions granted to the United States.

The sad fact is that with but few exceptions the Executive Branch of the Government has failed to use such authority as a means of effectively getting the attention of the countries that are violating our trade agreement rights and burdening our commerce. Seemingly the foreign trade policy officials in the Executive Branch are reluctant to confront other nations with a firm stance by the United States backed up by the clear-cut muscle of the unquestioned power of the President to penalize the exports of such countries to the United States if prompt and meaningful correction of their abuses of our rights is not forthcoming.

As acknowledged by spokesmen for the Committee on Ways and Means during the debate on the bill in the House of Representatives, "our goods have been increasingly discriminated against overseas as our trading partners have become more prosperous and more protectionist." Cong. Rec. H10921 (Dec. 10, 1973). "And we have had ample demonstration of the difficulty under current law of dealing administratively with unfair trade practices by other countries." *Ibid.* As stated by the Acting Chairman of the Committee, who was responsible for managing the debate on the bill in the House, "Indeed, in 1962 the Congress expressed concern that barriers other than tariffs were negating U.S. trade agreement rights. In the Trade Expansion Act of 1962 section 252 authorized and called for action by the President against unfair or discriminatory foreign import practices. Little or no action has been taken under this provision, however, and many of the problems, insofar as U.S. exports are concerned, have become institutionalized, making it all the more difficult for the United States to export.", *Ibid.* H10929.

Finally, the bill fails to provide effective guidelines to assure that the vast delegation of powers for the reduction of duties and regional and domestic laws in trade agreements will be wisely and selectively used by the President and his delegates so as to achieve even-handed justice to domestic interests which are economically sensitive to excessive import competition. As a couplet to this evil, the bill, while seeming to reform, in fact stultifies the remedies for the correction of import injury. The excesses invited by the absence of meaningful guidelines for the negotiation of trade agreements will become institutionalized by the non-responsiveness of post-negotiation remedies to effect meaningful correction of damaging mistakes. In the entire 26-year history of United States participation in the General Agreement on Tariffs and Trade, we have invoked the escape clause to correct serious injury to a domestic industry on only 16 occasions, as against the tens of thousands of tariff concessions that have been granted by the United States in the six multilateral trade agreement negotiations conducted under the auspices of GATT. The cumulative effect of these tariff concessions produced by 1972 a massive trade deficit in manufactured products. As shown by the following table, our trade balance in manufactures shifted from a surplus of $2.1 billion in 1970 to a deficit of $7.0 billion in 1972.

TABLE 6.—ORIGIN AND DESTINATION OF FOREIGN TRADE OF U.S. MANUFACTURING INDUSTRIES, 1970, 1971 AND 1972

[In thousands of dollars]

Country or geographic area	1970			1971			1972		
	Imports	Exports	Net balance	Imports	Exports	Net balance	Imports	Exports	Net balance
North America	10,345,533	10,471,194	125,641	11,999,469	11,563,753	−435,715	14,260,490	13,731,454	−529,035
Canada	8,680,964	7,665,618	−1,015,345	10,146,492	8,840,261	−1,306,230	11,970,363	10,664,620	−1,305,742
Mexico	605,070	1,459,532	854,462	685,924	1,399,054	713,130	965,080	1,687,126	722,047
South America	1,482,761	2,870,689	1,387,928	1,490,791	2,844,240	1,353,449	1,771,092	3,107,256	1,336,164
Venezuela	599,867	651,402	51,536	656,811	654,618	−2,192	739,837	774,879	35,042
Peru	243,703	187,374	−56,329	197,980	219,050	21,071	210,594	224,565	13,971
Chile	126,104	262,855	136,751	63,334	199,548	136,214	43,636	145,501	101,865
Brazil	235,017	737,970	502,953	290,871	839,082	548,211	436,141	1,104,069	667,928
Argentina	148,402	412,674	284,271	146,635	351,592	204,957	175,996	346,252	170,257
West Europe free trade group	9,159,282	9,927,639	768,357	10,479,030	9,383,071	−1,095,958	12,816,486	9,935,441	−2,881,044
European Economic Community	8,065,753	8,674,447	608,694	9,283,424	8,200,331	−1,083,092	11,270,254	8,700,063	−2,570,190
Netherlands	456,084	1,133,474	677,390	459,860	1,219,046	759,186	546,344	1,127,677	581,333
Belgium and Luxembourg	835,056	952,828	317,732	783,325	861,030	77,705	901,173	928,895	27,722
France	812,131	1,311,771	499,640	951,448	1,159,266	207,818	1,186,394	1,399,180	212,786
West Germany	2,976,768	2,049,158	−927,609	3,518,029	2,011,507	−1,506,521	4,088,030	2,095,658	−1,992,371
Italy	1,065,662	1,024,406	−44,255	1,158,962	929,614	−229,147	1,683,770	934,704	−749,065
United Kingdom	1,860,456	2,057,756	197,300	2,168,943	1,866,699	−302,243	2,559,836	2,056,215	−503,620
Denmark	256,564	145,056	−111,507	242,868	152,972	−89,095	304,710	157,740	−146,969
European free trade association	1,093,530	1,253,191	159,601	1,195,608	1,182,742	−12,866	1,546,232	1,235,381	−310,850
Austria	115,231	56,444	−58,786	122,349	85,584	−36,765	167,477	82,957	−84,518
Portugal	84,992	90,763	5,771	104,606	87,849	−16,755	139,178	162,226	13,049
Sweden	379,555	443,294	63,768	428,033	405,742	−22,290	575,882	402,163	−173,719
Switzerland	408,989	575,618	166,630	428,508	524,826	96,318	533,731	520,868	−12,862
Finland	104,764	87,073	−17,691	112,113	78,741	−33,371	129,965	77,168	−52,796

Other Western Europe	526, 196	967, 720	441, 524	626, 820	909, 426	282, 606	955, 683	1, 111, 316	155, 633
Norway	106, 963	124, 379	17, 416	130, 575	129, 258	−1, 317	189, 261	154, 877	−34, 383
Other	419, 233	843, 341	424, 108	456, 245	780, 169	283, 924	766, 422	956, 439	190, 017
Eastern Europe	259, 256	423, 150	163, 894	258, 541	384, 758	126, 217	391, 772	417, 315	25, 543
Czechoslovakia	21, 416	15, 939	−5, 477	22, 817	21, 981	−835	28, 700	37, 856	9, 155
Poland	90, 410	41, 225	−49, 185	99, 730	36, 372	−63, 357	129, 521	64, 532	−64, 988
Russia	44, 408	115, 618	71, 410	29, 581	145, 186	115, 605	66, 870	123, 361	56, 491
Yugoslavia	74, 712	158, 356	83, 645	76, 599	122, 015	45, 416	115, 259	118, 015	2, 755
Rumania	12, 237	41, 110	28, 873	11, 957	24, 437	12, 480	26, 732	46, 221	19, 488
East Germany	8, 289	12, 610	4, 322	8, 722	4, 638	−4, 083	9, 872	2, 942	−6, 929
Asia	8, 566, 591	6, 424, 440	−2, 142, 150	10, 522, 169	6, 503, 268	−4, 018, 900	13, 539, 045	7, 437, 967	−6, 101, 077
Middle East	177, 711	914, 850	737, 139	248, 253	1, 122, 893	874, 640	314, 629	1, 354, 350	1, 039, 721
Israel	127, 681	250, 069	122, 389	152, 092	314, 879	162, 787	193, 756	248, 161	54, 405
Egypt	4, 548	73, 338	68, 790	4, 582	58, 061	53, 479	337	80, 119	79, 782
Southeast and Southern	960, 438	1, 895, 194	934, 757	1, 080, 539	1, 887, 532	806, 993	1, 356, 301	1, 903, 209	546, 908
India	197, 893	383, 837	185, 944	223, 954	497, 754	273, 800	350, 604	385, 926	35, 323
Singapore	57, 990	211, 068	153, 078	105, 866	283, 280	177, 415	224, 615	346, 957	122, 342
Eastern	7, 428, 444	3, 614, 399	−3, 814, 044	9, 193, 377	3, 492, 843	−5, 700, 533	11, 868, 114	4, 180, 411	−7, 687, 702
South Korea	354, 099	307, 247	−46, 851	450, 961	354, 868	−96, 091	683, 517	355, 598	−327, 918
Hong Kong	867, 228	360, 989	−506, 238	898, 892	353, 691	−545, 200	1, 144, 828	420, 860	−723, 967
Taiwan	528, 340	206, 631	−321, 709	788, 387	236, 326	−552, 060	1, 248, 133	335, 916	−912, 216
Japan	5, 670, 907	2, 702, 796	−2, 968, 110	7, 049, 404	2, 519, 307	−4, 530, 096	8, 777, 273	3, 048, 330	−5, 728, 942
China	1	0	0	981	0	−980	12, 973	4, 452	−8, 519
Australia and South Pacific	693, 758	1, 041, 857	348, 099	695, 953	1, 074, 902	378, 949	904, 278	941, 939	37, 661
Africa	253, 695	1, 283, 873	1, 030, 178	249, 347	1, 401, 194	1, 151, 846	309, 569	1, 265, 054	955, 485
Republic of South Africa	161, 511	541, 753	380, 241	132, 153	596, 369	464, 216	1, 362	470	−691
Total	31, 180, 112	33, 286, 160	2, 106, 048	36, 191, 520	33, 935, 344	−2, 256, 175	44, 759, 136	37, 794, 432	−6, 964, 703

Source: Trade Relations Council of the United States, Inc., Employment, Output, and Foreign Trade of U.S. Manufacturing Industries (6th edition), 1974, The ineffectiveness of our remedies for the adjustment of excessive import competition (primarily the escape clause and the Antidumping Act) is demonstrated by the data in the Appendix to the Statement which may be summarized as follows:

1. The products which have been the subject of "favorable" determinations under the tariff adjustment and tariff assistance provisions of the Trade Expansion Act of 1962 and the Antidumping Act, 1921, accounted for imports in 1967 valued at $4.3 billion. By 1971, imports of these products had increased to $11.4 billion, a rise of 167% in four years.

2. Within the next two years, by 1973, imports of these products found to have injured domestic industries, firms, and workers had climbed to $15.8 billion. In all, imports in these injured sectors of our economy soared by 270% during the period in which the Kennedy Round tariff concessions had been implemented through the year 1973.

3. The import injured product sectors in 1973 account for one-third of total imports of manufactures.

In accordance with the findings of the Tariff Commission, import injury has become so pervasive that one out of every three dollars worth of imports injure a group of workers, a firm, or an industry and, notwithstanding the application of our "remedies" for the correction of such injury, the damaging growth of imports has continued unabated.

The foregoing is not the end of the story of hardship which has been experienced by domestic industries and their workers as a result of the rapid increases in imports stimulated by the Kennedy Round tariff concessions and augmented by persistent unfair methods of competition practiced by foreign producers in their exportation of goods to the United States. In the tariff adjustment, adjustment assistance, and antidumping proceedings, which resulted in findings by the Tariff Commission that the injury was not due in major part to increased imports resulting in major part from tariff concessions, or, alternatively, by reason of the sale of foreign products for export to the United States at less than their fair value, the petitioners firmly believed that imports aggregating $3.3 billion in value in 1967 should have been remedied under the cited provisions of the law. By 1971, these products on which industry and worker appeals for relief fell on deaf ears, had increased to $7.5 billion, a rise of 126%. By 1973, imports of these products reached the value of $11.4 billion, an additional 52% rise. It is evident from these data that imports of products on which relief was denied have increased at nearly as rapid a rate in the past years as imports of products on which some relief was granted, and in both cases, the rate of increase has been extraordinary. (The facts pertinent to imported products on which petitions for relief were denied are based upon a tabulation separate from that presented in the Appendix which will be submitted to the Committee should it desire the Council to do so.)

II. Deficiencies in the Bill Regarding Prenegotiation Procedures

TARIFF COMMISSION ADVICE

Section 131 essentially carries forward the type of direction specified in the Trade Expansion Act of 1962 for Tariff Commission inquiries in the prenegotiation stage. It therefore affirms the ineffective, generalized type of investigation made in the context of the Kennedy Round by the Tariff Commission, *which was not focused upon the extent to which existing import duties could be reduced without causing injury, or the extent to which existing import duties needed to be increased in order to correct actual or threatened serious injury evident at the time of the Commission's investigation.*

The approach taken by the Tariff Commission in the prenegotiations stage of the Kennedy Round in conducting studies of the probable economic effect of modifications of duties on domestic industries producing like or directly competitive products was so inadequate to the necessities of the negotiations that there has taken place subsequent to the implementation of the concessions granted by the United States in the Kennedy Round widespread deterioration in the competitive position of American industries vis-a-vis import competition in the United States market. The data in the Appendix are illustrative of this fact.*

The President and his spokesmen have indicated in various public statements

*The Appendix was made a part of the official files of the Committee.

their intention that the forthcoming trade negotiations benefit all American workers, not merely those engaged in export industries but those whose livelihood and whose welfare are directly tied to industries particularly vulnerable to import competition. The Acting Chairman of the Ways and Means Committee declared during the debate on the bill in the House that "the prenegotiation procedures for hearings, advice from and consultations with the Congress, domestic producers, and private organizations, provide the necessary safeguards to insure that the authority will not be exercised to the detriment of domestic interests." (*Ibid.* p. H 10929) Notwithstanding these assurances, the bill as drafted by the Administration and as modified by the House fails to include as a specific criterion for the studies and reports to be made to the President in the prenegotiation procedures a clear-cut indication that the delegated authority is to be used so as to avoid causing or threatening injury to a domestic industry or its workers. Since the Tariff Commission's investigation is the most comprehensive of all the prenegotiation studies of the effect of the intended use of the delegated authority, the assurances of the President and of the House that the authority will be used so as to avoid the detriment of domestic interests cannot be kept unless the advice given by the Tariff Commission to the President is meaningful in terms of alerting the President to the point at which domestic employment would be placed in jeopardy by further tariff concessions.

For this reason the approach set forth in the bill, essentially a carbon copy of the approach embodied in the Trade Expansion Act of 1962, which has been shown by the results of the Kennedy Round negotiations to have been a failure, ought not be followed. Instead, there should now be restored to the mandatory prenegotiating procedures the approach that was followed in trade agreement negotiations antedating the Kennedy Round in which the Tariff Commission specifically draws expert conclusions from the economic data developed in its investigation in such manner as to identify the extent to which existing import duties on particular product categories may be reduced without causing or threatening serious injury to a domestic industry or its workers and, in addition, identifying the extent to which existing duties should be increased if domestic industries and their workers are to be safeguarded from actual or threatened serious injury under current circumstances.

Accordingly, the Council recommends that Section 131 of the bill be completely rewritten and in its place there be substituted the following:

"SEC. 131. TARIFF COMMISSION ADVICE AS TO PROPOSED MODIFICATION OR CONTINUANCE OF UNITED STATES DUTIES, DUTY-FREE OR EXCISE TREATMENT, OR ADDITIONAL DUTIES.—(A) Before entering into negotiations concerning any proposed foreign trade agreement under sections 101 and 102, the President shall furnish the United States Tariff Commission (hereinafter in this Act referred to as the "Commission") with a list of all articles imported into the United States to be considered for possible modification of duties and other import restrictions, imposition of additional import restrictions, or continuance of existing customs or excise treatment. Upon receipt of such list, the Commission shall make an investigation and report to the President the findings of the Commission separately with respect to each article identified on the list referred to in this section as to (1) the limit to which such modification, imposition, or continuance may be extended in order to carry out the purpose of such section 101 without causing or threatening serious injury to the domestic industry producing like or directly competitive articles; and (2) if increases in duties or additional import restrictions are required to avoid serious injury to the domestic industry producing like or directly competitive articles, the minimum increases in duties or additional import restrictions required. Such report shall be made by the Commission to the President not later than six months after the receipt of such lists by the Commission. No such foreign trade agreement shall be entered into until the Commission has made its report to the President, or until the expiration of the six-month period.

"(b)(1) In the course of any investigation pursuant to this section, the Commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunities for parties interested to be present, to produce evidence, and to be heard at such hearings. If in the course of any such investigation the Commission shall find with respect to any article on the list upon which a Tariff concession has been granted that an increase in duty or additional import restriction is required to avoid serious injury to the domestic industry producing like or directly competitive articles, the Commission shall promptly

institute an investigation with respect to that article pursuant to section 201 of this Act.

"(2) *In each such investigation the Commission shall, to the extent practicable and without excluding other factors, ascertain for the last calendar year preceding the investigation the average invoice price on a country-of-origin basis (converted into currency of the United States in accordance with the provisions of section 522 of the Tariff Act of 1930, as amended) at which the foreign article was sold for export to the United States, and the average prices at which the like or directly competitive domestic articles were sold at wholesale in the principal markets of the United States. The Commission shall also, to the extent practicable, estimate for each article on the list the maximum increase in annual imports which may occur without causing serious injury to the domestic industry producing like or directly competitive articles. The Commission shall request the Executive departments and agencies for information in their possession concerning prices and other economic data from the principal supplier foreign country of each such article.*

"(c) (1) *Within 30 days after any trade agreement under section 101 has been entered into which, when effective—*

(i) *will require or make appropriate any modification of duties or other import restrictions; the imposition of additional import restrictions; or the continuance of existing customs or excise treatment, which modification, imposition, or continuance will exceed the limit to which such modification, imposition, or continuance may be extended without causing or threatening serious injury to the domestic industry producing like or directly competitive articles as found and reported by the Tariff Commission under subsection (a); or*

(ii) *will fail to require or make appropriate the minimum increase in duty or additional import restrictions required to avoid such injury;*

the President shall transmit to the Congress a copy of such agreement together with a message accurately identifying the article or articles with respect to which such limits or minimum requirements are not complied with, and stating his reasons for the action taken with respect to such article or articles. If either the Senate or the House of Representatives, or both, are not in session at the time of transmision, such agreement and message shall be filed with the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be.

"(2) *Promptly after the President has transmitted such foreign trade agreement to Congress, the Commission shall deposit with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a copy of the portions of its report to the President dealing with the articles with respect to which such limits or minimum requirements are not complied with.*

"(d) (1) *Such foreign trade agreement shall enter into effect only if a proclamation valid pursuant to this subsection is published by the President under the terms and conditions specified herein.*

"(2) *Such proclamation shall be valid—*

(i) *only if the President has given notice to the Senate and to the House of Representatives of his intention to issue a proclamation making effective such foreign trade agreement, such notice to be given at least 120 days in advance of his publishing such proclamation;*

(ii) *only after the expiration of 120 days from the date on which the President delivers a copy of such agreement to the Senate and to the House of Representatives, as well as a copy of his proposed proclamation in relation to such foreign trade agreement and a statement of his reasons for entering into an agreement providing for modification of duties or other import restrictions, or the imposition of additional import restrictions, together with a statement of his reasons as to how such foreign trade agreement in view of such modification, imposition, or continuance in excess of the limits reported by the Tariff Commission will, in the judgment of the President, serve the interests the interests of United States producers and workers and as to why the proposed proclamation or proclamations are necessary to carry out such foreign trade agreement; and*

(iii) *only if between the date of delivery of the agreement to the Senate and to the House of Representatives and the expiration of the 120-day period referred to in subsection (d), neither the Senate nor the House of Repre-*

sentatives has adopted a resolution by an affirmative vote of the yeas and nays of a majority of a quorum of that house, stating that it disapprove of the foreign trade agreement, or that it disapproves of that portion of the foreign trade agreement in which the President proposes to make modification, or to impose, or to continue, import restrictions, in excess of the limits specified by the Tariff Commission in its report to the President. For purposes of this section in the computation of the 120-day period, there shall be excluded the days on which either house is not in session because of adjournment of more than three days to a day certain, or an adjournment of the Congress sine die. The notices referred to in this section and the documents referred to in this section shall be delivered to both houses of the Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House of Representatives is not in session and to the Secretary of the Senate if the Senate is not in session.

The bill at Section 131(c) permits but does not require that the Tariff Commission will investigate and supply to the President its advice with respect to articles which would be affected by provisions of a trade agreement entered into by the President which proposes the reduction, harmonization, or elimination of nontariff barriers to trade.

The Tariff Commission's advice is no less important with respect to such changes than it is in regard to proposed modifications in import duties, the continuance or modification of other import restrictions, customs or excise treatment. Accordingly, it is proposed that the bill be further amended by adding a new section to specify the obligations of the Tariff Commission with respect to such proposed changes. The following language is recommended:

"SEC. 131(B). TARIFF COMMISSION ADVICE AS TO PROPOSED MODIFICATION IN NONTARIFF BARRIERS TO TRADE.—(a) Before entering into negotiations concerning any proposed foreign trade agreement under section 103(d), the President shall furnish the United States Tariff Commission with a list of all articles imported into the United States to be considered for possible modification of domestic law alleged by countries which are the principal suppliers of such articles imported into the United States to be nontariff barriers which are to be considered for possible modification pursuant to intended negotiations in any proposed foreign trade agreement. The list shall identify the particular provisions of domestic law alleged by principal suppliers of U.S. imports to be nontariff barriers to U.S. imports and the type of modification which such countries have requested or which the President proposes to consider in the course of negotiations for such proposed foreign trade agreement. On receipt of such list, the Commission shall make such investigation and report to the President the findings of the Commission with respect to each such article as to (1) the extent to which such provisions of domestic law may be modified in the manner requested by principal suppliers of the imported articles, or in the manner proposed by the President, without causing or threatening serious injury to the domestic industry producing like or directly competitive articles; and (2) if modification in such provisions of domestic law, not requested by principal suppliers, or not proposed by the President, are required to avoid serious injury to the domestic industry producing like or directly competitive articles, the substance of the modifications so required. Such reports shall be made by the Commission to the President not latter than six months after the receipt of such lists by the Commission. No such foreign trade agreement shall be entered into until the Commission has made its report to the President or until the expiration of the six-month period.

"(b)(1) In the course of any investigation pursuant to this section, the Commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings. If in the course of any such investigation the Commission shall find with respect to any article on the list upon which a modification of existing domestic law alleged to be a nontariff barrier is proposed that a further or different type of modification is required in comparison with that requested by the principal supplier of such imported article or proposed for consideration by the President in such foreign trade agreement, in order to avoid serious injury to the domestic industry producing like or directly competitive articles, the Commission shall give specific advice to the President with regard to the substance of the modifications required to avoid such actual or threatened injury.

"(2) *In each such investigation the Commission shall to the extent practicable determine the extent to which a modification of duties and other import restrictions, the imposition of additional import restrictions, or the continuance of existing customs or excise treatment is required or appropriate to avoid serious injury to the domestic industry producing like or directly competitive articles in the event that the provisions of domestic law alleged by principal supplying nations of such imported articles to be nontariff barriers to such imports, or proposed for modification by the President in such foreign trade agreement, are accordingly changed. The Commission shall request the Executive departments and agencies for information in their possession concerning prices and other marketing and economic data pertinent to such imported articles as sold in the United States in competition with the like or directly competitive imported articles, and as sold in the markets of the principal supplier foreign country in competition between the products of such country and exports from the United States of the like or directly competitive article.*"

"(c) (1) *Within 30 days after any trade agreement under section 103 has been entered into which, when effective—*

(i) *will require or make appropriate any modification in domestic law alleged by the principal supplier of an article subject to such domestic law to be a nontariff barrier to imports, or acknowledged by the President to have such status, which modification differs from or exceeds the limit to which such modification may be made without causing or threatening serious injury to the domestic industry producing like or directly competitive articles as found and reported by the Tariff Commission under subsection (a); or*

(ii) *will fail to require or make appropriate the minimum increase in duty or additional import restrictions required to be made in conjunction with such modification of domestic law applicable to the imported article to avoid such injury, as found and reported by the Tariff Commission under subsection (a);*

the President shall transmit to Congress a copy of such trade agreement together with a message accurately identifying the article or articles with respect to which such limits or minimum requirements are not complied with, and stating his reasons for the action taken with respect to such article. The President is not authorized to issue a proclamation or order effecting the proposed modification of such domestic law as provided in such trade agreement unless such proclamation or order would be valid under the provisions of paragraph (2) of this subsection.

"(2) *Proclamations or orders issued pursuant to this subsection shall be valid—*

(i) *only if the President has given notice to the Senate and to the House of Representatives of his intention to utilize this procedure, such notice to be given at least 120 days in advance of his entering into an agreement providing for the modification of domestic law alleged by a principal supplier country to be a nontariff barrier to U.S. imports of such article, or conceded by the President to have such status;*

(ii) *only after the expiration of 120 days from the date on which the President delivers a copy of such agreement to the Senate and to the House of Representatives, as well as a copy of his proposed proclamation or order in relation to existing domestic law, and a statement of his reasons as to why he has determined to exceed the limit to which the substance of such domestic law could be modified, without causing or threatening serious injury to the domestic industry producing a like or directly competitive article, and why he has refrained from providing in such trade agreement for the modification of duties or other import restrictions, the imposition of additional import restrictions, or the continuance of existing customs or excise treatment, which the Tariff Commission found and reported to the President to be necessary in order that such modification in domestic law as is alleged by the principal supplier nation of U.S. imports of such article to constitute a nontariff barrier to such imports, or which is conceded by the President to have such status, can be carried out without causing or threatening serious injury to the domestic industry producing the like or directly competitive article; and*

(iii) *only if between the date of delivery of the agreement to the Senate and to the House of Representatives and the expiration of the 120-day period referred to in this section, neither the Senate nor the House of*

Representatives has adopted a resolution, by an affirmative vote of the yeas and nays of a majority of the authority membership of that house, stating that it disapproves of the agreement. For purposes of this subsection, in the computation of the 120-day period, there shall be excluded the days on which either house is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die. The notices referred to in this subsection and the documents referred to in this subsection shall be delivered to both houses of the Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House of Representatives is not in session and to the Secretary of the Senate if the Senate is not in session."

OTHER ADVICE TO THE PRESIDENT

Sections 132–135 of the bill undertake to describe sources of advice to the President other than the Tariff Commission in regard to the items to be considered the subject of negotiations in a trade agreement. Except as to the bill's more specific instructions as to the establishment of advisory committees, the bill carries forward the substance of the 1962 Act's approach in which the public was given the opportunity to present views to an agency which conducted public hearings. The views could relate either to the advisability of making trade agreement concessions on listed articles or, alternatively, the advisability of including in the negotiations articles which are not listed.

The difficulty with the 1962 Act's procedure, however, is that these hearings were conducted by comparatively low level officials of the Executive Departments who were not themselves responsible for recommending to the President the articles on which he should act and the extent of the concessions which he should grant or seek. Further, the 1962 Act's procedure had the additional shortcoming that it did not involve in the public hearings the persons who would comprise the delegation of U.S. negotiators who would in fact carry on the trade agreement negotiations for the President. All that the President or these policymaking and negotiating persons would receive was a summary of what was presented at the public hearings. That summary itself was prepared by persons who essentially were clerks, not policymakers, and certainly not negotiators.

The result was that the views presented had very little impact on the judgment of those making the recommendations to the President, upon the President himself in authorizing the scope of the negotiations, and upon the persons conducting the negotiations. In short, the elaborate procedure and time-consuming effort devoted to these public hearings were essentially a sham which kept a great many people very busy but served little or no useful purpose so far as having an impact on the negotiations.

Accordingly, a somewhat more refined approach is called for than that set forth in the bill. It is recommended that Section 133 of the bill be revised as follows:

"*SEC. 135. CONSIDERATION OF VIEWS OF INTERESTED MEMBERS OF THE PUBLIC BY THE PRESIDENT.—(a) In connection with any proposed trade agreement, the President shall afford an opportunity for any interested person to present his views concerning any article on lists forwarded by him to the Tariff Commission pursuant to sections 131(a) and 131(b), any article which should be so listed, any concession which should be sought by the United States, or any other matter relevant to such proposed trade agreement. For this purpose, the President shall designate an agency or an interagency committee which shall, after reasonable notice, hold public hearings, shall prescribe regulations governing the conduct of such hearings, and shall furnish the President with a summary of such hearings. The members of such agency or interagency committee holding such hearings shall include as members of the hearing panel the persons charged by the President with the responsibility of recommending to him, the articles which should be the subject of offers referred to in sections 131(a) and 131(b), and those persons who shall comprise the United States delegation for the conduct of the negotiations for such proposed trade agreement.*

(b) The Special Representative for Trade Negotiations shall, in the performance of his functions under section 141, seek information and advice with respect to each negotiation from representatives of industry, agriculture, and labor, and from such agencies as he deems appropriate. In addition, the Special Representative shall accredit representatives selected by each industry whose products are like or competitive with the imported articles which are the subject of trade

agreement negotiations and from the labor organizations representing the workers in such industries, as advisers to the United States delegation for such trade agreement negotiations. The Special Representative shall accord such accredited representatives full opportunity to advise and consult with the United States negotiators during the course of such negotiations. The Special Representative and his delegates, including the United States negotiators of such trade agreements, shall give full consideration and due weight to the advice of such accredited representatives.

III. Relief From Import Injury

TARIFF COMMISSION INVESTIGATION

The Acting Chairman of the Ways and Means Committee declared during the debate in the House that a basic purpose of the bill "is trade reform domestically and internationally." (*Ibid.* p. H 10927) He stated that "to assure job opportunities for American workers * * * when temporary import restraints are needed to provide relief to industries and their workers who are seriously disadvantaged by injurious import competition, timely and effective relief will be available." (*Ibid.*) Further, he declared that next to the economic growth that would be generated by expanding world trade, "The next greatest contribution that can be made to job opportunities is by assuring our own producers that they can continue to produce in the United States and survive competitively." (*Ibid.*)

Regrettably, the provisions of the bill pending before the Committee do not match this declared purpose.

Section 201(a)(1)

Section 201(a)(1) of the bill refers to import relief "for the purpose of facilitating orderly adjustment to import competition" and requires a petition for relief to include a statement of "the specific purposes for which import relief is being sought, which may include such objectives as facilitating the orderly transfer of resources to alternative uses and other means of adjustment to new conditions of competition." This language is quite direct in transmitting the intention not to favor any form of relief for industries where existing conditions of competition created by trade agreement concessions in the past have stimulated imports to the extent that at present or in the foreseeable future serious injury will occur to the industry and its workers regardless of their relative efficiency as judged by contemporary management and production technology applicable to their line of product.

The key guideline for relief was modified by the House so as seemingly to impose a standard less harsh than had been proposed by the Administration. Thus, Section 201(b)(1) of the bill makes the key test which must be applied by the Tariff Commission in an investigation, "whether an article is being imported into the United States in such increased quantities as to be a *substantial* cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article." (emphasis added)

The Administration had proposed the word "primary" where the word "substantial" appears in the foregoing quotation. The words "substantial" or "primary" respectively were intended by the House and the Administration to convey the notion that the conditions for relief are being relaxed by changing the language from the requirements of the Trade Expansion Act of 1962. Section 301(b)(1) of that Act requires a determination by the Commission that as a result "in major part" of concessions granted under trade agreement, an article is being imported in such increased quantities as to cause or threaten serious injury to a domestic industry. As specified in paragraph (3) of that subsection, increased imports shall be considered to cause or threaten serious injury when the Commission finds that they have been "the major factor" in causing or threatening such injury.

It is true that the omission of the preliminary requirement of showing that increased imports are due "in major part" to concessions granted under trade agreements will eliminate one of the bases upon which the Commission has frequently denied relief to domestic industries, firms, and workers seeking relief under the Tariff Adjustment and Other Adjustment Assistance Title of the 1962 Act. But a significant stumbling block in these cases has also been the necessity for the petitioner to prove that the increased imports have been "the major factor" in causing or threatening serious injury. Shifting from a conceptual test of "the major factor" to "a substantial cause" is virtually a distinction without a difference as that term is defined in Section 201(b)(4) as "a cause which is important and not less than any other cause."

The new test in the bill will still require the petitioner to carry the burden of sorting out of a number of economic circumstances which contribute to a state of injury the solitary effect of increased imports in a quantitative array which denominates the causation flowing from increased imports as being as important and as significant as any other cause. In practical terms this is extremely difficult to do, not only because of the inherent difficulty of isolating imports out of a galaxy of economic forces which at any moment of time coalesce to produce an effect upon the pace of economic activity of a particular industry, but also because of the freedom of the six individuals who at any moment of time fill the positions of Tariff Commissioners to place their own interpretation upon the quantitative and qualitative requirements of proof to denominate increased imports as a cause as important as any other cause of injury.

The "substantial cause" test could scarcely be met in view of the instructions contained in subsection (b), paragraph 2, which directs that in making its determination regarding substantial cause, the Tariff Commission is obliged to take into account all factors it considers relevant, without being limited to those specified in paragraphs A, B, and C of the subsection. How could a domestic industry petitioner carry the burden of proving that increased imports are a cause not less important than any other cause when there is no limitation as to the factors which the Commission may consider as "causes" in its investigation?

In order to correct these deficiencies in the concept of the bill concerning the scope of the Tariff Commission's investigation in cases of import relief, it is recommended that Section 201 be revised to read as follows:

"*SEC. 201. INVESTIGATION BY TARIFF COMMISSION.—(a)(1) A petition for eligibility for import relief may be filed with the Tariff Commission by a trade association, firm, certified or recognized union, or a group of workers, which is representative of an industry.*

"*(2) Whenever a petition is filed under this subsection, the Tariff Commission shall transmit a copy thereof to the Special Representative for Trade Negotiations and the agencies directly concerned.*

"*(b)(1) Upon the request of the President or the Special Representative for Trade Negotiations, upon resolution of either the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives, upon its own motion, or upon the filing of a petition under subsection (a)(1), the Tariff Commission shall promptly make an investigation to determine whether an article is being imported into the United States in such increased quantities as to cause or contribute to serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported article, or to its workers.*

"*(2) In each investigation under this subsection in which it is requested to do so pursuant to the petition, request, or resolution referred to in subsection (b)(1), or or its own motion, the Tariff Commission shall determine whether there exists a condition of market disruption as defined in subsection (f) below. If the Tariff Commission finds serious injury, or the threat thereof, a finding of market disruption shall constitute prima facie evidence that increased quantities of imports of the like or directly competitive article have caused or contributed to such* injury or threat thereof.

"*(c) In the course of any proceeding under subsection (b), the Tariff Commission shall, after reasonable notice, hold public hearings and shall afford interested parties an opportunity to be present, to present evidence, and to be heard at such hearings. Absent illness or other incapacity, it shall be the duty of each member of the Commission to be present throughout the course of such public hearings.*

"*(d)(1) The Tariff Commission shall report to the President its findings under subsection (b) and the basis therefor, and include in each report any dissenting or separate views. The Commission shall determine the extent to which an increase in the tariff, or the imposition of quotas, or both, are required to correct such injury or threat thereof. The Commission shall also furnish to the President along with its report a transcript of the hearings and any briefs which may have been submitted in connection with each investigation.*

"(2) The report of the Tariff Commission of its determination under subsection (b) and of the amount of tariff increase, imposition of quotas, or both, which is required to correct serious injury or the threat thereof, shall be made at the earliest practicable time, but not later than three months after the date on which the petition is filed (or the date on which the request or resolution is received or the motion is adopted, as the case may be), unless prior to the end of the three-month period the Tariff Commission makes a finding that a fair and thorough investigation cannot be made within that time and publishes its finding in the Federal Register. In such cases, the period within which the Tariff Commission must make its report shall be extended by three months.

"(3) Upon making its report to the President, the Tariff Commission shall also promptly make it public (with the exception of information which the Commission determines to be confidential) and have a summary of it published in the Federal Register.

"(e) No investigation for the purposes of this section shall be made with respect to the same subject matter as involved in a previous investigation under this section unless one year has elapsed since the Tariff Commission made its report to the President of the results of such previous investigation.

"(f) For the purposes of this section, a condition of market disruption shall be found to exist whenever a showing has been made that imports of a like or directly competitive article are substantial, that they are increasing rapidly both absolutely and as a proportion of total domestic consumption, and that they are offered at prices either substantially below those of comparable domestic articles or at prices approximately the same as those of comparable domestic articles which have been depressed to that level due in whole or part to the pressure of the prices of the imported article.

"(g) Any investigation by the Tariff Commission under subsection (b) of Section 301 of the Trade Expansion Act of 1962 (as in effect before the date of the enactment of this Act) which is in progress immediately before such date of enactment shall be continued under this section in the same manner as if the investigation had been instituted originally under the provisions of this section. For purposes of subsection (d)(2), the petition for any investigation to which the preceding sentence applies shall be treated as having been filed, or the request or resolution as having been received, or the motion having been adopted, as the case may be, on the date of the enactment of this Act.

"(h) If, on the date of the enactment of this Act, the President had not taken any action with respect to any report of the Tariff Commission containing an affirmative determination resulting from an investigation taken by it pursuant to section 301(b) of the Trade Expansion of 1962 (as in effect before the date of the enactment of this Act), such report shall be treated by the President as a report received by him under this section on the date of the enactment of this Act."

PRESIDENTIAL ACTION AFTER INVESTIGATIONS—IMPORT RELIEF

Sections 202 and 203 of the bill set forth the options available to the President following his receipt of a report from the Tariff Commission containing an affirmative finding that increased imports have caused serious injury to a domestic industry. The bill in its present form expresses a clear intent not to make available relief from injurious imports to a domestic industry in the form of increased tariffs or the imposition of quotas except in the rare event that the President and his advisors were to conclude that "adjustment assistance" for the workers and firms in the industry would not promote the transfer of equivalent job-creating resources to non-import impacted production activities.

Furthermore, even in the rare event that the President were to take affirmative action on a Tariff Commission finding of the need for an increase in duties or the imposition of the quota, the bill would allow such relief to remain in effect for only five years and requires that the quantum of relief be phased out commencing in the third year in which it would be in effect. Under this scheme, the promise of the House leadership that domestic producers can continue to produce in the United States and survive competitively could not possibly be honored by the administration of the Act under its guidelines for import relief.

Accordingly, the Council recommends that Sections 202 and 203 be revised to read as follows:

"SEC. 202. PRESIDENTIAL ACTION AFTER INVESTIGATIONS.—(a) After receiving a report from the Tariff Commission containing an affirma-

tive finding that increased imports have been the cause of or have contributed to serious injury or threat thereof under section 201(d) with respect to an industry, the President shall—

(1) provide import relief for such industry in accordance with section 203; and

(2) direct the Secretary of Labor to give expeditious consideration to petitions for adjustment assistance for workers in the industry concerned.

"(b) Within 60 days after receiving a report from the Tariff Commission containing an affirmative finding under section 201(b), the President shall publish a proclamation providing import relief pursuant to section 203: Provided, That in the event the Tariff Commission was equally divided in its finding, the President shall act within 120 days. If the President does not favor the grant of the relief determined to be necessary by the Tariff Commission, he shall nevertheless take such action but simultaneously with his proclamation making such relief effective, submit a report to the House of Representatives and to the Senate stating the considerations on which his views are based.

"(c) The President may, within 45 days after the date on which he receives an affirmative finding of the Tariff Commission under section 201(b) with respect to an industry, request additional information from the Tariff Commission. The Tariff Commission shall as soon as practicable, but in no event more than 60 days after the date on which it receives the President's request, furnish additional information with respect to such injury in a supplemental report. For purposes of subsection (b), the date on which the President receives such supplemental report shall be treated as the date on which the President received the affirmative finding of the Tariff Commission.

"SEC. 203. IMPORT RELIEF.—(a) If the Tariff Commission makes a determination of serious injury or the threat thereof—

(1) the President shall issue a proclamation providing for the increase in, or imposition of, any duty or other import restriction on the article causing or threatening to cause serious injury to such industry as found by the Commission to be necessary to remedy such injury or threat thereof; and

(2) within 180 days of the Commission's report, the President may negotiate orderly marketing agreements with foreign countries which when made effective by proclamation by the President will limit the export from foreign countries and the import into the United States of the article causing or threatening to cause serious injury to such industry consistent with the limitations on imports found by the Commission to be appropriate to remedy the serious injury or threat thereof to the domestic industry.

"(b) Import relief provided pursuant to subsection (a) shall become initially effective no later than 60 days after the President's proclamation is published providing for such import relief, except that the applicable period within which import relief shall be initially provided shall be 180 days if the President announces at the time of his proclamation his intent to negotiate one or more orderly marketing agreements pursuant to subsection (a)(2) of this section.

"(c) In order to carry out an agreement concluded under subsection (a)(2), the President is authorized to issue regulations governing the entry or withdrawal from warehouse of articles covered by such agreement. In addition, in order to carry out one or more agreements concluded under subsection (a)(2) among countries accounting for a significant part of United States imports of the article covered by such agreement, the President is also authorized to issue regulations governing the entry or withdrawal from warehouse of the like articles which are the product of countries not parties to such agreement.

"(d) Whenever the President has acted pursuant to subsection (a)(1) or (2), he may at any time thereafter while such import relief is in effect, negotiate orderly marketing agreements with foreign countries, and may, upon the entry into force of such agreements, suspend or terminate, in whole or in part, such other actions previously taken: Provided that, the limitations on exports from foreign countries and imports into the United States of the article causing or threatening to cause serious injury, which is the subject of the import relief, are consistent with the limitations on imports found by the Tariff Commission to be appropriate to remedy the serious injury or threat thereof to the affected domestic industry.

"(e)(1) So long as any import relief pursuant to this section (including any orderly marketing agreements) remains in effect, the Tariff Commisison shall keep under review developments with respect to the industry concerned and

upon request of the President shall make reports to the President concerning such developments.

"(2) *Annually, the Tariff Commission shall report to the President its findings as to the probable economic effect on such industry of a termination of the import relief as well as the progress and specific efforts made by the firms in the industry concerned to adjust to import competition during the period of the Tariff Commission's review.*

"(3) *Advice by the Tariff Commission under subsection (e) shall be given on the basis of an investigation during the course of which the Tariff Commission shall hold public hearings at which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard.*"

ADJUSTMENT ASSISTANCE FOR WORKERS

This chapter of the bill carries forward the system under which workers made unemployed or underemployed by increased imports were, upon a finding of serious injury caused by increased imports, made eligible for certain benefits in the form of extended unemployment compensation and retraining allowances. This is the notion of "adjustment assistance" which was enacted into law for the first time in the Trade Expansion Act of 1962. As of March 31, 1974, of the 98,559 workers who have petitioned for such assistance, 54,076, or 55%, were denied such relief in proceedings held by the Tariff Commission and the Secretary of Labor.

The vice of this remedy is that it accepts as a matter of principle that the President's authority to negotiate trade agreements and subsequent to their negotiation, to enforce U.S. rights under such trade agreements, will be used in such manner as necessarily to cause the loss of American jobs. American working men and women prefer to have a job at which they can be gainfully employed rather than to receive extended payments from the Government for not working due to causes created by the Government.

While an argument can be made for the fact that workers who have been displaced by Governmental action should receive special assistance from the Government, the argument proves too much because it accepts as inevitable the proposition that authority delegated to the President for the purpose of benefiting "all American workers" must somehow be used so as to destroy the means of livelihood of substantial numbers of workers. The very existence of this authority acts as a soporific upon the conscience of those members of the Executive Branch of the Government who exercise the authority to negotiate trade agreements and to apply a variety of remedies which are designed to enforce U.S. rights under trade agreements.

The sad fact is that the manner in which the trade agreements authority has been used, particularly since World War II, is most unfortunate because it has seriously weakened the capability of a broad cross section of industry to maintain investment and employment for the production of manufactured goods in the United States.

In this testimony, the Trade Relations Council is recommending revisions in the bill which by their nature would safeguard against the excesses in trade agreement negotiations committed by past Administrations, while requiring a more forthright and zealous enforcement of U.S. rights under existing trade agreements.

A period of time will be required under the authority of the bill as amended pursuant to the Council's recommendations for the United States to move from its present position of peril resulting from the unwise tariff concessions granted in the past to a position of strength in which it exacts fully reciprocal trading opportunities from the nations that are the beneficiaries of U.S. tariff concessions and the vigorous enforcement of such U.S. rights through the use of the variety of remedies which have been provided to the President to counteract discrimination and the impairment of U.S. trade agreement rights. During this period of transition it will be the unfortunate fact that many workers will continue to be injured by increased imports. Accordingly, the adjustment assistance program for workers needs to be continued in operation during the transition period from the type of trade agreements program we have experienced in the past to the more meaningful type of program which would result from the adoption of the amendments offered by the Council to the bill. *Therefore, the Council offers no recommendations for change in Chapter 2 of Title II of the bill.*

IV. Conclusion

Both the Administration and the Committee on Ways and Means of the House of Representatives know how to specify a guideline which will be effective in preventing the use of the trade agreement authority from causing significant injury to domestic producers and workers. The fact that they have specified such a guideline in certain portions of the bill, comparatively unimportant to the main thrust of the bill, but have not done so in the sections pertaining to prenegotiation and import relief procedures, manifests a clear intent that the President be allowed to use the vast powers in the bill without regard to any potential injury which such use would cause specific domestic industries and workers; and, further, that he really should not be obliged to come to the aid of such injured industries and workers when his use of the trade agreement authority will have the predictable effect of causing serious injury. Thus, the care with which those who have acted upon the bill to this point have prohibited the President from reducing duties for balance of payments reasons or to restrain inflation where "such action would cause or contribute to material injury to firms or workers in any domestic industry," needs to be exerted also in the principal sections of the bill. In substance, the amendments recommended by the Trade Relations Council would accomplish this objective and make consistent the guidelines limiting presidential action under any of the grants of power set forth in the bill to modify Customs treatment applicable to U.S. imports.

Statement of Eugene L. Stewart, Special Counsel to the Alumina Ceramic Manufacturers Association

Introduction

Mr. Chairman and members of the committee, I am Eugene L. Stewart, Special Counsel to the Alumina Ceramic Manufacturers Association. The Association represents U.S. manufacturers of ceramic articles. The most important part of the product line of these manufacturers consists of ceramic parts used by the electrical and electronic manufacturing industries in the United States. Included in this group of ceramic parts is that alumina ceramic electrical ware used as elements in the "package" or body of semiconductors, especially integrated circuits.

Importers of such ware have opened a loophole in the tariff schedules and as a result thereof, and to the detriment of the American industry, have succeeded in obtaining a duty rate far lower than contemplated by Congress or the Kennedy Round trade negotiators. We request that the bill be amended so as to close that loophole.

The relevant tariff provisions, as they now exist, are as follows:

Tariff Schedules of the United States

Schedule 5, Part 2, Subpart D.

* * * * * * *

Ceramic magnets, ceramic electrical insulators whether or not in part of metal, and other ceramic electrical ware, including ferroelectric and piezoelectric ceramic elements:

Porcelain insulators with metal parts cemented thereto and comprising not less than 30 percent of the weight thereof, used in high-voltage, low frequency electrical systems.

Ferrites

Item 535.14—Other, 30 percent, Original TSUS rate of duty; 15 percent, Current rate of duty.

* * * * * * *

Schedule 6, Part 5.

Part 5 headnotes

1. This part does not cover—

* * * * * * *

(iii) ceramic electrical ware (part 2D of schedule 5): * * *

* * * * * * *

Electronic tube (except X-ray tubes); photocells; transistors and other related electronic crystal components; mounted piezo-electric crystals; all the foregoing and parts thereof:

* * * * * * *

Item 687.60—Other, 12 percent, Original TSUS rate of duty; 6 percent, current rate of duty.

In 1968, this Association secured a Ruling from the Customs Service (then Bureau of Customs) that alumina ceramic base and cap members for semiconductor packages were subject to duty under item 535.14 of the Tariff Schedules of the United States at the then applicable rate of 27% ad valorem. See Exhibit A. But the importers and their foreign suppliers were not daunted by this Ruling. In December 1969 and again in April 1971, they importuned the Customs Service to change the Ruling on the contention that they had altered the nature of the ceramic base and cap members for semiconductor packages by applying a thin glaze of glass to the surface of the ceramic articles.

Even though Customs acknowledged that this glazing did not change the fact that the articles were still composed in chief value of ceramic, it reversed its prior position and issued a ruling holding that alumina oxide base and cap members for semiconductor packages were classifiable under item 687.60, TSUS. See Exhibits B and C.

It is this Customs interpretation that has perpetuated the loophole (resulting in an unwarranted current 9% duty savings to importers) that we ask the Committee to close. It will be demonstrated in this Statement that said interpretations were erroneously and unlawfully made and have produced a result never contemplated by Congress. The action we request is in the tradition of the Congress established in the case of certain textile imports of revising tariff language to prevent an unintended construction of language contained in our tariff laws to the detriment of domestic producers. Had the current problem been known at the time this Committee did its very constructive work on the Technical Amendments Act of 1965, I have no doubt but that the Committee would have decided on the merits to include in that Act a provision which would close the existing loophole. The Association submits that this tariff anomaly of assessing duty on unglazed ceramic caps and bases at 15% and glazed ceramic caps and bases at 6%, which anomaly has been permitted to exist for over four years, should be terminated by your approval of an amendment to the trade bill, by adding the following new Section 607:

607. CLASSIFICATION OF CERTAIN CERAMIC ARTICLES

"(a) [T]he superior heading to items 687.50, 687.51, 687.60, and 687.61 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended to read as follows:

"Electronic tubes (except X-ray tubes); photocells; semiconductors, including transistors and integrated circuits, and related electronic crystal components; mounted piezoelectric crystals; all of the foregoing and parts thereof:

"(b) Part 5 of schedule 6 of the Tariff Schedules of the United States is amended by the addition of the following item:

"687.55 Parts of semiconductors, in part of ceramics 15 percent ad val, 60 percent ad val.

"(c) The amendments made by subsections (a) and (b) shall apply with respect to articles entered, or withdrawn from warehouse, on or after the date of the enactment of this Act."

THE PRODUCT INVOLVED AND THE AMERICAN INDUSTRY

The subject of this requested amendment is ceramic electrical ware of the type used as packages for integrated circuits of both the monolithic and hybrid types, and of other semiconductors. The family of products known as semiconductors originally consisted of transistors and diodes, but as a result of an explosion of technology in recent years, now includes monolithic and hybrid integrated circuits.

The integrated circuit chip has become the workhorse of the electronic products industry. It is the amazing, tiny, vital valve and current controller and modifier which permits complicated electronic systems such as large computers, desk-top calculators, and radios to be reduced to physical dimensions only a fraction of their former size, yet enables these electronic products to operate at peak efficiency. Today all of the electronic circuitry required for a small electronic calculator can be put on one integrated circuit chip less than one-seventh of an inch in diameter.

These integrated circuit chips, just as the power chips of transistors and diodes before them, must be mounted into packages which will protect them in use, enable them to be handled in assembly operations without damage, seal them against the corrosive effects of humidity, and insulate them from other current-carrying components of electronic products.

The ceramic electrical ware industry in the United States developed a variety of packaging materials for integrated circuits and for other semiconductors. Alumina oxide ceramic, for example, proved to be especially useful in this connection. It is comparatively inexpensive to fabricate; it can readily be molded into the geometric design required as the housing of integrated circuit chips; it is inert electrically and acts as a good insulator for the chip; and it is comparatively strong so as to protect the chip from damage in use.

Basically, these alumina ceramic packaging materials take the form of flat rectangular pieces of material which are molded to the particular geometric design required in order to serve as the base and the cap members of a flat package to house the chip and its connection to the leads of the integrated circuit.

The technology for the manufacture of these parts of packages for semiconductors, including integrated circuits, was developed by the American ceramic products industry in cooperation with members of the US semiconductor industry.

Today there are eight ceramic product plants in the United States which produce alumina oxide ceramic products for use as parts of semiconductors, including integrated circuits. They are located at Golden, Colorado; Riverside, California; West Lafayete, Indiana; Frenchtown, New Jersey; Shreve, Ohio; Sarver, Pennsylvania; Laurens, South Carolina; and Chattanooga, Tennesseee. A ninth plant, in Toledo, Ohio was closed in 1973.

In 1972, these plants shipped about 605 million pieces of ceramic parts for semiconductors, including integrated circuits, valued at approximately $34 million. Thus, the average unit value of these parts is quite small, in the range of about 5.6 cents each. The product range is quite diverse, however, as these components for ceramic packages for semiconductors are made to a variety of sizes and shapes to accommodate integrated circuit chips which employ from a few to a great many leads, demanding varying package configurations.

The alumina ceramic electrical ware plants supplying the semiconductor industry with ceramic packaging materials employed about 1,860 workers in 1972. They are part of the porcelain, steatite, and other ceramic electrical products industry, Standard Industrial Classification 3264. That industry has suffered from losses of sales and of employment in recent years. In 1971, employment was 11,400, the lowest point in any of the years 1967 through 1971, down by 21% from the peak employment in 1969.

In 1972, imports accounted for 8% of domestic consumption (calculated on a dollar value basis) of porcelain and ceramic electrical ware; but in the sector of ceramic electrical ware for semiconductors, imports in 1972 accounted for about 50% of domestic consumption, according to our estimates and an estimate for 1970 made by the Tariff Commission. In other words, the segment of the domestic industry directly affected by the exploitation by foreign producers of the aforementioned tariff loophole has been subjected to preemption of the domestic market in a magnitude six times more severe than that affecting the rest of the industry of which it is a part.

Mr. Chairman, the ceramic product industries in the United States have been more heavily impacted by imports than most other adversely affected U.S. industries. In 1972, the President was constrained to raise the tariff on ceramic table and dinnerware in accordance with Tariff Commission findings that imports equivalent in 1970 to 54% of domestic consumption were severely injuring the domestic industry. Those imports were caused by tariff concessions. The ceramic electrical ware industry supplying package parts for semiconductors is just as severely affected by excessive levels of imports, but in this case the imports have been triggered by the exploitation of a technical loophole in the Tariff Act, an injurious assault unwittingly promoted by erroneous determinations by the Tariff Commission and the Customs Service.

As a result of Customs' reversal or modification of its 1968 Ruling, coupled with the staged rate reductions of the Kennedy Round, the duty on glazed ceramic caps and bases was reduced from 27% in 1968 to 6%, the current rate applied. Thus, importers of ceramic package elements for semiconductors were afforded a reduction in duty of approximately 75%, which is equivalent to a reduction in landed costs of 21% ad valorem. But for the unfortunate 1969 and 1971 Customs Rulings, which were erroneous as a matter of procedural as well as substantive law (discussed, *infra*), the rate of duty would not have descended below 15%. [That there is no real or functional difference between glazed or unglazed ceramic caps and bases was made abundantly clear to Customs in my letter of July 2, 1969. See Exhibit D.]

In 1970, the average unit value of imports of ceramic electrical ware of the type used as packaging for semiconductors was 4.5 cents each. This converts to an f.o.b. origin value of 3.5 cents each. The 21% ad valorem windfall conferred upon the importers is equivalent to approximately 1 cent. This added amount of leverage in competing for the sale of such products in the United States has proved to be decisive. It is responsible for the escalation of imports from a very small position a few years ago to half of the market today.

Any suggestion on the part of the semiconductor industry in the United States that this proposed amendment of the bill would constitute a serious economic hardship to the U.S. producers of integrated circuits cannot withstand careful scrutiny. The amendment, while carrying out, incidentally, a much-needed reform in the presently unclear language of the superior heading to item 687.60, TSUS, would clarify the dutiable status of ceramic parts of semiconductors and make them subject to the reduced rate of duty of 15% ad valorem. This is far below the 27% duty which was in effect prior to the events which I have described.

The semiconductor industry has a stake in this proposed amendment on the positive side because the present tariff language does not refer to either semiconductors or integrated circuits. There is, in fact, a serious question as to whether such articles are properly classifiable for duty under the provisions of item 687.60, the reduced duty of which is favorable to U.S. semiconductor companies who assemble a very large part of their products outside of the United States and import them into this country for sale here. To the extent that the proposed amendment eliminates doubt as to the proper classification of such products, it is consistent with the economic interests of the semiconductor industry.

The magnitude of the increased cost to the semiconductor manufacturers represented by changing the duty from 6% to 15% is quite small in terms of the value of their products, though it is important enough to be of help to the small group of producers who manufacture ceramic electrical ware in the United States. To illustrate this, I call attention to the fact that in 1972 the U.S. industry producing integrated circuits shipped 770 million units valued at $718 million, an average unit value of 93 cents each. The cost of the ceramic packaging elements for these integrated circuits at an average of 5.6 cents each represented only 6% of the value of the finished unit. When the 9% increase in duty which would result from the adoption of the proposed amendment is applied to the f.o.b. origin value of 3.5 cents for the ceramic packaging materials which I am discussing, the increase in duty will amount to only 0.3 cent. The landed cost of the foreign product would then be about 4.1 cents each, leaving the foreign product still with a significant competitive advantage of nearly 1.6 cents apiece over the domestic product.

There is simply no basis for regarding such a moderate increase in duty as imposing any hardship on U.S. semiconductor producers who desire to import their ceramic packages rather than purchase them from the small group of domestic producers who pioneered in their technological development.

Furthermore, Mr. Chairman, the great bulk of the production of the integrated circuits sold by the U.S. industry is carried out in plants owned by the U.S. companies but located outside of the United States. In 1972, there were imported into the United States from these plants, with partial exemption from duty under the provisions of items 806.30 and 807.00 of the Tariff Schedules of the United States, 538.7 million integrated circuits. This quantity is equivalent to 70% of the volume of integrated circuits sold by the U.S. producers in that year. See the charts appended as Exhibits E and F. [Exhibit E reveals that 538.7 million integrated circuits were imported in 1972 under the American goods returned provisions; Exhibit F reveals that the total number of 1972 U.S. sales (including those 538.7 million) was 770 million.]

In connection with these imports, it is very important that you understand that 54% of the declared value of the imported integrated circuits consisted of component parts previously fabricated in the United States which were exported to the offshore plants of the U.S. producers for use in the assembly of the imported integrated circuits. See Exhibit E. The domestic producers receive an exemption from duty on this U.S. content of their imported integrated circuits. If the price of domestically produced alumina ceramic packaging elements for integrated circuits can be close enough to the landed cost of foreign-produced ceramic packaging elements, the duty-free treatment available to U.S. producers who use the American product in their offshore assembly enables us to compete even though the foreign product is nominally lower priced. But if the spread between the domestic and foreign price becomes too great, there is no longer an advantage for the U.S. integrated circuit producers to purchase the American product for export to their offshore assembly plants. This competitive differential which enables the domestic producers of ceramic packaging elements to compete with the foreign product was destroyed by the discovery and exploitation of the previously described loophole in the tariff law by the foreign producers.

At the most, the requested amendment will restore less than half of the tariff protection which the domestic producers of ceramic electrical packages for semiconductors enjoyed in 1968 but lost subsequent thereto as a result of the interaction of the Customs Rulings and the exploitation of this technical loophole by the foreign producers and their importer customers.

LOOPHOLE IS THE RESULT OF AN ERROR MADE BY THE TARIFF COMMISSION AND CONTINUED BY THE CUSTOMS SERVICE

The proposed amendment of the bill seeks to correct an error made by the Tariff Commission, which has been enforced by the Bureau of Customs, in imports directly competitive with a new article of commerce, electrical ware in the form of base and cap members for semiconductors and integrated circuits, consisting in chief value but not wholly of ceramic.

The article in question is composed in chief value of ceramics, a fact acknowledged by the Customs Service in its letter of December 3, 1969, reference MCS 444.213 R (Exhibit B), p. 2, par. 5.

The article consists of flat rectangles of alumina oxide ceramic, one surface of which has been lightly coated with glass frit. Some versions of the article also have a gold dot in a cavity in the upper surface of the base member. The value of the glass frit and of the gold dot is less than the value of the ceramic material incorporated in the finished article. Under settled judicial construction, this makes the ceramic the component material in chief value. The value of the ceramic is greater than the value of the glass frit and of the gold dot taken at the stage to which the materials must be brought just prior to their final assembly into the finished product. *United States* v. *Bernard, Judae & Company,* 15 Ct. Cust. App. 172, T.D. 42231; *United States* v. *Rice-Stix Dry Goods Co.,* 19 C.C.P.A. (Customs) 232, T.D. 45337; *United States* v. *H. A. Caesar & Co.,* 32 C.C.P.A. (Customs) 142, C.A.D. 299; *United States* v. *Jovita Perez,* 44 C.C.P.A. (Customs) 35, C.A.D. 633.

Under the Tariff Act of 1930, electrical ware, in chief value of ceramic, was dutiable at 45% under Par. 212 as articles composed wholly or in chief value of vitrified ware, not specially provided for, *rather than* as parts of electrical hardware at *12½% or 10% under Par. 353.* T.D. 54717 (17) (1958).

> T.D. 54717 (17) *Capacitor, ceramic,* in chief value of a titanium compound ceramic core is classifiable as vitrified ware, not specially provided for, not containing 25 percent or more of calcium bone, under paragraph 212, Tariff Act of 1930, as modified. Capacitors in chief value of metal classifiable as articles suitable for producing, rectifying, modifying, controlling, or distributing electrical energy, under paragraph 353. Bureau letter dated October 13, 1958.

As of the date the new Tariff Schedules of the United States went into effect, the difference in duty between classification of ceramic electrical ware under Par. 212 vs. 353 was 33½% to 35% (45% under Par. 212 vs. 12½% or 10% under Par. 353).

Because of this great difference in duty, the Tariff Commission excluded "ceramic electrical ware" from the scope of the provisions for Electrical Machinery and Equipment (Part 5, Schedule 6) in the new Tariff Schedule of the United States. Thus, the Part 5 headnotes specified:

"1. This part does not cover—

* * * * * * *

(iii) ceramic electrical ware (part 2D of schedule 5)"

The intent to exclude ceramic electrical ware from the provisions for electrical and electronic articles in Part 5 of Schedule 6 is shown by the notes as to the derivation of the rates applicable to the classifications provided in Part 5, Schedule 6. Par. 212 is not shown in a single instance as being included in the antecedent provisions whose contents were intended by the Tariff Commission to be subsumed into the new classification provisions for electrical machinery and equipment. (See Vol 8, Schedule 6, pages 296–301, Tariff Classification Study.)

Further, The Tariff Commission's explanatory materials concerning the provisions for "Industrial Ceramics" in Part 2D, Schedule 5 of the new Tariff Schedules show that the Commission intended to deposit the entire contents of former Par. 212 therein, so far as ceramic electrical ware is concerned. The first classification provision in that part includes ceramic electrical ware, using language which on its face is all embracing:

"Ceramic magnets, ceramic electrical insulators whether or not in part of metal, and other ceramic electrical ware, including ferroelectric and piezoelectric ceramic elements:

535.11 Porelain insulators, with metal parts cemented thereto and comprising not less than 30 percent of the weight thereof, used in high-voltage, low-frequency electrical systems.

535.12 Ferrites.

535.14 Other.

The intended all-inclusive scope of Part 2 of Schedule 5 (of which Subpart D is a part) was emphasized by the Commission in its Explanatory Notes to the Tariff Classification Study. Thus, it stated:

"Part 2 of schedule 5 brings together practically all ceramic products. These are now covered primarily by paragraphs * * * 212 * * * in the present schedule 2 of the Tariff Act of 1930. Also included in part 2 of schedule 5 are those relatively few ceramic articles from paragraphs 353 * * *." (Vol. 7, Sch. 5, p. 75)

The Commission specifically referred to nonclay ceramics such as "pure oxide articles" [the articles in question under H. R. 7905 are of alumina oxide], and the fact that it had become the practice to classify such nonclay ceramics under par. 212 as "other vitrified wares" (p. 77).

In its Explanatory Notes to Subpart D of Part 2, Schedule 5, the Commission referred to the fact that nonclay ceramics were being classified as "other vitrified wares" under par. 212 at 45% ad valorem. The Commission thought the "nonclay" vs. "clay" concept to be an anomaly. These were other practices established by Customs Court rulings or Bureau of Customs practice which the Commission thought to be anomalous. In its Explanatory Notes, after describing these matters, the Commission indicated its intent to eliminate such anomalies by merging these various practices into its provisions for Industrial Ceramics in Subpart D at the rates applicable to the preponderant bulk of imports.

For "ceramic electrical ware" the Commission chose the rate of 30%, down sharply from the 45% rate theretofore applying to such produtcs. The Commission indicated that Item 535.14 ("other ceramic electrical ware") was derived from Par. 211, 212, 214, and 353. (p. 73). Therefore, the Commission's background materials were consistent with its declared intent to include practically all ceramic articles in Part V of Schedule 5.

But in describing in words the scope so clearly connoted by the background materials, the Tariff Commission erred. Its error consisted in the following. In referring to Item 535.14, the Commission obviously desired to draw a classification dividing line between complete articles connected into electrical circuits in their condition as such, on the one hand, which were to be put into the electrical machinery and equipment provisions in Part 5 of Schedule 6, and ceramic ware used in the manufacture of such end items, which ware was to be put into the Industrial Ceramic provisions of Part 2, Schedule 5. This is what the Commission said:

"Item 535.14 does not embrace switches, fuses receptacles, lamp sockets, resistors and other electrical articles which are to be connected into electrical circuitry. (*These are specifically provided for in part 5 of schedule 6.*) Item 535.14 does not include ceramic wall plates for electric switches, or electric lamp bases; such articles are chiefly used for ornamental purposes, and are in subpart C of this part. With the exception of certain insulators, item 535.14 would cover *for the most part* ceramic articles practically as they come from the final firing, or possibly after subsequent minor processing such as grinding or shiping." [Emphasis added.]

Two things are obvious from that explanation: The ceramic articles taken out of the ceramic schedule and placed in the electrical machinery and equipment schedule are only those articles specifically provided for in Part 5 of Schedule 6. They are finished articles, not parts of articles. So far so good. Ceramic base and cap members for semiconductors or integrated circuits are not specifically provided for in Part 5, Schedule 6, so they remain in Item 535.14.

But then the Commission closed its description with the general statement that "for the most part" the ceramic articles included in Item 535.14 are those articles "practically as they come from the final firing, or possibly after subsequent minor processing."

Notice the words "for the most part." Those words obviously were intended by the Commission at the time they were written to leave open the possibility that other articles—*not* in the condition they were in as they came from the firing, would be covered by Item 535.14. Yet the Customs Service in its classification rulings on the merchandise in question, and the Tariff Commission in its report (Exhibit G) on the predecessor bill treat these words as a universal rule to apply to any article whether or not it is specifically provided for in Part 5 of Schedule 6. Further, both the Customs Service and the Commission ignore the statutory definition of "ceramic articles" which envisages both *glazed* and *unglazed* bodies. See TSUS, Schedule 5, Part 2, Headnote 2(a).

Having reduced the duty on ceramic electrical ware from 45% to 30% by the duty specified for Item 535.14, the Commission now suggests it meant to reduce it still further, to the 12½% or 10% applicable to parts of radios or TV apparatus under Par. 353. Neither the Committee on Ways and Means nor the Congress intended such a drastic change in dutiable treatment when the Commission was empowered to draft new Tariff Schedules, nor does the language of Item 535.14 or its origin plainly require such a drastic result.

The tariff concessions granted by the U.S. in the Kennedy Round reduced the duties from 30% to 15%, and under the provision of Schedule 6 under which the articles in question are now being classified, Item 687.60, to 6%. Thus by a combination of errors committed by the U.S. Tariff Commission either in failing to make its meaning crystal clear in treating with ceramic electrical ware, or in eschewing its pristine intent when confronted with a contrary interpretation by the Customs Service, coupled with Kennedy Round reductions, ceramic electrical ware, in chief value but not wholly of ceramic, has been reduced from 45% to 6% ad valorem. This is a precipitate reduction far greater in magnitude than the maximum which Congress intended that any industry should bear. It impinges on the principal area of growth of the ceramic electrical ware industry, which overall has been egregiously impacted by excessive imports.

Compounding its error, the Customs Service based its 1971 Ruling on language contained in the Customs Court's decision in *Sprague Electric Co., et al.* v. *United States, etc.*, 64 Cust. Ct. 135, C.D. 3972 (1970). That case involved the proper tariff classification of ceramic capacitors. The Court determined that Congress had intended to provide for all electrical capacitors in the provision for electrical capacitors, regardless of component material of chief value; *it also determined that ceramic electrical ware meant electrical ware wholly or in chief value of ceramic*, that the plaintiff had failed to prove the component material of chief value of the imported capacitors, and that, in any event, the legislative history of the provision for "ceramic electrical ware, other" indicated that the articles covered therein are ceramic articles "practically as they come from the final firing, or possibly after subsequent minor processing such as grinding or shaping." Referring to the record before it, the Court concluded:

"[A]fter the firing of the ceramic disc the capacitor is screened with silver paint and then fired after which lead wires are attached and a resin coating is applied. These additions are in our opinion more than "minor processing" and are indicative of the type of article intended to be excluded from Schedule 5 Part 2."

Customs pounced upon the above-quoted language and found in it the basis for affirming its view that ceramic caps and bases upon which a thin glaze had been applied fall outside the scope of item 535.14, TSUS. However, if *Sprague* is to be relied on for resolving the current controversy, it must lead to the opposite conclusion. The Court, in *Sprague*, stated that which Customs doggedly has refused to accept (64 Cust. Ct. at 146): "In our view the phrase 'ceramic electrical ware' has the same meaning as if the provision had read electrical ware of ceramic." "Of ceramic" would mean wholly or *in chief value of* ceramic, according to General Headnote 9(f)(i), TSUS. as the Court recognized. *Ibid.* Thus, the Government's argument in *Sprague* that ceramic electrical ware (with the exception of certain insulators) was restricted to articles that were entirely ceramic was rejected by the Court. See Government's brief, pp. 22–23, in protest No 68/62942 (on file with Customs Court).

Customs has refused to accept this defeat, however. In a paragraph immediately following citation to *Sprague*, the General Counsel of the Treasury voiced his Department's belief "that the provision for ceramic electrical ware was intended to cover only articles wholly of ceramic materials." See Mr. Pierce's letter dated May 24, 1972; Exhibit H. Surely, no objective reading of *Sprague* permits such a conclusion.

In brief, as a result of serious misreadings of the relevant statutes, of the legislative history, and of case law, Customs has developed a classification practice of treating semiconductor components in chief value of ceramic, which have not been glazed, differently from semiconductor components in chief value of ceramic, which have been glazed. In addition to working to the detriment of the American industry, this bifurcation constitutes an affront to logic and the law.

LOOPHOLE IS THE RESULT OF AN UNLAWFUL REVERSAL OF POSITION BY THE U.S. CUSTOMS SERVICE

Section 502(b) of the Tariff Act of 1930, 19 U.S.C. 1502(b) provides:

"(b) No ruling or decision once made by the Secretary of the Treasury, giving construction to any law imposing customs duties, shall be reversed or modified adversely to the United States, by the same or a succeeding Secretary, except in concurrence with an opinion of the Attorney General recommending the same, or a final decision of the United States Customs Court."

It is respectfully submitted that the Customs Service unlawfully, and in violation of the spirit, if not the letter, of Section 502(b), promulgated a ruling which it subsequently reversed or modified adversely to the United States, without the concurrence of the Attorney General or a final decision of the United States Customs Court.

Custom's first ruling, of May 1968 (see Exhibit A), related to ceramic rectangular components of semiconductors—caps and bases—without regard to whether said components were glazed or unglazed. In its ruling of December 1969 (see Exhibit B),[1] Customs, in the absence of a concurring opinion of the Attorney General or a controlling decision of the Customs Court, *reversed*, or at the very least *modified* its prior ruling to the extent that it carved a subcategory out of the category ceramic caps and bases and granted it to different (lower) duty treatment than had been previously ruled appropriate.

It is no answer to say that the unglazed merchandise covered by the second ruling was not identical to the merchandise covered by the first and that, therefore, Section 502(b) would be inapplicable. Such an approach would make it rather simple for Treasury (Customs) to avoid the restraints imposed upon it by Congress—the most minor alteration of an imported article could, applying such logic, remove the article from the ambit of a prior ruling and free Treasury to promulgate whatever ruling it wished, Section 502(b) notwithstanding.

Indeed, even the State Department recognized Customs' action in 1969 as constituting a revocation of its prior ruling, and stated the following (Assistant Secretary Abshire's letter to you, dated May 19, 1972; Exhibit I):

> According to the Department of Customs, a ruling was issued in 1968 classifying these items [caps and bases] as ceramic electrical ware entering under TSUS No. 535.14. However, in 1969 the Bureau of Customs revoked the original ruling and determined that caps and bases which had been glazed should be classified under TSUS 687.60, while unglazed items should continue to enter under 535.14.

The legislative purpose behind the enactment of Section 502(b) was discussed at length by the Customs Court in the case of *Joanna Western Mills Company* v.

[1] This ruling was issued in response to my letter to Customs dated July 2, 1969, in which I attempted to demonstrate the absence of any material difference between the glazed and unglazed ceramic components. See Exhibit D.

United States, etc., 64 Cust. Ct. 218, C.D. 3983 (1970). Noting that the statute had its origin in the Act of March 3, 1875, 18 Stat. 469, the Court made the following observations (*id.* at 223):

* * *. It has remained substantially unchanged, and was designed by the Congress to give "steadiness and permanence to the administration of the Treasury Department." 2 Cong. Rec. 1536 (1874).

* * * * * * *

Both its clarity of language and legislative history leave no doubt that section 502(b) was concerned with the preservation of the public revenues and was designed to protect the United States. 2 Cong. Rec. 2240 (1875). If anyone would question that the purpose was to protect the United States it may be added that at the same time that Congress originally enacted what is now section 502(b), and as part of the same legislation, it also enacted provisions which restricted the power of the Secretary of the Treasury to grant refunds. See 18 Stat. 469. * * *

In an opinion of the Attorney General, dated April 7, 1875, interpreting Section 2 of the 1875 Act (14 Op. Atty. Gen. 559, 562), it was stated that a decision favorable to the United States "* * * must stand and be recognized by the Secretary of the Treasury as the rule to be followed upon the question therein involved until it is reversed or modified as provided in [the statute]." In an opinion rendered more than a half-century later, dated December 27, 1932 (37 Op. Atty. Gen. 34, 41), the Attorney General opined that "[t]he fact that [there are] new considerations not before the Treasury when making the original ruling, now adduced to support its reversal, does not take the case out of [Section 502(b)]." In the last-cited Opinion, the Attorney General *declined* to give his concurrence to a proposed Treasury reversal of position adverse to the United States, for reasons that are quite germane to the situation herein. He stated (*id.* at 42–43):

"* * * what I really have to decide is whether the original Treasury ruling should stand and the importers should be required to institute the litigation to test the question, or whether by administrative withdrawal of the import tax the American producer should be required to act.

"I am of the opinion that the original ruling requiring the payment of the import tax on coal, except where a favorable trade balance exists, should be allowed to stand, so a judicial inquiry may be had on that basis. The method prescribed by law for the importer to protest and litigate is much simpler and more expeditious than the procedure where the American producer is required to act, and will result in a speedier determination of the question. * * *

"Finally, if it should ultimately be determined that the import tax is payable, the Government would be left in a more advantageous position respecting payment of the tax if the earlier rulings imposing it are adhered to."

For some reason, Customs issued its 1969 ruling in disregard of the above considerations as well as the language and spirit of Section 502(b). Although the Customs Court, in *Joanna Western* held that Section 502(b) was directory and that Treasury's noncompliance therewith does not give rise to a cause of action in an aggrieved American manufacturer, the Court also stated (64 Cust. Ct. at 228): "This does not imply that the legislature intended directory provisions to be disregarded." Indeed, the Court noted "the obvious necessity for public officials to comply meticulously with all provisions of law that they are responsible to administer," and expressed the expectation that there would be "punctilious observance" of the laws. *Id.* at 228.

It may be argued that the Customs Ruling of April 1971 (Exhibit C), which reiterated the principle of the 1969 Ruling, post-dated a Customs Court decision, *Sprague Electric, supra*, and indeed, cited it, and therefore cured or rendered moot any previous noncompliance with Section 502(b). However, such an argument would be totally without merit. Clearly, the statutory language in Section 502(b) referring to a "*decision*" of the Customs Court was intended to refer to a *decision* in point and was not intended to embrace any *dicta* contained in a decision involving an altogether different cotroversy. This is particularly true in the matter herein where the Court in *Sprague* was asked to determine the tariff status of certain finished electrical components—capacitors. Its rationale for finding capacitors to be outside the scope of item 535.14, could hardly form the predicate, as contemplated by Section 502(b), for a reversal or modification of position with respect to glazed ceramic caps and bases. *See* discussion of *Sprague* in preceding section.

In sum, not only has Customs erred substantially in following its 1969 and 1971 Rulings, but it has failed to comply with the procedures prescribed by Congress. Its 1969 and 1971 Rulings are unlawful and, in addition to providing the American industry less protection than contemplated, have resulted in the diminution of U.S. revenues. It is respectfully submitted that this situation demands immediate legislative corrective action in the form of the requested amendment.

RESPONSE TO OBJECTIONS RAISED BY THE EXECUTIVE DEPARTMENTS TO CORRECT THE MISCLASSIFICATION OF CERTAIN CERAMIC ARTICLES

1. The allegation that enactment of the legislation would require compensation under GATT.

The departmental reports generally do not favor the bill, H.R. 11469, 92d Cong., 1st Sess., which sought correction of this problem on the mistaken belief that its enactment would violate GATT, a traditional "boilerplate" position which the Executive Branch takes on legislation helpful to domestic industry.

The GATT obligation to grant compensation is limited to actions by a government which withdraw from a Contracting Party the benefit of tariff concessions previously granted. The last tariff concessions made by the United States were in the Kennedy Round, the trade agreement being signed on June 30, 1967, with concessions to take place in five increments, January 1, 1968, through 1972.

The proposed legislation does not in any way affect concessions granted in that trade agreement; rather, the problem addressed by the requested amendment is of very recent origin, occurring long subsequent to the Kennedy Round negotiations. The erroneous classification decision which would be conformed by the bill to the original legislative intent cannot, therefore, properly be regarded as the object of a tariff concession in the Kennedy Round.

Alumina oxide ceramic base and cap components for use in packaging semiconductors became important articles of commerce in the second half of the 1960's. The domestic industry which perfected these articles, in a forehanded manner, secured a ruling from the Bureau of Customs dated May 3, 1968 (Exhibit A), holding that such articles "composed of 90 percent aluminum oxide which are in finished form as they come from the final firing" are classifiable under Item 535.14, TSUS. This was the state of Customs practice shortly following the initial implementation of the Kennedy Round trade agreement. That ruling indicated that the concessions were understood as relating a known article of commerce to classification under Item 535.14 and not elsewhere.

It was not until 1969, long after the execution and implementation of the Kennedy Round agreement, that Customs commenced its erroneous classification practice. The proposed legislation would reverse that practice; it would not withdraw any concession previously granted or previously understood to have been granted Contracting Parties in a trade agreement. Accordingly, there would be no obligation under GATT for compensation.

Furthermore, the United States has an accumulation of grievances resulting from the impairment of its rights under GATT by its trading partners on which it has not demanded compensation. Were compensation to be demanded, the United States is in an excellent bargaining position with relation to claims that it is in a position to press but has chosen thus far not to make in regard to violations of U.S. rights under GATT by other nations.

2. If the domestic industry producing ceramic parts of semiconductors is injured by imports, it is suggested by the Executive Departments that it utilize the tariff adjustment procedures specified in section 301 of the Trade Expansion Act.

This likewise is a spurious suggestion because Section 301 is limited to injury which has resulted in major part from tariff concessions under trade agreements. The problem which is addressed by the proposed legislation, on the other hand, results from a classification decision by the Customs Service rather than from the reduction in duty by trade agreement concession. Hence, the condition precedent to relief under Section 301—namely, a tariff concession—is not involved in the matter which the proposed legislation would correct.

3. The antidumping investigation concerning ceramic parts of semiconductors was suggested as a proceeding which would provide relief for the domestic industry.

This suggestion likewise totally misconceives the nature of the remedy suggested in lieu of the corrective legislation. The antidumping investigation was concerned with a determination of whether (regardless of what normal import duties are applicable) imports of ceramic parts of semiconductors from Japan are being *unfairly priced;* that is, sold at less than their "fair value" (the price at which the same goods are sold in Japan).

Our tariff laws are based upon the concept that the correct duties specified in the tariff will be applied to merchandise at the fair value of that imported merchandise. The antidumping remedy is designed to prevent the erosion of existing duty protection by an understatement of the value of the merchandise. It has nothing to do with establishing the correct rate of duty to be applied to the merchandise.

The proposed legislation, on the other hand, is directed to correcting an error made by Customs in its 1969/1971 decision reclassifying ceramic parts of semiconductors at a much lower rate of duty than theretofore applied when such merchandise was classified as "ceramic electrical ware."

Finally, it should be noted that the antidumping proceeding concerning electronic ceramic packages and parts thereof from Japan was discontinued by the Treasury Department on May 2, 1973. While the antidumping investigation disclosed that there were sales at less than fair value, the Treasury Department determined that these sales were minimal in terms of the volume of sales involved. Moreover, the Treasury Department accepted formal assurances from the manufacturer that he would make no further sales at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

The problem which the requested amendment seeks to correct does not arise by virtue of the dumping of foreign merchandise but, rather, by virtue of the very large reduction in duty which has been achieved through the exploitation by foreign producers of the loophole in the tariff law described in this Statement.

4. The allegation that enactment of the legislation would result in parts of semiconductors bearing a higher rate of duty than the finished semiconductors and conceivably force domestic manufacturers of the end item to transfer their manufacture offshore.

This suggestion likewise misconceives the actual facts that apply to the situation to which the legislation is addressed. In point of fact, the major producers of semiconductors are already producing the end items outside of the United States (see Exhibit I). If components to be used in the manufacture of semiconductors are available in the United States at competitive prices, these manufacturers purchase such components from U.S. sources and export them for use in the assembly of the semiconductors abroad in order to take advantage of the duty-free treatment specified in items 806.30 and 807.00, TSUS, with respect to the importation of the finished articles.

When the domestic components are no longer competitive, as in this case, because the Customs Service unilaterally makes a major reduction in duty by its reclassification decision of 1969/1971, the semiconductor manufacturer ceases to procure the component of U.S. origin and, instead, purchases the components offshore. Hence, the enactment of the legislation would not have the effect attributed to it by the Commerce Department but, instead, would preserve a climate of opportunity for the domestic component materials to be purchased and used in the assembly of semiconductors whether offshore or, in some instances, in the United States in specialized applications.

Conclusion

The amendment requested herein is technically sound, being based upon language recommended by the Tariff Commission in its report to the Committee on Ways and Means on a predecessor bill in the 92d Congress, H.R. 11469.

That bill has been the subject of departmental reports submitted to the Committee on Ways and Means. The Tariff Commission report recommended that a particular formulation of legislative language be used to accomplish the purposes of the bill. That language is the substance of the present proposed amendment.

The proposed amendment would correct the anomaly, described in this submission, of differentiating for tariff purposes, between glazed and unglazed ceramic components of semiconductors. No such bifurcation was ever intended by Congress, but rather resulted from a classification practice by the Customs Service which was conceived in violation of substantive and procedural law. As a result of that practice, the American ceramic electrical ware industry has sustained considerable injury while importers have gained a windfall in the form of a duty savings of at least 9% (the current differential) on the value of their imports.

It is submitted that the reasons for enactment are clear and substantial; the grounds for objection are totally wanting in merit. Accordingly, it is respectfully urged that the tariff loophole discussed at length in this submission be closed, and that the vehicle to accomplish that closure be the amendment of H.R. 10710 by the addition of the suggested Section 607.

EXHIBIT A

TREASURY DEPARTMENT,
BUREAU OF CUSTOMS,
Washington, May 3, 1968.

Mr. GEORGE P. BYRNE, Jr.
Alumina Ceramic Manufactures Association,
331 Madison Avenue, New York, N.Y.

DEAR MR. BYRNE: In your letter of March 5, 1968, you asked for information concerning the dutiable status of certain alumina ceramic products manufactured in Japan and England and imported by Fairchild Camera and Instrument Corporation.

Samples were submitted.

The merchandise consists of rectangularly shaped items stated to be composed of 90 percent aluminum oxide which are in finished form as they come from the final firing.

You also indicate the articles, which measure ¾ by ¼ by 1/16 inch, are used as electrical insulators in semi-conductor devices and do not become part of the electrical circuit.

Based on the information submitted, the Bureau is of the opinion the merchandise is classifiable under the provision for Ceramic electrical insulators, Other, in item 535.14, Tariff Schedules of the United States (TSUS), dutiable at the rate of 27 percent ad valorem.

This decision is being circulated to all customs officers in order that the merchandise may be uniformly so classified at each port at which it may be entered.

Sincerely yours,

E. F. KILPATRICK,
Director, Division of Tariff Classification Rulings.

EXHIBIT B

TREASURY DEPARTMENT,
BUREAU OF CUSTOMS,
Washington, December 3, 1969.

EUGENE L. STEWART, Esq.
1001 Connecticut Avenue, N.W.,
Washington, D.C.

DEAR MR. STEWART: In your letter of July 2, 1969, on behalf of Alumina Ceramic Manufacturers Association, you submit views with respect to a request for a ruling concerning the dutiable status of certain alumina ceramic articles manufactured in Japan and the United Kingdom.

The merchandise consists of rectangularly shaped ceramic items measuring approximately .52 and .076 inch thick by ¾ inch long and ¼ inch wide, used as the base and cap portions of integrated electrical circuits.

The ceramic base is glazed on one side with low temperature sealing glass and a gold-moly-manganese dot is applied on the cavity of the base prior to the placement of the integrated circuit die and the metal frame containing the fingers which become the electrical leads. The cap is likewise previously glazed prior to its being placed, glazed side down, on top of the frame, die and base. The Bureau is of the understanding that the ceramic base and cap do not come in contact with the electrical circuit and apparently do not serve any electrical insulating function; such function being provided by the sealing glass, and that the ceramic serves the primary purpose of providing support and protection to the electronic circuit.

Specifically a ruling has been requested for the ceramic bases and caps with and without the sealing glass applied, and with the application of a properietory gold-manganese dot to the cavity on the glazed base, and it has been submitted the merchandise is classifiable, in all stages of manufacture, under the provision for parts of transistors and other related electronic crystal components, in item 687.60, Tariff Schedules of the United States (TSUS), and not under the provision for ceramic electrical insulators and other ceramic electrical ware, in item 535.14, TSUS.

As ceramic electrical ware is precluded from classification in item 687.60, TSUS, by headnote 1(iii) to part 5 of schedule 6 of the tariff schedules, the sole issue involved is whether the merchandise is classifiable as ceramic electrical ware.

With respect to the unglazed ceramic, it has been submitted that the term "ceramic electrical ware" is limited in scope to articles which are related in function to or are *ejusdem generis* with the terms "ceramic electrical insulators" and "ferro-electric and piezoelectric ceramic elements," and that ceramic electrical ware embraces only those articles which are either electrically active or perform an active function within an electrical circuit.

The Bureau is of the opinion that the common meaning of the term ceramic electrical ware embraces not only those ceramic articles which perform an electrical function but also those articles which are chiefly used in electrical devices and apparatus, other than for merely ornamental or decorative purposes.

Accordingly, the Bureau remains of the opinion the unglazed ceramic cap and base are classifiable under the provision for ceramic electrical ware, in item 535.14, TSUS, with duty at the rate of 24 percent ad valorem.

With respect to the glazed cap and base, it is noted that the sealing glass comprises a relatively small portion of the subject item. It is our understanding that prior to assembly the approximate component material costs of the cap and base per 1000 units are as follows:

	Sealing glass	Alumina ceramic	Gold dot
Cap	$3.00	$7.00	
Base	4.00	7.25	$4.00

In view of the demonstrated function the sealing glass plays in the finished component and the relative values of the component materials, the Bureau considers that the *de minimis* rule has no application to the classification of the subject merchandise.

In addition, the Bureau is of the opinion that resort to the legislative history to item 535.14, TSUS, is justified in order to determine the intent of that provision. The Tariff Classification Study with regard to item 535.14, TSUS, provides in part as follows: "With the exception of certain insulators item 535.14 would cover for the most part ceramic articles practically as they come from the final firing, or possibly after subsequent minor processing such as grinding or shaping."

The Bureau takes the position that the legislative history indicates an intent that the provision for ceramic electrical ware does not embrace ceramic wares which have been subjected to further fabrication by the addition of non-ceramic materials which serve essential electrical functions.

Accordingly, the Bureau is of the opinion the glazed ceramic cap and base, with or without the gold-moly-manganese dot attached, are classifiable under the provision for transistors and other electronic crystal components, and parts thereof, in item 687.60, TSUS, with duty at the rate of 10 percent ad valorem. Effective January 1, 1970, the rate of duty will be 8.5 percent ad valorem.

This decision is being circulated to all customs officers to insure that the merchandise will be so classified at each port at which it may be entered.

Sincerely yours,

SALVATORE E. CARAMAGNO,
Director, Division of Tariff Classification Rulings.

THE DEPARTMENT OF THE TREASURY,
BUREAU OF CUSTOMS,
Washington, April 22, 1971.

EUGENE L. STEWART, Esq.,
1001 Connecticut Avenue NW.
Washington, D.C.

DEAR MR. STEWART: Reference is made to your oral request on behalf of the Alumina Ceramic Manufacturers Association for a reconsideration of a Bureau ruling dated December 3, 1969, concerning the dutiable status of certain alumina ceramic articles manufactured in Japan and the United Kingdom.

The Bureau had ruled that rectangularly shaped items measuring approximately .052 and .076 inch thick by ¾ inch long and ¼ inch wide which were glazed on one side with low temperature sealing glass and which were used as the base and cap portions of integrated electrical circuits, were classifiable under the provision for transistors and other electronic crystal components, and parts thereof, in item 687.60, Tariff Schedules of the United States (TSUS), rather than under the provision for ceramic electrical ware, in item 535.14, TSUS.

The Bureau's opinion was based, in part, on a pertinent portion of the legislative history to item 535.14, TSUS, which provides:

"With the exception of certain insulators item 535.14 would cover for the most part ceramic articles practically as they come from the final firing, or possibly after subsequent minor processing such as grinding or shaping.

In *Sprague Electric Co. et al.* v. *United States*, C.D. 3972, the Customs Court, in holding that ceramic electrical capacitors were classifiable in item 685.80, TSUS, rather than in item 535.14, TSUS, found that the operations performed upon a ceramic disc which had been screened with silver paint, fired in order to attach lead wires and had a resin coating applied to produce the finished capacitor, constituted more than "minor processing" and was indicative of the type of article intended to be excluded from Schedule 5, Part 2.

Under the circumstances the Bureau remains of the opinion the subject ceramic caps and bases upon which the low temperature sealing glass has been applied are similarly precluded from classification in item 535.14, Tariff Schedules of the United States, and are classifiable under the provision for parts of transistors and other electronic crystal components in item 687.60, TSUS.

Because your written submission of July 2, 1969, was on behalf of an association of manufacturers and not a specific manufacturer, producer or wholesaler, the Bureau is unable to consider the submission as a request for the furnishing of tariff classification information for purposes of section 516, Tariff Act of 1930 (19 U.S.C. 1516). Should a request be made from an American manufacturer, producer or wholesaler the Bureau will endeavor to furnish such information as expeditiously as possible.

Sincerely yours,

ROBERT V. MCINTYRE,
Assistant Commissioner,
Office of Regulations and Rulings.

EXHIBIT D

LINCOLN & STEWART,
Washington, D.C., July 2, 1969.

MR. SALVATORE E. CARAMAGNO,
Director, Division of Tariff Classification Rulings,
Bureau of Customs, Washington, D.C.

DEAR MR. CARAMAGNO: On behalf of the Alumina Ceramic Manufacturers Association, we ask your kind consideration of the views presented in this letter concerning a request for ruling pending with the Bureau filed by an importer concerning certain alumina ceramic products.

The request for ruling which you have before you pertains to alumina ceramic articles containing a surface coating of glass over a portion thereof. These articles are used as the base upon which are mounted the active elements of semiconductor devices or as the cap placed over such a subassembly.

With one exception, the imported merchandise is identical to that which is the subject of ORR Ruling 398–68, May 27, 1968, Bureau file SP 444.213 R, your predecessor's letter of May 3, 1968. In that ruling your office held that alumina ceramic articles used in semiconductor devices, which articles do not become part of the electrical circuit, are classifiable under the provision for ceramic electrical insulators, other, in Item 535.14 TSUS. We concur in that ruling.

The instant merchandise which is the subject of the present request for ruling now pending before you consists of the same alumina ceramic article which was the subject of the ruling, cited above, with the exception that on one surface thereof there has been applied, either over the entire surface or a part thereof, a glass coating. For your convenience I am attaching to this letter a sample of the merchandise which was the subject of your ruling cited above, and a sample of the same merchandise containing a glass coating on one surface:

Articles the Subject of ORR Ruling 398-68

Base *Cap*

Articles the Subject of the Present Request for Ruling

Base *Cap*

The imported articles are used as passive members of a semiconductor device assembly. The method of assembly and the stages of processing of the alumina ceramic articles may be described as follows:

1. An alumina ceramic base member is bonded to a lead frame. The bonding is accomplished by placing the lead frame and the ceramic member in a fixture, and applying heat which softens the glass on the surface of the ceramic member. Pressure against the member causes the lead frame to become embedded in the glass surface. The heat is removed, and upon cooling a union of ceramic member to lead frame has been accomplished with the surface coating of glass serving as the bonding medium.
2. The silicon, germanium, or other "chip," which is the active element of the semiconductor, is bonded to the base at the recessed portion thereof. Wire is bonded to the chip and the leads.
3. The alumina ceramic cap member, with the glass surface down, is placed on top of the lead frame-base-chip subassembly in a fixture and passed through a furnace. The heat softens the glass coating on the lower surface of the cap, and pressure is applied. This effects a bond of the cap to the subassembly, and the softened glass coating which has been pressed over the leads makes a union with the softened glass surface of the base. The unit is removed from the heat and cools, bonding the top to the subassembly and effecting a hermetic seal of the assembly.

As is evident from the above description, the alumina ceramic base member and the alumina ceramic cap are used primarily to serve as structural members of the semiconductor assembly. They are suitable for this use because the alumina ceramic is a nonconductor of electricity and involves no risk of shorting the semiconductor circuit. Further, the alumina ceramic body of the semiconductor, being a nonconductor, involves no risk of shorting in the electronic circuit into which the semiconductors are inserted.

Alumina ceramic is used as the constituent material for the base and cap members for the following reasons:

(*a*) Its strength—it is not fractured.

(*b*) Its low cost—the ceramic is quite inexpensive in relation to metal.

(*c*) Its properties as a nonconductor of electricity—this is a "plus" value as the use of metal would require some insulating material to isolate the semiconductor chip from the metal base. This assembly step is eliminated through the use of the alumina ceramic.

The glass surface coating makes no contribution to these essential properties which dictate the selection of the alumina ceramic: it adds nothing to the strength or low cost of the unit nor to those insulating properties which are desirable in the completed article. It is the exterior of the finished body which is primarily exposed to the risk of electrical shorts in the electrical circuit. The glass coating material is completely enclosed within the body and supplies no insulating function whatever to the outside of the body.

The protection of the semiconductor chip and the wires connecting the chip to the leads at the interior of the body is accomplished, in the first instance, by the alumina ceramic material itself. In the embodiment of the imported articles that are used by the importer in its manufacturing processes, the glass coating does not cover the portion of the base member upon which the semiconductor chip is mounted, and in some instances glass coating is excluded from the recessed portion of the cap so that when the subassembly with cap member placed on top moves through the furnace for the softening of the glass, there is no danger of the glass dropping from the center portion onto the semiconductor chip.

In short, the glass serves one, and only one, purpose and that is to effect a hermetic seal which has nothing whatever to do with functioning as an insulator.

The semiconductor assembly is, of course, an electrical article destined for use in an electrical or electronic circuit. As an integral part of the semiconductor assembly, the alumina ceramic base and cap are articles of electrical ware. That is to say, they are a class of manufactured article which is used in the assembly of electrical articles. Being passive electrically, however, they are not connected into the electrical circuit.

The semiconductor is connected in an electrical circuit by means of the metal leads which, in turn, are connected to the silicon, germanium, or other active element "chip" which performs the function of a semiconductor in the electrical circuit. The alumina ceramic articles have no part to play in supplying the electrical characteristics of the semiconductor to the electrical circuit. Rather, they perform the passive role of supplying a base and a cap for the semiconductor "chip" to be mounted on and covered by, for protective purposes.

The nonconductive properties of the alumina ceramic members further insure against an interference with the performance of the electrical function of the semiconductor by virtue of the fact that, electrically speaking, they do not conduct electricity but are merely passive and, mechanically speaking, are substantial enough securely to protect the semiconductor chip and the wire connections to the leads from damage. The alumina ceramic members are "other ceramic electrical ware" within the meaning of Item 535.14.

The ruling of May 3, 1968, referred to the alumina ceramic articles as "electrical insulators" used in semiconductor devices. That ruling could just as well have referred to the alumina ceramic members as "other ceramic electrical ware" as that term is used in the superior heading to Item 535.14. The truth of the matter is that the alumina ceramic articles are insulators in the sense that they are nonconductors of electricity, and as base and top serve to "insulate" the semiconductor chip and wire connections to the leads from electrical shorts as well as from physical damage.

It would also be correct, however, to view the alumina ceramic articles as performing in an electrical assembly an essentially mechanical purpose; namely, that of a sturdy base for the mounting of the chip and leads and a sturdy cap with which to cover or enclose the semiconductor chip and wire-connected leads to protect them from damage in use.

It is not essential to the construction of the body for the semiconductor that it be made of insulating or nonconductive material. Where a metal base and cap are used, it is obviously necessary to use insulating material which insulates the metal base from the silicon chip. The convenience involved in using the alumina ceramic base and cap lies in the fact, first, that in their sturdiness they are appropriate for discharging the mechanical task; and in their electrical nonconductivity, they are adequate to supply the protection from electrical shorts which would have to be provided for separately if a conductive material were to be used for the base and cap.

We understand that the importer contends that the presence of the glass coating on the surface of the base and the cap at the time of importation requires the Customs treatment of the imported article as something other than "ceramic electrical ware" because in his opinion the glass coating performs the function of insulator rather than the alumina ceramic element. There are a number of reasons why such a position is ill-founded.

First, neither the alumina ceramic article nor the glass surface coating thereof is performing essentially the role of an insulator qua insulator. Item 535.14 is not limited to "ceramic electrical insulators, other," but includes the larger class of articles described as "other ceramic electrical ware, other." Ceramic electrical ware is any article of ceramic used in an electrical assembly. It is undisputed that the imported articles are of ceramic, and it will be obvious to you from an ex-
ware is any article of ceramic used in an electrical assembly. It is undisputed that
coating on one surface of the alumina ceramic article. It can also not be disputed that the alumina ceramic articles are "ware," and that they are used in an electrical article and therefore must be literally considered as "electrical ware."

Second, the glass portion of the article is so minor from the point of view of its physical content that it does not in any way change the essential nature of the imported article as being a ceramic item. The following dimensions will be of interest on this point:

> The alumina ceramic base member is approximately 0.080" thick, and the glass coating thereon is approximately 0.007" thick.
>
> The cap element is approximately 0.055" thick, whereas the coating of glass on the surface of the cap is only 0.009" thick.

The importer's argument, therefore, is equivalent to saying that a protective coating such as paint, or an adhesive coating such as epoxy, changes the basic elements of the article to which the coating is applied. There is no support for such a position either in technical fact or in Customs law.

Third, there is no possibility of the importer seriously taking the position that the surface coating of glass represents the component material in chief value of the imported article. The surface coating of glass is applied in the following manner:

> Glass in powder form mixed in a suitable carrier is sprayed onto the surface of the alumina ceramic member. The sprayed members are passed through a furnace which burns off the organic material in the liquid suspension, leaving the glass coating on the surface.

Taking the cost of the materials in the state to which they must be brought just prior to final assembly, the ceramic is equal to 100, and the glass to no more than 35.

Fourth, even assuming for the sake of argument that the alumina ceramic article functions primarily as an insulator, it is not the case that the glass coating on the upper surface of the base member and the lower surface of the cap member take over the insulating function. It is believed that the importer in question is the Fairchild Semiconductor Division of the Fairchild Camera and Instrument Corporation. To the knowledge of the Alumina Ceramic Manufacturers Association, that organization uses in its process for the assembly of semiconductors a form of alumina ceramic member with a surface coating of glass in which the recessed cavity in the base member upon which the semiconductor chip is mounted is kept free from glass, so that the chip is mounted directly onto the ceramic surface of the recessed portion of the base member.

Hence, in this embodiment without question the ceramic continues to perform the function of an insulator for the ceramic chip and the glass coating does not enter into this at all. The glass does not serve in this embodiment in any way as an insulator for the silicon chip.

Fifth, the importer's technology confirming the above description of the purpose and use of the alumina ceramic member and the particular function of the glass surface coating is discussed in a paper, "Solder Glass Seals in Semiconductor Packaging," presented by D. W. A. Forbes at the Symposium on Glass in Electronics sponsored by the Society of Glass Technology, University of Sheffield, England, January 4–6, 1966. A copy of the paper is enclosed.

Mr. Forbes was prominent in developing the use of the glass surface coating as a means for effecting a hermetically sealed bond of the base and cap alumina ceramic members which enclose the active elements of the semiconductor. Further, he is an employee of the importer in this case, the Fairchild Camera and Instrument Corporation.

As you will observe from the paper, both from the abstract and in the subsequent portions thereof, the ceramic base and cap members are selected to provide an enclosure for the active elements of the semiconductor, and the glass coating is selected solely to achieve a hermetic seal of the ceramic enclosure.

Note especially page 3 of the paper which states quite plainly that ceramics are preferred as envelope materials by virtue of their high strength, thermal conductivity, and electrical resistivity. This enumeration of properties and the emphasis given them in the sequence in which stated confirm the description previously given in this letter as the reason why alumina ceramic members are used in semiconductor assembly.

Further on page 3, please note that glass is described as fulfilling the function of forming a hermetic, dielectric seal. On that page emphasis is also given to the fact that the body used to enclose the active elements of the semiconductor performs chiefly a mechanical function, supporting the active elements of the semiconductor and protecting them in a mechanical sense.

After developing the theoretical considerations which pertain to the semiconductor package, the paper presents as a conclusion on page 5 "that the package structure most capable of providing maximum performance at minimum cost would comprise a ceramic envelope, sealed with glass." The paper then develops the cost-efficiency considerations leading to the selection of the so-called "single-seal concept" which involves the use of the base and cap ceramic members with their surface coating of glass.

We believe that your study of the enclosed paper will convince you that the only purpose served by the glass coating on the upper surface of the base member and the lower surface of the cap member is to provide a means for effecting a bond and hermetic seal for the ceramic package for the semiconductor. No special significance is given in the paper to the insulating properties of the glass; indeed, the paper confirms that the ceramic material is selected primarily for its cost and mechanical efficiency as well as for its insulating properties.

Accordingly, there is no factual or legal basis for the Bureau to change the practice established by its ruling of May 3, 1968, ORR Ruling 398–68.

We shall appreciate the opportunity to confer with you concerning this matter in the event that this submission and other information available to you do not persuade you to adhere to the present Customs practice of classifying alumina ceramic articles, whether surface coated with glass or not, under Item 535.14 TSUS.

Very truly yours,

LINCOLN & STEWART.

Enclosure.

30-220—74——29

EXHIBIT E

U.S. IMPORTS UNDER TSUS NOS. 806.30 AND 807.00 OF INTEGRATED CIRCUITS AND PARTS OF SEMICONDUCTORS, 1970–72

	1970 [1]			1971 [1]			1972		
	Quantity	Total value	Value U.S. products	Quantity	Total value	Value U.S. products	Quantity	Total value	Value U.S. products
Integrated circuits:									
Canada				26	$3,470	$3,000			
Mexico	18,706,181	$7,708,157	$5,952,561	20,969,410	8,814,575	6,459,709	47,649,744	$18,472,825	$12,841,999
Netherlands Antilles	12,729,939	5,556,728	1,548,570	6,888,887	1,015,866	328,073	7,466,439	1,588,334	294,497
Ireland	1,727,289	89,849	21,470				30,000	570	361
United Kingdom	541,741	254,299	89,535	601,098	185,634	70,996	236,362	80,849	29,663
Portugal	11,179,017	2,986,600	1,500,426	20,727,025	6,390,635	2,896,479	29,138,915	8,000,878	3,309,729
Malaysia	906,012	198,048	143,640	595,849	101,490	69,810	10,013	16,931	7,251
Thailand				36,500	8,312	4,949			
Singapore	64,119,421	19,613,076	10,015,385	99,456,564	31,946,692	15,650,714	183,069,206	53,229,411	26,888,770
Korea	49,417,239	10,952,767	8,465,606	43,932,554	11,666,163	7,738,434	170,196,147	32,870,457	20,817,342
Hong Kong	58,029,247	11,781,011	7,496,045	46,161,383	11,127,790	6,197,273	63,017,246	14,818,579	8,250,073
Taiwan	22,592,743	6,545,096	3,208,352	35,402,042	11,221,369	5,093,307	37,753,383	13,807,206	4,921,522
Japan	452,707	100,639	69,622	243,645	115,769	81,070	107,098	83,747	74,762
West Germany	66,150	32,431	12,198	27,947	11,256	3,346			
Total	240,467,686	65,818,701	38,523,410	275,042,930	82,609,021	44,597,160	538,674,553	142,969,787	77,435,969
Parts of semiconductors:									
United Kingdom							295,091	10,020	2,469
Canada							(2)	1,225	47
Mexico							(2)	23,389	15,257
Jamaica							(2)	6,875	6,395
Haiti							180,000	42,877	33,593
Portugal							(2)	20,462	13,430
Singapore							(2)	12,677	11,974
Korea							(2)	65,491	48,625
Hong Kong							8,365	19,167	10,398
Taiwan							926,469	25,296	15,420
Japan							(2)	118,125	239
Total							(2)	345,604	157,847

[1] Parts of semiconductors were not reported separately in these years.
[2] Not available.

Source: U.S. Department of Commerce, Bureau of the Census, IA 245 A, annual reports, 1970–72.

EXHIBIT F

U.S. FACTORY SALES OF INTEGRATED CIRCUITS, 1970–72

[In millions]

	Units			Dollars		
	1970	1971	1972	1970	1971	1972
Monolithic I/C's	298.833	361.483	602.492	433.101	443.181	608.030
Digital	(253.810)	(297.044)	(480.227)	(353.750)	(351.714)	(480.125)
Linear	(45.023)	(64.439)	(122.265)	(79.351)	(91.467)	(127.905)
Semiconductor chips				(24.151)	(18.349)	NA
Hybrid I/C's	121.501	120.585	167.725	90.614	90.755	109.682
Total I/C packages	420.334	482.068	770.217	523.715	533.936	717.985

Source: Electronic Industries Association.

EXHIBIT G

U.S. TARIFF COMMISSION,
Washington, May 22, 1972.

MEMORANDUM TO THE COMMITTEE ON WAYS AND MEANS OF THE HOUSE OF REPRESENTATIVES ON H.R. 11469, A BILL "TO AMEND THE TARIFF SCHEDULES OF THE UNITED STATES WITH RESPECT TO THE CLASSIFICATION OF CERTAIN CERAMIC ARTICLES"

H.R. 11469, if enacted, would amend part 2D, schedule 5, of the Tariff Schedules of the United States (TSUS), to expand the scope of item 535.14 to include therein certain parts of semiconductors presently classified elsewhere in the TSUS where they are dutiable at lower rates of duty.

At the present time, part 2D of schedule 5 includes provisions, as follows:

	Ceramic magnets, ceramic electrical insulators whether or not in part of metal, and other ceramic electrical ware, including ferroelectric and piezoelectric ceramic elements:		
535.11	Porcelain insulators, etc	15 percent ad valorem	35 percent ad valorem.
535.12	Ferrites	7.5 percent ad valorem	45 percent ad valorem.
535.14	Other	15 percent ad valorem	60 percent ad valorem.
535.15	If Canadian article, etc	Free	

The provisions of item 535.14 include, among other things, certain ceramic electrical ware which are parts of semiconductors. However, in accordance with customs practice, as affirmed by judicial decision (C.D. 3972), the ceramic electrical ware in item 535.14 is limited to ceramic articles "practically as they come from the final firing, or possibly after subsequent minor processing such as grinding or shaping."

The bill would add a new headnote to part 2D which would provide that—

2. Item 535.14 includes any article in chief value of ceramic chiefly used as a part of a semiconductor.

The object of this amendment is to effect a rate increase specifically with respect to certain ceramic base and cap "packages" used to encase electrical circuits. The base and cap are coated with a glass frit which facilitates the sealing of the "packages" after the circuits are encased therein. By reason of the addition of the glass frit to the base and cap, the imported articles are not classifiable under item 535.14, but rather are classifiable as parts of "electronic crystal components" under item 687.60 of part 5, schedule 6, of the TSUS.

At the present time, part 5 of schedule 6 includes provisions, as follows:

	Electronic tubes (except X-ray tubes); photocells; transistors and other related electronic crystal components; mounted piezoelectric crystals; all the foregoing and parts thereof:		
687.50	Television picture tubes	15 percent ad valorem	60 percent ad valorem.
687.51	If Canadian article, etc	Free	
687.60	Other	6 percent ad valorem	35 percent ad valorem.
687.61	If Canadian article, etc	Free	

Thus, it will be seen that, at the present time, the ceramic base and cap imports—which are said to be in chief value of ceramics—are assessed with duty at the rate of 6 percent ad valorem under item 687.60 (rate column numbered 1), whereas under the bill they would be assessed with duty at the rate of 15 percent ad valorem under item 535.14 (rate column numbered 1). The basis for the proposed change is the fact that, under the former tariff schedules in effect before the adoption of the TSUS, the base and cap would have been assessed with duty under the appropriate ceramic provisions from which item 535.14 was derived, if wholly or in chief value of ceramics.

Trade data

Detailed trade data regarding domestic production, imports, and exports of the articles known to be involved in the provisions of the bill are not available. The Commission is informed that imports of the semiconductor parts in question may be as much as $2.5 million per annum; and that domestic production is approximately the same as imports. No data regarding exports are available.

Technical amendments

The amendment of part 2D of schedule 5 could be better accomplished by a simple amendment of the superior heading to item 535.14 rather than by headnote provision as proposed. From a technical nomenclature point of view, however, it is believed not desirable to restore the "wholly or in chief value" concept for the purposes at hand. As indicated, parts of semiconductors are presently classified under item 687.60. The purposes of the bill can be accomplished by a new subclassification derived from item 687.60 with the rate assigned, as desired.

The electronics field continues to change due to technological advancement. The superior heading to item 687.60, although by customs practice interpreted to include semiconductors and their parts, requires clarification in this respect to insure continuation of the current uniform classification practices. This clarification could be accomplished by amending the superior heading to read as follows (language omitted in brackets [ ] and new language underscored):

> Electronic tubes (except x-ray tubes); photocells; *semiconductors, including* transistors *and integrated circuits*, and [other] related electronic crystal components; mounted piezoelectric crystals; all the foregoing and parts thereof:

The sub-classification thereof previously mentioned for accomplishing the purposes of this bill might provide as follows:

> 687.55, Parts of semiconductors, in part of ceramics, 15 percent ad val., 60 percent ad val.

The enactment of the bill increasing the rates of duty on parts of semiconductors, as proposed, would be contrary to existing concessions granted thereon by the United States in the General Agreement on Tariffs and Trade.

EXHIBIT H

DEPARTMENT OF STATE,
Washington, D.C. May 24, 1972.

Hon. WILBUR D. MILLS,
Chairman, Committee on Ways and Means,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 11469, "To amend the Tariff Schedules of the United States with respect to the classification of certain ceramic articles", introduced by Mr. Brotzman.

The proposed legislation would provide, by the addition of a Headnote 2 to Subpart D, Part 2, Schedule 5, Tariff Schedules of the United States (TSUS), for the classification under item 535.14, TSUS, of any article in chief value of ceramic used chiefly as part of a semiconductor.

The proposed legislation apparently arises from a Bureau of Customs ruling that small rectangularly-shaped items glazed on one side with low temperature sealing glass and used as the base and cap portions of integrated electrical circuits, are classifiable under the provision for transistors and other electronic crystal components, and parts thereof, in item 687.60, TSUS, at the rate of 6 percent ad valorem, rather than under the provision for ceramic electrical ware, in item 535.14, TSUS, at the rate of 15 percent ad valorem. That opinion was based in part on a pertinent portion of the legislative history of item 535.14, TSUS, contained in the Tariff Classification Study, which reads:

"With the exception of certain insulators, item 535.14 would cover for the most part ceramic articles practically as they come from the final firing, or possibly after subsequent minor processing such as grinding or shaping."

This limitation on the scope of item 535.14 was also recognized in *Sprague Electric Co. et al. v. United States* (*Montgomery Ward & Co., Party-in-Interest*), 64 Cust. Ct. 132, C.D. 3972 (Decided February 27, 1970), wherein the Court, in holding that ceramic electrical capacitors were classifiable in item 685.80, TSUS, rather than in item 535.14, TSUS, found that the operations performed upon a ceramic disc which had been screened with silver paint, fired in order to attach lead wires, and had a resin coating applied to produce the finished capacitor, constituted more than "minor processing" and was indicative of the type of article intended to be excluded from Part 2, Schedule 5, TSUS.

We further note that Headnote 1(iii) to Part 5 of Schedule 6, TSUS, which part contains many of the provisions applicable to electrical articles, excludes ceramic electrical ware from classification under those provisions. Because many electrical articles provided for by name in Part 5 of Schedule 6, TSUS, are, or may be, in chief value of their ceramic components, it is believed that the provision for ceramic electrical ware was intended to cover only articles wholly of ceramic materials.

The effect of H.R. 11469 would be to raise the tariff rate on parts of semiconductors from 6 percent ad valorem to 15 percent ad valorem.

Domestic producers of semiconductors have failed to produce any decisive evidence proving damage resulting from imports. In addition, the importers of foreign-produced semiconductors inidcate that the quality of most semiconductors produced abroad is so much higher that this proposal, while increasing their costs, would not change their purchasing patterns. The proposed legislation is also likely to influence them to increase their imports of finished, or whole, semiconductors which fall under the lower tariff of Schedule 6.

The proposed legislation is likely to result in an increase of costs to the electronics industry and U.S. consumers, while its benefits to domestic industry and increased customs revenues would be insignificant. In addition, item 535.14 is bound under the GATT. *If the U.S. were to break this bound rate, it would be required to give compensation to its trading partners.* As the President has no authority to provide such compensation, the U.S. would be subject to retaliation by those trading partners to the amount of damage they have suffered in the U.S. market.

For these reasons, the Department is opposed to the enactment of H.R. 11469.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

SAMUEL R. PIERCE, Jr.,
General Counsel.

EXHIBIT I

DEPARTMENT OF STATE,
Washington, D.C., May 19, 1972.

Hon. WILBUR D. MILLS,
Chairman, Committee on Ways and Means,
House of Representatives.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to Mr. Martin's letters of November 17, 1971, and March 15, 1972, requesting the views and recommendations of the Department of State on H.R. 11469, a bill "To amend the Tariff Schedules of the United States with respect to the classification of certain ceramic articles."

If the bill were enacted, certain articles in chief value of ceramics now entering the United States under TSUS No. 687.60 as parts of semiconductors at 6 percent *ad valorem* would enter the United States under TSUS No. 535.14 as ceramic electrical ware, with a duty of 15 percent *ad valorem*. The articles involved are caps and bases which are designed to contain the other components of a finished semiconductor. These caps and bases do not have an electronic function in themselves, but serve as a casing for the electronic items. Such caps and bases may be made of metal, plastic or ceramic; however only those of ceramic would be affected by the bill, with metal or plastic pieces continuing to enter as parts of semiconductors at a duty of 6 percent.

According to the Department of Customs, a ruling was issued in 1968 classifying these items as ceramic electrical ware entering under TSUS No. 535.14. However, in 1969 the Bureau of Customs revoked the original ruling and determined that caps and bases which had been glazed should be classified under TSUS 687.60, while unglazed items should continue to enter under 535.14.

It is our understanding that the new ruling was issued after a customs case decision on the proper classification of ceramic capacitators (Customs Court Decision 3972). The Court studied the legislative history of the Tariff Schedules of the United States with particular reference to the Tariff Classification Study on item 535.14, which reads in part: "With the exception of certain insulators item 535.14 would cover for the most part ceramic articles practically as they come from the final firing or possibly after subsequent minor processing such as grinding or shaping."

The Customs Court determined that the ceramic capacitors had been subjected to more than minor processing and therefore were properly classified under Schedule VI.

We are informed that thereupon the Customs Bureau examined the ceramic caps and bases which had been coated with a glass frit and glazed, determined that the sealing glass performed a functional purpose and involved more than minor processing; therefore these items were classified under 687.60.

The Department of State supports the view of the Bureau of Customs that the caps and bases referred to in this bill are properly classified under Part 5 of Schedule VI. If the United States domestic ceramics industry considers that the items have been improperly classified, it can challenge the validity of the Customs Bureau 1969 ruling through suit in the Customs Court, with the right thereafter to appeal to the Court of Customs and Patent Appeals.

Apart from the question as to whether or not these items are properly classified under Schedule VI, rather than Schedule V, the Department of State is concerned about the effects of the duty increase which would result from enactment of the bill.

If the bill were enacted, the duty on these ceramic caps and bases would be increased from 6 percent to 15 percent. Thus the United States ceramic industry, whose competitive position should have already been improved by the change in the exchange rate, would be given additional protection without application to the United States Tariff Commission and the resulting investigative procedure provided in the Trade Expansion Act. In addition the change in classification could require the United States Government to negotiate a corresponding change in its schedule of concessions to the General Agreement on Tariffs and Trade. It is possbile that other countries would seek tariff concessions from the United States in such negotiations to offset the increase in rates on the items affected.

Furthermore, the increase in duty for ceramic parts of semiconductors would result in the anomalous condition that the ceramic parts would pay a higher duty rate than would completed semiconductors (15 percent for caps and bases as opposed to 6 percent for finished semiconductors). This would encourage the importation of semiconductors, with possible losses of American industries and jobs in the electronic industry, while there would be no corresponding gain for the American ceramics industry.

In view of these factors, the Department of State is opposed to the enactment of H.R. 11469.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

Exhibit J

U.S. Firms With Integrated Circuit Plants Overseas

U.S. firms	Location of integrated circuit plants overseas
American Micro-Systems, Inc., 3800 Homestead Road Santa Clara, Calif.	South Korea, West Germany, Japan
Fairchild Camera and Instrument Corp., 464 Ellis Street Mountain-View, Calif.	Mexico, Australia, Hong Kong, South Korea, United Kingdom, West Germany, Netherlands, France, Brazil, Okinawa, Canada, Italy, Singapore
General Instrument Corp., 65 Gouverneur Street Newark, N.J.	Italy, Taiwan, Mexico, Scotland
Intersil, Inc., 10900 North Tantau Avenue Cupertino, Calif.	West Germany, Singapore
Motorola, Inc., 9401 Grand Avenue Franklin Park, Ill.	Japan, France, Scotland, West Germany, Mexico, South Korea, Taiwan, Hong Kong
National Semiconductor Corp., 2900 Semiconductor Drive Santa Clara, Calif.	Australia, Singapore, Hong Kong, Scotland, West Germany, Malaysia, France
Signetics Corp. (subsidiary of Corning Glass Works), Sunnyvale, Calif.	South Korea, Portugal, West Germany, France, Mexico
Sprague Electric Co. North Adams, Mass.	Belgium, France, Germany, Italy, Scotland, Canada, Taiwan, Mexico, Hong Kong
Texas Instruments Inc., 13500 North Central Expressway Dallas, Tex.	Brazil, United Kingdom, France, Holland, West Germany, Italy, Mexico, Argentina, Australia, Singapore, Japan, Taiwan, N. Antilles, Malaysia
Transitron Electronic Corp., 168 Albion Street Wakefield, Mass.	United Kingdom, France, Mexico

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Statement of Eugene L. Stewart, Esq., Executive Director, Pulp and Paper Machinery Manufacturers' Association

Mr. Chairman and members of the committee, this statement is presented on behalf of the Pulp and Paper Machinery Manufacturers' Association.

INTRODUCTION

This testimony and the recommendations which I shall present for amendments in H.R. 10710 are based upon the experiences of the domestic industry producing papermaking machinery in suffering the loss of virtually all new papermaking machines sold in the United States market during the period 1967 through 1972 to foreign manufacturers employing unfair methods of competition.

This experience has caused the Association, representing the domestic industry, to make a careful study of the content and administration of existing laws against unfair methods of competition in the import trade. We have sought to invoke the Antidumping Act by filing complaints against new papermaking machinery and parts thereof produced in Finland, Sweden, and Canada, all of which was sold for export to the United States at prices which were substantially less than the full cost of producing such merchandise in the country of origin.

The complaint directed against the dumping of papermaking machinery by Finland and Sweden was filed on June 6, 1971. On April 23, 1973, the Assistant Secretary of the Treasury published notices ordering the withholding of appraisement of papermaking machinery and parts from Sweden, but tentatively determining that such machinery and parts imported from Finland was not being sold at less than fair value.

The antidumping complaint in regard to such machinery imported from Canada was filed on March 1, 1973. Since the Canadian complaint is directed to a new papermaking machine, the contract for sale of which was entered into in early 1973, the machine is still under construction and has not as yet been exported to the United States. The antidumping unit of the Bureau of Customs appears to have taken the position that such machinery and parts were not contracted to be sold at less than fair value.

A complete papermaking machine occupies a building approximately one city block in length. It may cost from $4 million to $8 million, depending upon the type of paper and its output rating. It requires from 12 to 18 months to construct and will weigh from 3,000 to 5,000 tons.

The principal markets for papermaking machines are North America, Scandinavia, and Russia, since these are the regions in which are located the principal forestry resources capable of supplying in sufficient quantities the raw material for major production of paper.

The problems faced by the United States industry can be traced to a number of factors, but they manifest themselves in their final impact on the domestic industry in the manner in which the Scandinavian industry has organized to sustain its expanded production capacity on the basis of export sales to the United States.

Because Finland has had major forestry resources in the past, it has developed a strong paper machinery manufacturing industry, with considerable support from the Finnish Government. In the late 1960's the three principal Finnish paper machinery manufacturers entered into a concerted campaign through agreement for capturing a major share of the North American market for new papermaking machinery. They allocated production by type of machine among themselves, pooled their research and development and engineering resources, centralized their marketing program, and agreed to support each other through beneficial subcontracting of components required for new machine production. They acquired the ownership interest of a U.S. sales agent well qualified in the marketing of papermaking machinery.

The Finnish Government gave strong support to this export drive based upon the agreement which eliminated competition between the individual Finnish companies and maximized their production and marketing capabilities in the manner described. The assistance provided by the Finnish Government included guarantees against losses incurred by the Finnish manufacturers on export sales resulting from increases in production costs, and a variety of tax benefits uniquely applicable to the export sales of papermaking machinery to the United States.

Fortified by these arrangements, the Finnish paper machinery manufacturers entered aggressively into the competition for the sale of new papermaking machines placed under contract by U.S. paper mills in the years 1967 through 1971. Guaranteed against loss on their contracts and sustained by credit and tax concessions, with the added benefit of the elimination of duplication of effort inherent in their production and marketing agreement, the Finnish manufacturers captured the majority of the contracts for new machines let by U.S. paper manufacturers on the basis of prices which were substantially below the fully developed cost of producing such machines.

About 80% of the total sales of the Finnish paper machinery manufacturers of new papermaking machines is for export, subject to the benefits previously described. It was also a part of the strategy of the Finnish manufacturers, supported by their government, to reserve the Finnish market for new machines to themselves. This was accomplished on the basis of contract prices for the supply of new machines in Finland which were also less than the cost of production. Since the Finnish manufacturers were guaranteed against losses on 80% of their sales, they could readily utilize below-cost sales in Finland in order to reserve for themselves 100% of the market opportunities to which they directed their production and marketing agreement and their subsequent expansion of capacity.

The fact that selling prices in Finland were below cost of production (and possibly as low as the below-cost-of-production prices at which machines were contracted to be sold for export to the United States) presented special difficulties for the Bureau of Customs in conducting the antidumping investigation. The Bureau considered whether it should amend its antidumping regulations with the possible effect of excluding from use as a basis of "fair value" home market sales which were made at prices below the cost of production.

Notice of such consideration was given in the Federal Register on May 5, 1972. Regrettably, on April 23, 1973, the Commissioner of Customs, with the approval of the Assistant Secretary of the Treasury, published a notice stating that the Department—

> "has concluded that the fact that foreign merchandise is sold in the home market or for exportation to countries other than the United States at prices less than the cost of production is not a sufficient basis for disregarding such prices in the determination of the 'fair value' of such merchandise. Accordingly, the prices at which foreign merchandise is sold in the home market or for exportation to countries other than the United States will be used in determining the 'fair value' of such merchandise, regardless of whether the prices represented less than the cost of production * * *."

The United States industry producing papermaking machines is thus directly confronted with the fact that the Treasury Department and the Bureau of Customs appear to have ratified a deliberate combination and selling campaign entered into by the Finnish manufacturers which employ as the chosen instrument of market penetration in the United States the sale of new machines at prices which are below the fully developed cost of producing such machines in Finland.

Since the Finnish Government subsidizes and supports the Finnish industry in these tactics, we though it reasonable to expect our Government to interpret the Antidumping Act in a manner which would protect the domestic industry from the loss of its market, impairment of its capital investment, and the loss of employment due to such unfair tactics. Regrettably, our Government to this point has declined to provide that protection by a reasonable interpretation of the Antidumping Act which would denominate such tactics and the prices which are the chosen instrument of such a campaign for what they are; namely, "unfair."

In view of this background information, the provision of Section 321(e) of H.R. 10710 is especially meritorious. That subsection would amend the Antidumping Act to specify that when the Secretary has reasonable grounds to believe or suspect that sales in the home market have been made at prices which are below the cost of production of the affected merchandise, such sales will be disregarded, that is, not used as the benchmark for "fair value" in the dumping investigation. Thereupon, the Secretary shall employ the constructed value of the merchandise.

This amendment implies an ability on the part of the Treasury Department and the Bureau of Customs effectively to audit the constructed value data which would in an appropriate case be submitted by the foreign respondent in an antidumping investigation. We have found during bitter experience in the three investigations involving papermaking machinery that the Department and the Bureau lack such resources and are unwilling to provide them by contracting with competent auditing firms. By this remark, we intend no disrespect for the capable people of the Department and the Customs Service who are assigned to work on antidumping investigations. However impressive their experience and qualifications may be, singlehandedly they would be unable to conduct an audit of cost of production data submitted by a foreign manufacturer on an article such as a papermaking machine costing many millions of dollars and representing the utilization of a large plant and work force over a period of as great as one-and-one-half to two years. Added to the normal difficulties presented by an audit, the fact that the books and records in question are maintained in a foreign country and in accordance with foreign concepts and stated in foreign language, you can begin to appreciate the impossibility of an assignment given to one or a few Treasury Department or Bureau of Customs employees who may be asked to verify the reliability of constructed value data presented in an antidumping investigation. In the Finnish and Swedish investigations, our Association offered to contribute to the Treasury Department a sum of money sufficient to enable the Department without any intervention on our part to retain an independent auditing firm to conduct an audit of cost of production data submitted by the foreign manufacturers in those investigations. The offer was refused. In our opinion, as a result, determinations unfavorable to the domestic industry were made in both cases through the use of cost of production information which we believe to have been inaccurate or misleading. While the Department made a final determination of sales at less than fair value in the Swedish case, the margin of dumping found to exist was so slight that the Tariff Commission found that it would not account for the very substantial margin by which the Swedish machinery undersold domestic machines in the American market. Had the determination of the margin of dumping been correctely made with the benefit of a thoroughgoing and competent audit of the Swedish cost of production data, the margin of dumping would have been as great or greater than the margin by which the Swedish machinery undersold competing American machines in the U.S. market.

Accordingly, we recommend that Section 321(e) be amended by adding at the end of the proposed new subsection (b) of Section 205 of the Antidumping Act, 1921, the following:

> *Whenever the Secretary shall determine that it is appropriate to employ the constructed value of the merchandise as the basis for fair value, he is authorized to employ independent public accounting firms and other consultants in order to verify the accuracy and inclusiveness of the constructed value information submitted in the investigation.*

The amendment of the Antidumping Act that would be effected by Section 321(e) of H.R. 10710 is fully consistent with the intent of the Congress as originally expressed in the Antidumping Act. As construed by the U.S. Court of Customs and Patent Appeals in *Kleberg & Co.* v. *United States*, 21 C.C.P.A. (Customs) 110, 115, T.D. 46443 (1933);

> "This statute was evidentily intended to prevent the sale of foreign goods upon the markets of the United States at less than their foreign market value in the country of exportation, *or at less than their cost of production there*, all as defined by said antidumping act. [Emphasis added]

The 1958 amendments to the Antidumping Act, including the definition of the term "ordinary course of trade" so as to exclude transactions not "normal in the trade under consideration" were intended to strengthen the Act as a shield for domestic producers against unfairly priced foreign goods. As the Senate Finance Committee stated in its report on H.R. 6006, the bill which was enacted into law as amendments to the Antidumping Act in 1958,

> "The antidumping feature of our Tariff Act is of considerable importance in protecting domestic industries from inroads of foreign goods sold or offered for sale at less than fair value. Not only will the improvements made by this bill assist in speeding up to operating procedure, they will strengthen the deterrent effect of the law and in that respect help to prevent dumping." (S. Report 1619, 85th Congress, May 21, 1958)

A leading law review article examines comprehensively the applicability of the U.S. Antidumping Act under the GATT Agreement on Implementation of Article VI, effective July 1, 1968, to situations in which goods are priced for sale in their country of production and for export to the United States at less than fully distributed costs of production. The author's conclusions are consistent with the views expressed herein. Anthony, *The American Response to Dumping From Capitalist and Socialist Economies—Substantive Premises, and Restructured Procedures After the 1967 GATT Code*, 54 Cornell Law Review 159 (1969).

The conclusion which the author draws from his in-depth examination of the relevant materials is that—

> "an exporting producer should not be permitted to undersell and thereby to injure domestic producers if he can do so only by exploiting artificial or anticompetitive circumstances rather than by exploiting his superior efficiency." (*Ibid.*, p. 165)

He takes note of the fact that if goods are priced in both the home market and for export at a money-losing price, such sales could not be maintained for an extended period of time. (p. 166) Hence, such dumping merits Jacob Viner's characterization: "[T]he evil of dumping from the point of view of the importing country is its uncertain duration." (*Ibid.*) The author expands on this evil, as follows:

> "* * *, temporary dumping is likely to cause economic injury because it creates an unstable situation to which competitors in the domestic market may not readily be able to adjust—and, indeed, should not be expected to adjust. If the domestic industry is an efficient one (as we must assume throughout the present analysis), the domestic economy has an interest in keeping domestic producers engaged in their present lines of production, rather than in requiring them to shift over to other lines, as they perhaps

sought to do to adjust to a permanent flow of competitive low-cost imports. An idling of the capital and labor employed in such an industry comes at a particularly high social cost. The unemployed capital and labor are wholly lost to the economy for at least the short-run period during which they cannot be shifted into any other line of production. And in the longer run the idled factors *should* not be shifted into other lines, since (apart from the dumping, which cannot be counted on) it is the pre-dumping combination of capital and labor that makes the product available to consumers at the lowest price. But if the dumping continues long enough to necessitate a shift to other lines, the new uses of the capital and labor will usually be less remunerative to the possessors of those factors, and less valuable to the economy as a whole, than the old. Thus temporary dumping not only idles production, but in addition it tends to divert the factors of production to less economic employment. Ultimately it may also cause prices to rise, either because the dumper gains a monopoly or because the efficiency and ability to compete of the domestic producers have been impaired. Even though the dumping is temporary, then, it may bring enduring injury to the domestic economy." [Italics quoted] (*Ibid.*, pp. 167, 168)

The information available to us indicates that when the three Finnish papermaking machinery manufacturers entered into their agreement to eliminate competition between themselves, to divide up production and marketing responsibilities, and to pool their resources so as to support each other in their respectively designated areas of production and sale of papermaking machinery for export, they then embarked upon an expansion of capacity, protected by government guarantees against losses, to support their objective of capturing the dominant share of the market for new papermaking machines in North America.

Foreign producers who expand their capacity to achieve economies of scale are referred to by the author in the article cited as "declining-cost" or "decreasing-cost" producers. They are motivated to sell their output for export at low prices, below production cost if necessary, because such sales tend to support full utilization of their expanded capacity, enabling them to enjoy a declining-cost curve on their total production:

"The decreasing-cost producer can always sell abroad profitably at any price exceeding the marginal cost of the incremental output, even though that price is below average total cost. His ability to dump permanently—i.e., in the economic long-run—depends solely on the long-run profitability of his business in other markets (which here, for simplicity, we will assimilate to the home market). If his homemarket business is profitable in the long run, which means that he is wholly covering his fixed as well as his variable costs, he can dump indefinitely at any price above marginal cost, even though that price makes no contribution to the recovery of fixed costs that by definition is necessary in the long run. If his home-market business is unprofitable, he can still dump profitably at any price exceeding marginal cost, although of course he cannot do so permanently if he cannot stay in business permanently.

"Here we approach the central economic question of dumping. The dumper, whose price may reflect only marginal costs, competes with an American producer who will be injured unless he can recover his total costs." (*Ibid.*, p. 173)

Based on our study of the facts pertinent to the three antidumping investigations on papermaking machinery, the foreign manufacturers deliberately sold papermaking machinery both at home and for export at prices which were below fully developed costs of production. The author comments on that specific type of dumping situation, as follows:

"*Because competition among multiple sellers in declining-cost industries is characteristically unstable, it is frequently true that such sellers cannot recover all of their costs in the home market. Falling cost curves tempt firms into tactics of overproduction and repeated price reduction, which press prices below average costs and down toward the level of marginal costs. Such producers—who fit the classic pattern of the 'sick industry'—cannot regenerate their fixed costs and therefore cannot stay in business over the long run. Through price-fixing agreements and otherwise, however, they may attempt to continue operation for an 'intermediate run' so long as they can recoup variable costs, in the hope also of defraying or renewing part of their fixed costs. * * * The incentive to dump will be governed by the same considera-*

tions as control the seller who operates profitably in the long run, and the same technique of profit-maximization (described above) will apply. The fact that home-market sales are priced below average cost, and consequently are unprofitable in any period beyond the short run, affects only the potential duration of the dumping, not its economic appeal to the seller. The home buyers, by the subsidy of bearing a disproportionate share of the fixed costs that are in fact recompensed, enable the seller for some period of time to sell to the United States at the lower price. Thus the seller's transitory price advantage in the American market should not be taken as evidence of a true competitive advantage." [Emphasis added] (Ibid., p. 175)

In the Finnish and Canadian papermaking machinery cases, the Bureau evidently determined that the ratio of the price of machinery sold for export to the United States to the cost of producing that machinery is less than 1, but a higher percentage of 1 than in the case of the like ratio applicable to home market selling prices. These ratios reflect the situation described by the author of the law review article, cited above, in which foreign producers selling below cost in their market, in order to preclude the sale of foreign-made machinery therein, find it advantageous also to sell below cost for export in order to bring into play a declining-cost curve in relation to their total production.

But the necessary implication of these facts is that the prices applicable to sales in the home market are indeed below fully developed costs of production. This being so, the Congressional intent and judicial construction of the Act support a decision by the Secretary that such prices are not "normal" to the trade under investigation, and, moreover, are inherently an inadequate and insufficient basis for the "fair value" determination. This being so, Section 153.5(a) of the Regulations requires the Secretary to determine fair value on the basis of the constructed value of the merchandise, as defined in Section 206 of the Act.

As the author of the law review article previously cited states:

"On balance, I believe the policy of the Act soundly applies to this situation, on comparative advantage grounds as well as others. If there are American producers who are selling the product at a price close enough to the dumper's that they will be injured if no equalizing duty is imposed but will be protected if the duty is applied, the American consumer is probably not paying the American producer a great deal more than he would pay the dumper in the absence of a dumping duty. His detriment, even in the short run, is not likely to be great. On the other hand, the consumer might be severely injured if the dumper, after he had displaced the domestic producers in the American market, abused his new-found monopoly by raising prices." (*Ibid.*, p. 176)

Thus far, the Assistant Secretary and the Bureau have given the statute and the Customs Regulations a restrictive, narrow, unsympathetic reading which is at odds both with the intent of the Congress as manifested in the structure of the Act, and the judicial construction of the Act by the customs appellate court.

The American industry is not subsidized by its Government. It is prevented by domestic law from entering into a production, research and development, and marketing cartel to fight the unfair methods of competition of foreign machinery builders in selling papermaking machinery for export to the United States at prices which are below the fully-developed cost of production. At the very least, the American industry ought to be able to rely upon its Government to give a fair and sympathetic reading to the Antidumping Act so as to effectuate the intention of the Congress.

To insure that the U.S. statutes which are intended to counteract unfair methods of competition in the import trade are clarified so as to include within the scope the sale of foreign merchandise for export to the United States at prices which are less than the cost of producing such merchandise, it is necessary that amendments be made in the antidumping, countervailing duty, and unfair practices in import trade statutes of the United States, as follows:

A. Amendments to the Antidumping Act, 1921:

1. To require that foreign merchandise sold in the United States or elsewhere at prices which are below the fully developed cost of production of such merchandise be deemed to be sold at less than the fair value of such merchandise.

(*a*) Amend Section 201(a) of the Antidumping Act, 1921, as amended by Section 301 of the Act of September 1, 1954, and Sections 1 and 4(b) of the Act of August 14, 1958 by adding a sentence to the end of subsection (a) thereof, as follows:

"Foreign merchandise shall be deemed as being or likely to be sold in the United States or elsewhere at less than its fair value if the price at the time of exportation of such merchandise to the United States is less than the constructed value of the merchandise as defined in section 206 of this Act."

(b) Amend Section 202(a) of the Antidumping Act, 1921, as amended by Section 302, Act of September 1, 1954, and Sections 2 and 4(b) of the Act of August 14, 1958, by changing the existing statutory language "foreign market value (or, in the absence of such value, than the constructed value)" to read as follows:

"foreign market value (or, where the purchase price or the exporter's sales price is less than the constructed value, or where there is no foreign market value, than the constructed value)".

(c) Amend Section 212(2) of the Antidumping Act, 1921, as amended by Section 5 of the Act of August 14, 1958, by adding a sentence to the end of paragraph (2), as follows:

"Whenever foreign merchandise is sold, or in the absence of sales, offered for sale at a price which is less than the constructed value of the merchandise shall be deemed not to have been sold, or, in the absence of sales, offered for sale in the ordinary course of trade."

2. To reform the practice of the Treasury Department and of the Bureau of Customs in antidumping investigations so as to prevent the allowance of adjustments to the prices which are used as the basis for the fair value determination of the Secretary under Section 201(a) of the Act in such manner as to defeat the purposes of the Act.

(a) Amend Section 202 of the Antidumping Act, 1921, as amended by Section 302 of the Act of September 1, 1954, and Sections 2 and 4(b) of the Act of August 14, 1958, to read as follows:

"SEC. 202. In the case of all imported merchandise, whether dutiable or free duty, of a class or kind as to which the Secretary of the Treasury has made public a finding as provided for in section 201, entered, or withdrawn from warehouse, for consumption, on and after the date 120 days before the question of dumping was raised by or presented to the Secretary or any person to whom authority under section 201 has been delegated, and as to which no appraisement has been made before such finding has been so made public, if the purchase price or the exporter's sales price is less than the foreign market value (or where the purchase price or the exporter's sales price is less than the constructed value, or, where there is no foreign market value, than the constructed value), there shall be levied, collected, and paid in addition to any other duties imposed thereupon by law, a special dumping duty in an amount equal to such difference."

B. Amendments to the Countervailing Duty Statute (Section 303 of the Tariff Act of 1930):

To provide that financial assistance granted to a foreign producer with respect to the production or exportation of goods whether in the form of the remission by foreign countries of internal taxes paid with respect to products exported; or the forgiveness of internal taxes with respect to such products; or the conferring of preferential tax treatment in the form of an allowance for special reserves to fund export promotion and handling expenses and contingent liabilities in connection with such exports; or the conferring of preferential tax treatment on interest payments made on loans utilized in the financing of the production or sale for export of foreign merchandise; or the subsidization of interest payments on loans secured to finance the production or export sale of foreign merchandise; or discrimination in the purchase price of materials or components used in the production of foreign merchandise for export—constitute bounties or grants which are to be remedied by the imposition of the additional duties specified in the statute.

Amend Section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) by adding at the end thereof the following:

"The term 'bounty or grant' as applied to imported merchandise shall be deemed to include, by way of illustration but not of limitation, (a) the entire amount of any remission of any internal tax paid in the country of production or the country of exportation with respect to such merchandise, (b) the entire amount of any exemption of such merchandise from any internal tax, (c) the entire benefit realized by the foreign producer in the year in which such merchandise was exported to the United States of any preferential tax treatment applicable to the production, exportation, or sale of the imported merchandise whether made available in respect to production, exportation, selling, or credit expenses of such merchandise, (d) the entire benefit of any government-financed or supported financing of the production, exportation, or sale of such merchandise, or (e) the entire amount of the difference in price at which any constituent material, parts, components, or subassemblies utilized in the production of such imported merchandise have been sold to the producer or exporter thereof and the price at which such or similar material, parts, components, or subassemblies are sold or offered for sale to producers of the same general class of merchandise for sale for home consumption, or when not so sold, for sale other than for exportation to the United States."

C. Amendment of the Statute Prohibiting Unfair Methods of Competition and Unfair Acts in the Import Trade:

To specify that the sale of foreign merchandise in the United States at prices less than the constructed value of the merchandise as defined in Section 206 of the Antidumping Act, 1921, as amended by Section 4(c) of the Act of August 14, 1958, is an unfair method of competition and an unfair act in the importation of merchandise in violation of Section 337 of the Tariff Act of 1930.

Amend Section 337 of the Tariff Act of 1930, as amended by Proc. No. 2695, July 4, 1946, and Section 9(c)(1) of the Act of August 20, 1958, by adding a sentence to the end of subsection (a) as follows:

"The sale of imported articles at a price which is less than the constructed value of such merchandise as defined in section 206 of the Antidumping Act, 1921, as amended, 19 U.S.C. § 165, shall be deemed to be an unfair method of competition and an unfair act in the importation of such articles into the United States, or in their sale by the owner, importer, consignee, or agent of either within the meaning of those terms in this subsection."

CONCLUSION

While H.R. 10710 reflects at Section 321(e) a commendable awareness of the problem presented by the sale of foreign merchandise for export to the United States at prices which are below the fully-developed cost of production of such merchandise, the bill in its present form falls short of adequately dealing with this form of unfair competition. Accordingly, additional amendments to the statutes designed to prevent unfair methods of competition in the import trade are required, as described in this Statement. Finally, the very necessity for the Treasury Department to evaluate the relationship between selling prices and fully developed production costs in the intended reform of the statutes requires direction from the Congress that the Secretary utilize independent certified public accounting firms to perform such audits as may be appropriate in order to verify cost of production data submitted by foreign respondents in antidumping and countervailing duty investigations.

STATEMENT OF EUGENE L. STEWART, ESQ., ON BEHALF OF THE AD HOC COMMITTEE OF U.S. DYESTUFF PRODUCERS

American Color & Chemical Corp.
Atlantic Chemical Corp.
Benzenoid Organics, Inc.
Berncolors-Poughkeepsie, Inc.
Blackman Uhler Chemical Divis on, Synalloy Corp.
Crompton & Knowles Corp., Dyes and Chemicals Division.
Fabricolor Manufacturing Corp.
Lakeway Chemicals, Inc.

Nyanza, Inc.
Pfister Chemical Works, Inc.
Sodyeco Division of Martin Marietta Corp.
Young Aniline Works, Inc.

Mr. Chairman and members of the committee: The members of the Ad Hoc Committee of U.S. Dyestuff Producers, listed on Exhibit 1 to this statement, strongly oppose Section 102(b), Chapter 1, Title I, of H.R. 10710, the "Trade Reform Act of 1973" insofar as the term "barriers to (or other distortions of) international trade of * * * the United States" includes American Selling Price basis of customs valuation for synthetic organic dyes and pigments. The delegation of such authority to the President, in view of the Administration's announced intentions, will result in the repeal of ASP and inevitably lead to the destruction of our business and the jobs of our workers.

I. THE HEAVIEST IMPACT OF THE REPEAL OF ASP WILL FALL ON THE U.S. DYESTUFF INDUSTRY WHICH IS HIGHLY LABOR INTENSIVE AND VERY IMPORT SENSITIVE

The production of dyes is the most labor-intensive sector of benzenoid chemical production in the United States. The most severe effect of the repeal of ASP will fall upon the U.S. dye producers and their workers. The Tariff Commission so advised the U.S. negotiators in the Kennedy Round, and they understood that we would be especially vulnerable if ASP were to be repealed. Ambassador Blumenthal, who conducted the negotiations in the Kennedy Round in Geneva, acknowledged this in an address to the German chemical industry: [1]

"The Tariff Commission has found that the tariff effect of ASP protection is significant only for dyes, certain dye intermediates, and a few drugs and other specialty products. These are typically labor intensive, higher priced, batch-produced products. And since labor costs are relatively high in the United States, this batch process area of chemical production is an especially sensitive one for us."

II. THE U.S. DYESTUFF INDUSTRY IS ALREADY HIGHLY VULNERABLE TO IMPORT INJURY AS A RESULT OF THE 50 PERCENT CUT IN DUTIES WHICH IT SUSTAINED IN THE KENNEDY ROUND

The duty to be paid on imports is determined by multiplying the rate by the value. ASP is the rule for determining the value. The *rate* is a separate factor from ASP. The majority of imported dyes were subject, pre-Kennedy Round, to the rate of 40%. This was cut to 20%. No exceptions.

A group of 86 dyes was subject, pre-Kennedy Round, to the rate of 32%. This was cut to 16%. No exceptions. Two dyes, sulphur black and synthetic indigo, were dutiable at a compound rate, 3¢ per pound plus 20%. These were cut to 1.5¢ per pound plus 10%.

A special group of dyestuff components called fast color salts, fast color bases, and Naphthol AS and derivatives—which collectively are referred to as "azoics"—were subject, pre-Kennedy Round, to the rate of 3.5¢ per pound plus 20%. These were cut to 1.7¢ per pound plus 10%. No exceptions. Synthetic organic pigments—known as "lakes and toners"—were dutiable, pre-Kennedy Round, at 40%. They were cut to 20%. No exceptions.

Finally, advanced chemical compounds made in dyestuff plants, known as advanced intermediates, were also cut by 50%. Most of these were dutiable, by name, pre-Kennedy Round, at 3¢ per pound plus 20%. These were cut to 1.5¢ per pound plus 10%. A second group of 30 advanced intermediates, and their salts, were dutiable, pre-Kennedy Round, at 2.8¢ per pound plus 20%. These were cut to 1.4¢ per pound plus 10%. No exceptions.

Few industries had each and every product in its line cut by the full 50%. We did.

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[1] Address by Ambassador Blumenthal before the European Chemical Industry, Kronberg, Germany, December 8, 1966, p. 7.

The U.S. trade negotiators in the Kennedy Round used up every bit of the President's authority in cutting duties on dyestuffs and dye intermediates by 50%. They then entered into the supplemental chemical agreement, which they neither had authority to negotiate nor to implement, promising to secure the repeal of the ASP value rule, the effect of which would have been to reduce duties well below the 50% cut achieved through the reduction in the rates. This was a price asked of no other industry. Why? Fortunately for the domestic producers and their workers, the Congress did not ratify the supplemental agreement.

The House has acquiesced and now this Committee has been asked by the present Administration in effect to ratify the commitment made by the prior Administration, by giving the President the power in Section 102(b) of H.R. 10710 to enter into a trade agreement commitment to change the method of customs valuation for imported dyes, lakes and toners, azoics, and dye intermediates, and then without reference to the Congress to make such change effective by proclamation without any right in the Congress to disapprove.

The Report of the Committee on Ways and Means on H.R. 10710 (H.R. Rep. No. 93–571) states that the term "barriers" in Section 102(b) "include[s] the American Selling Price (ASP) system of valuation." (p. 21) The actions of the Administration on this issue leave doubt that for trade agreement purposes it accepts the claim of foreign countries, whose dyestuff industries are intent upon completing a takeover of the American market, that ASP is a "burden on trade."

III. THE EXISTING SYSTEM OF IMPORT DUTIES ON DYES HAS PERMITTED FOREIGN PRODUCERS STEADILY TO INCREASE THEIR SHARE OF THE DOMESTIC MARKET, AND THIS TREND HAS ACCELERATED AS A RESULT OF THE KENNEDY ROUND TARIFF CUTS

Accordingly to the Tariff Commission, two-thirds of the dyes sold in the United States are consumed by the domestic textile industry.[2] This coincides with trade information. The total invasion of the U.S. market for dyes for the textile industry includes both the dyes imported as dyes, and the dye content of textiles imported in a dyed or printed state.

The existing system of deeply reduced duties based upon the ASP has permitted imports to increase at a much more rapid rate than the growth in domestic shipments or in domestic consumption of dyes. Though the rate of growth has been unequal, it has been regulated to a sufficient extent by the ASP system of duties so as to permit the domestic industry to increase its shipments and employment notwithstanding the steady reduction in the share of the market available to domestic producers.

While the domestic producers of dyes would prefer import regulation which maintains their share of the domestic market relative to imports, they are able to live with a situation in which they have access to some of the growth in the market even though their market share declines.

The experience of the past five years demonstrates that the ASP system of duties, while operating more generously for the benefit of foreign producers than for domestic, does serve to maintain growth in employment and in domestic production and sales of dyes. Clearly the foreign producers have the better of it, and the Kennedy Round cuts have stimulated an increased rate of import penetration of the U.S. market. The domestic producers, however, have a sufficient position in the market, given the quality of import regulation achieved by the ASP system of duties and the strength of domestic demand, to stay alive and to enjoy some modest growth, and thus to protect the present and future outlook of their employees.

If the market demand slackens appreciably, on the other hand, we will be severely hurt by the reduced share of the market available to us in view of the steady rise in imports.

The data in the following table are evidence of these facts.

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[2] U.S. Tariff Commission, *Synthetic Organic Chemicals, U.S. Production and Sales of Dyes, 1971*, October 1972, p. 1.

TABLE 1.—U.S. EMPLOYMENT, OUTPUT, AND FOREIGN TRADE IN SYNTHETIC ORGANIC DYESTUFFS (SIC 28152)

	1967	1968	1969	1970	1971	1972	Annual average percent change
Employment [1]	11,600	12,740	13,510	13,190	13,710	15,515	+6.1
Production (thousands of pounds)	206,240	226,498	240,208	234,526	243,729	[2] 275,831	+6.1
Sales:							
Quantity (thousands of pounds)	198,592	214,661	220,886	223,218	229,544	[2] 259,778	+5.6
Value (thousands of dollars)	332,049	370,196	385,301	390,429	422,627	[3] 382,253	+7.9
Average unit value	$1.67	$1.72	$1.74	$1.75	$1.84	$1.86	+2.2
Imports:							
Quantity (thousands of pounds)	11,832	16,647	20,845	24,602	32,643	35,491	+25.1
Value (thousands of dollars)	36,185	49,015	59,343	65,004	93,146	97,500	+22.8
Average unit value	$3.06	$2.94	$2.85	$2.64	$2.85	$2.75	−2.0
Exports:							
Quantity (thousands of pounds)	13,780	15,939	15,061	21,526	21,666	28,976	+17.5
Value (thousands of dollars)	21,624	22,624	21,033	28,691	28,360	34,024	+10.6
Average unit value	$1.57	$1.42	$1.40	$1.33	$1.31	$1.17	−5.6
Domestic market: [4]							
Quantity (thousands of pounds)	196,644	215,369	226,670	269,346	240,521	266,293	+6.7
Value (thousands of dollars)	346,610	396,587	423,611	426,742	487,413	545,729	+9.6
Average unit value	$1.76	$1.84	$1.87	$1.58	$2.03	$2.05	+4.3
Ratio of imports to domestic market:							
Quantity (percent)	5.8	7.7	9.2	9.1	13.6	13.3	+19.7
Value (percent)	10.4	12.4	14.0	15.2	19.1	17.9	+12.0

[1] Employment data derived at the ratio of production (pounds) per employee for industry SIC 28152 in 1967 to the production data for each year.
[2] Estimated based on industry sales statistics of the quantity of dyes sold in 1972 versus 1971.
[3] Estimated based on industry sales statistics of the value of dye sales in 1972 versus 1971.
[4] Domestic market equals sales plus imports minus exports.

Sources: Employment: U.S. Department of Commerce, Bureau of the Census, "1967 Census of Manufactures." Production and sales: U.S. Tariff Commission, "Synthetic Organic Chemicals, United States Production and Sales," 1967–71, and industry data. Imports: U.S. Department of Commerce, Bureau of the Census, FT 246 (1967–71), IM 146 (1972). TSUS Nos. 406.0200–406.6000, and 406.8020–406.8060. Exports: U.S. Department of Commerce, Bureau of the Census, FT 410 (1967–72). Sch. B No. 531.0100.

The data in the foregoing table understate the exetent to which imported dyes have increased their penetration of the United States market. This understatement is due to the following factors: First, foreign producers tend to concentrate their exports of dyes to the United States in those categories which have the higher unit values. They prefer to concentrate their marketing efforts on the "cream" of the market rather than to carry the burden which rests upon the domestic industry of supplying a full range of dyes, including the low unit value products.

Second, imports of dyes tend to be in concentrated forms in comparison with the less concentrated formulations in which dyes are sold to textile mills for use. Domestic production data are in terms of the dyes as produced for sale to textile mills, so that a pound of imported dyes tends to displace more than one pound of domestically produced dyes. As pointed out by the Tariff Commission, "Dyes are sold as pastes, powders, lumps, and solutions; concentrations vary from 6 percent to 100 percent." [3]

In the case of dyes, therefore, a closer approximation of the market penetration can be gained by comparing the value of imported dyes with the value of domestic sales since value varies in accordance with the concentration. When values are used, it is necessary to adjust import values which are reported by the U.S. Government on an f.o.b. origin basis to landed cost (including transportation and duty) in order that the value of the foreign and domestic merchandise in position for sale in the United States market can be compared.

[3] U.S. Tariff Commission, *Synthetic Organic Chemicals, U.S. Production and Sales of Dyes, 1971,* October 1972, p. 1.

In its study, *Employment, Output, and Foreign Trade of U.S. Manufacturing Industries, 1958–71* (Fifth Edition 1973), the Trade Relations Council of the United States, Inc., has reported the value of domestic shipments of dyes and of imports on a landed-cost basis. The report also indicates the value of domestic consumption. The data in the following table are taken from that report.

TABLE 2.—SYNTHETIC ORGANIC DYES: VALUE OF U.S. SHIPMENTS AND FOREIGN TRADE; IMPORT PENETRATION OF THE U.S. MARKET

[In millions of dollars]

	1967	1968	1969	1970	1971
Value of shipments	$325.6	$360.4	$388.9	$397.4	$434.7
Imports, landed cost	55.6	73.5	86.9	92.9	129.9
Exports, valued at mill	19.4	20.4	18.9	26.0	25.5
Domestic market	340.2	386.8	427.2	433.5	449.5
Ratio, imports to domestic market (percent	15.4	17.8	19.0	20.0	24.1

Source: Trade Relations Council of the United States, Inc., "Employment, Output, and Foreign Trade of U.S. Manufacturing Industries 1958–71" (5th edition, 1973).

That report presents similar data for the entire chemical industry defined at the 2-digit level of the Standard Industrial Classification "chemicals and allied products." By contrast with the deep and rising market penetration shown in the above table for imported dyes, the report indicates that for the entire chemicals and allied products group, the import penetration rose slowly from 2.4% in 1967 to 3.5% in 1971.

The TRC study also ranks all U.S. manufacturing industries as defined at the 4-digit level of the Standard Industrial Classification in accordance with the ratio of imports to the domestic market. There are 259 separate industries or industry groups in the ranking. The dyestuff industry, which is defined at the 5-digit level of the Standard Industrial Classification, with its import penetration ratio of 20.0% in 1970, had a deeper penetration of its domestic market by imports than 228 of the 259 4-digit industries or groups of industries in the ranking.

In other words, dyes were among the industries with the most severe market penetration by imports notwithstanding that few of the industries in the ranking had the benefit of the American Selling Price valuation on competitive imports. I cite these data, Mr. Chairman, to make the point that the application of the American Selling Price value base to imports of competitive dyes cannot fairly be regarded as a burden on the import trade in view of the fact that imports of dyes have made a deeper penetration than the vast majority of American industries have experienced.

The above data and discussion are limited just to synthetic organic dyes. A closely related sector of batch-processing manufacture of labor-intensive benzenoid chemicals is concerned with synthetic organic pigments, sometimes referred to as lakes and toners. These are used in paints and related products, in printing ink, and in plastics and resin materials.[4]

The production methods and labor intensiveness of the synthetic organic dye and pigments industries are very much the same, and their vulnerability to import competition is equal in degree. The growth of domestic employment and production in lakes and toners is similar to that previously discussed for dyes, but the rate of growth of imports is higher than that for dyes alone. The pertinent data are shown in the following Table 3.

[4] U.S. Tariff Commission, *Synthetic Organic Chemicals, U.S. Production and Sales of Organic Pigments, 1971*, August 1972, p. 1.

TABLE 3.—U.S. EMPLOYMENT, OUTPUT, AND FOREIGN TRADE IN PIGMENTS (LAKES AND TONERS) (SIC 28153)

	1967	1968	1969	1970	1971	1972	Annual average percent change
Employment [1]	4,400	4,435	5,035	4,665	4,815	5,445	+4.7
Production ((thousands pounds)	53,322	53,749	61,011	56,524	58,326	[2] 66,008	+4.7
Sales:							
Quantity (thousand pounds)	42,867	45,810	50,794	47,166	47,052	[2] 53,249	+4.7
Value (thousands)	$108,354	$119,934	$133,149	$122,965	$130,013	[3] $148,357	+6.8
Average unit value	$2.53	$2.62	$2.62	$2.61	$2.76	$2.79	+2.0
Imports:							
Quantity (thousand pounds)	2,457	4,406	6,065	6,030	8,977	7,409	+29.1
Value (thousands)	$3,872	$6,904	$10,751	$12,533	$15,268	$15,013	+34.2
Average unit value	$1.58	$1.71	$1.77	$2.08	$1.71	$2.03	+6.0
Exports:							
Quantity (thousand pounds)	5,557	7,345	6,579	8,406	9,286	10,558	+14.8
Value	$10,052	$12,486	$11,710	$14,291	$16,224	$19,205	+14.4
Average unit value	$1.81	$1.70	$1.78	$1.70	$1.75	$1.81	+2.6
Domestic market: [4]							
Quantity (thousand pounds)	39,767	42,511	50,280	44,790	46,743	50,070	+5.1
Value (thousands)	$102,174	$114,352	$132,190	$121,207	$129,057	$144,165	+7.5
Average unit value	$2.57	$2.69	$2.63	$2.71	$2.76	$2.88	+2.3
Ratio of imports to domestic market:							
Quantity (percent)	6.2	9.5	12.1	13.5	19.2	14.8	+22.3
Value (percent	3.8	6.0	8.1	10.3	11.8	10.4	+24.6

[1] Employment data derived at the ratio of production (pounds) per employee for industry SIC 28153 in 1967 to the production data for each year.
[2] Estimate based on industry sales statistics of the quantity of dyes sold in 1972 versus 1971.
[3] Estimate based on industry sales statistics of the value of dye sales in 1972 versus 1971.
[4] Domestic market equals sales plus imports minus exports.

Sources: Employment: U.S. Department of Commerce, Bureau of the Census, "1967 Census of Manufactures." Production and sales: U.S. Tariff Commission, "Synthetic Organic Chemicals, United States Production and Sales," 1967-71, and industry data. Imports: U.S. Department of Commerce, Bureau of the Census, FT 246 (1967-72), IM 146 (1972). TSUS Nos. 406.7000 and 409.0000. Exports: U.S. Department of Commerce, Bureau of the Census. FT 410 (1967-72). Sch. B. No. 531.0200.

As in the case of dyes, it is evident from the data that the ASP system of import duties has permitted a very strong rate of growth for imports of lakes and toners, which increased threefold in the 5-year period, 1967–1972. Notwithstanding the exceptionally rapid increase in imports, at a rate six times that of domestic production and sales, domestic production increased modestly, and this served to boost employment moderately during the period.

The highlights of the data shown in Table 3 are that the ratio of imports to the total supply for domestic use increased from 6% in 1967 to nearly 15% in 1972.

The ratio of imports to domestic consumption of dyes and pigments is greater than that applicable to textiles by a wide margin, as shown by the following table.

TABLE 4.—RATIO OF IMPORTS TO DOMESTIC CONSUMPTION

[Based on quantity; in percent]

	Dyes	Lakes and toners	Cotton, wool, and man-made fiber textiles
1967	5.8	6.2	7.5
1968	7.7	9.5	7.9
1969	9.2	12.1	8.5
1970	9.1	13.5	9.0
1971	13.6	19.2	9.2
1972	13.3	14.8	9.6

[1] Fiber equivalent of imports of textile articles of cotton, wool, and man-made fiber to domestic consumption of such textile fibers, per Department of Agriculture, "Supplement for 1972 to Statistical Bulletin No. 417; Cotton Situation." April 1973; "Wool Situation," May 1973.

Mr. Chairman, the data in the preceding tables establish conclusively that the Kennedy Round tariff cuts on dyes and pigments have strongly stimulated the importation of these products into the United States.

Should there be any weakening of demand for dyes in the future, and we must face that now as a probability, rising import penetration of this magnitude will obviously cause serious disruption of the domestic market and corresponding hardship to domestic producers and their employees. The domestic producers will have their hands full in meeting this continuing and accelerating competitive challenge from the foreign producers. To repeal ASP in the face of these facts would clearly make a bad situation very much worse.

No one can honestly say that the access which is afforded to foreign-produced dyes and pigments under the existing system of duties and the increased access which the Kennedy Round 50% tariff cuts is conferring on foreign producers, is unfair or significantly restrictive of the interests of foreign producers. The situation has already developed to a point where it is plain from the data that the U.S. producers and their employees face diminished market opportunities in the United States with the consequent loss of future opportunity for expansion of production and the domestic work force. It would be harsh and unfair for this Committee to give tacit approval to the repeal of ASP as it applies to synthetic organic dyes and pigments in the light of this evidence. For this reason, we urge you not to approve Section 102(b) of the bill, as now written. We recommend that the provision be amended in the manner proposed at the conclusion to this statement.

IV. THE ASP DOES NOT IN FACT INHIBIT ACCESS TO IMPORTS OF COMPETITIVE DYES THEY HAVE INCREASED MORE RAPIDILY THAN NONCOMPETITIVE DYES AT CONVENTIONAL CUSTOMS VALUES

When you cut through all of the rhetoric and rationalizations which are used by the opponents of the ASP, it amount to this: The ASP value basis is claimed to inhibit imports of competitive benzenoid chemicals and thus retard reasonable access to the American market for such foreign-produced chemicals. Tariff Commission data concerning the competitive-noncompetitive status of imported dyes disprove that contention. These data are summarized in the following table.

TABLE 5.—COMPARATIVE ACCESS FOR U.S. IMPORTS OF COMPETITIVE VERSUS NONCOMPETITIVE DYES, 1958–72

	Imports of dyes classified as—		Ratio of competitive to noncompetitive (percent)	Domestic consumption of 3 textile fibers (million pounds)
	Competitive (thousand pounds)	Noncompetitive (thousand pounds)		
1958	1,957.6	2,146.1	91.2	5,790.0
Average 1959–62	2,425.6	2,957.5	82.0	6,706.5
Average 1963–64	5,114.4	4,187.5	122.1	7,552.8
Average 1965–67	6,236.3	6,589.4	94.6	8,945.8
1967	6,389.3	6,384.8	100.1	9,356.4
1968	9,421.3	9,489.2	99.3	10,268.3
1969	12,252.8	10,536.2	116.3	10,285.9
1970	14,679.3	10,558.0	139.0	10,111.5
1971	14,672.0	15,819.1	92.7	11,317.0
1972	20,630.2	17,835.7	115.7	12,323.1
Percent change 1967–72	+222.9	+179.3		+31.7

Source: U.S. Tariff Commission, "Imports of Coal-Tar Products," 1958–63; "Imports of Benzenoid Chemicals and Products," 1964–72. U.S. Department of Agriculture, "Supplement for 1972 to Statistical Bulletin No. 417; Cotton Situation," November 1973; "Wool Situation," August 1973.

The table establishes that:

1. Imports of dyes classified as competitive on the ASP basis have increased about as rapidly as those classified as noncompetitive. This is the direct opposite from what you would expect if the Administration's contentions were true.

2. Imports of competitive dyes made a mighty surge forward during the years 1968–1970 when the domestic textile market was in a stage of relative stagnation. This proves that the foreign producers can increase their penetration by boosting their exports of competitive dyes to the United States whenever they choose to do so and are not dependent upon a corresponding rise in the consumption of dyes by the domestic textile industry.

3. Roughly half of the imports of dyes are classed by Customs as noncompetitive, so that large share of the imports does not undergo customs valuation at the American Selling Price.

If the ASP basis of valuation were in fact a barrier which inhibits imports over and above the incidence of the duty itself, the roughly equivalent rates of growth of competitive and noncompetitive dyes would not have taken place.

Perhaps the most striking fact which emerges from the above table is that imports of both competitive and noncompetitive dyes increased more than six times the rate of increase in textile consumption in the United States, the principal basis for demand of dyes. Obviously, the ASP system has permitted foreign-produced dyes to enter the United States market at a rate many times greater than the increase in demand for dyes. These facts refute conclusively any notion that the ASP system is unfair in its operation on dye imports.

V. FOREIGN DYE PRODUCERS HAVE A DECISIVE COMPETITIVE ADVANTAGE AGAINST U.S.-PRODUCED DYES AND PIGMENTS AS SHOWN BY THE STEADILY INCREASING DEFICIT IN THE U.S. BALANCE OF TRADE IN DYES AND PIGMENTS

The reason for the existence of the ASP system of customs valuation is the dominant competitive power of the European producers and of Japan in trade in batch-processed, labor-intensive synthetic organic chemicals, epitomized by dyes and pigments. The United States competes with European and Japanese dyes and pigments in its home market and in world export markets. A study of the trends of U.S. imports, exports, and balance of trade will demonstrate the dominance of the foreign producers.

For example, there has been a continuous and growing deficit in the U.S. balance of trade in synthetic organic dyes and pigments throughout the past decade. In recent years, the value of U.S. imports of synthetic organic dyes and pigments has been more than twice the value of U.S. exports of these products. Our trade deficit in these products is now in the range of $60 million per annum. This is shown by the data in the following table.

TABLE 6.—ORIGIN AND DESTINATION OF FOREIGN TRADE OF U.S. MANUFACTURING INDUSTRIES, 1970, 1971 AND 1972—28152B—SYNTHETIC ORGANIC DYES, PIGMENTS, LAKES, AND TONERS (INCLUDES 28153)

[In thousands of dollars]

Country or geographic area	1970 Imports	1970 Exports	1970 Net balance	1971 Imports	1971 Exports	1971 Net balance	1972 Imports	1972 Exports	1972 Net balance
North America*	330	13,113	12,783	384	13,646	13,261	893	16,558	15,664
Canada	328	11,801	11,473	361	12,367	12,006	870	14,878	14,008
Mexico	1	634	632	21	512	491	24	748	724
South America*	0	3,494	3,494	0	4,043	4,043	0	4,888	4,888
Venezuela	0	1,090	1,090	0	1,012	1,012	0	1,017	1,017
Peru	0	86	86	0	188	188	0	192	192
Chile	0	130	130	0	64	64	0	125	125
Brazil	0	1,028	1,028	0	1,425	1,424	0	2,005	2,005
Argentina	0	543	543	0	770	770	0	934	934
Western Europe Free Trade Group	71,396	11,713	−59,682	100,013	13,439	−86,573	104,148	17,815	−86,332
European Economic Community	46,655	8,739	−37,916	70,949	10,932	−60,016	75,895	14,759	−61,136
Netherlands	555	1,041	487	592	1,442	850	581	2,034	1,454
Belgium and Luxembourg	17	1,921	1,904	74	3,210	3,136	388	3,312	2,924
France	2,588	901	−1,686	4,056	1,202	−2,853	4,584	1,762	−2,821
West Germany	37,507	1,325	−36,181	54,720	1,070	−53,649	56,458	2,051	−54,406
Italy	784	1,256	472	2,007	1,417	−589	2,242	2,166	−75
United Kingdom	5,205	2,165	−3,039	9,451	2,428	−7,022	11,427	3,302	−8,125
Denmark	0	129	129	49	164	114	215	131	−83
European Free Trade Association	24,741	2,974	−21,766	29,064	2,507	−26,557	28,253	3,056	−25,195
Austria	0	8	8	3	31	28	5	51	46
Portugal	0	34	34	1	38	37	0	68	68
Sweden	45	231	185	24	321	297	20	322	301
Switzerland	24,694	2,659	−22,034	29,037	2,075	−26,960	28,226	2,521	−25,704
Finland	1	43	42	0	41	41	1	95	94
Other Western Europe*	131	674	543	322	846	524	261	947	716
Norway	0	92	91	0	237	237	1	72	71
Other	130	582	452	322	609	287	230	874	645
Eastern Europe*	47	14	−32	300	17	−282	232	88	−143
Czechoslovakia	0	1	1	0	2	2	0	5	5
Poland	47	0	−46	274	0	−273	228	0	−227
Russia	0	0	0	0	6	6	0	0	0
Yugoslavia	0	11	11	0	4	4	4	27	23
Romania	0	0	0	0	0	0	0	55	55
East Germany	0	0	0	0	0	0	0	0	0
Asia*	5,616	12,649	7,032	7,363	10,906	3,543	6,875	10,762	3,888
Middle East	0	252	252	1	187	186	0	257	257
Israel	0	66	66	0	93	93	0	103	103
Egypt	0	57	57	0	8	8	0	8	8
Southeast and Southern	40	8,238	8,198	586	5,935	5,350	528	4,219	3,691
India	40	303	263	586	116	−468	528	78	−448
Singapore	0	24	24	0	15	15	0	33	33
Eastern	5,576	4,159	−1,416	6,776	4,784	−1,992	6,347	6,286	−59
South Korea	2	297	295	0	255	255	0	314	314
Hong Kong	1	990	969	1	1,343	1,342	6	1,520	1,515
Taiwan	2	110	108	1	202	200	25	326	301
Japan	5,572	2,758	−2,813	6,774	2,984	−3,789	6,316	4,125	−2,190
China	0	0	0	0	0	0	0	0	0
Australia and South Pacific*	16	1,113	1,097	28	1,190	1,162	138	1,572	1,434
Africa*	0	487	487	1	496	495	8	614	605
Republic of South Africa	0	387	387	1	394	393	0	0	0
Total**	77,536	43,165	−34,370	108,413	44,347	−64,065	112,524	53,171	−59,353

Source: Trade Relations Council of the United States, Inc., "Employment, Output, and Foreign Trade of U.S. Manufacturing Industries" (6th edition), 1974.

The steady increase in the balance of trade deficit of the United States in synthetic organic dyes and pigments, and the reduction which is occurring in our very small share of the world export market should indicate to the Committee that there are no compelling reasons for accommodating the insistent demand of the foreign producers for repeal of ASP. It is not a case where the foreigners are being shut out of our market; indeed, it is abundantly evident that they have succeeded with a dominant competitive power of virtually shutting us out of the world export market, while they enjoy a large and growing position in our market.

VI. THE REPEAL OF ASP AND THE SUBSTITUTION OF THE CONVERTED RATES BASED UPON THE FOREIGN SELLING PRICE WOULD GIVE THE CARTEL-LIKE EUROPEAN INDUSTRY THE MEANS FOR MAKING FURTHER REDUCTIONS IN THE ACTUAL DUTIES COLLECTED THROUGH CONCERTED PRICING ACTIONS

The European industry operates through a cartel-like arrangement. On July 24, 1969, the Commission of the European Economic Community conducted an investigation and entered its decree finding 10 European producers of dyes guilty of violating the antitrust provisions of the Treaty of Rome by repeatedly fixing prices for dyes sold in the Common Market through concerted action. The European producers are relatively free from competition from American producers in the European market. Where they have virtually complete domination of a market, it is their tendency to raise prices in concert to the detriment of the consumers served by that market.

The antitrust article of the Treaty of Rome, Article 85, applies only to practices which affect trade within the Common Market, and specifically exempts practices which affect the export trade of EEC producers. Consequently, the companies which have been found guilty of anticompetitive concerted action within the EEC are free to carry out such activities in their exports to the United States without fear of any prohibition by the EEC Commission.

If the independent dye producers in the United States are driven out of business by the tactics of the European industry, which the ASP has been an effective shield to prevent, you may expect anticompetitive activities in the American market similar to those which have been found by the Commission to be carried out in Europe.

The principal way in which the ASP serves as a shield against such possibilities is that the foreign producers who have the means and disposition to agree on prices are unable to affect the determination of U.S. import duties since they are based on the selling price of the U.S.-produced product rather than the selling price of the foreign-produced product. The repeal of ASP would base import duties on the selling price of the foreign product, which, of course, is under control of the foreign producer, and which he is in a position to set by way of concerted action with the other members of the European cartel.

Through their U.S. affiliates, the European producers (Hoechst, Bayer, Badische, and Casella of Germany; Ciba-Geigy and Sandoz of Switzerland; and I.C.I. of England) are in a position quickly to dominate the American market through the U.S. production and distribution activities of their affiliates and their own foreign production for the American market—if they gain this type of leverage over the determination of U.S. duties applicable to their exports to the United States.

According to the Tariff Commission, through the combination of their U.S. affiliates and their export to the United States from Europe, the foreign producers had captured fully one-third of the American market by 1965.[5] According to our trade estimates, the European producers have now increased this market share to more than 40%.

CONCLUSION

The foreign chemical industry and other advocates of ASP repeal base their case on the allegation that American producers can cut off imports by arbitrarily raising the duty on a product by raising the price. This argument conveniently ignores the reality of the market place where a price increase of $1 per pound would be required to raise the duty by 20¢ and would itself make the U.S. product noncompetitive, if it were not already so.

[5] U.S. Tariff Commission, Report to the Special Representative for Trade Negotiations, July 25, 1966, p. 19.

The real crux of the matter is that the members of the foreign cartels wish to secure *for themselves* the power *to reduce* U.S. duties under a system in which dutiable value would be based upon their foreign export price. If ASP is repealed, the foreign cartels will be able to carry on a campaign under which for each 30¢ reduction in their foreign export price, the United States Government would contribute a further reduction in landed costs of 9¢.

By every test in the domain of results by which a liberal trade policy can be judged, there is no need to repeal ASP and thus sacrifice the independent American dyestuff industry: The growth rate of imports is several times the growth rate of American production. Furthermore, the rising import penetration of the domestic market in dyes is equal to that in textiles, a recognized symbol of excessive import competition. The manufacture of dyes is, moreover, equally or more labor intensive than the manufacture of textiles, the industry which the dye manufacturers exist primarily to serve and with whose fate the welfare of the dye industry is inextricably bound.

The decision before this Committee, therefore, turns essentially upon the concepts of justice, equity, and fair play. Our past trade agreement reductions in rates of duty have unquestionably granted more than equitable access to the foreign producers in the U.S. market. On the other hand, the side basis for the health and welfare of the U.S. dye industry and its employees lies in continued access for U.S.-produced dyes to the U.S. market. This access will be destroyed by the repeal of ASP.

In the name of justice and fair play, therefore, we call upon this Committee and the Congress to reject the proposal to repeal ASP as to dyes, pigments, and dye intermediates. We urge you to amend Section 102(b) of Chapter 1, Title I, of H.R. 10710 by changing the period at the end of the subsection to a semicolon and adding the following: "*Provided that*, there is excluded from the authority contained in this section the existing methods of customs valuation applicable to synthetic organic dyes, lakes and toners, and dye intermediates subject to classification under Part 1, Schedule 4, Tariff Schedules of the United States."

Thank you. This concludes my statement.

EXHIBIT 1

AD HOC COMMITTEE OF U.S. DYESTUFF PRODUCERS

American Color & Chemical Corp., Paterson, N.J.
Atlantic Chemical Corp., Nutley, N.J.
Benzenoid Organics, Inc., Bellingham, Mass.
Berncolors-Poughkeepsie, Inc., Poughkeepsie, N.Y.
Blackman Uhler Chemical Division, Synalloy Corp., Spartanburg, S.C.
Crompton & Knowles Corp., Dyes and Chemicals Division, Fair Lawn, N.J.
Fabricolor Manufacturing Corp., Paterson, N.J.
Lakeway Chemicals, Inc., Muskegon, Mich.
Nyanza, Inc., Lawrence, Mass.
Pfister Chemical Works, Inc., Ridgefield, N.J.
Sodyeco, Division of Martin Marietta Corp., Charlotte, N.C.
Young Aniline Works, Inc., Baltimore, Md.

STATEMENT OF EUGENE L. STEWART, ESQ., ON BEHALF OF FOUR DOMESTIC PRODUCERS OF FLAT GLASS

ASG Industries Inc., Kingsport, Tenn.
C-E Glass, a subsidiary of Combustion Engineering, Inc., Pennsauken, N.J.
Libbey-Owens-Ford Co., Toledo, Ohio
PPG Industries, Inc., Pittsburgh, Pa.

INDEX

III. Recommendations for reform of the antidumping criteria and procedures based upon the domestic glass industry's experience in antidumping cases.
Amendments to the Antidumping Act of 1921.
Countervailing duties.
Preferential tariff treatment for manufactured products imported from developing countries.
Trade relations with countries not enjoying most-favored-nation tariff treatment.
Conclusion.

Mr. Chairman and members of the Committee: I am Eugene L. Stewart, and I submit this statement in my capacity as counsel for four domestic producers of flat glass; namely:

ASG Industries Inc., Kingsport, Tenn.;
C–E Glass, a subsidiary of Combustion Engineering, Inc., Pennsauken, N.J.;
Libbey-Owens-Ford Co., Toledo, Ohio; and
PPG Industries, Inc., Pittsburgh, Pa.

During the past 10 years, these domestic producers have repeatedly invoked the escape clause of the trade agreements legislation seeking an adjustment in imports to eliminate the serious injury caused or threatened by increased imports, as well as the Antidumping Act in an attempt to correct the injury which they have sustained as a result of the use by their foreign competitors of the unfair method of competition known as dumping.

The experiences of these domestic producers in their efforts to secure the administration of the remedies provided by the Congress against import injury led them to believe that they can be useful to this Committee in its consideration of foreign trade legislation by presenting a concise description of the inadequacies of existing law as administered by the Executive Branch of the Government. To this end we present our testimony in five sections:

1. Based on the experience of the domestic producers of flat glass, the reforms which are required in the prenegotiating procedures incident to the use by the President of trade agreements authority;
2. Based on the experience of the domestic producers of flat glass, the reforms which are required in the post-trade agreement procedures for the adjustment of increased imports to correct serious injury caused or threatened to a domestic industry by imports stimulated by trade agreement concessions;
3. Based on the extensive experience of these domestic producers, the reforms which are required in the anti-dumping and countervailing duty statutes and administration; and
4. Based on the number of developing countries which have an export surplus in their manufacture of flat glass, the improvement which is required in the specification of the conditions and procedures precedent to the grant of preferential tariff treatment to manufactured products imported from developing countries.
5. Based on the emergence of Communist countries as leading suppliers of U.S. imports of flat glass, the improvement which is required in the conditions precedent for the grant of Most Favored Nation tariff treatment to such countries.

The term "flat glass" as used in this statement refers to the following types of glass:

(a) Sheet glass, presently the least expensive category of flat glass, which is principally used in the glazing of windows and patio doors of residences;
(b) Plate glass, a very high quality flat glass product which is chiefly used in the glazing of store fronts, office buildings, other institutional structures, and in high quality mirrors;
(c) Float glass, a comparatively new flat glass product made by a revolutionary technological process, interchangeable in quality with plate glass for most applications, which is less expensive to produce than plate glass but still more expensive than sheet glass used for the glazing of residences;

(d) Cast and rolled glass, which as patterned or obscure glass is principally used as the partitions in offices and other institutional structures, in the glazing of doors, and for such residential applications as shower doors;

(e) Polished wire glass, which is produced so that a wire grid of various designs is imbedded in the interior of the glass, and is chiefly used as safety glass in schools, factories, and other institutional buildings; and

(f) Temperea glass, produced by the controlled heating and cooling of sheet, float, or rolled glass, is principally used for the side and rear windows of automobiles, and for patio doors and the glazing of other openings in residences and office buildings to comply with state and municipal laws requiring the use of glass more resistant to breakage than ordinary glass which, upon breaking, fragments into small blunt particles, minimizing the risk of injury.

Historically, the technology for the production of sheet and plate glass, cast and rolled glass, and tempered glass originated in or was advanced to its current technological state in the United States. The most recent advance in the technology of flat glass manufacture, the float glass process, was developed by Pilkington Brothers, the British flat glass monopoly. All flat glass manufacturing technology is widely licensed throughout the world.

With the exception of float glass to which I shall make further reference in a moment, the manufacture of flat glass is highly labor intensive. The raw material for flat glass manufacture, silica sand, is widely distributed throughout the world. The energy resources required to operate the glass melting furnaces is also generally available throughout the world. The high skills required of production workers in the operation of the flat glass factory and the cutting edge treatment of the glass following manufacture result in comparatively high wages. In the United States, the average hourly wages paid production workers in the flat glass industry rank 10th out of 259 industries or groups of industries, as reported by the Trade Relations Council of the United States in its study, *Employment, Output, and Foreign Trade of U.S. Manufacturing Industries, 1958–71* (Fifth Edition), 1973, Volume 3, p. 886.

The manufacture of plate glass was especially labor intensive because of the necessity of grinding and polishing the surfaces of the glass after it was formed and cooled. Float glass, by contrast, which is generally interchangeable on a commercial basis with plate glass, is significantly less labor intensive because of the elimination in that process of the necessity for grinding ad polishing the surfaces of the glass. Float glass is produced by pouring the molten glass on a bed of melted tin which as a stabilized liquid causes the surface of the glass resting against it to be smooth and free from distortion while the upper surface of the melted glass becomes equally stabilized by the pressure of the atmosphere against it, leaving it equally smooth and free from distortion.

Float glass manufacturing, however, is quite capital intensive in comparison with other types of flat glass. The capital investment per worker required for a float glass manufacturing plant is significantly greater than that required for other glass manufacturing plants of comparable capacity.

There has been a steady deterioration in the U.S. balance of trade in flat glass in recent years. While U.S. exports in significant volume are limited essentially to our shipments to Canada, U.S. imports originate in virtually every quarter of the world. This is shown by the data in the following table.

TABLE 1.—ORIGIN AND DESTINATION OF FOREIGN TRADE OF U.S. MANUFACTURING INDUSTRIES, 1970, 1971, AND 1972—3211A FLAT GLASS (PLUS 32313)

[In thousands of dollars]

Country or geographic area	1970 Imports	1970 Exports	1970 Net balance	1971 Imports	1971 Exports	1971 Net balance	1972 Imports	1972 Exports	1972 Net balance
North America*	28,414	26,189	−2,225	36,351	28,223	−8,127	39,670	37,833	−1,836
Canada	28,326	23,099	−5,227	35,179	26,713	−8,465	38,309	36,397	−1,910
Mexico	87	2,166	2,079	1,170	981	−188	1,361	657	−703
South America*	461	2,648	2,187	399	1,446	1,047	217	1,671	1,454
Venezuela	6	1,051	1,045	4	519	515	13	694	681
Peru	3	37	33	0	42	42	0	0	0
Chile	0	290	289	0	131	131	0	97	97
Brazil	0	728	728	7	333	376	54	399	345
Argentina	0	150	149	0	106	105	0	230	230
Western Europe Free Trade Group*	46,959	3,850	−43,108	41,439	2,764	−38,674	49,256	2,748	−46,508
European Economic Community	44,362	3,574	−40,788	38,471	2,567	−35,903	45,626	2,491	−43,135
Neitherlands	304	139	−164	494	355	−136	962	139	−822
Belgium and Luxembourg	17,589	283	−17,305	15,164	202	−14,960	19,064	313	−18,749
France	3,821	462	−3,359	1,925	647	−1,276	1,570	559	−1,010
West Germany	13,640	1,065	−12,575	11,951	340	−11,610	14,486	562	−13,923
Italy	4,924	584	−4,339	3,129	741	−2,387	2,865	496	−2,368
United Kindgom	4,080	1,026	−3,053	4,224	262	−3,961	6,463	412	−6,049
Denmark	5	15	9	1,585	19	−1,564	216	3	−207
European Free Trade Association	2,596	276	−2,320	2,968	197	−2,770	3,630	257	−3,572
Austria	321	1	−320	472	4	−468	322	8	−313
Portugal	532	45	−487	774	32	−741	1,086	8	−1,077
Sweden	616	189	−426	624	87	−536	319	159	−159
Switzerland	146	40	−106	62	74	12	65	82	17
Finland	982	2	−979	1,035	0	−1,034	1,837	0	−1,836
Other Western Europe	1,464	42	−1,421	2,457	108	−2,848	4,183	104	−4,078
Norway	0	0	0	10	6	−3	4	1	−2
Other	1,464	42	−1,421	2,447	102	−2,344	4,180	104	−4,075
Eastern Europe*	3,128	6	−3,122	4,596	9	−4,586	8,290	5	−8,285
Czechoslovakia	78	0	−78	147	0	−146	506	0	−505
Poland	1,095	0	−1,095	1,488	0	−1,487	1,928	5	−1,922
Russia	1,492	0	−1,491	1,605	0	−1,604	2,130	0	−2,129
Yugoslavia	194	3	−190	112	5	−106	0	0	0
Rumania	153	0	−153	921	0	−920	2,923	0	−2,922
East Germany	30	0	−29	32	0	−31	12	0	−11
Asia*	20,175	1,100	−19,074	14,702	1,057	−13,644	24,720	1,832	−22,887
Middle East	696	539	−156	669	593	−76	219	585	366
Israel	696	79	−617	669	23	−646	219	12	−206
Egypt	0	5	4	0	0	0	0	5	5
Southeast and Southern	57	305	248	39	182	143	1,201	577	−623
India	57	101	43	37	15	−51	77	434	356
Singapore	0	6	6	0	21	21	0	14	14
Eastern	19,422	255	−19,166	13,994	282	−13,711	23,301	670	−22,629
South Korea	50	43	−7	506	15	−489	1,527	42	−1,485
Hong Kong	14	21	7	16	13	−3	22	88	66
Taiwan	2,442	11	−2,430	2,024	12	−2,011	2,772	4	−2,767
Japan	16,915	177	−16,738	11,447	240	−11,206	18,979	520	−18,457
China	0	0	0	0	0	0	1	0	0
Australia and South Pacific*	675	1,870	1,194	873	1,401	528	1,522	2,165	643
Africa*	103	427	324	1	345	344	43	260	217
Republic of South Africa	103	368	265	1	293	293	0	0	0
Total	101,378	36,180	−65,197	100,809	35,347	−65,461	127,898	46,617	−81,280

Source: Trade Relations Council of the United States, Inc., "Employment, Output, and Foreign Trade of U.S. Manufacturing Industries" (6th edition), 1974.

Imports of flat glass have increased steadily during the past 15 years, and with special vigor during the latter half of the 1960's and the early portion of the 1970's. The data presented in the report previously mentioned establish that using the average of the years 1964–1966 as a benchmark, during the intervening years to 1971 imports increased at an average *annual* rate of 15.3% in comparison with a rise in U.S. exports of only 4.3% per year. The domestic market for flat glass grew at an average annual rate of only 4.3%.

The rapid increase in imports in comparison with the slow growth of the domestic market necessarily resulted in suppressing the growth of domestic shipments, which increased at the rate of only 3.5% a year. Because of the sustained increase in the productivity of the workers in the domestic industry, this minimal rate of growth, so strongly influenced by the rapid increase in imports, resulted in a loss of employment of production workers at the average annual rate of 4.8%.

The reduction in U.S. import duties profoundly influenced the adverse rate of growth of imports compared with domestic output and employment. For the benchmark period, the average of 1964–1966, the ad valorem equivalent of the duties collected on imports in relation to the f.o.b. origin value of such imports was 25.6%. Due to reductions in the U.S. tariff which I shall describe more fully in a moment, the ad valorem equivalent of U.S. imports duties declined steadily, until in 1971 it had descended to the level of 10.7%.

In 1973, U.S. imports of flat glass declined by 114 million square feet, or 18%, in comparison with 1972.

The major reason for this decline was the U.S. dollar devaluation which made it more profitable for foreign countries to sell their excess glass in home markets. Two countries where the dollar decreased in relative value most were West Germany and Belgium, resulting in the significant drop in their glass shipments to the U.S.

In addition to the devaluation, there was a decline in U.S. flat glass requirements during the fourth quarter, as residential construction dropped and the effect of the energy crunch on auto production, etc. became apparent. The energy crisis also resulted in a reduction of production in several foreign countries. For instance, Japan reduced consumption of oil and electric power by 10% in 12 industries, including sheet glass.

It is anticipated that U.S. imports of flat glass will register an increase in 1974, due in part to the final stage in the reduction in sheet glass duties, which became effective January 31, 1974. This reduction is a consequence of the President's decision not to accept the unanimous finding of the U.S. Tariff Commission that a phasing out of the modified "escape clause" duty rates on sheet glass would adversely affect the domestic industry. The phasing out of the escape clause rates is also inconsistent with the 3–3 decision of the U.S. Tariff Commission in 1972 that the domestic sheet glass industry was threatened with serious injury as a result of increased imports caused in major part by past tariff concessions.

While some forty countries export glass to the United States, during the past six years from two-thirds to three-fourths of total U.S. imports of flat glass have originated in ten countries. While Belgium has traditionally been the leading supplier of U.S. imports of flat glass, with Japan in second place, their positions were reversed in 1972. Then, surprisingly, in 1973 Rumania zoomed to the top position, relegating Japan to second place and Belgium to fifth place among the top ten suppliers. Of the leading ten suppliers of U.S. imports, two, Russia and Rumania, experienced major increases at the expense of Belgium, West Germany and Japan. This is shown in the following table.

TABLE 2.—TOP 10 FLAT GLASS IMPORTING COUNTRIES—ALL PRODUCTS

[Million square feet]

Rank and country	1973	1972	1971	1970	1969	1968	1973/72, quantity change
1. Rumania	73	64	25	4	4	7	+9
2. Japan	68	88	43	68	77	80	−20
3. Canada	65	64	30	17	19	18	+1
4. U.S.S.R	46	36	30	29	26	26	+10
5. Belgium	32	83	67	76	97	132	−51
6. Taiwan	27	27	22	27	27	37	
7. West Germany	27	49	37	50	64	62	−22
8. Korea	25	23	8	1			+2
9. Spain	24	22	12	5	5	5	+2
10. Poland	20	23	20	14	17	16	−3
Total, above	407	479	294	291	336	383	−72
Total, all	534	650	434	415	505	594	−116
Percent of total	76	74	68	70	66	64	

A fact of major importance to a consideration of the economic implications to the U.S. flat glass industry of reductions in U.S. import duties and the passive or even negative attitude on the part of the Executive Branch of the U.S. Government toward the use of the escape clause to correct or prevent serious injury to the domestic industry from increased imports, is the cartel-like relationship between the dominant elements of the European flat glass industry.

By agreement entered into in 1972, two of the Continent's largest glass manufacturers, France's Boussois-Souchon-Neuvesel (BSN) and Belgium's Glaverbel, are to merge into a single corporate entity: BSN will spin off all of its sheet glass manufacturing assets to its 92%-owned Belgian subsidiary, Mecaniver, which will then merge with Glaverbel. The BSN-Glaverbel group will then account for some 40% of sheet glass production in the "enlarged" EEC plus Spain, and will then rank among the world's largest sheet glass producers. The foreign operations of BSN and Glaverbel are complementary, and the coordination to be achieved via the merger will be carried out on a worldwide scale. Between them, BSN and Glaverbel have manufacturing subsidiaries in Austria, Germany, Italy, The Netherlands, Spain, Switzerland, the U. K., and Turkey; in Argentina, Brazil, Chile, and Peru; in Iran and South Africa; and in Canada and the United States.

Presently, BSN, Glaverbel, and St. Gobain pont de Mousson control EEC production of sheet glass, and plate and float glass. The sheet glass market is dominated by BSN and Glaverbel, and plate and float glass by St. Gobain pont de Mousson which, directly or indirectly, has a dominant position in each EEC country.[1]

By virtue of acquiring a 72% interest in Germany's leading sheet glass producer. Flachglas AG, BSN now controls 80% of the German market in addition to 66% of the French market. In the Benelux countries, Glaverbel controls from 90% to 95% of the sheet glass market, and accounts for from 30% to 40% of plate and float glass production. Upon the consummation of the BSN-Glaverbel merger, there will be only two major sheet glass producers in the original EEC: BSN–Glaverbel and St. Gobain. As a result of its acquisition of Glaverbel, BSN's market dominance throughout the EEC will be strengthened, as the combined group will control 72% of sheet glass production. The EEC authorities are studying the antitrust implications of the BSN–Glaverbel merger.

Great Britain's entry into the Common Market will bring Pilkington Brothers Ltd., Europe's largest produced of float glass, into the EEC.

Until its dissolution in 1969, Glaverbel, BSN, St. Gobain, and Pilkington were members of Centraver, a cartel of European glass manufacturers that respected each others domestic and export markets.[2]

In June and July 1970, the Commission of the European Communities announced that as a result of a three-year investigation of agreements and concerted practices within the flat glass sector which seriously restricted competition in that oligopolistic market, which coincided with a tendency by some of the members to follow a more independent policy than provided for in the cartel agreement, the members of the cartel had brought about its dissolution and the closing down of its secretariat.[3] Nevertheless, the Commission found, the European producers that belonged to the cartel had entered into other agreements which restricted potential access to the glass market in the EEC to the extent that effective competition could not be maintained within the Community. As a result of the Commission's intervention, the restrictive provisions of these agreements were terminated.

A separate announcement of the Commission described the existence of concerted practices between German and Italian manufacturers of sheet glass which restricted trade between the two countries.[4] As a result of the Commission's intervention, the European producers promised to put an end to such practices.

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[1] St. Gobain pont de Mousson, as a result of the acceptance of its recent tender offer, is reported to have acquired a controlling interest in Certainteed Products Corporation, Valley Forge, Pennsylvania, a move which forecasts possibly reentry by St. Gobain pont de Mousson into the U.S. glass industry.

[2] The preceding discussion concerning the BSN-Glaverbel merger, its market share significance, and the Centraver cartel is based upon *Business Europe*, "Weekly Report to Managers of European Operations," June 9, 1972, pp. 177–179.

[3] CCH, *Common Market Reporter*, ¶ 9382.

[4] *Ibid.*

These actions by the Commission and the underlying agreements and cartel organization against which they were directed are reflective of the concerted practices of the dominant members of the European glass industry which not only restricted access to Continental European markets, but which also had the tendency of concerting their export activities on key markets such as the United States in a manner inimical to the best interest of such export markets. The technique by which the home markets of the European producers were denied to outsiders includes the operation of a rebate cartel. This is a technique in which the participating members of the oligopoly agree to a schedule of rebates to purchasers of glass which has the effect of discouraging such purchasers from buying glass from outside sources.

Under the rebate cartel provisions, purchasers were credited with glass purchased from any of the members of the cartel. These purchases were aggregated so as to qualify the purchasers for maximum rebates. The effect of the rebates was to make it economically attractive for European users of glass to purchase from the members of the cartel rather than from outsiders, such as U.S. producers.

When the German Federal Cartel Office objected to the rebate cartel for flat glass as it affected commerce in that country, the Berlin Court of Appeals in a decision handed down on December 28, 1966, overruled the objections of the Federal Cartel Office, so that the flat glass cartel was validated by the local law of Germany. That decision was upheld by the German Federal Supreme Court on February 5, 1968.[5]

Notwithstanding the clear-cut evidence that the European industry is in fact a tight oligopoly which has not hesitated to use anticompetitive methods for the marketing of its output of flat glass through the cartel and other agreements which have been the object of concern for antitrust authorities in Europe, the U.S. Antitrust Department has intervened in Tariff Commission proceedings initiated by the domestic flat glass producers in a transparent effort to secure for the U.S. consumer the "benefits" of the marketing objectives of the European cartel.

I. RECOMMENDATIONS FOR REFORM OF THE PRENEGOTIATING PROCEDURES BASED UPON THE DOMESTIC GLASS INDUSTRY'S EXPERIENCE IN PRIOR U.S. TRADE AGREEMENT NEGOTIATIONS

Because sheet glass tariffs were subject to escape clause action taken by President Kennedy, they were not subject to further tariff concessions in the Kennedy Round under the provisions of Section 225 of the Trade Expansion Act of 1962. The duties applicable to sheet glass were in fact subsequently reduced by actions taken by Presidents Johnson and Nixon. The experience of the industry in connection with such Presidential actions provides the basis of its recommendations for the reform of tariff adjustment procedures in a subsequent section of this statement.

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[5] Organisation for Economic Co-operation and Development, *Aggregated Rebate Cartels*, "Report of the Committee of Experts on Restrictive Business Practices," 1972, pp. 30–31.

All other categories of flat glass were reduced in duty not only in the Kennedy Round but in prior trade agreement negotiations. The domestic producers availed themselves of the opportunity provided under the then-existing prenegotiating procedures to present evidence both to the interagency organization established within the Executive Branch and to the Tariff Commission. On the basis of the economic data presented, the domestic producers requested that no further reductions be made in glass tariffs. These requests were unavailing.

The following Table 4 summarizes the deep reductions made in flat glass tariffs during the history of the trade agreements program. All categories of flat glass (except sheet glass, which is to be discussed later) were reduced by more than 75%, and three of the four major categories were reduced by more than 80%.

TABLE 3.—AVERAGE RATES OF DUTY ON FLAT GLASS OTHER THAN SHEET GLASS

[Cents per square foot]

Effective date	Plate and float	Cast and rolled	Polished wire	Tempered
Statutory (1930) rate	20.39	2.50	23.0	19.7
Trade agreement rates:				
Effective Jan. 1, 1948	[1] 6.77	1.25	7.65	14.26
Effective June 30, 1958	5.95	1.04	7.65	8.67
Effective Jan. 1, 1972	2.87	.50	3.80	4.33
Percent change:				
1930 to 1948	−66.8	−50.0	−66.7	−27.6
1948 to 1958	−12.1	−16.8		−39.2
1958 to 1972	−51.8	−51.9	−50.3	−50.0
1930 to 1972	−85.9	−80.0	−83.5	−78.0

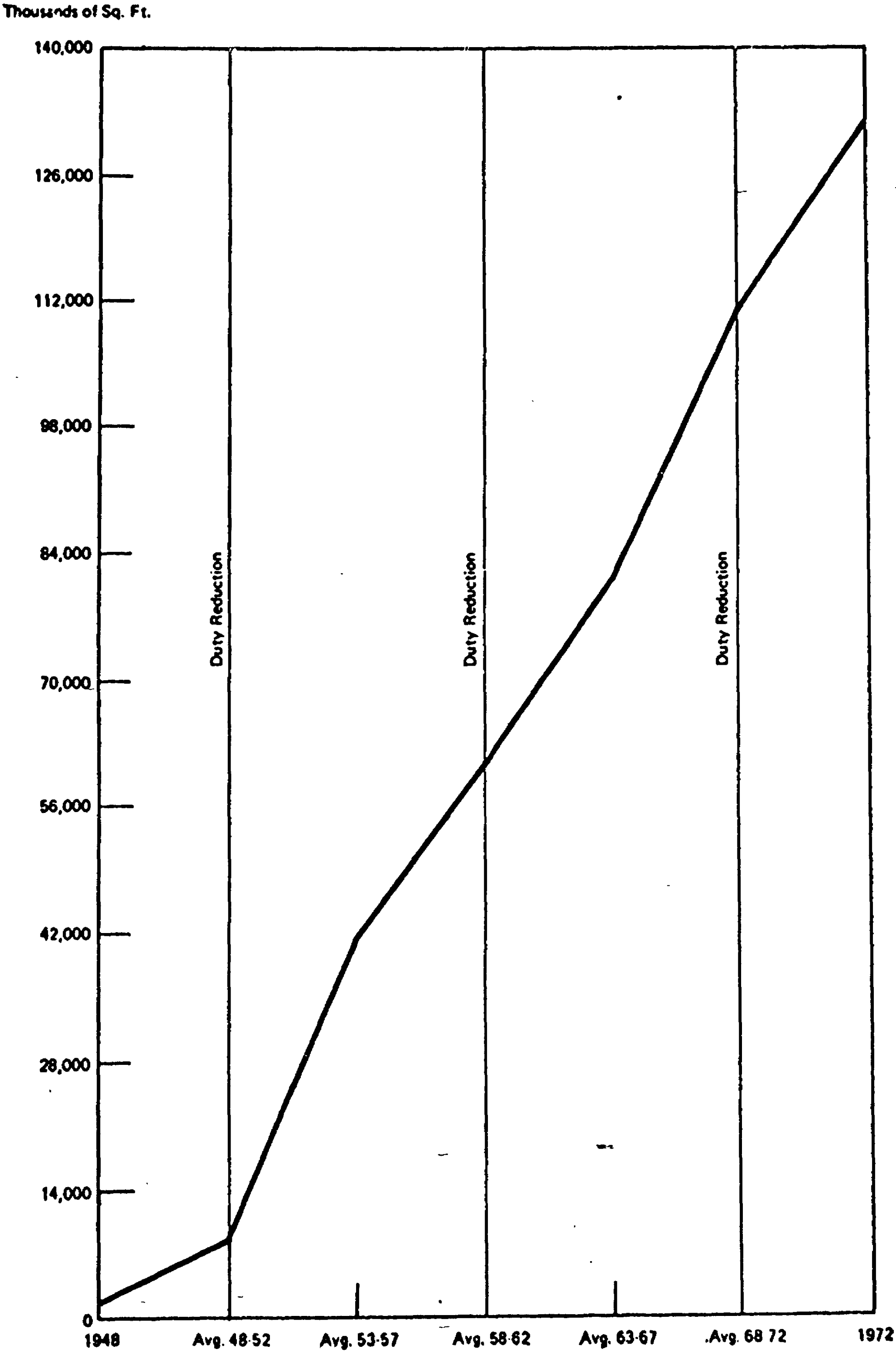
[1] Rate was calculated based on weighted average of rates for schedule A 522.0000–522.0130 for 1962 imports.

Note: Weighted average duty rates were calculated for MFN imports based on January-June 1971 import statistics as published by U.S. Department of Commerce, Bureau of the Census, IM 146, June 1971.

The reductions in duty shown in the above table stimulated a strong increase in imports in each of the major categories of flat glass referred to on the table. Between 1948 and 1972, imports of these categories of flat glass combined increased from less than 2 million sq. ft. in 1948 to nearly 132 million sq. ft. in 1972. This dramatic rise in imports is shown in the following Chart I. The data pertinent to the increase in imports in each of the categories of flat glass which are included in the total plotted on the chart are shown in the accompanying Table 4.

Chart I

U. S. IMPORTS OF FLAT GLASS, EXCEPT SHEET GLASS, 1948-1972; 5 YEAR AVERAGES



Source: Table 5

TABLE 4.—U.S. IMPORTS OF FLAT GLASS, OTHER THAN SHEET GLASS, 1948-72; 5-YR AVERAGES

[Thousand square feet]

	Plate and float	Cast and rolled	Polished wire	tempered	Total
1948	1,159	583	210		1,952
1948-52	6,256	1,833	144		8,233
1953-57	28,230	13,215	396		41,841
1958-62	33,567	26,081	639		60,287
1963-67	46,712	28,145	1,660	[1] 4,534	81,051
1968-72	61,505	23,537	2,710	23,133	110,885
1972	72,378	26,009	3,418	30,049	131,854

[1] 4-year average; data not available prior to 1964.

Source: U.S. Department of Commerce, Bureau of the Census, FT 110, FT 246, IM 146.

Based on their experience in attempting to inform the Executive Branch through the interagency committee designated to hold public hearings on the subject, and through the investigation of the Tariff Commission which provides the basis for the Commission's advice to the President, the domestic producers of flat glass have concluded that very little attention has been paid in the past to the views and information presented by domestic industry.

It is the observation of the domestic producers of flat glass that the officials of the Executive Branch who have been delegated the power to use the President's authority in trade agreement negotiations have essentially made their decisions without significant regard to the weight of the evidence presented by domestic industry in the public hearings. The position developed by the Executive Branch which determined the course of negotiating conduct by members of the U.S. delegation was evidently cast so as to authorize the U.S. negotiators to make the fullest possible use of the President's power to reduce duties regardless of the consequences of such actions on domestic industries and their workers.

Nothing in the prenegotiating procedures required the President and his delegates to respect the views presented by domestic industry or the findings of the Tariff Commission based upon its investigation. It is our opinion that personnel of the Executive Branch involved at the policymaking level in trade agreement preparations treat the views of domestic industries and their workers, and, indeed, of the Tariff Commission, as parochial, narrow, and couched within the framework of an assumed selfish interest on the part of domestic industries, which on the whole are unworthy of serious attention by the more enlightened officials of the Executive Branch who are selected to discharge the President's responsibilities under the trade agreements legislation. For this reason, there has been no significant interface between the meaningful economic data and projections of probable economic effect which can be anticipated from tariff reductions and the decisions made and actions taken by the trade agreements personnel of the Executive Branch.

So far as the interagency committee hearings are concerned, the hearing panel rarely includes any person who will participate in the decision making process, or who will serve as a member of the negotiating team. Industry and worker representatives have rarely had direct access to these policymaking, negotiating personnel.

For these reasons, the domestic producers of flat glass who have consolidated their testimony in this statement strongly endorse the recommendations which have been presented to this Committee by the Trade Relations Council of the United States in its statement dated April 11, 1974, for the amendment of Sections 131 and 135 of H.R. 10710 to accomplish the necessary reform of prenegotiation procedures.

II. RECOMMENDATIONS FOR REFORM OF THE TARIFF ADJUSTMENT PROCEDURES BASED UPON THE DOMESTIC GLASS INDUSTRY'S EXPERIENCE IN THE USE OF THE ESCAPE CLAUSE

Although President Kennedy was a champion of a liberal trade policy to be carried out through trade agreement negotiations authorized by an ample delegation of power from the Congress, he recognized the necessity for making adjustments in tariffs through the withdrawal of tariff concessions when imports increased at such a rate or in such volumes as to cause or threaten serious injury to domestic industries and their workers. His experience as a member of the House of Representatives representing his district in Massachusetts, and as a United States Senator representing that impotrant industrial State, gave him a keen insight into the sensitivity of many domestic industries to severe injury from excessive import competition. He was prepared to act, and did act through the escape clause and his innovative approach to a negotiated *modus vivendi* with the principal trading partners of the United States in textiles, evenhandedly in the administration of foreign economic policy. He evidently believed that the President had a personal responsibility to see that the power delegated by the Congress was genuinely used in the interest of all Americans: those whose livelihood depends upon employment in import-sensitive industries, as well as those whose job oportunities are provided by export-oriented industries.

The domestic glass industry was the recipient of President Kennedy's commitment to such an ideal when, on the basis of a Tariff Commission report finding that the sheet glass industry had been seriously injured by increased imports, the President on June 17, 1962, increased sheet glass tariffs by withdrawing a substantial portion of prior trade agreement concessions on this product.

In 1967, President Johnson terminated the escape clause rates on heavy sheet glass, but continued in effect at a somewhat reduced level the escape action rates on most window glass. President Johnson also had an instinctive compassion for the economic hardships which governmental actions in the trade sector could cause workers and communities whose livelihood was based upon domestic manufacturing plants whose markets were targeted for preemption by export-oriented foreign indsutries.

When President Johnson modified the escape clause rates on sheet glass in 1967, he issued orders that an interagency task force visit each of the sheet glass plants and interview the workers, the management of the plants, and the responsible civic and business leaders in which the plants were located. The task force was to evaluate the extent to which the highly skilled workers in the sheet glass industry could find other gainful employment in their communities sufficiently remunerative so as not to cause severe economic hardship on the workers, their families, or their communities.

Because glass manufacture is one of the oldest industries in America and the skills required of the production workers have been transmitted through apprentice training from generation to generation within the same families, sheet glass workers are among the most highly paid workers in American industry. The payrolls accruing to the work force in the sheet glass plants and their communities, the majority of which were located in Appalachia, and the additional employment provided for the transportation industry in moving raw materials into the plants and transporting the finished glass from the plants throughout the United States, made the decision to remove the escape clause action one which called for a very careful evaluation of the consequences to the workers and their communities.

The task force visited the sheet glass plants. We have never been supplied with a copy of their report, but have reason to believe that the members of the task force learned firsthand that it was impracticable for the workers in the sheet glass industry to "adjust" by finding other equally remunerative employment in their communities. Accordingly, President Johnson extended the life of the escape clause rates for the full term of his Administration.

Under the Trade Expansion Act, it is necessary for the domestic industry to petition the Tariff Commission, prior to the scheduled termination of the escape action rates, to investigate and determine the probable economic consequences of the termination of the increased tariffs. The domestic producers took this action in 1969, and the Commission unanimously found that a termination of the escape clause rates would seriously injure the domestic industry.

When the Commission's report was forwarded to the President, his advisers, so we are informed, urged him to issue a proclamation extending the escape action rates for only one year whereupon they would be eliminated, returning the tariff to the previous low full concession trade agreement level. At the eleventh hour, a delegation of United States Senators representing the principal States in which the sheet glass plants were located were able to secure an interview with the President and brought his personal attention to the consequences for the industry, its workers, and their States. As a result, the President agreed to extend the life of the modified escape clause rates for two years rather than the one year recommended by his staff.

At the time of his action, the President also had before him a report of the Tariff Commission under a second escape clause investigation in which half o the Commission, including the Chairman, found that an increase in the tariff was required to correct serious injury which was being experienced by the domestic industry. Upon the advice of his staff, the President elected not to act upon the recommendations of the Commission for a tariff increase.

In this state of affairs, the escape action rates were scheduled to terminate at the end of Janary 1972. Under the provisions of Section 351(d)(3) of the Trade Expansion Act, it was necessary for the domestic industry again to petition the Commission to investigate and report to the President the probable economic effect of a termination of the modified escape clause rates on January 31, 1972. The Commission duly performed its investigation and *unanimously* reported to the President that the termination of the modified escape clause rates could lead to serious impairment of the economic condition of the sheet glass industry.

The Committee should be interested in the status of a Tariff Commission report when it reaches the Executive Branch of the Government. The Commission and its staff have devoted six months of intensive study including public hearings at which all interested parties are heard on a public record where the witnesses are subject to cross examination by the Commission, its staff, and legal representatives of the parties, including importers. The staff makes field visits. Financial data are submitted by the domestic producers which are subject to careful analysis by the Commission's accounting staff.

One would think that the exhaustive care exercised by the Tariff Commission and its staff in such an investigation would result in the Commission's report to the President being given some weight in the decision of the President in the matter. It is our observation that, regrettably, this is not the case. The civil servants who occupy the intermediate staff positions in the foreign trade policy apparatus of the departments and agencies of the Executive Branch feel completely free to ignore the findings of the Tariff Commission and to substitute their own judgment for that of the Commissioners. Whereas the Commissioners are appointed by the President subject to the advice and consent of the Senate, the middile level civil servants whose judgment displaces that of the Commission, are not subject to this type of check and balance in the appointing and confirming process.

The Office of the Special Representative for Trade Negotiations meets *ex parte* with parties claiming to have an interest in the outcome of the case. The domestic industry is not given the opportunity to be present when its adversaries meet with the interagency committee set up under the auspices of the Special Representative for Trade Negotiations. It is also customary in these cases for interested parties to call upon the Secretaries or the cognizant Assistant Secretaries of the participating Cabinet Agencies in an attempt to influence the judgment of that official who presumably has some final voice in the consolidated position which will be presented to the President. Finally, interested parties confer with the staff assistant to the President responsible for advising the President in foreign trade policy matters.

When the Tariff Commission sent its unanimous finding, previously described, to the President, the type of meetings which I have described took place. The presidents or the chief executive officers of the domestic glass producers personally came to Washington to confer with the President's staff assistant at the White House, as well as with those Cabinet Agency officials with whom it was possible to secure an appointment. The Congressmen representing the affected districts and the Senators representing the affected States wrote letters to the President urging that the modified escape clause rates be extended.

Concurrently, the domestic industry petitioned the Tariff Commission under the escape clause for a determination that the domestic industry was being seriously injured by increased imports. In a separate report from the unanimous one previously described, the Commission presented the President with its findings in this escape clause investigation. Half of the Commissioners, including the Chairman and the immediate past Chairman, advised the President that the domestic sheet glass industry and its workers were threatened with serious injury as a result of increased imports caused in major part by tariff concessions.

The President's actions on these reports were as follows:

On the basis of the unanimous finding that the termination of the existing modified escape clause duties would cause economic impairment to the domestic industry, the President extended the life of those tariffs for three months.

On the basis of the Commission's separate report in which three Comissioners found the domestic industry to be threatened with serious injury, recommending a tariff increase, the President determined to take no action. Further, his staff evidently became confused as to the significance of the second report and advised the President on the basis of the second report, which dealt with the need for increased duties, to terminate the life of the existing modified escape clause duties. As a result, the President issued his proclamation phasing out the existing escape clause duties in three steps, with the final reduction in duty taking effect on January 31, 1974.

In virtually identical letters sent by the President's staff to executives of the industry and to their Congressmen who were outraged by the manner in which the case had been handled, the statement is made that "consumers inform us they face long delays in obtaining deliveries from domestic suppliers, and some have complained that shortages are forcing them to turn to imports." That statement indicates that the White House staff was influenced by *ex parte* representatives made to it by persons claiming to speak for "consumers." Any serious student of the Tariff Commission's reports in the sheet glass escape clause investigations and its report incident to the economic effect of a termination of the escape clause rates would have learned that such claims were typically made by import interests who were intent upon retaining for themselves the economic advantage of reduced rates of duty. The Commission and its staff investigated such claims and found them not to be substantial enough to warrant a dilution of the Commission's finding of serious injury as mandated under the statute.

It is especially poignant that the President's staff would have attached weight to such a statement since two sheet glass plants were closed down in 1970–1971 due, at least in part, to the economic hardship which had been caused by excessive volumes of low-priced imports of sheet glass.

We have here a classic example of the relief provisions of our trade agreements law being administered in a manner which tolerates the closing of domestic plants and the destruction of the jobs of production workers formerly employed in those plants, and then the Executive using the subtraction of that domestic capacity from the domestic industry's overall capability to supply swings in domestic demand as a reason for a further denial of tariff relief!

To assist you in your understanding of this case, I am submitting in the following Table 5 the movement in the average rates of duty applicable to sheet glass during the full period of time material to the events which I have described. You will observe that the action taken by President Kennedy did not fully restore the tariff to its statutory, pre-trade agreement level, and that the duration of the President's action was comparatively short-lived, being in full effect for only five years. As a result of the termination of the escape clause rates, the duties applicable to imported sheet glass as of January 31, 1974, will be nearly 60% less than the statutory rate.

TABLE 5.—AVERAGE RATES OF DUTY ON SHEET GLASS

[In cents per square feet, single strength equivalent]

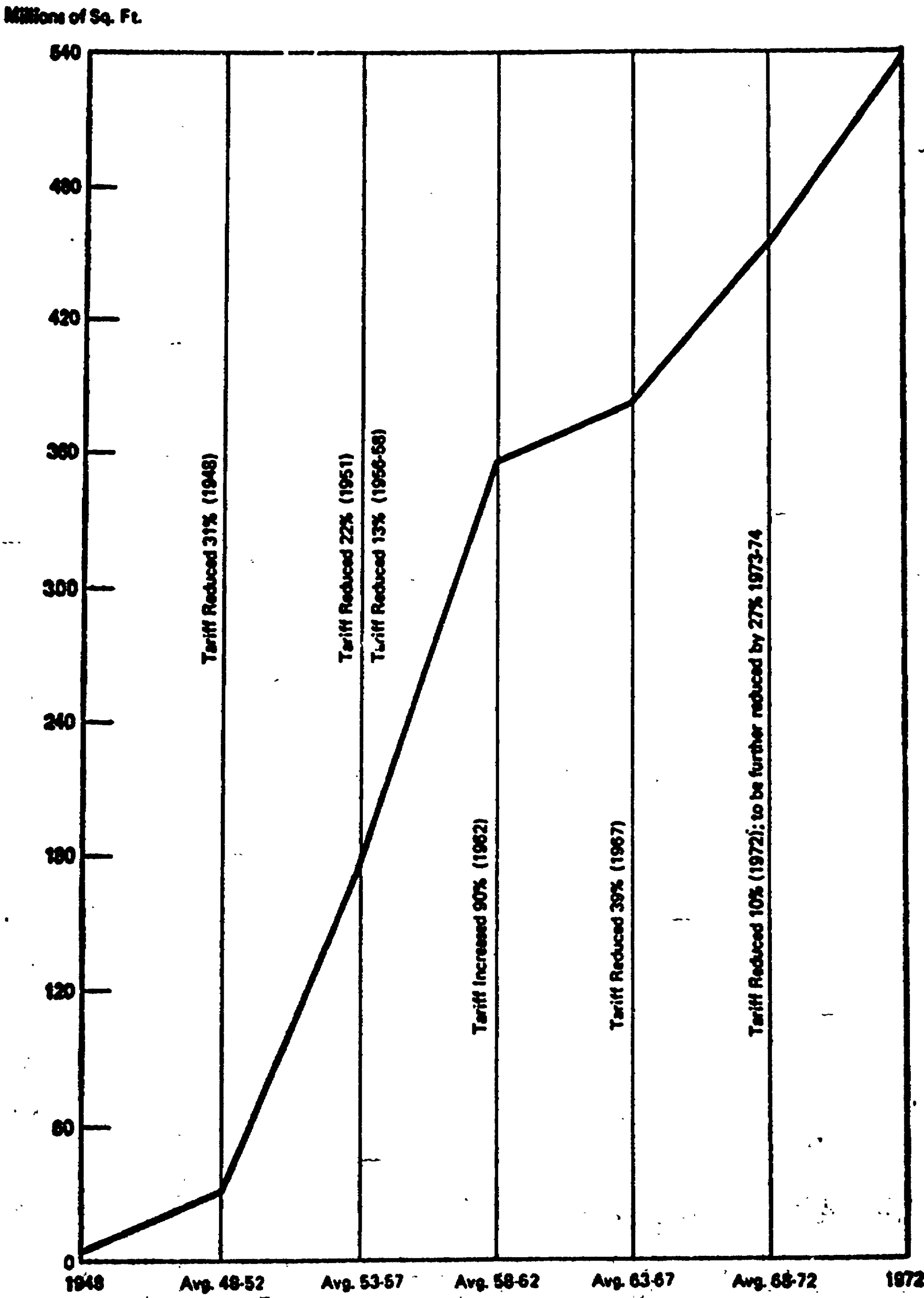
Effective date	Window glass	Heavy sheet glass	Average, all categories
Statutory (1930) rate (cents)	2.37	2.87	2.52
Trade agreement rates (cents):			
As of June 16, 1962	1.11	1.41	1.24
Escape clause action rate, June 17, 1962	1.98	3.19	2.39
Modified escape clause rate, Jan. 10, 1967	1.61	1.41	1.53
Restored trade agreement concession rates:			
1st stage Apr. 30, 1972	1.40	1.41	1.40
2d stage Jan. 31, 1973	1.18	1.41	1.19
Final stage Jan. 31, 1974	0.97	1.41	1.04
Percent change:			
1930 to June 16, 1962	−53.2	−50.9	−50.8
1930 to June 17, 1962	−16.5	+11.1	−5.2
1930 to Jan. 10, 1967	−32.1	−50.9	−39.3
1930 to Jan. 31, 1974	−59.1	−50.9	−58.7

Source: Weighted average duty rates calculated for MFN imports based on January–June 1971 import statistics as published by U.S. Department of Commerce, Bureau of the Census, IM 146, June 1971.

A graphic picture of the startling increase in imports of sheet glass under the impetus given by the tariff concessions is shown in Chart II. Note particularly the interval during which the full escape clause rates put into effect by President Kennedy were operative. You will observe that the rate of increase of imports was substantially lowered though imports continued to rise. When President Johnson modified the escape clause rates, imports resumed their strong upward climb. President Nixon's action in terminating the escape clause rates has succeeded in stimulating imports to an all-time high. The data upon which the chart has been plotted are presented in Table 7 following the chart.

Chart II

U. S. IMPORTS OF SHEET GLASS 1948-1972; 5 YEAR AVERAGES



Source: Table 7

TABLE 6.—U.S. IMPORTS OF SHEET GLASS, 1948-72; 5-YEAR AVERAGES

[In millions of square feet, single strength equivalent]

	Quantity	Average ad valorem equivalent duty
1948	2.1	20 percent.
1948-52	29.0	20 percent (1948-50); 15.6 percent (1951-52).
1953-57	175.4	15.6 percent (1953-55); 14.6 percent (1956-57).
1958-62	356.4	13.6 percent (1958-61); 25.9 percent (1962).
1963-67	382.7	25.9 percent (1963-66); 15.9 percent (1967).
1968-72	452.0	15.9 percent (1968-71); 14.3 percent (1972).
1972	537.2	14.3 percent (1972); 12.7 percent (1973); 10.4 percent (1974).

Source: U.S. Tariff Commission; U.S. Department of Commerce, Bureau of the Census. Ad valorem equivalent duty, USTC Pub. 459, table A; extrapolated for 1971-1974 per percent change in USTC Pub. 548, table 2.

It must be recognized that 1972 was a year of exceptionally strong demand for flat glass. New housing starts, the principal source of demand for sheet glass, and nonresidential construction and the manufacture of new automobiles, other major sources of demand for flat glass, were also at all-time highs. Thus, notwithstanding the strong increase in imports, the domestic producers experienced profitable operations. But the housing industry, the construction industry generally, and the demand for new automobiles (especially in view of the inroads of imported automobiles and the burgeoning fuel shortage) are cyclical in nature, and a softening of demand manifested itself in the fourth quarter of 1973.

The success of the imports in increasing their position in the domestic market will be translated into destructive price competition as the supply from all sources exceeds the reduced demand. Were it not for the deep inroads into the domestic market of the imports, the economic cost to the domestic industry in periods of slack demand would be substantially less than occurs.

The deep penetration of the United States market for flat glass by imports is shown by the data in the following Table 7. Notwithstanding the strong increase in domestic consumption in 1972, please notice that the import penetration in that year was exceeded only by 1968 and is equal to that in 1962, the year in which President Kennedy determined to take the escape clause action previously described.

Please recall, as pointed out in the forepart of this statement, that imports of flat glass declined by 18% in 1973, compared with 1972. As previously indicated, this was due to the effect of the devaluation of the dollar, the sharp decline in new housing starts in the United States, and the effect of the energy crunch on U.S. automobile production.

The Congress established the Tariff Commission as an expert body, quasi-legislative in nature, which could be relied upon objectively to evaluate the complex economic facts pertinent to foreign trade policy and its exercise by the Executive. The sad fact is that the reports and findings of the Commission exhaustively arrived at through open procedures on a public record, strongly supported by intensive investigation and study by a highly competent staff, are largely ignored by the Executive Branch. The will of the Congress that foreign trade actions be based upon such objectively determined data is being thwarted by the attitude and disposition of foreign trade policymakers in the Executive Branch. The safeguards which this Committee and the Congress have carefully provided in foreign trade legislation are almost completely ineffective because of this attitude on the part of the cognizant officials of the Executive Branch that without the benefit of a comparatively careful investigation they are competent to substitute their essentially uninformed judgment for that of the Tariff Commission.

The experience of the domestic producers in these matters leads them to recommend that the tariff adjustment procedures of the trade agreements legislation be reformed so as to give to the findings and recommendations of the Tariff

TABLE 7.—RELATIONSHIP OF U.S. IMPORTS OF FLAT GLASS TO DOMESTIC CONSUMPTION[1]

[In thousands of square feet.[2]]

	Imports	Consumption	Ratio (percent)
1961	380,361	1,842,674	20.6
1962	466,793	2,111,678	22.1
1963	401,276	2,192,257	18.3
1964	485,550	2,302,839	21.1
Average 1961-64	433,495	2,112,362	20.5
1965	442,591	2,355,830	18.8
1966	488,622	2,245,885	21.8
1967	493,983	2,266,271	21.8
1968	668,540	2,719,829	24.6
Average 1965-68	523,434	2,396,954	21.8
1969	565,565	2,688,926	21.0
1970	458,501	2,467,474	18.6
1971	461,380	2,725,386	16.9
1972	681,236	3,088,107	22.1
Average 1969-72	541,670	2,742,461	19.8

[1] Sheet glass, nonautomotive tempered glass, plate and float glass, cast and rolled glass.
[2] Sheet glass, single strength equivalent.

Source: U.S. Department of Commerce, Bureau of the Census, FT 110, FT 246, IM 146: Current Industrial Reports, MQ-32A; U.S. Tariff Commission, TC Publication 459.

Commission the standing which the Congress has always intended for them. Accordingly, we fully support the recommendations presented to this Committee by the Trade Relations Council of the United States for the revision of Sections 201, 202, and 203 of H.R. 10710.

III. RECOMMENDATIONS FOR REFORM OF THE ANTIDUMPING CRITERIA AND PROCEDURES BASED UPON THE DOMESTIC GLASS INDUSTRY'S EXPERIENCE IN ANTIDUMPING CASES

The domestic producers whose testimony is consolidated in this statement made a determined effort to invoke the Antidumping Act, 1921, as amended, because of the grossly unfair methods of competition used by foreign producers of flat glass in selling their product in the United States market. Complaints were filed with respect to imports of sheet glass from Japan, Taiwan, Belgium, West Germany, France, and Italy; and in regard to plate and float glass from Japan, tempered glass from Japan, and cast and rolled glass from Japan.

The Belgian case was dismissed by the Treasury Department with a determination of no sales at less than fair value because the percentage of the Belgian sheet glass monopoly, Glaverbel, sold in its home market was slightly less than 25%. At the time this case was ready for decision, the antidumping regulations provided that if home market sales were less than 25% of sales for export, the home market sales would be regarded as insufficient to serve as a basis for the fair value determination. Nothing in the Antidumping Act of 1921 itself justified such an arbitrary rule and, significantly, the Treasury Department repealed the regulation after using it as a basis for turning down the domestic industry's complaint against the dumping of Belgian sheet glass in the United States market.

In each of the other cases mentioned, except cast and rolled glass from Japan, the Treasury Department determined that the products in question were being sold for export to the United States at less than their fair value; and subsequently the Tariff Commission, based upon its investigations, found that a domestic industry in the United States was being or was likely to be injured by reason of the importation of such glass products at less than fair value. As a result, findings of dumping were formally issued by the Treasury Department, and imports of the specified flat glass products are now subject to special appraisement for the imposition of dumping duties.

The cast and rolled glass complaint was dismissed with a determination of no sales at less than fair value because of the manner in which the foreign producers were allowed to select transactions in the home market which were not in fact representative of merchandise similar to that being sold for export to the United States.

When these complaints were filed, the Treasury Department and the Bureau of Customs had not yet streamlined their operating procedures under the Antidumping Act. As a result, the average time required to process each of these complaints to a conclusion was approximately two years from the date of the filing of the complaint. The very substantial increase in the staff of the antidumping unit in the Bureau of Customs and the excellent administration of that unit have served to eliminate such delays for all intents and purposes as a factor of concern in current or future cases.

The domestic producers of sheet glass encountered other problems, however, which are primarily a function of the amendments to the Antidumping Act adopted by the Congress in 1958 and by the interpretation which the Treasury Department has given those amendments. Essentially, these problems arise because of the provisions of the Act which permit the Secretary to make adjustments in the home market price (used as the basis for fair value) whenever he determines that the difference between the home market price and the export price is due, in whole or in part, to differences in quantities, differences in circumstances of sale, or differences in the products sold in the two markets.

Because of the presence of this language in the statute, it has been necessary for the Department and the Bureau to decide in virtually every case whether claims made by foreign manufacturers for adjustments by way of subtractions from the home market price to explain away or eliminate the margins of dumping should be honored. These claims are based upon alleged differences in circumstances of sale or in the product sold in the two markets.

The foreign respondents in antidumping cases have made such excessive claims for adjustments under this statutory language that the Bureau of Customs and the Treasury Department reached the point of proposing an amendment to the antidumping regulations specifying that claims for selling expenses in the home market allegedly different from those applicable to export sales would not be honored unless it could be shown that such expenses had a direct relationship to the sale of the merchandise under consideration. The Department's proposed amendment to the regulations is known to have been greeted by a storm of protests by foreign interests backed up by their governments who very well recognized that the previously existing policy and practice in the Department and in the Bureau are an invaluable "escape hatch" for their industries in avoiding dumping findings. Fortunately, the Department withstood these pressures and amended its regu'ations in the manner described.

When Congress amended the Antidumping Act in 1958, it did so with the expectation and belief that the amendments would result in improved enforcement of the Act for the protection of domestic producers against unfair methods of competition. The manner in which the 1958 amendments have been administered by the Treasury Department and the Bureau of Customs is contrary to what the Congress intended, and an amendment of the Antidumping Act is required if this abuse of the Congressional purpose is to be remedied.

AMENDMENTS TO THE ANTIDUMPING ACT OF 1921

In section 321 of the bill an effort is made, in part procedural and in part substantive, to make improvements in the operation of the Antidumping Act. Some of these revisions are ill-advised and ought not to be adopted. This description applies to the requirement that the Secretary of the Treasury and the Tariff Commission in their respective jurisdictions in administering the Act conduct a hearing on the record wherein there would be made available to interested parties the transcript of the hearing and papers filed in connection with the investigation. This feature of the bill evidently is presented in an attempt to create a specific record which could be subject to judicial review, though the hearings themselves are declared by the bill to be exempt from the Administrative Procedure Act.

The provisions of the bill in attempting to describe the nature of the hearing to be conducted by the Secretary and the Tariff Commission prior to making a determinatiton are not objectionable, but the further provision in subsection (b) in undertaking to make available to interested parties, including not only the transcript of the hearing but also "all information developed in connection with the investigation" is objectionable because it fails to understand the nature of the administrative procedure which has developed for determinations which must be made under the Antidumping Act.

For example, the Tariff Commisison takes into consideration not only the transcript of the public hearing and the exhibits filed in connection with the hearing, but also a report by its staff based upon field visits by the staff to domestic producers and importers and purchasers of articles involved in antidumping cases, an analysis by the staff of the information submitted by interested parties in the Tariff Commission's confidential questionnaires, and a report by the staff of all of the information presented to the Commission for consideration by the members of the Commission.

It is believed that the Tariff Commission would be unduly handicapped in its investigations and in making its determinations if it were to be required to supply participants in antidumping hearing with "all information developed in connection with the investigation."

Section 321(a) is concerned with amendments of Section 201(b) of the Antidumping Act to the extent necessary to impose a specific time limit on the Secretary of the Treasury for the handling of an antidumping investigation.

We do not take exception to the imposition of such time limits. However, in the course of setting forth how the language of Section 201(b) of the Act would be amended, H.R. 10710 in paragraph (2) would explicitly make the withholding of appraisement on import entries of merchandise subject to a preliminary determination of sales at less than fair value effective on and after the date of the publication of the notice of withholding in the Federal Register. Presently the Antidumping Act permits the Secretary to make the withholding of appraisement retroactive to a date 120 days prior to the filing of the antidumping complaint. For many years this was the practice, and this retroactive feature served to include in the withholding of appraisement those imports which were entered for consumption during the period of time close enough to the commencement of the investigation to have been part of the subject matter of the dumping.

It is obvious that dumping does not commence on the date a complaint is filed about the dumping. On the contrary, the dumping has been in existence and practiced for a period of time, and this brings the attention of the domestic industry to the fact of dumping and leads to the gathering of facts by the domestic complainant and the filing of the complaint. Obviously, dumping has been going on for a period of months prior to the filing of the complaint.

When the Treasury Department's investigation results in a tentative determination that the imported article is in need being sold at less than fair value, it is just and fair that the withholding of appraisement notice be retroactive for a period of four months prior to the filing of the complaint because that brings within the scope of the action the full course of the unfair competition by the foreign producers.

This Administration has as a matter of practice limited the withholding of appraisement to entries made on and after the date the publication of its notice, thus exonerating all of the imports sold at dumping prices prior to the date of such notice.

Accordingly, it is recommended that Section 321(a) of H.R. 10710 be amended so as to specify in Section 201(b)(2) of the Antidumping Act, 1921, that "the withholding of appraisement as to such merchandise, entered, or withdrawn from warehouse and consumption, effective as of a date not more than one hundred twenty days before the question of dumping was raised by or presented to him."

The most significant provisions of H.R. 10710 in connection with amendments to the Antidumping Act are contained in Section 321(c) and (d) in which technical revisions are made in the definition of two key terms used in the administration of the Act; namely, "purchase price" and "exporter's sales price."

We agree in part and disagree in part with the amendments which the bill would make in those definitions. The purpose of both definitions is to identify the price applicable to the imported goods which is to be compared with the home market price in the key determination of whether the goods sold for export to the United States are being or are likely to be sold at less than their fair value. Thus, it is important that there be removed from the transaction price any increments which do not pertain to the merchandise itself.

In the present statutory definition of "purchase price," a number of factors are specified for addition to the transaction price; namely, the cost of packing, the cost of any export tax imposed by the country of exportation, and the amount of any import duties imposed by the country of exportation which have been rebated or not collected by reason of the exportation of the merchandise, and similarly the amount of any tax imposed by the country of exportation on the manufacture of the goods which has been rebated because of the exportation of the merchandise.

To some extent these present statutory mandatory additions to the purchase price are contradictory of the central purpose of the Antidumping Act. By requiring that there be added to the transaction price, tax or duty charges which in fact have been rebated to the manufacturer, the present statute calls for an artificial increase in the transaction price by increments which do not in fact represent costs incurred by the foreign producer. The result of increasing purchase price is to diminish the margin of sales at less than fair value which otherwise exist.

Section 321(c) of the bill makes one helpful amendment in the definition of "purchase price" but adds two nonhelpful amendments so that on balance the attempt of the bill to straighten out the definition of "purchase price" would place the law in a worse condition than it is at present.

The helpful amendment would be as set forth in lines 25–26, page 113, and lines 1–2, page 114, of the bill, to require a deduction from the transaction price of the amount if included in such price of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States. That is a good amendment and consistent with the central logic of the Antidumping Act.

The bill, however, then detracts from the beneficial effect of that amendment by the further requirement that there be added to the transaction price the amount of any import duties imposed by the country of exportation which have been rebated or not collected by reason of the exportation of the merchandise to the United States. If the foreign producer has in fact been spared the expense of import duties on manufactured goods used in the production of the article exported to the United States, what logic is there in requiring the artificial addition to the transaction price of the theoretical amount of duties that could have been collected but were not? The remission or nonconnection of the duties is a type of subsidy granted to the foreign manufacturer.

The Antidumping Act as a remedy should be equal to reaching such an increment of subsidy when its effect is to permit the foreign producer to sell his goods for export to the United States at a lower price than that which prevails in his home market. *Consequently, the language which begins with the word "plus" on line 2 extending through the semicolon on line 5 of page 114 should be deleted.*

Similarly, the bill at lines 5–12 on page 114 would require the addition to the transaction price of the amount of any taxes imposed on the exported merchan- which have been rebated or not collected by reason of the exportation. This is a fallacious concept which is contradictory of the purpose of the Antidumping Act to offset the margin by which foreign merchandise is sold for exportation to the United States at less than its fair value as judged by the price in the country of origin. There is no logic to requiring the artificial addition to the transaction price for export of an amount of taxes which could have been collected but were not because of the fact of exportation. *Consequently, it is recommended that the language beginning with the word "plus" on line 6, and ending with the words "country of exportation" on line 12, page 114, be deleted.*

Section 321(d) is concerned with amendments to the definition of "exporter's sales price" in the Antidumping Act. That term refers to an alternative basis for identifying the price applicable to the imported merchandise which is to be compared with prices at which the similar goods are sold in the home market in order to make the key determination of whether the export sales are made at less than fair value. Where the U.S. importer is affiliated with the foreign producer, the transfer price by which the goods are shipped between the affiliated organizations is not a reliable basis for determining the true export price of the merchandise. In that event, the law intends that there be used the price at which the imported merchandise is resold by the importer in the United States market in an arm's length transaction. This price is called the exporter's sales price. Its theory is that the resale price in the United States market will be subjected to adjustments intended to subtract from that price the costs incurred from the time of the exportation of the merchandise until the time of its resale in the United States market.

The bill makes two helpful amendments to the present statutory definition of "exporter's sales price" but carries forward two unacceptable and erroneous concepts as to adjustments in such price.

The present statute is silent as to costs which may be incurred by the U.S. importer in processing the imported article, following its importation and prior to its resale. The bill constructively adds an amendment to the definition of "exporter's sales price" which would require that there be deducted from the price at which the imported article is resold in the United States the usual expenses incurred in bringing the goods into the United States, the sales commissions incident to its sale in the United States market, the importer's general expenses in handling that type of business, and any export tax imposed by the country of exportation. To this list of logical deductions the bill would add at clause (5) a deduction for the amount of any increased value, including additional material and labor, resulting from a process of manufacture or assembly performed on or with the use of the imported merchandise prior to its resale in the United States.

This is a constructive amendment which will subject to the scope of the Antidumping Act merchandise which has heretofore been deemed administratively outside of the scope of the Act because it was imported by a manufacturer or processor for use in his manufacturing or assembly operations. The statute heretofore has been interpreted in such a fashion that exporter's sale price was deemed to apply only when the imported merchandise was resold in its imported condition, as such.

Illogically, however the bill would then require that there be *added* to the transaction price as adjusted the amount of any import duties imposed by the country of exportation which have been rebated or not collected by reason of the exportation of the merchandise to the United States. *For the reasons set forth in the discussion of the amendments to purchase price, this particular clause in the definition of "exporter's sales price" (lines 21–24, page 115) should be deleted.*

Further, the bill pursues the illogical concept of requiring artificial additions to exporter's sales price by specifying at lines 24–26, page 115, and lines 1–5, page 116, that there be added to the adjusted transaction price applicable to the resale of the imported merchandise in the United States market, the amount of any taxes imposed in the country of exportation on the exported merchandise which have been rebated or not collected by reason of the exportation. Assuredly, an expense which has not been borne by the foreign producer which contributes to his ability to sell the merchandise at less than fair value ought not to be treated as though it were incurred, as a device for explaining away a portion of the margin of dumping. *Accordingly, the language beginning with the word "plus" on line 24, page 115, and extending through the words "the country of exportation" on line 5, page 116, should be deleted, for the reasons previously stated.*

Finally, the bill would require the addition to exporter's sales price of the amount of any taxes that were rebated or not collected by reason of the exportation where such rebate or noncollection has been determined by the Secretary to be a bounty or grant within the meaning of the countervailing duty statute. This provision is in evident obedience to the provision of Article VI of the General Agreement on Tariffs and Trade which states that antidumping duties and countervailing duties may not be collected with respect to the same element of subsidy on particular merchandise.

This particular provision of the definition of "exporter's sales price" and the comparable provision of the definition of "purchase price" is acceptable because of the inherent logic of avoiding the imposition of duplication in extraordinary duties to offset an unfair method of competition represented by the same increment of value in the purchase price or the exporter's sales price of the merchandise.

In summary, to this point in the discussion of the section of the bill dealing with antidumping duties—

No exception is taken to the language which would impose definite time limits on the processing of an antidumping investigation;

Objection is made to language which would ratify the current practice of making the withholding of appraisement effective as of the date such notice is published, rather than retroactively to four months prior to the filing of an antidumping complaint;

Objection is made to the attempt to convert antidumping investigations by the Secretary of the Treasury and the Tariff Commission into judicially reviewable hearings by making available to interested parties a transcript of the hearings and all information developed in connection with the investigation because of the stultifying effect this would have upon the techniques that have been developed by the Secretary and the Tariff Commission for sophisticated determinations in antidumping investigations; and

Approval is given to the amendment of the definitions of "purchase price" and "exporter's sales price" to the extent that there is to be deducted from the transaction price export taxes in fact not collected on the subject merchandise;

But opposition is expressed strongly to the bill's provisions insofar as they would require the addition to the transaction prices of artificial increments representing the theoretical amount of duties and taxes which could have been but were not collected in regard to the exported merchandise.

These amendments, however, leave untouched the major areas of reform required to bring the administration of the Antidumping Act back into line with the intent of the Congress as originally expressed in the 1921 Act. The most severe inequity in the present law and in its administration lies in the free-wheeling use by foreign respondents of the allowance for differences in cost of production and differences in circumstances of sale, which were introduced into the law and its administration under the 1958 amendments to the Act. When Congress enacted the Customs Simplification Act of 1954 which removed many of the safeguards against the undervaluation of imported merchandise, it concluded that the administration of the Antidumping Act would need to be improved to make the Act more effective as a shield against unfair competition through undervaluation of imported goods. Accordingly, it directed the Secretary of the Treasury to submit proposed amendments to the Act which would increase its effectiveness as a safeguard for domestic industry.

The Treasury Department's proposals which were embodied in the 1958 Act included the language which is now set forth in Section 202 of the Act, which permits the Secretary to make adjustments in the home market price (the benchmark of fair value) in respect to differences in the quantities in which the merchandise in question is sold in the home market vs. the sales for export to the United States, differences in the circumstances of sale, and differences in the physical composition of the products sold in the two markets.

Prior to the 1958 amendments, there had been no statutory authority for such adjustments.

It was never intended that such allowances would be made for every theoretical difference in production and marketing conditions in one country versus the other. The language approved by the Congress is stated in such manner as reasonably to require the Secretary to establish specific causation between one or more of such differences and differences in transaction prices in the two markets.

In actual practice, however, the Treasury Department has allowed the "differences in circumstances of sale" and "differences in product" adjustments to be used by foreign interests as an elastic escape hatch to avoid the imposition of dumping duties. By alleging that export sales are made without the benefit of selling, advertising, warehousing, or other general overhead expenses, in comparison with home market sales, foreign interests aggressively claim substantial deductions from the higher home market prices in order to explain away margins of dumping. To a very substantial extent these claims have often been honored in the past in many cases by the Treasury Department, so that the law and its administration have become a system under which the foreign interests attempt to explain away the margins of dumping by a recitation of alleged differences in circumstances of sale or differences in product.

As to the latter claim, whenever the foreign interests are unsuccessful in entirely explaining away margins of dumping by differences in circumstances of sale, they advance categorical claims for a further allowance for differences in the cost of producing the product sold in the home market in comparison with the product sold for export. The foreign interests bring forward dissimilar types, styles, or models of the class of merchandise under investigation and then elaborate fanciful claims for cost of production differences in the home market and export versions of the product.

In actual practice, the Treasury Department and its delegate, the Bureau of Customs, often accept the claims of the foreign interests as to the alleged value of these differences in product and differences in circumstances of sale, notwithstanding contrary evidence supplied by domestic interests.

In actual fact, in virtually all cases the price for export is established through arm's length bargaining between the foreign manufacturer and the U. S. importer, and is not a product of any conscious scaling down of a "fair price" by subtractions to represent differences in circumstances of sale or differences in product.

Thus the differences in price applicable to the products sold in the two markets is not due in whole or in part to the alleged differences in circumstances of sale or differences in product, but rather to the intent and purpose of the foreign manufacturer to establish and broaden a market position in the United States which knowledgeable U. S. import interests are able to perceive and take advantage of through hard bargaining in securing very favorable but unfair prices.

There is no way in which these terms can be defined so as to correct the abuses which have defeated the realization of the purposes of the Antidumping Act. Therefore, the Antidumping Act should be amended so as to restore the law to the condition in which it was prior to the 1958 amendments, which instead of increasing the efficiency of the Act for the purposes requested by the Congress, have had the opposite effect. Accordingly, it is recommended that Section 321 of the bill be amended by changing the present (g) to (h) and by the addition of a new Section (g), to read as follows:

> SEC. 310(g). Section 202 of the Antidumping Act, 1921, as amended (19 U.S.C. 161) is amended by striking it out in its entirety and inserting in lieu thereof the following:
>
> "Sec. 202. In the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary of the Treasury has made public a finding as provided for in section 201, entered, or withdrawn from warehouse, for consumption, on and after the date 120 days before the question of dumping was raised by or presented to the Secretary or any person to whom authority under section 201 has been delegated, and as to which no appraisement has been made before such finding has been so made public, if the purchase price or the exporter's sales price is less than the foreign market value (or, in the absence of such value, than the constructed value), there shall be levied, collected, and paid, in addition to any other duties imposed thereon by law, a special dumping duty and an amount equal to such differences."

There is an additional substantive problem in the administration of the Antidumping Act which urgently requires correction. The Treasury Department has concluded that it will not adopt as a matter of policy an interpretation of the Act which regards sales for export to the United States at prices which are below the cost of production of the merchandise as necessarily being below fair value. The Department reached this conclusion in the context of a study of cases involving the importation of sulphur from Canada and of papermaking machinery from Finland. In these cases, data available to the Department indicated that the merchandise exported to the United States was sold at a price which was in fact below fully developed costs of producing the merchandise and necessarily, therefore, below the constructed value of the merchandise as defined in section 206 of the Antidumping Act.

In those cases, however, the Treasury Department was evidently persuaded that similar merchandise was sold in the country of production—that is, the country of origin—at prices which were also below fully developed costs of production.

The Department decided to follow the simplistic notion that fair value is always and everywhere equal to the home market price when sales have been made in the home market, whether or not that price is inherently unfair as shown by the fact that it is less than the fully developed cost of producing the merchandise in question.

It ought to be abundantly clear that regardless of any special circumstances that may apply in a foreign producer's home market, if he sells merchandise to the United States at prices which are below the cost of producing that merchandise, such sales are in fact below the fair value of the merchandise. Under our economic system it is inherently impossible for any producer to continue to make sales below the cost of production. Hence, as a rule, prices which are below the cost of production cannot be regarded as representing the air value of the merchandise, since the latter term would contemplate the value of the goods produced in the ordinary course of trade and sold at prices which recover all costs including an addition for overhead plus an addition for profit.

The bill as approved by the House attempts to deal with the problem in subsection (e) of Section 321. We think that the language of that subsection gives the Secretary too much latitude to accept below cost of production prices as being equivalent to fair value. For example, if he considers that such below cost prices have not prevailed in the home market "over an extended period of time and in substantial quantities," the language of subsection (e) would permit him to use such below cost prices as the benchmark of fair value. We recommend that a simple and direct statement of the principle involved be substituted for the text of the proposed subsection (b) which would be added to Section 205 of the Act, as follows:

> Foreign merchandise shall be regarded as being or likely to be sold in the United States or elsewhere at less than its fair value if the price at the time of exportation of such merchandise to the United States is less than the constructed value of the merchandise as defined in section 206 of this Act.

COUNTERVAILING DUTIES

Because of the superiority of the technological process of producing flat glass by the float process, flat glass producers in the United States and in the principal glass-producing countries are making major investments in new plants for the production of float glass. In the United States, each of the domestic producers has made such investment. There is understandable concern on the part of students of the economics of the float glass industry as to whether the forthright investment decisions made by U.S. producers in building such plants in order to establish and maintain leadership in the application of this new technology to the production of flat glass to meet the requirements of the American market might not result in overcapacity, especially in periods of slack demand.

Similarly, the very substantial investments being made in Europe and Asia for the production of float glass pose a threat to the future stability of the U.S. investment, should the foreign producers arrogate to themselves the use of unfair methods of competition in marketing their surplus production of float glass by exporting it to the United States. In both Europe and Asia, the glass manufacturers have been subsidized by their governments in the creation of these new float glass manufacturing plants. We therefore consider it urgent that the countervailing duty statute be amended in such a manner as to make it crystal clear that the various forms of subsidy being granted to foreign manufacturers for the production or export of flat glass will be subject to countervailing duties by the United States.

In Chapter 3, the bill makes procedural and substantive changes in the countervailing duty statute which, with one exception, are desirable and appropriate. The exception consists of subparagraph (d) of Section 303 of the Tariff Act of 1930, as amended by Section 331 as set forth on page 119 of the bill.

It would give the Secretary of the Treasury the discretion not to impose countervailing duties notwithstanding his determination that an imported article is subject to the payment of a bounty or grant on production or export within the meaning of the countervailing duty statute.

The theory of this requested grant of discretionary power appears to be that the Secretary of the Treasury ought to have the freedom, when he decides that the imposition of countervailing duties would provoke some type of economic retaliation against the United States, not to put the duties in effect in order to avoid triggering a "detriment to the economic interests of the United States."

If this provision of the bill were to be enacted, it can be predicted that in few cases, if any, would the Secretary impose countervailing duties, notwithstanding proof of the bounty or grant being paid by the foreign government or other foreign interest with respect to the production or exportation of goods to the United States.

The difficulty with the administration of the foreign trade laws of the United States has been precisely the reluctance of the officials of the Executive Branch of the Government who from time to time occupy the positions of responsibility in question to defend and protect American commerce by applying the remedies which Congress has provided.

It must be acknowledged that at the present time and in recent years the Secretary exercises what is tantamount to this type of discretion by simply allowing countervailing duty complaints to gather dust without action in those cases where for any of a variety of reasons, including the fear of retaliation, or the "muddying of the waters of diplomacy," the Administration prefers not to act.

The Congress ought not to ratify such dilatory tactics, nor should it add to the overwheening tendency of members of the Executive Branch to refrain from exercising the powers given to them to counteract unfair methods of competition affecting American commerce.

United States law does not require an investigation to determine whether the importation of goods subsidized by bounties or grants is injuring a domestic industry, notwithstanding that Article VI of the General Agreement on Tariffs and Trade subjects the imposition of countervailing duties to an injury test.

The United States operates in accordance with a waiver which was created when it executed GATT on the provisional basis clearly stating that its becoming a Contracting Party would not be interpreted as overruling any provision of domestic law then in effect.

In the bill, however, it is now proposed to expand the application of the countervailing duty law to duty-free imports, which are not within the scope of our statutory provision. For that reason, it is necessary or at least desirable, in view of our international obligations as expressed in GATT, that duty-free imports, which are not subject to the provisional ratification of GATT by the United States which is tantamount to the waiver described, be made subject to an injury test before countervailing duties are imposed.

As in the case of the Antidumping Act amendments, however, the bill's proposed amendments to the countervailing duty statute omit any effort to correct the most important problems which exist. Until very recently the Treasury Department has been reluctant to impose countervailing duties with respect to the remission by foreign countries of internal taxes paid with respect to products produced for export, or with respect to the forgiveness of internal taxes in relation to such products, or with respect to the discrimination in price on raw materials sold for use in the production of goods for export in comparison with goods produced for consumption in the home market.

As a result of this policy of the Department, which has been in effect through this and prior Administrations, the countervailing duty statute is the most underadministered of all of the tariff and customs laws.

The Treasury Department's policy ignores or refuses to follow the literal language of the court decisions interpreting the scope of the countervailing duty statute.

The commitment made by the State Department in the drafting of the General Agreement on Tariffs and Trade ostensibly allowing other countries to impose a value added tax on domestic production and a border tax on imports, and to rebate internal taxes on exports, appears to have been taken by the Treasury Department as tantamount to a de facto repeal of the countervailing duty statute as to the most common forms of bounties or grants by which other countries unfairly subsidize their exports to the United States.

Of course, the provisional protocol of application of GATT by which the United States acceded to GATT clearly exempts the then-existing United States domestic law from being affected by the provisions of GATT. Hence, the United States cannot be understood to have suffered an amendment or repeal of its countervailing duty statute as to the subsidization of foreign exports to the United States by the remission of internal taxes on such exports.

Nevertheless, for the most part the Treasury Department simply allows countervailing duty complaints directed to the remission of foreign taxes to gather dust without action, except in the singular circumstance that the complainant is able to prove that the amount of tax remitted or forgiven exceeds the amount of internal tax applicable to the like product when made for domestic consumption.

It is true that the Williams Commission advised the President to make more vigorous use of the countervailing duty statute and that the Administration has belatedly turned its attention in that policy direction, as shown by its welcome decision in the Michelin tire case.

One swallow, however, does not make a summer, and it is essential that the countervailing duty statute be amended to specify that the remission by foreign countries of internal taxes paid with respect to products produced for export, or the forgiveness of internal taxes with respect to such products, or the discrimination in price on raw materials sold for use in the production of goods for export in comparison with goods produced for consumption in the home market, constitute bounties or grants which are to be remedied by the imposition of the additional duties specified by the statute.

Accordingly, it is recommended that Section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) be amended by adding at the end thereof the following:

> The term "bounty or grant" as applied to imported merchandise shall be deemed to include, by way of illustration but not of limitation, the entire amount of any remission of any internal tax paid in the country of production or the country of exportation with respect to such merchandise, the entire amount of any exemption of such merchandise from any internal tax, or the entire amount of the difference in price at which any constituent material utilized in the production of such merchandise has been sold to the producer thereof and the price at which such or similar merchandise is sold to producers of the same general class of merchandise for sale other than export to the United States.

PREFERENTIAL TARIFF TREATMENT FOR MANUFACTURED PRODUCTS IMPORTED FROM DEVELOPING COUNTRIES

Flat glass is imported in substantial quantities from forty different foreign countries, many of which would meet any reasonable definition of a developing country. We are not opposed to the extension of preferential tariff treatment to manufactured products from developing countries if sufficient safeguards are established to prevent the abuse of such preferential treatment by the transshipment of products manufactured in other countries or by the transfer of production resources from developed countries to such countries primarily to produce for export to the United States.

The bill is lacking in procedures which would give assurance that the President's action in granting preferential status to a developing country for specified products would be an informed decision. Furthermore, it ought not to be the policy of the United States merely to add unlimited quantities of imports from such countries on top of already-damaging levels of imports from developed countries. Accordingly, we recommend that the bill be amended to provide for the use of quantitative import restrictions on articles imported into the United States from *developed* countries in order to reserve to beneficiary *developing* countries a reasonable share of the growth in apparent domestic consumption of such articles. The President would take this type of action on the basis of estimates of anticipated domestic consumption supplied to him by the Secretary of Commerce. The Secretary's estimates would indicate the share of domestic consumption being supplied by the domestic industry, and in view of that and the imports' share from developed countries, established prior to the grant of preferential treatment for imports from developing countries, the type of quantitative restrictions required in order to carry out the purposes of the Title.

Without the imposition of such quantitative limitations on imports from developed countries, it is unlikely that the preferential tariff status accorded to the like products from developing countries could make sufficient inroads into the total imports' share of the domestic market to be meaningful to developing countries. This can be accomplished by renumbering Sections 504 and 505 to 506 and 507, respectively, and adding the following new provision as Section 504:

> SEC. 504. Limitations on imports from developed countries of articles eligible for preferential treatment.—In order to strengthen the opportunity of beneficiary developing countries to secure the intended benefits from the extension to them of preferential tariff treatment for eligible articles produced by such countries, the President shall by proclamation impose such quantitative import restrictions on the like or directly competitive articles imported into the United States from developed countries as shall reserve to the beneficiary developing countries a reasonable share of the growth in apparent domestic consumption of such articles. In the manner and frequency designated by the President, the Secretary of Commerce shall furnish estimates of anticipated apparent domestic consumption of articles which the President has designated, or which the President has under consideration designating, as eligible articles pursuant to the provisions of this title. The Secretary shall include in his report to the President his estimate of the share of apparent domestic consumption of such eligible articles being

supplied by the domestic industry producing the like or directly competitive articles and his recommendation of the extent to which imports of such articles into the United States from developed countries should be made subject to quantitative limitations in order to carry out the purposes of this section. Annually, or at such more frequent intervals as may be specified by the President, the Secretary shall review the statistical data maintained by the Department of Commerce pertaining to the volume and value of imports into the United States of designated articles from beneficiary developing countries, and of the like and directly competitive articles imported from other countries, and the domestic production and sale of the like or directly competitive articles. The Secretary shall present a summary of such data to the President together with such recommendations for modification of the quantitative limitations on imports of such products from countries other than beneficiary developing countries as the Secretary believes to be appropriate in order to effectuate the purposes of this section. The President is authorized upon receipt of such periodic reports and recommendations to proclaim effective the modifications in such quantitative import limitations as are recommended by the Secretary.

TRADE RELATIONS WITH COUNTRIES NOT ENJOYING MOST-FAVORED-NATION TARIFF TREATMENT

This title of the bill is concerned with granting authority to the President to enter into commercial trade agreements with Communist countries and upon the satisfactory completion of such trade agreement negotiations, to extend to imports from such countries most-favored-nation treatment.

The title includes appropriate criteria which are to guide the President in entering into such trade agreements and a procedure for a Tariff Commission investigation to determine whether imports under such most-favored-nation treatment from such country or countries are causing material injury or market disruption to a domestic industry. In the event of an affirmative determination by the Commission, the President would be authorized to adjust imports of the article in question without disturbing the import treatment applicable to the like products from other countries.

There is, however, a significant lack of clarity in Section 405. In view of the rapid surge to positions of supply leadership by Communist counrties exporting flat glass to the United States, we recommend that the language of Section 405 be revised to make its meaning more clear, as follows:

> SEC. 405. Market disruption.—(a) A petition may be filed with the Tariff Commission for a determination, or a Tariff Commission investigation otherwise initiated under section 201 of this Act may on motion of the petitioner or of the Commission, in respect to imports of an article manufactured or produced in a country, the products of which are receiving most-favored-nation treatment pursuant to this title, be directed to a determination (in lieu of the determination described in section 201(b) of this Act) of whether imports of such article produced in such country are causing or are likely to cause market disruption or material injury to a domestic industry producing like or directly competitive articles.

CONCLUSION

This concludes our testimony. We have limited the information and recommendations presented to the Committee to those matters on which our experience leads us to believe that the intent of the Congress is not being faithfully observed by the Executive and the need for reform of concepts and procedures is urgent. We hope that this account of our experiences and our recommendations proves to be of significant value to the Committee in its important deliberations on foreign trade legislation. We thank you for the opportunity which you have provided to the domestic glass producers to bring this information to your attention.

STATEMENT OF ROBERT C. CHERRY ON BEHALF OF FLORISTS' TRANSWORLD DELIVERY ASSOCIATION

Mr. Chairman and Members of the Committee: I am Robert C. Cherry, a retail florist and commercial grower of florist crops in Paducah, Kentucky. For many years, I have been associated with efforts to expand and strengthen research and information service programs for commercial floriculture that have as a major objective assuring adequate supplies of ornamental crops to meet expanding public demand.

I am testifying on behalf of Florists' Transworld Delivery Association of Detroit, Michigan, of which I am a past president. FTD, as we are generally known, is a nonprofit, member-owned cooperative providing special services required by 13,000 retail florist members throughout the United States. Its international affiliate, Interflora, of which I am also past president, serves consumers in the worldwide marketing of florist products and services.

This statement pertains to that portion of ornamental crop production and distribution which is identified as commercial floriculture. This term encompasses cut flower, cut foliage, flowering and foliage pot plant, and bedding plant crops.

In recent years, our industry has witnessed substantial growth because of expanding consumer demand and continues to do so. This is partly attributable to the entry into the marketing of floriculture products by so-called "mass marketers", but it is also a reflection of the fact that consumer demand has shown strong and continuous growth. In 1960, the farm value of florist crops grown and sold by more than 50,000 independent small businessmen was about $300 million. The 1970 Census of Agriculture indicates that the comparable figure now is more than $500 million. In 1960, consumer expenditures for the goods and services of commercial floriculture amounted to $1 billion, of which $750 million was accounted for by retail florists and the balance by non-florist outlets. Comparable data for the present indicates that total expenditures at the consumer level are about $2.75 billion, of which $1.7 billion moves through retail florist outlets and more than $1 billion through non-florist outlets.

Even after making allowances for uncertainties caused by the energy problems, and taking a generally optimistic stance, projections of highly respected economic research organizations seem pertinent to us. The Conference Board has stated that consumer expenditures for our kinds of goods and services could increase 175 percent by 1980 as compared with 1968 (using 1968 dollar values). This compares with the 100 percent increase of the 1960's, as indicated above. It should also be noted that the increase in consumer expenditures during the 1960's includes changes in the price level.

Of particular interest is the increasing investment in production and marketing of florist products by non-florist financial interests such as The Pillsbury Company; the United Brands Division of United Fruit Company; United Horticulture (Green Thumb), Division of Stratford of Texas; and other major investors not previously associated with production and distribution of floricultural products. Dynamic change in location and supply of florist crop production is resulting from technological progress and accelerated consumer demand, which in some respects will be accentuated by the potential shortages of fuel in colder climates where heating is critical to successful crop production. We face explosive pressure to increase production in future years. As we see it, we must have adequate sources of supply if our members are to remain successful small businessmen and, in that context, compete with rising demands for stock by mass marketers of florist crops.

The Board of Directors of FTD had not considered its position on the general foreign trade policy question in time to make any statement on the Trade Reform Act, HR 6767, while the bill was under consideration in the House of Representatives. In November, 1973, the Board adopted a resolution dedicated to keeping open all possible sources of supply for the purpose of achieving the three-pronged goal of (1) adequate supply, (2) reasonable price, and (3) consistent high quality. The Board expressed its strong opposition to the establishment of import controls of floricultural products, stating in a communication of record at this time:

"The FTD Board of Directors authorizes the President, with the assistance from management and FTD Government Affairs Liaison, Robert C. Cherry, to vigorously oppose the establishment of fresh flower and plant import controls which limits domestic availability . . . , but in the event of a conflict with special floricultural interests, that they seek direct contact with appropriate federal agencies or Congressional committees to protect the best interest of retail florists."

It is in response to this statement of FTD policy that we submit this statement for the record of your hearings.

We recognize that the committee is primarily concerned with broad authority to be delegated to the President under this legislation to negotiate the terms of U. S. participation in world trade. The bill seems to offer the possibility of continuation of the liberal trade policy of the Trade Expansion Act of 1962 and at the same time provides authority that could permit it to become an instrument of protectionism. On these more general issues, FTD believes that additional unilateral powers should be granted to the President only with safeguards—adequate hearings, time limitations, adequate time to respond to notices, and consumer safeguards. We oppose the invocation of restraints on international trade that would tend to limit adequate supply to meet anticipated consumer demand. We believe that the stability of the industry is more closely related to satisfying consumer demand at reasonable prices and with reasonable quality of product than it is to protect any one segment of the industry.

Despite the general nature of the legislation under consideration, we believe it is pertinent to make the committee aware of specific data on imports of cut flowers that have generated some disagreement within our industry. Detailed data on imports of cut flowers and plants are available from the Agricultural Marketing Service, U. S. Department of Agriculture, under a cooperative system originally requested by FTD. In general, these data through December, 1973, show that imports of cut carnations, the most controversial item of imports, totaled 132 million blooms in 1973. This was in fact an all-time record high. Nevertheless, there was no instance during the year when imports appeared to be a glut on the market or could not be moved in response to demand.

We believe it may suffice for the committee's purposes to cite certain trends in production of four major flower crops in the 23 states surveyed by the Statistical Reporting Service, USDA. This report, issued earlier this month and entitled "Flowers and Foliage Plants, Production and Sales, 1972 and 1973, Intentions for 1974", makes the following statements concerning the "planting intentions" of domestic producers in 1974 for carnations:

"Growers in 1974 plan to increase production of carnation plants 6 percent above 1973. California and Colorado intend to increase output 12 and 5 percent respectively while reductions are expected in all other States.

"In 1973, growers in the 23 States sold 738 million blooms from 63 million plants. Number of blooms sold was 6 percent more than the previous year. California producers sold 441 million blooms accounting for 60 percent of the 23 State total. Colorado growers, with 26 percent of the total, were second with sales of 188 million blooms. Pennsylvania growers sold 24 million blooms and Massachusetts growers 21 million blooms, to rank third and fourth, respectively. Total wholesale value of 1973 sales in the 23 States was nearly $50 million. The average price of 6.7 cents per bloom in 1973 compared with 7.4 cents in the previous year.

"*Standard carnations* accounted for 83 percent of all carnation sales in the 23 States. Total wholesale value of standard types in 1973 amounted to $46 million. The average price of 7.5 cents per bloom in 1973 compares with the previous average of 8.2 cents per bloom. Growers in the 23 States plan a 5 percent increase in production for 1974.

"*Miniature carnations* made up 17 percent of total carnations in 1973. Value of sales, at $3.7 million, was up 2 percent from last year's $3.6 million. Average price per bunch in 1973 was $1.11 per bunch compared with $1.20 per bunch in 1972. Growers report plans to increase production by 13 percent for 1974."

Admittedly, present and foreseeable future circumstances present a mixed situation that may bring new and very difficult problems to commercial floriculture. As stated in the enclosed "special report" to the FTD Board of Directors, the lifeline of the retail florist business is the availability of basic floricultural products. This lifeline seems likely to continue to be affected by the possibility of fuel shortages and the increasingly large share of cut flower crops being taken by mass marketers versus the retail florist. If shortages over the longer range marketing cycle are to be intensified by arbitrary reductions in imports of cut flower crops, we will indeed have a problem of the most serious dimensions.

We appreciate the opportunity to file this statement for the information of the committee, and would be glad to provide any additional information you may wish to have. We ask that the two enclosures referred to above be made a part of this testimony. Thank you for your consideration.

Special Report

TRENDS IN CUT FLOWER AVAILABILITY FOR THE RETAIL FLORIST INDUSTRY

To: FTD Board of Directors.

The lifeline of the retail florist business is the availability of basic floricultural products. This lifeline seems likely to be affected substantially by three apparent trends in the florist industry economy.

1. The probability of a major fuel oil shortage during the winter of 1973–74 presents a serious threat to florist crop production in a large part of the U.S.
2. Mass marketers are taking an increasingly large share of cut flower crops. The loss of crop availability to retail florists from this source cannot be measured precisely, but is already large and on the increase. Overall, nonflorist outlets have about one-third of the consumer market.
3. Imports of cut flower crops could alleviate some shortages that threaten an adequate supply of quality stock.

The closely related problem of price at which stock will be available presents another aspect which will be largely determined by these basic trends.

Announced plans for fuel allocations suggest strongly that the retail florist may need to make plans now to ensure that he will have sufficient stock with which to meet apparently increasing consumer demand for the goods and services of commercial floriculture.

The purpose of this statement is to outline the problem in general terms and suggest ways in which FTD can help its members cope with problems primarily caused by shortages occurring on a near-term basis.

FLORIST CROP VULNERABILITY

The availability of basic crops—carnations and roses, especially—is of such importance that any threat to supply must be seriously considered by FTD. Pot plant crops such as chrysanthemums produced in northern states, many for "local" consumption, would be threatened if the floriculture industry is unable to establish a priority within the mandatory fuel allocation program. Many observers believe that floriculture will not, in fact, be able to stake a substantial claim to fuel oil allocations in the face of essential requirements such as home heating and transportation.

A summary of the most recent official data on domestic production (1972) of standard carnations, hybrid tea roses, and sweetheart roses in 23 states is attached. It illustrates vividly the supply problem that could occur. At least 40 percent of standard carnations produced and sold in the U.S. comes from areas where availability of fuel oil is a requirement for production during half or more of the year. More than 50 percent of the hybrid tea roses produced in the U.S. fall into the same category. For sweetheart roses, the comparable figure is near 70 percent.

Recent information from a major grower in the northern California area indicates that the cost of diesel fuel has risen from 19 cents to 22 cents a gallon the last three months, and is likely to go higher. While the effect this might have on production intentions cannot be forecast precisely now, it is probable that "fires will be banked" at the lowest possible level necessary to accommodate the most hardy crops. Since it is not possible for most producers, even large ones, to stockpile more than a week's fuel oil supply—if available—it is likely that production of crops with a high heating factor such as roses will suffer first.

Still another possible effect of a lengthy fuel oil crisis is the so-called "real estate factor." Many growers already face formidable problems in remaining in production, including lack of competent help, high tax rates, and the like. Many are situated on urban and suburban land too valuable for agricultural uses, yet do not have an adequate financial base to relocate. If the fuel oil crisis continues too long, many may simply sell out to real estate developers, diminishing even more the production base in the U.S. that has long been the beginning of the retail florists' lifeline.

ALTERNATIVE SOURCES OF SUPPLY

The grim outlook for retail florists on the supply side seems likely to accelerate a trend that has become very apparent in recent years. This is the trend toward production outside the U.S. where key factors such as climate, labor supply, and relatively low cost of production can operate in favor of the retail florist and the consumer.

Although the "political argument" over imports continues to rage, it would appear to be in FTD's interest to look at the supply problem in coldly realistic terms.

This aspect of the supply problem was dramatized quite specifically at the 1973 convention of the Society of American Florists. The SAF Board of Directors passed a strongly worded resolution (basic text attached) which was never published to the trade. It called for federal government action to curtail imports. The resolution provided a framework within which the "concerned growers" could operate, and placed the SAF Board in overall control of such operations. This action followed, and from all appearances confirmed, statements made earlier in the summer in the name of the industry during hearings on foreign trade policy legislation of the House Ways and Means Committee.

RELATED PROBLEM AREAS

Like other businessmen, the retail florist will have to deal with a variety of problems related to maintaining adequate supply of stock. Chief among these are transportation and the relative lack of a system that would enable groups or "pools" of florist retailers to cooperate in purchasing and transportation.

Although a majority of retailers in the U.S. are used to cooperative action in clearing intercity transactions and in promotional activities, these same retailers (with some limited exceptions) have not grouped themselves into buying or marketing cooperatives at the local level.

RECOMMENDATIONS

In view of a critical fuel oil situation in which it will be very difficult to justify a priority for florist crop production, and the competitive position vis-a-vis mass marketers, the position of the Board of Directors should encompass the following:

1. FTD, on behalf of its members, should aim to keep open all possible sources of supply and take whatever steps may be open to it positively to develop additional supplies. In so doing, the triple goals of adequate supply, reasonable price, and high quality would be served.

2. FTD should stimulate adequate communications and transportation services, including such steps as encouraging retail florists to develop and use delivery pools or other cost-cutting alternatives.

3. FTD should encourage the development of cooperatives among retail florists at the local level to help solve supply problems for both perishable and non-perishable stock.

4. FTD should specifically disavow artificial restrictions on supply, such as import controls.

CONCLUSION

In accepting recommendations designed to help assure an adequate supply of quality perishable stock at reasonable prices, the FTD Board should be aware that no one action is likely to be a total solution. Advocacy of unrestricted imports is an example. At present, only fancy and standard grade carnations are entering the U.S. market from Colombia. How much such exports to the U.S. might be increased without cutting into Colombia's efforts to develop European markets is an open question. Also, retail florists using imported carnations might well have to reorient their thinking to using "work grade" flowers, which are probably quite satisfactory for some purposes.

Overall, however, the FTD Board of Directors should act affirmatively in such a way as to avoid trade restrictions, however applied, at a time when domestic availability is likely to decline as consumer demand continues to rise rapidly.

STANDARD CARNATIONS

State	Number producers		Plants in production (thousands)				Blooms sold: Amount (thousands)		Blooms sold: Percent of 23-State total [1]		Wholesale price (cents)		Value of sale at wholesale [2] (thousands)	
	1970	1973	1970	1973	Intended 1974	1974 as percent of 1970	1970	1973	1970	1973	1970	1973	1970	1973
California	294	270	29,700	35,588	39,848	134	344,539	382,020	55	61	6.1	6.2	$21,017	$23,685
Colorado	168	146	13,140	14,267	14,774	112	152,221	165,091	25	25	8.2	8.8	12,482	14,528
21 other States	1,255	782	16,204	9,816	8,238	50	122,622	68,940	20	10	9.5	11.2	11,717	7,751
23-State total	1,717	1,198	59,044	59,671	62,860	106	619,382	616,051	100	100	7.3	7.5	45,216	45,964

[1] Rounded to 5.
[2] Equivalent wholesale value of all sales.

Source: U.S. Department of Agriculture, statistical reporting service for 23 States which accounted for more than 95 percent of the wholesale value of cut flowers crop grown in conterminous United States in 1970.

MINIATURE CARNATIONS

State	Number producers		Plants in production (thousands)				Bunches sold: Amount (thousands)		Bunches sold: Percent of 23-State total [1]		Wholesale price		Value of sales at wholesale [2] (thousands)	
	1970	1973	1970	1973	Intended 1974	1974 as percent of 1970	1970	1973	1970	1973	1970	1973	1970	1973
California	68	58	956	1,313	1,472	153	1,032	1,607	40	50	$0.85	$0.77	$878	$1,237
Colorado	39	37	324	584	759	234	285	632	10	20	1.30	1.38	369	872
21 other States	336	204	1,468	1,311	1,409	95	1,222	1,062	50	30	1.05	1.47	1,287	1,563
23-State total	443	299	2,748	3,208	3,640	132	2,539	3,301	100	100	1.00	1.11	2,534	3,672

[1] Rounded to 5.
[2] Equivalent wholesale value of all sales.

Source: U.S. Department of Agriculture, statistical reporting service for 23 States which accounted for more than 95 percent of the wholesale value of cut flower crops grown in conterminous United States in 1970.

STANDARD CHRYSANTHEMUMS

State	Number producers		Plants in production (thousands)				Blooms sold: Amount (thousands)		Blooms sold: Percent of 23-State total [1]		Wholesale price (cents)		Value of sales at wholesale [2] (thousands)	
	1970	1973	1970	1973	Intended 1974	1974 as percent of 1970	1970	1973	1970	1973	1970	1973	1970	1973
California	206	192	72,160	76,045	79,786	110	81,465	82,404	55	60	13.0	16.4	$10,580	$13,514
Florida	32	20	8,841	6,323	5,322	60	9,270	5,073	5	5	20.1	27.5	1,863	1,395
21 other States	2,005	1,583	49,217	43,630	40,310	81	56,265	50,181	40	35	25.7	29.2	14,472	14,691
23-State total	2,243	1,795	130,218	125,998	125,418	96	147,000	137,658	100	100	18.3	21.5	26,925	29,600

[1] Rounded to 5.
[2] Equivalent wholesale value of all sales.

Source: U.S. Department of Agriculture, statistical reporting service for 23 States which accounted for more than 95 percent of the wholesale value of cut flower crops grown in conterminous United States in 1970.

POMPON CHRYSANTHEMUMS

State	Number producers		Plants in production (thousands)				Bunches sold: Amount (thousands)		Bunches sold: Percent of 23-State total [1]		Wholesale price		Value of sales at wholesale [2] (thousands)	
	1970	1973	1970	1973	Intended 1974	1974 as percent of 1970	1970	1973	1970	1973	1970	1973	1970	1973
California	246	218	32,039	42,997	44,373	138	9,956	13,226	30	35	$0.66	$0.73	$6,601	$9,655
Florida	48	41	63,454	72,462	67,764	106	11,829	13,071	35	35	.74	.90	8,706	11,764
21 other States	2,055	1,537	33,389	26,629	24,655	73	10,646	9,832	35	30	1.07	1.17	11,344	11,548
23-State total	2,349	1,796	128,882	142,088	136,792	106	32,431	36,129	100	100	.82	.91	26,651	32,967

[1] Rounded to 5.
[2] Equivalent wholesale value of all sales.

Source: U.S. Department of Agriculture, statistical reporting service for 23 States which accounted for more than 95 percent of the wholesale value of cut flower crops grown in conterminous United States in 1970.

STATEMENT SUBMITTED BY THE UNION OF COUNCILS FOR SOVIET JEWS

APRIL 11, 1974.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

1. Introduction

The Union of Councils for Soviet Jews is an independent federation of single-purpose organizations working on behalf of Soviet Jews. At present there are nineteen member councils, and more than a hundred other groups which work in concert with the Union although not officially affiliated.

As part of our effort to aid Soviet Jews we maintain contact with hundreds of Jews who have applied to leave the Soviet Union and many others who have managed to emigrate. From these people we have extensive information on the status of Jews who have applied for exit visas, and in particular, the fates of persons who have been denied permission to be reunited with their families in Israel. Since our primary expertise is in the field of Soviet Jews and their treatment by Soviet authorities, this is the subject we will address in our testimony.

This statement is being submitted on behalf of the following member councils:

Arizona Council on Soviet Jewry.
Southern California Council for Soviet Jews.
Orange County Commission on Soviet Jews.
California Students for Soviet Jews.
San Diego Council for Soviet Jewry.
Soviet Jewry Action Group.
Cleveland Council on Soviet Anti-Semitism.
Chicago Student Struggle for Soviet Jewry.
Long Island Committee for Soviet Jewry.
Toronto Council for Soviet Jews.
Pittsburgh Voice for Soviet Jewry.
Cincinnati Council for Soviet Jewry.
Niagara Frontier Council for Soviet Jewry.
Washington Committee for Soviet Jewry.
South Florida Conference on Soviet Jewry.
Greater Philadelphia Council for Soviet Jewry.
Montreal Student Struggle for Soviet Jews.
Zechor-S.E. Virginia Council for Soviet Jews.

Respectfully submitted.

SI FRUMKIN, *Acting Chairman.*

II. STATEMENT OF THE UNION OF COUNCILS FOR SOVIET JEWS ON TITLE IV OF THE TRADE REFORM ACT

The status of freedom of emigration as a fundamental human right has been formally recognized in numerous international agreements which constitute the fabric of international law. Furthermore, the U.S.S.R. has acknowledged this status as signatory to several accords which include provisions on free emigration.

Unfortunately, the Soviet government has refused to observe the principle of free emigration where Soviet citizens are concerned. Appeals and protests to the Soviet government by foreign governments, international organizations, and individuals on behalf of Jews and other citizens of the Soviet Union continue to be ignored.

When pressed directly on the issue, Soviet officials maintain that where Soviet citizens are concerned the matter of free emigration is an "internal affair" outside of the realm of international concern. Verbal protests from the outside world have failed to bring about any fundamental change in the Soviet approach to the question of emigration.

Over 150 thousand Soviet Jews who have applied for exit visas are still waiting for permission to join their families in Israel. Many of these applicants have been waiting for years to receive permission to leave. Those who have had the courage to apply have been subjected to loss of livelihood, constant harassment, and even imprisonment for no other reason that their attempt to exercise a fundamental human right—a right which the Soviet State has formally recognized both by international accord and in its own constitution.

Recent history has demonstrated that change in the emigration policies of the Soviet Union can only be brought about when Soviet officials are convinced that their vital interests are at stake. This is only possible where the Soviet State has something to gain from altering its stance; and when it has a great deal more to lose by refusing to make adjustments in its practices.

At present the U.S.S.R. is anxious to obtain access to American goods and technology. For the first time in many years there is a real possibility for the Soviet Union to benefit from American advances in many fields of great importance—computer technology, space research, and large-scale industrial production, to name a few.

However, the Soviet Union is demanding that Congress grant them a broad range of trade concessions—including MFN, trade credits, loans, and credit guarantee—to enable them to afford the benefits of American technology that they value so highly. In sum, the Soviet Union wants the American taxpayer to underwrite the acquisition of American goods and expertise.

Since the Soviet government stands to gain a great deal from this "exchange" it is only appropriate that Congress grant trade benefits only under conditions that serve the American national interest—both economically and morally. Trade is more than simply a commercial affair: trade is a material expression of our foreign policy and the reality of our attitude toward our international obligations.

In real terms the importance of trade in prompting change in Soviet policy toward free emigration cannot be overestimated. The impact of the tangible expression of American concern—the threat of losing access to American trade benefits—has already been felt by applicants for exit in the Soviet Union.

Since the introduction of the Jackson-Mills-Vanik legislation (Title IV), the total number of Jews and other Soviet citizens allowed to leave has risen markedly. In addition, one of the most odious manifestations of the Soviet anti-emigration policy—the education tax—has been suspended indefinitely. Also, some of the "hardship" applicants who had been repeatedly denied permission to leave have been permitted to emigrate.

However, we should not confuse token concessions with genuine alteration in Soviet emigration policy. The increase in the number of people allowed to emigrate is encouraging; but it is also misleading. At the current rate of emigration, it would take several years for individuals who have already applied to leave to be processed.

Furthermore, there are many thousands of people who wish to leave who have as yet been unwilling to risk the dangers of making formal application for exit.

In addition, whereas 85 percent of the Jewish population is located in what Soviet officials consider to be the heart of "Soviet Russia" over 90 percent of persons granted permission to leave are from the so-called "fringe" areas of the Soviet Union (Georgia, Daghestan, the Baltic States, etc.). People residing in the core areas, such as Moscow and Leningrad have been repeatedly refused permission to leave and have been waiting for as much as six years since they first applied. It seems that Soviet officials have less objection to the departure of "less Russian" (and in many cases, less educated) applicants, but are not as yet reconciled to the emigration of persons reared entirely under the Soviet system.

In recent months there have been other indications of Soviet resistance to a fundamental change in attitude. There have been show trials of Jewish activists to discourage others from seeking to leave. Efforts have been made to cut off communication by phone and letter to the West. (In addition to being a form of individual harassment, the Soviets are not anxious for news of their activities to reach the outside, particularly the United States.)

Another development in the last few weeks has been the creation of new application procedures designed to further slow the process of applying and to intimidate potential applicants. Under the new regulations, applicants for exit visas no longer apply through the central passport office (OVIR), but must go to their local militia station (there are approximately 200 of these in Moscow alone) to submit an application. In addition to making the application more cumbersome the new procedure brings the individual under the certain scrutiny of the local police.

The new regulations also prohibit completion of an application without a character reference from the last place of employment. Since requesting a character reference involves an unpleasant procedure of denouncement by one's peers as a traitor to the State and a loss of job or status, many persons would resign from their position before making application. Now, as it is impossible to avoid this form of harassment, many people may be reluctant to apply. Also, if the official in charge refuses a character reference, the individual will be unable to meet the requirements for application.

In view of both positive and negative developments in Soviet emigration policy over the last year and a half, it is our belief that any attempt to "compromise" or back down on the withholding of trade benefits from the Soviet Union could have dire consequences for Soviet Jews and others waiting to emigrate. There is no way to predict what Soviet officials might be capable of if the pressure were suddenly removed.

It is our firm belief that if the Soviet Union is granted trade benefits by the United States before there has been a qualitative change in their emigration policy, they will no longer feel any incentive to move in a positive direction. Furthermore, we are convinced that capitulation by the Congress at this time could reverse any progress that has been achieved and could cause substantial human suffering. For these reasons, we urge the Senate Finance Committee to retain Title IV of the Trade Reform Act with all its present provisions.

Attachment A

LIST OF OTKAZNIKI

The following list includes the names of over 400 Soviet Jews repeatedly refused permission to emigrate to Israel. This list was prepared in the Soviet Union ond represents the applicants they consider to be hardship cases as of March 20, 1974.

People are listed by city in order of the degree of hardship experienced by the individual or family. The first names listed and underlined are those who are held in prison or labor camps. The names which follow are listed in order of the length of time since they first applied for permission to leave.

The names on this list are those of the heads of household. In many cases the application for exit is filed for a large number of family members. Of course, there are many thousands of additional families waiting for permission to leave who are not shown on this list.

Note: Two people listed are not Jewish: Yury Fedorov of Moscow is Russian and Aleksey Murzjenko of Kiev is Ukranian. Fedorov and Murzjenko were arrested, along with ten Jews, in connection with the Leningrad "hi-jacking" incident and sentenced respectively, to 15 and 14 years in prison labor camps. Fellow Jewish prisoners and Soviet Jewish activists throughout the USSR consider Fedorov and Murzjenko "Prisoners of Zion" or in our usage, "Prisoners of Conscience". As such, they insist that these two be included on all P.O.C. lists published in the West and that help be sent to their families.

MOSCOW

1. Ilya Glazer
2. Yury Fedorov
3. Vladimir Slepak
4. Stella Goldberg
5. Viktor Polsky
6. Vladimir Prestin
7. Pavel Abramovich
8. Mark Nashpitz
9. Ilya Korenfeld
10. Yuly Kosharovsky
11. Iosif Begun
12. Alla Smelyanskaya
13. Leonid Tzipin
14. Boris Tzitlyonok
15. Lasar Svetshinsky
16. Victor Fayermark
17. Alexander Lerner
18. Leonid Koshevoy
19. Anatoly Galperin
20. Isaak Dymshitz
21. Ida Nudel
22. Anatoly Novikov
23. Iosif Beylin
24. Mark Lvovsky
25. Mark Novikov
26. Valery Krizjak
27. Alexander Voronel
28. Vitaly Rubin
29. Solomon Inditzky
30. Victor Brailovsky
31. Girsh Toker
32. Lev Kogan
33. Boris Lifshitz
34. Vladimir Shakhnovsky
35. Zakhar Tesker
36. Mikhail Agursky
37. Evgenya Kerzjner
38. Vladimir Feldman
39. Veniamin Levich
40. Victor Lapidus
41. David Azbel
42. Arkady Rutman
43. Lev Gendin
44. David Shvartzman
45. Alexander Luntz
46. Vladimir Galatsky
47. Elias Essas
48. Ilya Rutstein
49. Rafael Ospovat
50. Rakhil Levitanaite
51. Grigory Shvakhbein
52. Dmitry Shtshiglik
53. Grigory Vigdorov
54. Alexander Druk
55. Victor Elistratov
56. Iosif Kiblitzky
57. Vladimir Levit
58. Natan Toltshinsky
59. Bella Galinovskaya
60. Zinovy Yankelevich
61. Mikhail Polotzk
62. Mark Azbel
63. Miriam Form
64. Mikhail Goldblat
65. Yuly Veksler
66. Anatoly Shtsharansky E
67. Arkady Veksler
68. Alexander Drabkin
69. Efim Tzatskin
70. Evgeny Yakir
71. Dmitry Ramm
72. Victor Maximenko
73. Abram Gelikh
74. Mikhail Fridman
75. Evgeny Baras
76. Bronislav Lainer
77. Felix Kandel
78. Evgeny Liberman
79. Leonid Belopolsky
80. Yury Raskin
81. Natalia Rosenstein
82. Grigory Rosenstein
83. Viktoria Tshudakova
84. Benedikt Gogol
85. Roman Frumson
86. Vaisblit
87. Dmitry Grushko
88. Vladimir Fridman
89. Georgy Finkelshtein
90. Boris Gershberg
91. Roman Estrov
92. Mikhail Gorelik
93. Leonid Zisman

LENINGRAD

1. Hillel Butman
2. Mikhail Kornblit
3. Lassal Kaminsky
4. Lev Yagman
5. Mark Dymshitz
6. Vladimir Mogilever
7. David Chernoglaz
8. Anatoly Goldfeld
9. Israil Varnovitzky
10. Boris Rubinshtein
11. Helen Oliker

LENINGRAD (cont.)

12. Polina Epelman
13. Girsh Iosfin
14. Solomon Rosin
15. Raul Braz
16. Lasar Liberman
17. Valery Panov
18. Iosif Blikh
19. Ben Khaikin
20. Irma Tshernyak
21. Aba Taratuta
22. Israil Babtshin
23. Sol Babtshin
24. Girsh Goman
25. Arkady Rabinov
26. Efim Feygin
27. Lev Zjigun
28. Abezgauz
29. Yury Kalendarev
30. Mikhail Strugach
31. Tzitrinel
32. Georgy Sokiryansky
33. Trubnikov
34. Kazanevich
35. A. Yampolsky
36. Felix Aranovich
37. Dan Fradkin
38. Alex Tsherkin
39. Maizel
40. Moisey Kisluk
41. Venkovetzky
42. Sam Yoffe
43. Evgenya Kalendareva
44. Stanislavsky
45. Norman
46. Sam Savitzky
47. Zarov
48. Irina Boguslavskaya
49. Leonid Raines

KHARKOV

1. Yuly Brind
2. Emil Felsenshtein
3. Yury Kutshukov

RIGA

1. Silva Zalmanson
   Israel Zalmanson
   Wulf Zalmanson
2. Boris Penson
3. Iosif Mendelevich
4. Edward Kuznetsov
5. Mendel Bodnya
6. Leib Khnokh
7. Natan Fridman
8. Arik Levinshtein
9. Yudel Shpondel
10. Boris Zitzerman
11. Valery Kaminsky
12. Yakov Gordin
13. Sam Kuzinetz
14. Alik Levinson
15. Genokh Dashevsky
16. Ruben Neyman
17. Bluma Tavieva
18. Jean Roizman
19. Faina Lemberg
20. Isaak Koloditzky
21. Stella Zabrodskaya
22. Aleksin
23. Mendel Girshberg
24. Monim Gatman
25. Rolf Imerman
26. Rafail Apt
27. Sima Levina
28. Shlomo Goldshmidt
29. Moisey Beninson
30. Valery Buyko
31. Ilya Gutkin
32. Mikhail Eidelman
33. Pavel Edelman
34. Munitz
35. Padva
36. Khanan Shur
37. Tshervinsky
38. Abelson
39. Solovey
40. Gipka Sharfshtein
41. Marlena Blokh
42. Sofia Abramovich
43. Isaak Agranov
44. Veniamin Engelberg
45. Zak
46. Prass
47. Okh
48. Pinkhusovich
49. Riva Koblentz
50. Krivina
51. Vainshtein
52. Kopman
53. Yavorsky
54. Neyfakh
55. Vera Kokhanova
56. Raskina
57. Vapne

KIEV

1. Aleksey Murzjenko
2. Alexander Feldman
3. Alexander Tzatzkin
4. Boris Dubrovsky
5. Kim Fridman
6. Saul Raslin
7. Jakov Monastirsky
8. A. Kotlyar
9. Basya Soroko
10. Mikhail Kievsky
11. Moisey Landres
12. Wulf Levinson
13. Yuly Tartakovsky
14. Isaak Tzitverblit
15. Libedinskiy
16. Adim Sheinis
17. Ilya Zlobinsky
18. Aleksey Korotyukov
19. Boris Leshtshiner

VILNO

1. Eitan Finkelshtein
2. Reiza Drot
3. Zelig Gafanavich
4. Piotr Adamsky
5. Sholom Golter
6. Jeheskel Kalk
7. Lev Khatzkelson
8. Yoram Kenigsberg
9. David Vallakh
10. Roman Davidson
11. Simkha Livshin
12. Veniamin Gotlib
13. Mikhail Altshuler
14. Leiba Fridmanas
15. Lifshitz
16. Simon Girsh Abramovich
17. Ziama Veiner
18. Vladimir Rais
19. Ber Plavin
20. Jakov Braines
21. Jakov Sandler
22. Aron Starovolsky
23. Abram Fisher
24. Kokona
25. Blekher
26. Shteinman
27. Pinsker
28. Kleisner
29. Ezra Kutasov
30. Yakov Krumberg
31. Strongin

KAUNAS

1. Naum Freisinger
2. Girshas

NOVOSIBIRSK

1. Isaak Poltinnikov
2. Alexander Roizman
3. Emanuil Feinberg
4. Yury Berkovsky
5. Moshe Soifer
6. Lev Tzeitlin

KISHINEV

1. Iakov Khantzis
2. Miron Dorfman
3. Ber Reznik
4. Mikhail Belt
5. Nikolay Pitaru
6. Mark Abramovich
7. Jakov Shvartzman
8. Anatoly Shtarkman
9. Genady Krik
10. Mikhail Maruntzenboim
11. Miron Pavlotzky
12. Bentzian Flisfish
13. Boris Fux
14. Pavel Goldenberg
15. Yan Vaisblit
16. Mikhail Shkolnik
17. Moshe Flom
18. Mikhail Polonsky
19. Solomon Dakhis
20. Yury Shekhtman
21. Yakov Shnaider
22. Ioel Greller
23. Sonya Dubirnaya

MINSK

1. Lev Ovsishtsher
2. Naum Alshansky
3. Ilya Goldin
4. Efim Davidovich
5. S. Kazjdan
6. Frenkel
7. Ya. Sorkin
8. Vaiss
9. Zevin
10. Khess
11. Georgy Genin

TBILISI: 1. Grigory Goldshtein
2. Isay Goldshtein
3. Ovsey Gelman
4. Efim Rubinshtein
5. Iosif Pekarsky

IRKUTSK: 1. Boris Gurevich

MUKATSHEVO: 1. Avraam Kleinbart
2. Berger
3. Gilel Veiss
4. Veiner

KRASNOYARSK: 1. M. Rabinovich

SVERDLOVSK: 1. Valery Kukuy
2. Vladimir Markman
3. Leonid Zabelyshensky

KLAIPEDA: 1. Shimon Grillius

RYAZAN: 1. Yury Vudka
2. Oleg Frolov

BENDERY: 1. Yakov Suslensky
2. Iosif Meshener
3. Sender Levinson

TALLIN: 1. Benor Gurfel
2. Mark Fyurst

BAKU: 1. Alexander Veksler

SARATOV: 1. Victor Kogan

BELGOROD: 1. Veniamin Shapiro

KRASNODAR: 1. Alexander Spinko

UMAN: 1. Soman Kuperman

ZAPOROZJYE: 1. Yakov Glanz

KOROSTEN: 1. Khaim Meinen

TSHERNOVITZY: 1. Anatoly Altman
2. Khaim Renert

SAMARKAND: 1. Emelia Trakhtenberg

KALININ: 1. Boris Azernikov

VINNITZA: 1. Isaak Shkolnik

ROSTOV-ON-DON: 1. Lasar Ljubarsky

ODESSA: 1. Yury Pokh
2. Grigory Berman
3. Shmuel Bronfman
4. Evgeny Lentshik
5. Lev Roytburd
6. Eduard Litvak
7. Abram Yutzis
8. Roman Pesotshinsky
9. Iosif Blekhman

PERM: 1. Yakov Goldman
2. Daniil Forkash
3. Solomon Senderovich
4. Edgar Makhtus

TIRASPOL: 1. Leonid Bendersky

STATEMENT OF THE AMERICAN BANKERS ASSOCIATION, SUBMITTED BY REX J. MORTHLAND, PRESIDENT

SUMMARY

The American Bankers Association believes it is in the best interest of the United States and all nations to adopt policies that promote freer and greater international trade.

The American Bankers Association opposes passage of the Burke-Hartke bill or similar type legislation because it would undermine the growth of foreign trade and investment, threaten domestic and international economic prosperity, and impair multilateral cooperation essential to ensuring fairer trading rules for the United States.

The American Bankers Association supports generally the broad negotiating authorities sought by the President in H.R. 10710 as necessary to achieving comprehensive and meaningful trade and monetary reforms in the negotiations over the course of this year and in 1975.

The American Bankers Association believes that passage of the Act should not hinge on the controversy over extending or denying tariff and credit concessions to non-market economies. We urge compromise between the Administration and the Congress on Title IV.

The American Bankers Association agrees with the broad purposes of suggested amendments to grant the President stand-by authority to retaliate against foreign nations creating raw material shortages, but notes some of the difficulties that may be involved.

STATEMENT

The American Bankers Association appreciates this opportunity to submit the following comments on H.R. 10710, The Trade Reform Act of 1973, passed by the House of Representatives last year and currently under the consideration of your Committee.

The American banking industry has a growing interest in international trade, investment and related banking activities. With the rapid growth of world trade and investment, especially over the last 10 to 20 years, has come a corresponding growth in the international operations and activities of U.S. banks. Today there are almost 600 overseas U.S. bank branches, representative offices, subsidiaries or foreign affiliates participating in an estimated billion dollars worth of trade related foreign exchange transactions taking place every day around the world. Clearly, U.S. commercial banks have more than a passing interest in international trade, investment and related banking activities.

In recognition of these developments, The American Bankers Association is pleased to submit the following statement on the broad purposes of the foreign trade proposals before this Committee.

WORLD TRADE AND H.R. 10710

The American Bankers Association believes it is in the interest of the United States to stimulate freer and greater world trade. Trade benefits all countries. Trade benefits people whether they be farmers, workers, businessmen or consumers. The progressive freeing-up and growth of world trade over the past 25 years has produced impressive results and is responsible in large part for the rising standards of living here at home and among our major trading partners abroad. Freer, greater trade is also an essential element in fulfilling the aspirations of the less developed nations for accelerated economic growth and a higher standard of living. Thus, we believe the best interests of the United States and all nations are served by pursuing policies that will reduce trade barriers at home and abroad and thereby promote freer, greater trade.

The American Bankers Association further believes that, if conditions are not provided for encouraging an expansion of trade for the benefit of nations generally, countries may revert to protectionist policies that could lead to serious trade conflicts and jeopardise progress already achieved. The danger that more and more countries might revert to protectionist policies is hardly fanciful as the recent Arab oil embargo plainly demonstrates. Within the United States widespread support for protectionism is reflected in the Burke-Hartke bill which is also before your Committee. The American Bankers Association continues to oppose this bill. In our judgment passage of Burke-Hartke or similar type legislation would seriously undermine the continued expansion of foreign trade and investment, threatening in turn the standards of living of living of people throughout the world. Passage of such legislation would also impair international cooperation increasingly essential to securing fairer trading arrangements for the United States in upcoming negotiations.

Failure to adopt measures that promote international trade will also jeopardize progress in monetary reform. Major reform of both trading and monetary systems is necessary not only to expand trade but also to achieve a fairer trading environment for the United States. In our judgment monetary reforms will not receive serious consideration until Congress enacts favorable trade legislation. Therefore, we urge Congress to act expeditiously and enact such legislation so we can get on with the important business of serious negotiations in the months and years ahead.

On balance we believe H.R. 10710, The Trade Reform Act of 1973, represents a reasonable and flexible approach to achieve meaningful and favorable trade reforms. The recently suspended Arab oil embargo adds a new element to trade problems that this Committee can be expected to take into account in revising H.R. 10710. Notwithstanding this development, we support the broad purposes of H.R. 10710 and urge passage of this or similar legislation. Our comments with respect of H.R. 10710 are confined to what we feel are the key and probably most controversial sections of the Act, which will most likely determine passage or defeat of the legislation in the Senate this year.

The Act grants the President authority to raise, lower or eliminate American tariffs pursuant to trade agreements; to negotiate reciprocal nontariff barrier (NTB) reductions with procedures requiring Congressional participation and decision-making; and to raise or lower import restrictions on a temporary basis to help correct deficits or surpluses in our balance of payments position.

We believe these Presidential negotiating authorities are necessary because of the fundamental change that has occurred with respect to the international economic posture of the United States in the world today. That fundamental change is, of course, that the United States no longer holds a dominant position in international economic relations. Japan and Europe are now co-equals, clearly ahead of us in some areas of competition and rapidly pulling even in other areas. At the same time the ground rules governing trade have not changed to reflect this development. During the years of American dominance, some justification existed for foreign trade barriers that discriminated against the United States. Under present circumstances, however, that is no longer true.

Consequently, the United States has much at stake in upcoming trade negotiations. To help secure fairer rules of competition for U.S. goods and products, the United States must be equipped to enter the negotiations at least on terms of equality with our competitors. In our judgment the broad negotiating authorities, circumscribed as they are by reasonable Congressional limitations and oversight powers, will permit the President and his advisors to negotiate successfully on behalf of the American people.

The Arab oil embargo introduced a new and disturbing dimension to mounting international trade difficulties. The embargo dramatically demonstrated that the U.S. economy is no longer effectively insulated from world trade. Its impact on the American economy—on prices, jobs, industry and the balance of payments—is serious and lasting. The withholding of essential raw material supplies for political and economic reasons and its potential use in the future cannot be overlooked by this Committee in reviewing H.R. 10710.

Numerous proposals amending the trade bill to deal with such actions by foreign nations have been put before this Committee. Generally the proposals would grant the President specific authority to retaliate against countries that create, by varying techniques, shortages of critical raw materials imported by the United States. Under the proposals the President would be empowered either to curb U.S. exports or impose import barriers against non-raw material products coming from those countries to the United States. Whether explicit Presidential authority to deal with this problem should be written into the trade bill or into the Export Administration Act is a procedural and housekeeping matter that can only be determined by the Committee and the Congress.

Our chief concern is with the larger question or the broad ramifications of adopting such retaliatory type proposals. We urge that the ramifications are fully aired in the Committee hearings. On the one hand, it is hard to fault the argument that the United States should be equipped with stand-by authority to retaliate, in kind or otherwise, if necessary against the actions of foreign nations that create shortages of critical raw materials imported by the United States. The U.S. should at least be on an equal footing with our negotiating partners for the purposes of persuading countries to come to the bargaining table to discuss these dangerously restrictive trade practices.

On the other hand, the United States should not be in the business of promoting trade warfare. The oil embargo has already heightened protectionism around the world and encouraged some nations to pursue "go it alone" policies at the expense of international cooperation and good will. Although the purpose of providing this kind of authority is to discourage unilateral action, its mere existence could be abused and employed in unwarranted situations, thereby contributing to international discord and protectionism.

Consequently, we urge this Committee to review these proposals carefully. The hearings should examine the need for such retaliatory Presidential authority, the role of Congress in overseeing such authority, the kinds of exports over which the United States has leverage, and all cooperative efforts that can be taken in consultation with our trading partners to establish common and reasonable rules or guidelines to govern the use of retaliatory authority by the respective nations. We trust that this Committee, the Congress and the Administration, just as was done with respect to the other negotiating authorities in Title I, can shape a proposal that will grant adequate Presidential stand-by authority in this instance and still provide a reasonable Congressional check and balance.

We believe this Committee, the Congress and the Administration have a responsibility to see that the impasse over Title IV—the prohibition on tariff and credit concessions to non-market economies—is not allowed to defeat trade reform legislation. We believe The Trade Reform Act is overall a good bill. We urge its passage promptly with or without Title IV. We believe it is in the national interest to pass H.R. 10710 this year. Without the Act, the United States will lack the negotiating authority and the credibility to participate with our major competitors in serious trade negotiations.

We hope, of course, that some reasonable compromise can be reached on Title IV. We trust that language can be found that will take due account of the basic human rights issues at stake while not blocking progress toward more normal economic relations with the USSR and other non-market economies.

We strongly believe, however, that H.R. 10710 should not be permitted to stand or fall because of the dispute over Title IV. We believe it is vital that there be no disruption in the ongoing process of arranging trade reform negotiations. Inevitably, the United States will have to enter trade talks. Defeat or delay of The Trade Reform Act will only strengthen protectionist forces at home and abroad and make the resolution of growing world trade problems immeasurably harder to achieve.

STATEMENT OF THE GERMAN AMERICAN CHAMBER OF COMMERCE, INC.

The German American Chamber of Commerce, Inc. was incorporated in the State of New York in 1947. It is registered under the Foreign Agents Registration Act because it receives some of its financial support from abroad. It is a binational organization of 1,025 members consisting of 557 United States members and 468 German members. (A copy of its most recent membership list dated December 1973 is attached hereto.*)

The Chamber represents business men from the two largest trading nations in the world. One of its primary concerns is the fostering of two-way trade between the United States and Germany. Its members are as interested in exports from the United States to Germany as they are in exports from Germany to the United States.

The Chamber welcomes the goal, expressed in the message of the President of the United States, accompanying the proposed Trade Reform Act of 1973, of building a fair and open trading world. Being conscious of the balance of payments problems that have been besetting the United States and anxious to see them eliminated by wise economic and financial policy, we trust that the United States will have adequate negotiating authority for the coming round of international trade discussions.

*This was made a part of the official files of the committee.

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Broadly speaking any trade posture of the United States that might be understood as protectionist in design or execution is a matter of deep concern to our Chamber. Long-range consequences of any protectionist action would, in effect, be injurious to the United States and run counter to its best interests.

The United States as well as other nations are committed to abide by their international trade agreements, including the GATT. These agreements will probably be extensively revised in the forthcoming trade negotiations. This revision is desired not only by the United States, but by many other members of the GATT, including the EEC countries. It is hoped that the United States will be able to enter these negotiations, not only with adequate authority to negotiate, but also with a flexibility as to substantive revisions. Accordingly, we are hopeful that the Congress will not pass legislation which limits this flexibility and which may establish a national U.S. trade policy rendering U.S. international negotiations more difficult in the same areas.

More particularly, and as examples of our concern, we mention the following:

1. The proposed revision of the U.S. escape clause.

2. The broad grant of authority, under Title I of the proposed Act, to take discriminatory measures against countries with favorable balances of payment, again prior to international negotiations on this subject. In sum, we are hopeful the President will grant negotiating authority pursuant to Title I but we are concerned that he will be adversely restricted in his negotiation by certain of the provisions of Titles I and II. We believe such restriction unnecessary if the Congress maintains close liaison with the negotiators.

3. The broad grant of authority, under Title III of the proposed Act, to take discriminatory measures against countries which impair trade commitments mad to the United States. This should be negotiated internationally and such authority should be exercised within a framework of internaitonal rules.

In his message, the President also noted that international investment activities are in need of new rules and mechanisms. In this context, the Chamber respectfully suggests that, as a step toward the accomplishment of the Act's purposes, the United States should consider the encouragement of foreign direct investment in the United States. Such investment has grown last year but remains modest in size at the present time and is far surpassed by U.S. direct investment abroad. More substantial commitment of funds to the United States by German investors, largely to establish production subsidiaries, would be beneficial to all parties concerned. In the short term, the U.S. balance-of-payment situation would be ameliorated and new jobs would be created.

Over the long term, the two economies would become more closely intertwined, there would be increasing exchange of know-how, licenses, etc. The amount of direct foreign investment in each of the two countries would be more evenly balanced with the other and the reflow of profits from subsidiaries to parent companies could exercise a stabilizing influence.

The Chamber therefore respectfully suggests that appropriate incentives be considered for qualified foreign investors, particularly those establishing or modernizing manufacturing plants in designated areas in the United States. To stimulate such investment activity, the Chamber further suggests that machinery and equipment brought into the United States by foreign investors, for the establishment of subsidiaries or joint ventures, receive certain trade preferences. It should be noted that the Government of the Federal Republic of Germany supports German direct investment in the United States. The granting of tax, trade or other incentives by the United States to direct foreign investment in the United States, including machinery and equipment related thereto, would encounter no obstacles and elicit no objection on the part of the Federal Republic of Germany.

The energy crisis, and its lasting impact on the balance of payments of so many countries, surly has provideed no nw stimulus for GATT member states to negotiate the lowering of trade barriers. Quite to the contrary, dwindling foreign exchange reserves are apt to give new impetus to protectionist tendencies. The U.S. Administration should therefore have the tools, now more than ever, to pursue the principles of free trade between nations and to achieve further advances in its liberalization.

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We sincerely hope that these suggestions will be seriously consdered by the Committee on Finance. We thank you for the opportunity to present this Statement.

Respectfully submitted.

CHRISTOPHER LEDERMANN, *General Manager.*

SUMMARY

1. The Chamber supports a broad grant of negotiating authority for the President and his representatives made effective by a close liaison with the United States Congress.

2. The Chamber hopes that this negotiating authority will not be frustrated by a rigid fixing of national trade policy through domestic legislation prior to an attempted resolution of the many underlying problems through the forthcoming international negotiations.

3. The Chamber respectfully suggests approprate incentives be considered to stimulate foreign direct investment in the United States.

WRITTEN STATEMENT OF JOHN NELSON WASHBURN, WASHINGTON, D.C.

SUMMARY

With a view to reinforcing the principal points made in my oral testimony June 1, 1973 and supplementary statement to the Committee on Ways and Means on The Trade Reform Act of 1973 (H.R. 6767), in which I proposed an amendment to buttress and safeguard the Presidential Most-Favored-Nation Tariff Treatment Determination under section 502(a) in order to ensure that United States-Soviet trade in accordance with The Trade Reform Act of 1973 would in fact be conducted with honor were it to be conditioned upon a visible, timely and honest annual Soviet acknowledgement of the true extent in terms of military hardware of United States Lend-Lease aid to the U.S.S.R. in World War II, such condition to be operative through 2001, the year of the final installment in Soviet payments to the United States under the Lend Lease Settlement of October 18, 1972, I herewith urge the Senate Finance Committee to consider such amendatory language making more prudent and more formal the Presidential Determination to authorize Most-Favored-Nation status for the U.S.S.R. lest the United States Senate itself continue to be the butt of contemptuous officially-approved Soviet distortion as expressed in D. Al's play *The Truth, and Nothing but the Truth!* at the Bolshoi Drama Theater in Leningrad with respect to William Henry King of Utah, Knute Nelson of Minnesota, Lee Slater Overman of North Carolina, Sterling Thomas of South Dakota and Josiah Oliver Wolcott of Delaware, all former members of the Senate Committee on the Judiciary during the 65th Congress, from October 25, 1967 to at least June 20, 1973, one day after General Secretary Leonid I. Brezhnev met at Blair House in Washington, D.C. with twenty five Congressional leaders headed by Senators Mansfield, Scott, Fulbright and Aiken.

STATEMENT

The Trade Agreement and interrelated Lend-Lease Settlement, both done at Washington, D.C. October 18, 1972, are crucial to the future of United States-Soviet commercial relations.

In my testimony to the Committee on Ways and Means on The Trade Reform Act of 1973 (H.R. 6767) as published at pages 3603–3613 of Part 11 (May 31; June 1, 1973) of the 15-Part published HEARINGS, I provided persuasive, concrete evidence in Russian-language and Ukrainian-language sources that the U.S.S.R. has for more than two decades been distorting the scope and nature of actual United States Lend-Lease aid to the U.S.S.R. in World War II. In my Ways and Means Committee testimony I focused on the 1,161 Bell Aircraft Corp. P–39 Airacobras produced in the United States and delivered already assembled to the Soviet Union in the Persian Corridor by the U.S. Army.

In this my Senate Finance Committee testimony I shall note by way of introduction the current authoritative Soviet Government appraisal of United States World War II Lend-Lease to the U.S.S.R. and then provide concrete evidence from Russian-language Soviet sources indicating that even though United States-Soviet commerce must be a two-way street, the Soviet Government continues to belittle and poke fun at United States Senators of the 65th Congress for internal propaganda purposes at the same time that it professes a sincere desire to improve United States-Soviet relations through a genuine rapport with Senatorial leaders of the 93rd Congress. The United States Senate should demand a halt to such a shameless example of double-dealing, for which D. Al's play *The Truth, and Nothing but the Truth!* has been for six years the vehicle in Leningrad's Bolshoi Drama Theater.

One would never guess from reading The White House Fact Sheet dated October 18, 1972 on the Trade Agreement, Lend Lease Settlement, Reciprocal Credit Arrangements and Joint US–USSR Commercial Commission or the section entitled The Lend-Lease Settlement in the United States Senate Finance Committee Print "Background Materials Relating to the United States–Soviet Union Commercial Agreements," dated April 2, 1974, that the current authoritative Soviet Government appraisal of United States World War II Lend-Lease to the U.S.S.R. formulated in four paragraphs devoted to Lend-Lease as an item in Volume 24 of the 2nd Edition of the Great Soviet Encyclopedia published in Moscow would contain this sentence:

"The specific proportion of the industrial goods received by the U.S.S.R. from the Allies with respect to the dimensions of the production of industrial output at socialist enterprises during the period of the war was insignificant." (p. 491)

Until the appearance of Volume 14 of the new 3rd Edition of the Great Soviet Encyclopedia, scheduled for appearance by the end of 1974, the derogatory attitude toward the scope of not only United States but Allied Lend-Lease to the U.S.S.R. reflected in the adjective "neznachitelnyi (insignificant)" remains authoritative, as it already has for the 1954–1974 time frame.

As for the prime example of Soviet distortion of the work and reputation of United States Senators, D. Al's play *The Truth, and Nothing but the Truth!* which I have described at some length in my recent book entitled *Soviet Theater: Its Distortion of America's Image, 1921 to 1973*, one has to read both the Senate Judiciary Subcommittee HEARINGS held February 11 to March 10, 1919 under the chairmanship of Senator Lee Slater Overman of North Carolina and the Stage Version of the Leningrad Academic Bolshoi Drama Theater named for M. Gorky, as published in Moscow in 1969 by the All-Union Copyright Administration, in order to discover how bogus is the vaunted stenographic record palmed off on Soviet spectators in this major Leningrad theater and how much mischief can be created with United States Senators as villains by Soviet propagandists.

Since those who have already been charmed by the affable Leonid Brezhnev may not believe that the day after he held court for Senatorial leaders June 19, 1973, at Blair House in Washington, his surrogates in Leningrad were knifing deceased Senators William Henry King, Knute Nelson, Lee Slater Overman, Sterling Thomas and Josiah Oliver Wolcott in action in hearings during the 65th Congress, here is that list of Senators atop the cast of D. Al's "Documentary Chronicle in Two Court Sessions", i.e. *The Truth, and Nothing but the Truth!* for the Saturday, December 14, 1968 matinee and evening performances, as published in *Teatralnyi Leningrad*, No. 42(989):

Суббота 14 декабря
(12 час. 30 мин. и 19 час. 30 мин.)

...ПРАВДУ!
НИЧЕГО, КРОМЕ ПРАВДЫ!

Документальная хроника
в 2 заседаниях Д. Аля.
Постановка лауреата Ленинской и Государственных премий СССР, н. а. СССР Г. А. Товстоногова. Режиссер — **Ю. Е. Аксенов.** Композитор — **С. Е. Розенцвейг.** Художник — **А. М. Янокопулос.**

Действующие лица
(по стенограмме):

Сенаторы:

Овермэн — н. а. **В. И. Стржельчик**
Стерлинг — **С. С. Карнович-Валуа**
Уолкот — **В. К. Иллич**
Кинг — **Н. Н. Дмитриев**
Нельсон — з. а. **М. В. Иванов**
Юмс, секретарь комиссии — **М. В. Данилов**

Surely, if detente in the field of United States-Soviet commercial relations is ever to merit the majority support of the Congress of the United States and of the American people, at the very least one could expect the Soviet Government to disown the entire 4-paragraph item on Lend-Lease in Volume 24 of the 2nd Edition of the Great Soviet Encyclopedia in which United States "ruling circles" were badmouthed for striving to "utilize Lend-Lease for the realization of their expansionist aspirations" and concurrently to bury forever after an apology to the United States Senate D. Al's classic on the boards of Leningrad's Bolshoi Drama Theater.

NATIONAL COORDINATING COMMITTEE OF THE BEVERAGE INDUSTRY,
Cincinnati, Ohio, April 8, 1974.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee,
New Senate Office Building, Washington, D.C.

DEAR SENATOR LONG: Particularly on behalf of the many unions among the membership of the National Coordinating Committee of the Beverage Industry, this report is submitted with recommendations and it is requested that it be included in the printed hearings of H.R. 10710.

Needless to say it was surprising to see reference to "Wine Gallon/Proof Gallon" method of tax assessment of alcoholic beverages which appeared in the "Summary and Analysis of H.R. 10710—The Trade Reform Act of 1973." It was our understanding that, after careful consideration of H.R. 6767 by the House Ways and Means Committee, that the President would not be permitted to change the wine gallon/proof gallon method of tax assessment without prior Congressional approval. This was clearly brought out during a colloquy by Honorable Dan Rostenkowski and Honorable Al Ullman, Acting Chairman, during debate and discussion of H.R. 10710 in the House of Representatives on December 10, 1973, copy of which is attached.

To permit the President to change the present method of tax determination of alcoholic beverages, Section 5001(a)(1) of the Internal Revenue Code, would mean a loss of $100,000,000.00 a year to the U.S. Treasury. But even more important would be the loss of an estimated 12,000 jobs in the U.S. beverage and allied industries. Enclosed is an article which appeared in the April 11, 1973 issue of the Glasgow, Scotland, HERALD, headlined "Campaign to Create 6,000 More Scotch Whisky Jobs."

We are very much concerned about the increased proportion of the alcoholic beverage consumption being enjoyed by imported products year after year. In the March 9, 1974 issue of *Business Week* a graphic presentation disclosed that American whiskies had 55% of the total consumption in 1962, but only 35% in 1973. Scotch and Canadian whiskies had 15% in 1962 and 25% in 1973. Because foreign products keep gaining a larger proportion of the U.S. consumption, it is quite evident that our present method of taxing alcoholic beverages is not detrimental to the foreigner.

It is urgently requested that the Senate Finance Committee amend H.R. 10710 or any Trade Reform legislation to preclude the President from making any change in the present method of tax assessment of distilled spirits.

Respectfully submitted.

JOSEPH E. BRADY, *Chairman.*

Attachments.

[From the Glasgow Herald, Apr. 11, 1973]

CAMPAIGN TO CREATE 6,000 MORE SCOTCH WHISKY JOBS

(By Ian Imrie)

A new campaign, which if successful could bring 6,000 more jobs to Scotland, is being mounted by the Scotch whisky industry and the General and Municipal Workers' Union.

While they appear to be working independently of each other, both groups are exerting strong pressure to try to persuade the Government that action must be taken to change an American law which means that whisky imported in a bottle has a 15% higher tax than the same Scottish product imported to the United States in bulk and bottled there.

The GMWU are raising the question with Scottish MPs and at next week's annual conference of the Scottish Trades Union Congress. The Scotch Whisky Association have been trying to have the position changed for years and are now having talks with the Department of Trade and Industry.

DISCRIMINATION

An official of the association said last night: "The Department are currently looking into this matter to see if they can assist us. The discrimination is not against Scotch but against whisky imported in a bottle."

Mr. George Robertson, Scottish organiser of the GMWU for the drink and catering industries, told whisky industry delegates of the union in Glasgow yesterday that it was becoming intolerable to note the continuing trend in exports of Scotch in bulk for bottling abroad.

He continued: "This nation may be renowned for its generosity, but for us to stand back in near silence as we continue to export increasingly valuable jobs in the bottling of whisky to distant parts of the world is becoming a scandal."

The whisky industry attracted not only £230m worth of exports for Britain, but a further £200m in duty to the United Kingdom Government.

While it was Britain's biggest dollar earner and annual production, was nearly 170 million proof gallons, only 23,000 out of two million Scottish workers were engaged in producing, distilling, and packaging whisky, which made it only fifth in the Scottish industry employment league.

About 11 million proof gallons are exported to the United States each year in bulk, compared to about 21 million proof gallons in bottles.

Mr. Robertson said: "Although output of whisky is continuing to grow at a considerable rate, only one new major bottling hall complex has been built in the past five years meaning, at best, that employment in the industry has stayed static.

"More and more of our most famous national product is being sent to the U.S. and elsewhere in anonymous tankers of bulk blended whisky to boost foreign bottling interests. It should be remendered that employment in the whisky industry is not concentrated in the distilling side but in the bottling process.

"This union calculates that by exporting bulk blends of whisky to the U.S. in present quantities it costs Scotland between 5000 and 6000 jobs."

BARNES, RICHARDSON & COLBURN,
New York, N.Y., April 10, 1974.

Re Trade Reform Act (H.R. 10710).

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance, U.S. Senate,
Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR LONG: This firm is counsel for a number of domestic interests, importers, and exporters, who are directly concerned with, and affected by, trade legislation. Of specific concern to us is the recent directive of the President to the U.S. Tariff Commission under Section 332(g) of the Tariff Act of 1930, as amended, ordering conversion of the Tariff Schedules of the United States into the format of the Brussels Tariff Nomenclature (BTN).

As you well know, since 1789, tariff classification and valuation statutes of the United States have uniformly reflected commercial practice and the broad body of law existent in our country. Since final enactment of the Tariff Schedules of the United States (TSUS), effective August 31, 1963, Public Law 87-456; 76 Stat. 72, there has been growing concern about encroachment of foreign rulings (whether administrative or judicial) as an overlay on this very specialized body of law.

During the past five years we have received increasingly numerous reports from clients indicating that classifying officers rely heavily on the Brussels Nomenclature and ongoing interpretive rulings of the Customs Cooperation Council (CCC). Although legal experts agree that there was no Congressional intention to incorporate BTN into the TSUS, it appears to be regularly applied. Application of current CCC rulings to TSUS, without any color of authority from Congress, is especially onerous because the vast majority of disagreements with Customs are settled at the administrative level; such rulings and determinations having the effect of law.

Furthermore, our Curts have also relied on BTN. In the case of *Pitney-Bowes, Inc.* v. *United States*, 59 Cust. Ct. 181, C.D. 3116 (1967), the court noted that in the Submitting Report of the Tariff Classification Study (1960), page 8, the Tariff Commission stated that the Bussels Nomenclature (BTN) and the Standard Industrial Classification Manual exerted the greatest influence on the arrangement of the proposed TSUS. The court observed the similarity of certain provisions of the Brussels Nomenclature with those of the Tariff Schedules involved in the case. It concluded therefore, that the explanatory notes to the Nomenclature were pertinent to determining the U.S. legislative intent when adopting those TSUS provisions. No argument was presented by either party on the question of applicability of the Nomenclature. Nonetheless, the court, *sua sponte* referred to the Nomenclature. This is the first case which discussed the applicability of the BTN to our law.

The first case to reach the Court of Customs and Patent Appeals (CCPA) involving a Brussels Nomenclature issue was *F. L. Smith & Co.* v. *United States*, 56 CCPA 77, C.A.D. 958, 409 F.2d 1369 (1969). In this case, counsel for Appellee tried to convince the court that the interpretation of U.S. Customs laws should not be dependent upon a Tariff Code (and interpretations thereunder) of one or more foreign governments. On this point, the CCPA made the following comment:

> If a person has to send to Brussels for the Nomenclature and explanatory notes thereto before being able to interpret the United States tariff, this

might seem to some as customs complication, not simplification. If, however, a tariff item is seen as genuinely ambiguous, as the court below, mistakenly we think, deemed item 661.30 to be, it is difficult to criticize lawyers and judges for seeking light wherever they can find it.

The court found that the provision involved was not ambiguous and therefore did not require a determination of legislative intent. We submit that the court should have barred any use of interpretations under BTN by the CCC or other foreign tribunal, which were not in effect on the date of passage of TSUS and approved by Congress.

Although the language quoted above implies that the CCPA considered the Nomenclature distant or remote, subsequent Customs Court cases (citing the *Smidth* case) did review the Nomenclature when determining U.S. legislative intent.

The Customs Court case most often cited is *W. R. Filbin & Co., Inc.* v. *United States*, 63 Cust. Ct. 200, C.D. 3897 (1969). This was the first of the Customs Court decisions which held that in order to use the Nomenclature, it was necessary to first determine whether the BTN and TSUS provisions were sufficiently similar to reasonably *imply* that the Tariff Commission considered the particular BTN provision when drafting the Tariff Schedules provision. A number of courts thereafter used this "test" when determining whether or not to allow a BTN provision, its explanatory notes, and subsequent administrative interpretations, to influence the construction of the United States tariff statute (TSUS).

Attached is a schedule containing three groups of court decisions. These cover known cases where BTN was considered in the course of determining a Tariff Schedules case. The first group consists of cases where the Brussels provision and its explanatory notes were used when determining the meaning of the TSUS provision. Each of these cases discusses the "significant" similarity between the BTN provision and the TSUS provision. The second group consists of cases where BTN was used, but where there was no mention in the decision as to whether or not the Nomenclature provision and the TSUS provision were similar. These cases merely cited the earlier court cases which held that Brussels is an aid to determining the Congressional intent when construing a TSUS provision.

Of particular relevance and concern is the fact that C.D. 3924 and C.D. 4084 (two cases decided after the *Filbin* case) looked to the Nomenclature as a source of *legislative history*, yet neither one notes a similarity between BTN and TSUS provisions. However, both cite the *Filbin* Case.

The last group consists of cases where the court considered the Nomenclature but decided that it could not be used as an aid because there was no "nexus" between the Nomenclature and TSUS provisions.

There seem to be only two other CCPA cases which even discuss the Nomenclature. One is C.A.D. 1067 where the court indicated that the TSUS provision involved was not ambiguous and did not require reviewing extrinsic aids (one of which it specifically noted was the Nomenclature). The other case is *United States* v. *General Electric Co.*, 58 CCPA 152, C.A.D. 1021, 441 F.2d 1186 (1971). In this case the court did not discuss at length the influence that BTN had on its decision. The court noted, however, that the 1955 Brussels Nomenclature and explanatory notes relating thereto were *included in the Government argument*. The court then stated, "After a consideration of the language of TSUS item 685.90, the background materials cited in aid of construction of that item, and the arguments of counsel, we are not persuaded of reversible error in the decision of the Customs Court." This would seem to indicate that they at least considered the Nomenclature provisions.

Finally, the "crash program" to rewrite the Tariff Schedules of the United States into the Brussels format seems ill-advised. We see no reason why our trade agreement negotiators cannot continue, as in the past, to negotiate trade agreements without U.S. adoption of the BTN. Significantly, the Europeans now consider BTN obsolete! Recently the Customs Cooperation Council has carried forward ongoing "harmonization" efforts rewriting BTN to conform with today's technology and commercial understanding. Reports supplementing explanatory notes and statistical subheadings were issued 29 May 1973, 17 December 1973, and 5 February 1974. It is understood that additional work is undertaken in recognition of the long-standing flaws in this system. If the Cogress wants to change the Tariff Schedules of the United States to a more simplified format, no one could challenge this goal. If, however, the technicians are working to adopt a code system which is already under review and revision outside of your deliberations, we feel as a matter of law and logic the United States should make haste slowly. The House Committee on Ways and Means was obviously aware of the above. In the Report on H.R. 10710, 93rd Congress, 1st Session, House Report No. 93–571, at page 92 the following observation was made:

> "Internal statistical comparability, while important, to negotiating trade agreements should not be used as a mechanism for ignoring the complexities and technicalities of developing a sound legislative base for customs valuation and tariff classifications."

For the foregoing reasons, we urge that your deliberations on the Trade Reform Act reflect, either in the form of statutory language or clear legislative history, the fact that the United States Tariff scheme, under which American citizens pay import taxes and other revenue charges, is not subject to administrative or judicial overlay of foreign codes or interpretive procedures and is intended to be implemented under the U.S. system of judicial and administrative law.

Respectfully submitted.

JAMES H. LUNDQUIST.

SCHEDULE

Brussels Applied Due to Significant Similarity of Provisions—
- C.D. 3361.
- C.D. 3372.
- C.D. 3619.
- C.D. 3742.
- C.D. 3886.
- C.D. 3936.
- C.D. 3955.
- C.D. 4415.

Brussels Applied Without Mention of Similarity of Provisions—
- C.D. 3375.
- C.D. 3497.
- C.D. 3633.
- C.D. 3731.
- C.D. 3819.
- C.D. 3831.
- C.D. 3924.
- C.D. 4084.

Brussels NOT Applied—Provisions Not Similar—
- C.D. 3942.
- C.D. 4009.
- C.D. 4119.
- C.D. 4147.
- C.D. 4463.

STATEMENT OF THE MOTOR VEHICLE MANUFACTURERS ASSOCIATION

SUMMARY

Title I.—Because of the great importance of the forthcoming multilateral negotiations, the Motor Vehicle Manufacturers Association supports granting negotiating authority to the President to permit United States participation in the trade talks.

The Trade Reform Act carefully limits this grant of authority to assure needed Congressional regulation of U.S. trade policy. However, we perceive some ambiguity in the limitations imposed upon Presidential authority to raise duties (Sect. 101 (C) (1) and (2)) that might lead to its abuse; we recommend that these provisions be tightened. MVMA also recommends that more flexibility be written into the "balance of market opportunity" provisions of section 102 (C).

The bill should make equitable access to raw materials supplies a major goal of U.S. participation in the trade negotiations and instruct the President to enter into consultations to realize this goal.

Title II.—MVMA supports many of the changes this title makes in existing law. When conditions occur that require the regulation of the flow of imports, MVMA believes that relief should be temporary in duration, negotiated multilaterally, and applied in conjunction with measures to promote economic adjustment.

By allowing merely "threat" of serious injury to constitute eligibility for access to relief, and by excessively liberalizing the criteria for access to relief, this title undermines authority granted in Title I to enter into multilateral negotiations. Our trading partners might justly fear that the reciprocal concessions the United States grants under authority in Title I will be negated by the imposition of restrictions under authority of this title. MVMA recommends the substitution of the factors for determining "serious injury" for both "serious injury" and "threat of serious injury". In addition, while supporting the elimination of the link between injury and past tariff concessions, MVMA opposes the substitution of "substantial cause" for "major cause" with respect to the degree of significance imports must have in the injury sustained; we recommend the Congress restore the concept of "major cause".

Title III.—MVMA supports the provisions of this title since they would give the President powers to cope with unfair trade practices of other nations. We submit certain recommendations, however, that we believe would assure fairness in the administration of this title. Retaliatory power granted the President (Sect. 301) should be limited to withdrawal of concessions made in previous trade negotiations. More discretion should be given the Secretary of the Treasury in imposing countervailing duties (Sect. 303 (e)) and less discretion given the President in considering the relationship of retaliation (under Sect. 301) to international obligations of the United States.

In addition, the concept of "unfair trade practices" should be broadened to include exchange rate manipulation as well as restrictive commercial policies. The Congress should make clear to the President its intent that he enter into early negotiations to achieve monetary reform that would discourage "competitive depreciations."

Title IV.—While MVMA supports non-discriminatory trade with all nations, the issue of granting Most-Favored-Nation treatment to non-market economy countries has become so enmeshed with international political and military relations and human rights issues that we feel comment upon this title by MVMA would be inappropriate.

Title V.—MVMA strongly supports the extension of a generalized system of tariff preferences to developing countries.

Statement

Mr. Chairman, members of the Senate Finance Committee, my name is Franklin M. Kreml. I am President of the Motor Vehicle Manufacturers Association of the United States, Inc. (MVMA), the headquarters of which is located in Detroit, Michigan. MVMA represents nine of the United States' major automobile and truck manufacturers; these companies produce more than 95 percent of this nation's domestically manufactured motor vehicles.

I am honored to submit this statement to express our support for H.R. 10710, the *Trade Reform Act of 1973*. New, reform oriented trade legislation is a necessity; this bill fills that need. While we are in general agreement with the bill, there are a minimum number of provisions which we commend to your attention for possible revision. In addition, new problems have arisen that require your Committee's study.

Mr. Chairman, my statement will be structured into four parts. First, I will address the question of the importance of this legislation from a broad, national perspective. Second, I will attempt to convey to your Committee a sense of the importance of trade, and therefore this legislation, to the motor vehicle industry. I will discuss the future for motor vehicle exports and the trade barriers which have inhibited these exports. Third, I intend to share our view of the implications of the energy crisis for U.S. trade policy. Finally, I shall review this legislation, title by title, pointing out those provisions which we perceive to be desirable and which should be maintained by your Committee and those which we feel are weak and should be changed by your Committee.

THE NEED FOR TRADE LEGISLATION

Continued progress toward the evolution of a truly open and non-discriminatory global economic order is threatened by the uncertain direction of international trade, investment, and monetary policies. Momentum has been stalled with the result that the world now stands at a threshold. In the coming months, decisions made around the world such as your Committee will make in considering H.R. 10710 will determine whether nations continue the international economic liberalization that has enhanced the prosperity of the past twenty-five years or regress into increasing protectionism and ensuing economic nationalism that characterized the 1930's.

Maintenance of the status quo is not an alternative. If the governments of the world cannot work cooperatively in pursuing their common interests, they will act unilaterally to defend themselves against an uncertain future. Actions based on overly nationalistic economic policies, as history has repeatedly shown, lead to a breakdown in nearly all aspects of international relations.

The convening of multilateral trade negotiations will present the United States with an opportunity to take a leading role in a cooperative effort to maintain the momentum toward freer trade. Delay could result in a lost opportunity. Negotiations can only begin when the Congress grants the President the authority to participate in them. This legislation provides such authority.

In the course of negotiations, unjustifiable disparities in tariff levels among industrial countries that have survived past negotiations should be eliminated. Proliferating non-tariff barriers which have threatened to thwart progress already made in reducing tariffs should be checked. In addition, agreement should be sought on the conditions and procedures under which export controls are employed. In the absence of negotiations, the prospects for enhancing market access for U.S. exports or assuring equitable access to commodities in short supply will be in doubt.

This legislation is also necessary to reform domestic law. Many Americans have been frustrated by the inadequacy of existing law in coping with the domestic dislocations that trade can sometimes cause. Temporary relief for industries and workers to permit their adjustment to the overseas competition trade encourages has not been sufficient. Likewise, current law which provides authority to cope with unfair, distorting practices in which foreign competitors may engage is insufficient. H.R. 10710 would correct these deficiencies.

IMPORTANCE OF TRADE LEGISLATION TO THE MOTOR VEHICLE INDUSTRY

As the table below indicates, in 1972 (1973 data is just being made available) U.S. motor vehicle industry exports exceeded *$5.2 billion* (or 10.7% of total 1972 U.S. exports). While $3.9 billion went to Canada under the Automotive Products Trade Agreement between the United States and Canada, *$1.3 billon* went to other countries. Some potential exists for even expanding these latter exports. A comparison of nine month figures for 1972 and 1973 already shows a significant expansion of automotive exports (see also page 11).

U.S. AUTOMOTIVE EXPORTS, 1969–73

[Value in thousands of dollars]

	World	Canada	Rest of world
TOTAL AUTOMOTIVE EXPORTS[1]			
Year:			
1969	4,015,603	2,764,154	1,251,449
1970	3,830,668	2,492,594	1,338,074
1971	4,549,072	3,244,378	1,304,694
1972	5,244,093	3,906,796	1,337,297
9 mo:			
1972	3,789,471	2,834,616	954,855
1973	4,609,825	3,412,112	1,278,713

[In thousands]

	World		Canada		Rest of world	
	Number	Value	Number	Value	Number	Value
PASSENGER CARS[1]						
Year:						
1969	333	$864,305	292	$748,096	41	$116,209
1970	285	739,392	246	625,101	39	114,291
1971	387	1,070,012	348	945,932	39	124,080
1972	410	1,198,058	376	1,076,254	34	121,804
9 mo:						
1972	287	819,118	265	746,115	22	73,003
1973	359	1,121,815	325	998,926	34	126,889
TRUCKS[2]						
Year:						
1969	101	464,066	61	234,243	40	229,823
1970	91	504,978	54	226,502	37	278,476
1971	96	519,391	65	292,405	31	226,986
1972	118	616,116	90	398,333	28	227,828
9 mo:						
1972	82	443,327	62	282,646	20	160,681
1973	112	581,714	83	363,057	29	218,657

[1] Includes automotive parts and unassembled vehicles.
[2] Assembled vehicles, new.

Source: Compiled by MVMA from U.S. Department of Commerce, Bureau of the Census, Reports FT-410.

Because U.S. manufacturers have had to adapt their business practices to prevailing economic and political circumstances in foreign markets, our industry has become increasingly integrated on a worldwide scale. The investments abroad which spurred this integration have not substituted for exports from the United States, however. Committeed to competing in foreign markets, U.S. companies had no choice but to establish local manufacturing facilities to produce vehicles which catered to foreign consumer preferences and conformed with implicit and explicit foreign government policies. These same investments have stimulated U.S. exports of machinery, equipment, and parts.

While trade and investment have not been substitutes for each other, they are highly interrelated. National policies affecting the international environment for trade vitally affect that for investment. The inverse is also true. Because of the importance of the American economy in international trade and investment flows and the enlightened leadership the United States has demonstrated in these matters in the post-War era, the United States, especially the Congress, shoulders special responsibility for the future direction of the world economy. Globally integrated industries such as our own would face a dim future should the United States waver in its pursuit of an open and non-discriminatory world trading system.

Import barriers[1]

In the early post-War years, other nations argued that because of the tremendous relative economic strength of the United States, America could afford to make greater trade concessions than other countries, and should. America agreed and as a result, in the case of motor vehicles, the U.S. reduced its tariffs to one of the lowest rates of any country. Because of subsequent multilateral trade negotiations, there are now less than three percentage points separating the average tariff rates for the world's major trading nations. This near equality of average rates obscures greater disparities in particular industry sectors, however, one of which is motor vehicles.

Significant progress has been made in reducing tariffs on motor vehicles to the level at which they now stand. By 1973, the United States, Japan, and the countries that now comprise the European Community had each reduced their tariffs on motor vehicles by between 65 to 70 percent of the levels of their duties in the 1930's. The United States had reduced its statutory duties on passenger cars to 3 percent and on trucks to 8.5 percent.[2] Corresponding duties

[1] An appendix catalogs tariff and non-tariff barriers which motor vehicles exported from the United States confront for selected countries.
[2] See page 40 and the footnote on pp. 22–23.

for the European Community countries are 11 percent for cars and 22 percent for trucks. Japan maintains a 6.4 percent tariff on cars and trucks. Significant disparities in tariff rates for motor vehicles among industrial countries which have survived past trade negotiations can no longer be justified. Industrial nations maintaining relatively high tariffs should liberalize their commercial policies to reflect their increased economic strength.

[In percent]

Country	1930	1940	1950	1960	1968[1]	1973
Tariffs on passenger cars:						
United States	10	10	10	7.5	5.5	3
Japan	50	70	[2] 40	[3] 35-40	35-40	6.4
France[4]	[5] 46			30	22	11
United Kingdom[4]	33.3	33.3	33.3	30	17.5	11
Germany	([6])	([6])	35	13-16	22	11
Tariffs on trucks:						
United States	25	25	12.5	9.5	9.5	[7] 8.5
Japan	50	70	30	30	27-30	6.4
France	[5] 46			30	20-22	10-22
United Kingdom	33.3	33.3	33.3	30	22-24	22
Germany	([8])	([8])	35	16	20-22	10-22

[1] In 1968, the first duty reductions negotiated during the Kennedy round trade negotiations were implemented. These reductions were completed in 1973.
[2] This reduction in the Japanese tariff did not actually come until 1951.
[3] Wherever a range of rates is given, it means that the duty varies with some characteristic of the vehicle, typically its weight.
[4] The rates given apply only to the "general external tarif" of the countries concerned. France and Germany are now members of the European Economic Community in which trade in motor vehicles in conducted duty-free. Lilewise, the Community extends preferential tariff treatment to certain developing countries.
[5] Applies to 1935; no other information is available. In addition to this ad valorem duty, France also applied "specific" duties according to the following schedule:
Passenger cars:
Less than 1,000 kg=8.30 francs per net kilo.
1,100 to 1,500 kg=9.60 francs per net kilo.
1,500 to 1,750 kg=10.50 francs per net kilo.
1,750 to 2,000 kg=13.25 francs per net kilo.
More than 2,000 kg=16.10 francs per net kilo.
Trucks:
Less than 1,500 kg=6.5. francs per net kilo.
More than 1,500 kg=7.25 francs per net kilo.
[6] During the decade of the 1930's, Germany applied these "specific" duties to motor vehicles instead of an "ad valorem" percentage assessment: under 2,200 kg=75 RM/100 kg; 2,200-3,200 kg=40 RM/100 kg; over 3,200 kg=30 RM/100 kg.
[7] See footnote on page 22.
[8] Identical to passenger cars.

At the same time, other obstacles to the movement of these products, nontariff barriers, have grown in number, scope, and importance. The Secretariat of the General Agreement on Tariffs and Trade (GATT) has identified over 800 such nontariff barriers. Some of these barriers, such as government procurement policies, licensing requirements, and credit restrictions apply to all traded articles. Others, including quotas, discriminatory taxes, and local manufacturing requirements, are targeted specifically at motor vehicles.

No country fails to employ non-tariff barriers, including the United States. A report[1] of the Committee on Ways and Means of the U.S. House of Representatives contains a staggering though "not exhaustive" inventory of alleged nontariff trade distortions maintained by the United States and sixty of its trading partners.

To a certain extent, pollution control and safety standards for motor vehicles represent a kind of non-tariff barrier to international trade. While conceived for other purposes—enhancing environmental quality and protecting lives—such standards can, as an unintended side effect, also inhibit trade. Here there is a conflict between the interests of all countries in the expansion of trade and the rights of governments to make decisions affecting their citizens appropriate to the circumstances of their own countries as sovereign states. In the case of pollution standards, this includes both the absorptive capacity of a country's natural environmental as well as its economic development objectives. While international harmonization of motor vehicle standards is in the interest of expanding international trade, the individual rights of nations must be respected.

[1] *Briefing Materials Prepared for the Use of the Committee on Ways and Means in Connection with Hearings on the Subject of Foreign Trade and Tariffs*, Committee on Ways and Means, United States House of Representatives, 1973.

We urge that the United States Government work toward the harmonization of national standards, as well as vehicle testing and certification procedures, wherever such harmonization does not unduly conflict with our national safety and environmental goals.

New trade negotiations should provide the impetus for finalization of a needed GATT code on product standards setting that will help to facilitate such harmonization.

Export potential

The abandonment of the post-War system of "pegged" exchange rates in favor of an ad hoc arrangement permitting greater flexibility in the adjustment of currency values in 1971–1973 resulted in significant changes in currency values. These realignments narrowed differences in production costs and, as a result, the competitive position of American products, including trucks and passenger cars, was considerably enhanced both at home and abroad.

There is considerable evidence that currency realignments have affected trade flows in motor vehicles. In 1973, U.S. exports of motor vehicles[1] to countries other than Canada increased 19.1 percent over 1972. Exports of passenger cars increased 15.4 percent while exports of trucks and buses rose 24.9 percent. Currency realignments have had a notable impact on the price of imported autos as well, some rising more than 30 percent in a year. The price of some popular imported models is now substantially higher than their American-made competitors. As the table on page 18 indicates, imported car sales for each of the past six months have been lower than for a year earlier. The market share of imports has risen, however, because of an even sharper domestic sales cutback caused by the "oil crisis."

The "oil crisis" has had numerous and complex effects on the market for cars and trucks. Domestic manufacturers are accelerating their rapid expansion of small car production to meet the shift in consumer demand. The growing market share of intermediate and small cars indicates a trend toward the convergence of vehicle size at home and abroad. Because domestic demand for small cars may exceed domestic supply, however, imports may grow despite their now higher price tags. On the other hand, the relatively limited reliance of the United States on imported oil caused an appreciation in the dollar's value since the second devaluation of February, 1973, relative to the currencies of European countries and Japan, where oil imports are a bigger factor. This has tended to negate part of the competitive price edge recently gained. Now that the oil embargo has been lifted, the movement of currencies again cannot be confidently predicted. In recent days, rising inflation and political uncertainty in the United States have caused the dollar's value to drop.

MVMA believes that some of these changes, such as currency realignments reflecting economic change, will be enduring. Others, such as the increased market share of imports, will be only temporary. We are cautiously optimistic that the enduring forces will create a potential for the increased export of American motor vehicles, especially trucks. The full export potential of American products will only be realized, however, if there is commensurate progress in the reduction and elimination of barriers to trade, including those in the automotive sector.

Even if all conditions are favorable, export growth will not be sudden or dramatic. The goal of trade and monetary negotiations is not to bring a radical change in trade flows in a particular industry sector, but rather to achieve international equilibrium through the cumulative effect of marginal adjustments in trade flows in many sectors.

TRADE POLICY AND THE ENERGY CRISIS

The importance of the motor vehicle industry to our nation's economy is a well-established fact. No greater evidence of this fact exists than the implications of the dramatic reductions in passenger car sales in the first three months of 1974.

In 1973, a year of record performance for our industry, domestic motor vehicle production topped 12,680,000 units. More than 900,000 people were employed in the manufacture of these vehicles and parts. More than 12 million additional jobs—one in every six—were supported by the distribution, maintenance, and commercial use of motor vehicles.

[1] Figures represent *unit* exports. *Value* for 1973 exports was not available in time for inclusion into the statement.

More than 800,000 businesses hinge upon motor vehicle use. Motor vehicle taxes yield almost $19 billion (1973) in revenue to Federal and State governments. The almost $13 billion in taxes paid to state governments represents an average of 17 percent of their total revenues.

In the first three months of 1974, passenger car production was off 923,000 units from the same period in 1973. Indefinite layoffs now approximate 90,000 workers.[1] This unemployment has been caused by substantial reductions in the sales and production of full-size cars. Many consumers who might otherwise consider the purchase of a new car are cautiously waiting to see the impact of the "energy crisis" on the economy generally and on their own jobs specifically. Other consumers, determined to purchase a new vehicle, are turning to smaller models for their fuel economy characteristics in a period of gasoline shortages.

The shift to smaller cars is not a development of the past few months. In 1970 intermediate and small cars took 52.5 percent of domestic make retail sales. In 1973 they amounted to 58.7 percent. By March, 1974 the percentage was 67.3. To accommodate consumer preferences, manufacturers have been expanding small and intermediate size car production. The unexpected leap in small car demand and the associated drop in large car sales of the past few months have accelerated this production shift. Retooling, however, cannot be accomplished overnight.

Unemployment will be relieved in the industry when consumer confidence is restored in the ability of our government to direct the course of the economy and when the uncertainties attending gasoline availability and price are resolved. The decision of the Organization of Petroleum Exporting Countries to lift the oil embargo against the United States and the subsequent decisions by the Administration not to institute gasoline rationing and to lift the voluntary ban on Sunday gasoline sales should help. Unemployment will also be relieved as retooling is completed and new small car productive capacity is brought into service to meet growing small car demand.

MVMA is deeply concerned about layoffs in our industry. The unemployment which both the manufacturers and workers fear is not caused by imports, however, nor is there any indication that it is aggravated by imports. If imports are not the problem, regulating imports cannot be the solution. We, therefore, reject the call made recently by the Board of the United Auto Workers for "temporary quotas on automobile products imported from outside North America."

Any attempt to solve our own economic and employment problems at the expense of our trading partners will be immediately recognized for what it is. By imposing quantitative restrictions on such an important article in international trade as the automobile, the United States will be inviting immediate retaliation by its trading partners.

In the text of his prepared statement before the Senate Finance Committee March 22, 1974, Mr. Leonard Woodcock, President of ~~the~~ United Auo Workers, reepated his appeal for the imposition of quantitative restritcions, quoting Article XIX of the GATT for justification. Article XIX, "Emergency Action on Imports of Particular Products" of the GATT sfates:

> 1. (*a*) If, as a result of unforeseen developments and of the obligations incurred by a contracting party under this Agreement, including tariff concessions, any product is being imported into the territory of that contracting party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the contracting party shall be free, in respect of such products, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or to withdraw or modify the concession . . .

As the accompanying tables show, passenger cars are not being imported into the United States "in such increased quantities . . . as to cause or threaten serious injury to domestic producers." In fact, as indicated earlier, imports of passenger cars have fallen off substantially in recent months. Imports fell over 20% in February, 1974 and almost 30% in March, 1974 compared to the same months last year. Clearly, an appeal to Article XIX would fall upon deaf ears in the international community.

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[1] *Newsweek* recently estimated 92,000. In a March 26 press conference, Leonard Woodcock, President of the United Auto Workers, placed the level of indefinite layoffs among vehicle manufacturers at 88,000 and total industry employment at 130,000.

RETAIL DELIVERIES OF U.S. MANUFACTURED AND IMPORTED NEW PASSENGER CARS

	Manufactured in the United States	Imported	Total market share of imports (percent)
1970	7,116,000	1,277,000	15.2
1971	8,676,000	1,555,000	15.2
1972	9,322,000	1,616,000	14.7
1973	9,670,000	1,774,000	15.1
Last quarter 1973	2,208,000	373,000	14.5
October	857,000	121,000	12.3
November	777,000	134,000	14.7
December	574,000	119,000	17.1
1974:			
January	551,000	127,000	18.8
February	567,000	115,000	16.8
March	653,000	125,000	16.1

Source: Motor Vehicle Manufacturers Association of the U.S., Inc., and Ward's Automotive Reports.

COMPARISON OF OCTOBER 1972-MARCH 1973 AND OCTOBER 1973-MARCH 1974 RETAIL DELIVERIES OF IMPORTED NEW PASSENGER CARS

	1972	1973	Reduction in in import deliveries (percent)	Total market share of imports in 1973 and 1974 (percent)
October	138,000	121,000	−12.3	12.3
November	140,000	134,000	−4.3	14.7
December	129,000	119,000	−7.7	17.1

	1973	1974	Reduction in import deliveries (percent)	Total market share of imports in 1973 and 1974 (percent)
January	139,000	127,000	−8.6	18.8
February	145,000	115,000	−20.7	16.8
March	179,000	125,000	−29.8	16.1

Source: "Ward's Automotive Reports."

Even were the United States to attempt to take restrictive action under Article XIX, the President does not, under current law, have the authority to compensate our trading partners by an equivalent amount to restore the general level of concessions. Failure to compensate is grounds for retaliation. H.R. 10710 would give the President this needed authority.

In addition, Article I of the GATT, "General Most Favored Nation Treatment," and Article XIII, "Non-Discriminatory Administration of Quantitative Restrictions," might be invoked by our trading partners as grounds for retaliation should the UAW's call be implemented.

In oral testimony, Mr. Woodcock implicitly recognized these problems and requested, if quotas were not feasible, the provision of standby authority so that the President might hike tariffs on automotive products. When Congress passes H.R. 10710, under the provisions of Section 201 which sever the necessary causal link between injury and previous tariff concessions, the President would have the authority the UAW desires, subject to necessary procedural safeguards. Like Article XIX of the GATT, however, the *Trade Reform Act* requires that an article be imported in such increased quantities as to cause serious injury. The data presented in the table on the previous page clearly show no increase in imports of passenger cars.

Mr. Woodcock recognized the implications of protectionist policies when he stated in 1972:

> Tariffs and quotas are not an answer . . . We shot up the tariff barriers to very great heights (with Smoot-Hawley in 1934). We kept out foreign goods and in doing so, we throttled world trade. We made the world depression more widespread and we helped give rise to Hitler which produced World War II.

These arguments are equally valid today. Rather than import restrictions, cooperative efforts between industry, labor and government, and among trading nations, are urgently needed to cope with the energy crisis which has caused layoffs in the automobile industry.

SPECIFIC COMMENTS ON THE TRADE REFORM ACT OF 1973

Title I—Negotiating and Other Authority.—Considerable concern has been voiced over Title I by those fearful of excessive grants of authority to the Executive Branch of government by the Congress.

The Constitution is, of course, very specific in empowering Congress to "regulate Commerce with foreign Nations." The Administration's request for authority (H.R. 6767) seemed to ask the Congress to abdicate its Constitutional responsibil'ties. The Committee on Ways and Means of the U.S. House of Representatives was mindful (as Acting Committee Chairman Ullman noted before the House Rules Committee October 16) that the Congress is not, itself, a negotiating agent. The Committee members were also aware that if the President was to succeed in enhancing the access of American goods to foreign markets and achieving a more open and non-discriminatory world trading system he would require substantial bargaining leverage and negotiating flexibility.

Realizing this necessity for leverage and flexibility on the part of the President and mindful of their Constitutional responsibilities, the House Committee members wrought a delicate compromise. The *Trade Reform Act* (H.R. 10710) carefully sets forth limits, guidelines, and procedures to which the President must adhere in participating in negotiations and conducting our trade policy. Thus, as the Constitution requires, the bill provides for Congressional regulation of our trade policy while permitting the President, as an agent of the Congress, the flexibility to implement trade policy in pursuit of the national interest. MVMA endorses this compromise.

CHAPTER 1

Section 101.—MVMA supports the authority granted the President to negotiate the reduction of tariff barriers through multilateral negotiations. This position is consistent with the Association's historic belief in, and encouragement of, trade polices that promote the freest possible exchange of merchandise among nations.

Subsection (a)(2) authorizes the President to increase rates of duty or to impose duties subject to the limitation set forth in subsection (c)(1). That provision limits any duty rate increase or new duty to a level of 50 percent above the pertinent rate existing on July 1, 1934 (generally represented by the Column 2 rates of the Tariff Schedules of the United States) or 20 percent ad valorem (i.e., 20 percentage points) above the current rate, *whichever is higher*. In the case of motor vehicles:

[In percent]

Article	Current rate	50 percent col. 2 rate	20 percent ad valorem
Passenger cars	3	15.0	23
Trucks and special purpose vehicles	[1] 25	37.5	45

[1] In December 1963 the President proclaimed an increase in the rate of duty on "automobile trucks valued at $1,000 or more" under the retaliatory authority of sec. 252 of the Trade Expansion Act. This action, which raised the duty under item 692.02 of the Tariff Schedules from 8.5 to 25 percent, was taken in response to the EEC's imposition of variable levies on poultry which resulted in a sharp decline in U.S. poultry exports. In some cases, foreign truck manufacturers have shipped their vehicles into the United States in barely disassembled form, thus qualifying for the 4-percent duty on motor vehicle parts.

Under subsection (c)(2), however, this limitation may be exceeded when necessary to convert a non-tariff barrier or other trade distortion into a fixed tariff providing a substantially equivalent level of protection. The scope of this tariff raising authority under these interrelated provisions is ambiguous and for that reason undesirable, because of the potential abuse it might generate. The ambiguity can be illustrated by reference to the Report of the Committee on Ways and Means to accompany H.R. 10710 (page 20) which *suggests*, by way of example, two circumstances in which such authority might be exercised: in harmonizing disparate tariff rates or in converting non-tariff distortions to substantially equivalent ad valorem duties. In remarks on the House Floor (*Congressional Record* of December 10, 1973, page 10929), Ways and Means Committee Acting Chairman Ullman indicated that these are the *only* circumstances in which such authority would be exercised. The text of the bill and the Committee Report do not yield such a clear interpretation.

Congressional proclamations of authority must be closely related to the purpose for which they are delegated: in this case to encourage the evolution of an open and non-discriminatory trading system. While bargaining leverage and flexibility is an essential ingredient of effective negotiating authority, unambiguous restrictions upon Presidential authority to raise tarffs are appropriate. Accordingly, Section 101(c) (1) and (2) should be rewritten to specify that the authority to impose or increase rates of duty can *only* be exercised to carry out a trade agreement under the following conditions: (1) where necessary to convert non-tariff distortions into substantially equivalent ad valorem rates of duty (however, MVMA agrees with the Ways and Means Committee report that the reduction or phasing out of the import restraint is preferable to conversion to a tariff); (2) where necessary to harmonize disparate national rates of duty—and then *only* to the limit of the rate of duty existing on July 1, 1934; and (3) where the countries having significant trade in the products concerned, or a reasonable potential for such trade, were parties to the agreement pursuant to which a tariff increase is sought.

Section 102.—MVMA applauds the language of this section which urges the President to take all feasible steps within his power to reduce or eliminate barriers and other distortions to international trade. In the past, non-tariff barriers have inhibited U.S. exports of motor vehicles. As the Report of the Committee on Ways and Means notes, however, the United States has not been solely a victim of these barriers.

Our own non-tariff barriers have had unintended effects. Non-tariff barriers erected to benefit some American industries have put consumers and other industries at a disadvantage. An example is the so-called voluntary steel quota agreement. Until the recent radical change in the world steel market, this agreement resulted in higher prices for consumers and weakened the competitive positions of U.S. motor vehicle manufacturers at home and abroad. The quota, which restricted U.S. imports of steel, caused cost increases in U.S. products which employed steel intensively in their manufacture, motor vehicles among them. Imports of passenger cars and trucks were spurred and exports inhibited.

Our Association is concerned about the "balance of market opportunities" provision of Section 102(c)(1) making the attainment of equivalent competitive opportunities for U.S. products in developed nations as such products receive (or like products) receive in the United States. The bill's admonition to the President to negotiate non-tariff barriers on the basis of each product sector of manufacturing to the extent feasible and to the maximum extent appropriate to the achievement of the objective of achieving a balance of market opportunities appears constructive. This testimony has already alluded to the existing inequity in terms of reciprocal access to the automotive markets of industrial nations.

In earlier testimony, Administration witnesses (including testimony offered for the record of the hearings by the Special Trade Representative, Ambassador William Eberle, pages 37–43) expressed the fear that limiting the negotiations too closely to a sector basis could jeopardize the overall goals of the *Trade Reform Act* and the trade negotiations. We agree with their assessment that while the House-passed bill may not have intended such a result, it might in fact occur. What especially concerns us is the possibility that this section might become a tool in the hands of foreign government negotiators against the United States and that the negotiations, as a result, would have to be conducted on a least common denominator basis. This would be most undesirable.

The language of section 102(C) (and the relevant explanation of this section in the Committee's Report and Acting Chairman Ullman's remarks on the House Floor) clearly indicates the Committee's understanding of the situation of industries, such as our own, whose domestic market is unprotected. U.S. tariff duties on automotive products are the lowest of all major trading nations; no trade-intentional non-tariff trade barriers inhibit foreign access to the American motor vehicle market. As a result, U.S. negotiators will have little with which to bargain to achieve more equitable access for our products in foreign markets. Thus, the Ways and Means Committee Report recognizes that non-tariff barriers may protect "a particular product and reciprocal concessions to achieve its reduction or removal may not be possible without trade-offs on concessions among other product sectors." We recommend that the bill be amended to more accurately reflect the intent of the Committee as presented in its Report and in its Acting Chairman's remarks on the House floor.

This position is consistent with the "Tokyo Declaration" which concluded the GATT Ministerial Meeting in September, 1973 and launched the trade negotiations. That declaration calls for negotiations "on the basis of the principles of mutual advantage, mutual commitment and *overall reciprocity.*" (emphasis added)

Additional authority.—In recent months, a new threat to the evolution of an open world trading system has arisen in the form of export controls. United States agricultural embargoes in the summer of 1973 and the embargo of petroleum exports by Midddle East nations have strikingly brought home the necessity for internationally agreed-upon rules for trade in commodities in an interdependent global economy.

Under conditions of national emergency, governments may feel the necessity to impose export controls. MVMA believes international agreement is required on the conditions under which export controls shall be implemented. The necessity for such controls must be demonstrated beyond any doubt. In the United States, public hearings to allow the viewpoints of all affected parties must be made mandatory (although provisions for 60–90 day emergency authority may be desirable). In addition, a forum for international consultation must be established in order to minimize the adverse effects of the imposition of such controls on international economic and political relations.

The *Trade Reform Act of 1973* should make access to supplies of raw materials one of the major goals of U.S. participation in trade negotiations and should include provisions which direct the President to enter into consultations with other nations, under the auspices of the GATT or otherwise, to establish a code of conduct providing for equitable access to supplies of food and raw materials and to establish rules governing the imposition of export controls. Although the proposed amendments of Senators Mondale and Ribicoff would do just that, they also provide for retaliatory powers against export restrictions deemed "unjustifiable (i.e., illegal) or *unreasonable.*" (emphasis added) This language may have the effect of expanding the President's discretionary retaliatory authority and should be very carefully reviewed by this Committee.

Title II—Relief from Injury Caused by Import Competition.—This title makes a number of needed changes in existing law that will considerably improve our government's ability to cope with domestic dislocations that result from trade.

It should be noted that of the 220 workers cases brought before the Tariff Commission program in 1962, over 200 were brought in the last four years. The deteriorating competitive position of American industry which these petitions reflect stems in major part from disequilibrium in international currency exchange rates. Now that currency values can adjust to reflect economic reality, the onslaught of imports of the past few years should moderate. The reduced number of petitions to the Tariff Commission in early 1974 is evidence of this moderating trend.

Dislocations will inevitably occur. They are evidence (if the antidumping and countervailing duty provisions of U.S. law are effectively enforced) that the gains promised from freer trade (increased competition, greater efficiency) are being realized. Thus, the need for programs to cope with rapid and substantial increases in imports remains. Access to these programs should be liberalized; benefits accruing to those participating in them should be expanded.

H.R. 10710 makes progress in a number of important areas. Particularly notable are: the liberalization of access to relief; explicit preference for adjustment assistance as a form of import relief; a preferred order among other import restriction remedies; specific limitations on the duration of relief and provisions for phasing out import restrictions to encourage adjustment to new competitive conditions; a requirement that consumer interests be taken into account when resort to import restrictions is considered; further requirements that the effect of restrictions on domestic competition also be considered; and the various procedural safeguards which accompany the President's authority to restrict imports.

MVMA believes that H.R. 10710 goes too far in some directions, however, and not far enough in others. In principle, while MVMA opposes the erection of trade barriers that protect special interests at the expense of the public, we recognize that conditions may arise wherein the flow of imports is regulated. When this occurs, the relief granted should be temporary in duration, negotiated multilaterally, and applied in conjunction with measures to promote economic adjustment. We thus recommend the following changes in five areas of Title II.

CHAPTER 1

Section 201 (a) (2) (A) and (B).—Under this section, whenever the Tariff Commission receives a petition for eligibility for import relief, the Commission is directed to make an investigation to determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of injury or threat thereof. The bill instructs the Commission to take numerous economic factors into account. Among all relevant economic factors, the bill specifically enumerates:

(A) *with respect to serious injury*, the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry.

(B) *with respect to threat of serious injury*, a decline in sales, a higher and growing inventory, and a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry concerned.

It is clear that the factors to be taken into account in determining the threat of serious injury are easier to meet than those required to determine the existence of serious injury. The remedy, however, is the same for both. The easier test may result in the encouragement of unnecessary petitions for protection from imports; some trade would be inhibited and its benefits lost.

We, therefore, recommend the elimination of Section 201(a)(2)(B) and the incorporation of the concept of "threat of serious injury" (but *not* the enumerated economic factors) into subsection (a)(2)(A).

Section 203 (d) (1).—This section permits the President to raise a duty by 50 percentage points *ad valorem* above the current rate as a temporary protection to industries suffering serious injury from imports. This is a far greater increase than permitted under current law. It is also an unnecessary grant of authority. The *Trade Expansion Act* permitted increases to no more than 50% above the rate existing on July 1, 1934, or if the article is dutiable, but no rate existed on July 1, 1934, to a rate existing at the time of the proclamation, or in the case of an article not subject to duty, to a rate not in excess of 50% *ad valorem*. MVMA recommends that the relevant language of the *Trade Expansion Act* be substituted for the language in Section 203 (d) (1) of H.R. 10710.

Under *Section 201*, the House-passed bill goes too far, MVMA believes, in allowing U.S. industries to resort to tariff and other forms of protection in the face of import competition. The bill makes two important changes in existing law that will facilitate access to protection from imports.

The "escape clause" of existing law directly ties the question of injury to tariff treatment of competing imports. The *Trade Expansion Act of 1962*, Section 301 (b) required that a casual link exist between increased imports and past tariff concessions as a criterion for eligibility for relief. Hence, the notion "escape clause."

It was this casual link that proved to be a principal bone of contention in the escape clause actions filed under the *Trade Expansion Act*. The interpretation given to that test by many Tariff Commissioners has been viewed in some quarters as too rigid with the result that very few affirmative findings were made by the Commission. Since the "in major part" test also applied in adjustment assistance cases, it is widely believed that the failure of the existing law to cope effectively with import-related dislocation is largely attributable to this particular statutory standard.

The "safeguard provisions" of H.R. 10710 delete this requirement. No longer would petitioners have to meet the criterion of a casual link between increased imports and past tariff concessions. This liberalization of access to relief is necessary and desirable; its inclusion in new trade law is supported by MVMA.

The Trade Reform Act goes further, however, and in addition liberalizes the criterion with respect to the degree of significance imports must have in the injury sustained by the industry in question. MVMA believes this change is both unnecessary and undesirable; we, therefore, oppose its inclusion in new trade law.

Current law requires that imports be the "major factor" of injury. "Major" has been interpreted to mean "greater than all other factors combined." H.R. 10710 substitutes the word "substantial" for "major." "Substantial" is defined in the bill as "a cause which is important and no less than any other cause."

MVMA believes that in seeking to compensate for excessively strict criteria required to establish eligibility for import relief in the past, the House Committee on Ways and Means has erred in the other direction by substituting "substantial" for "major." We fear that our trading partners will view this excessive easing of access to import relief as a protectionist tack. In the eyes of our trading partners, the United States will come to Geneva to negotiate reciprocal concessions in the course of the multilateral trade negotiations under the authority granted the President in Title I. Then, a few months later, we will negate those concessions by imposing new import restrictions with the authority created in Title II. Such expectations on the part of the Europeans and Japanese could make them less willing to engage in bargaining to reduce trade barriers. The prognosis for real progress, then, toward an open and nondiscriminatory world trading system in the "Tokyo Round" of multilateral trade negotiations would be poor indeed.

MVMA recommends that the requirement, in current law, of a causal link between increased imports and past tariff concessions be deleted. We further recommend that the Senate restore the language of the *Trade Expansion Act of 1962* and require that imports be the "major" cause of injury, that is, "greater than all other factors combined" or at least the "primary" cause, as originally suggested by the Administration in H.R. 6767, that is, "the largest single cause whether more than 50 percent or not," but *not* merely a "substantial" cause.

In addition, we recommend that the instructions to the President contained in Title I. Section 121(a)(2)—that he take the necessary action to initiate a revision of Article XIX of the GATT to establish a truly multilateral safeguard mechanism—be noted under this title in such a way that it is made clear that it is the intent of the Congress that such safeguard provisions as are established by this bill be considered temporary, later to be made to conform to internationally agreed-upon procedures and techniques of import restraint.

CHAPTER 2 AND 3

Federal Government assistance should be temporary in duration. It should include incentives to pursue new training and relocation allowances for workers, loan guarantees and tax relief for small firms, and fiscal aid for small communities affected by changes in trade patterns. These programs should provide relief while orienting the economy toward those industries demonstrating the greatest potential for competitive success in world markets. By helping to create flexible industries and a work force with a variety of skills, an effective adjustment assistance program would repay its cost to the economy.

A well-conceived manpower policy program is essential to adapt the skill mix of our labor force to the shifting patterns of production. The *Trade Reform Act* improves access to the adjustment assistance program by easing the qualifying criteria and streamlining the petitioning process. Any readjustment allowance made available to eligible, displaced workers should be extended on a limited basis, however, if a worker is participating in a bona fide job training program for the duration of his training. MVMA supports all these aspects of this legislation.

Job training.—Special attention must be paid to the job training programs in which eligible workers may participate under the adjustment assistance program. All too often in the case of existing manpower training programs, participants are trained in skills for which no jobs exist. Training must be directed, to the greatest extent feasible, toward specific employment opportunities.

Title III—Relief from Unfair Trade Practices.—The provisions of Title III of H.R. 10710 make needed adjustments in existing provisions of U.S. law to protect American business and labor from unfair trade practices in which foreign competitors may engage. The scope of this reform should be extended beyond that anticipated by H.R. 10710 to take new circumstances into account.

The dramatic rise in crude petroleum prices of the past months has led to fearful speculation about the size of the import bills that industrialized countries will have to pay to secure adequate oil supplies. Because of the United States' relatively limited reliance upon imported oil, the value of the dollar has appreciated substantially in the same time period. The so-called "interim regime" of floating exchange rates has allowed this natural response to the oil problem to occur.

The danger exists, however, that in order to expand exports to pay their petroleum bills, some industrialized nations may engage in "competitive depreciations" to encourage an artificially low value for their currencies. Such "competitive depreciations" are, in fact, unfair trade practices and should be discouraged.

MVMA believes that the Senate should make clear to the President its intention that he pursue early negotiations aimed at monetary reform that will include limitations on the nature and scope of national central bank intervention in the foreign exchange markets to affect currency values.

CHAPTER 1

Section 301 revises and expands Section 252 of the Trade Expansion Act of 1962 regarding responses to unjustified or unreasonable restrictions and export subsidies of our trading partners which reduce sales of competitive domestic products or displace competitive U.S. exports. When the President determines that such practices are being employed, he is required to take all appropriate and feasible steps to obtain their elimination. He is empowered to withdraw or suspend the benefits of trade agreements to that country or impose duties or other import restrictions for such time as he deems appropriate. He "shall consider" the relationship of such action to the international obligations of the United States.

While the President should have the power to act to encourage the removal of restrictions that discriminate against American goods in foreign markets, MVMA believes that the application of virtually unlimited retaliatory power could be subject to misuse. Imprudent use of such powers could result in further retaliation, trade wars, and thus considerable hardship. The *Trade Expansion Act*, by allowing the withdrawal of concessions made in previous trade negotiations, provides adequate retaliatory power.

H.R. 10710 provides that the President "shall consider the relationship of such action to the international obligations of the United States." International obligations should be regarded as *obligations* not subject to Executive discretion. The tone of this passage is not consistent with an American commitment to negotiate reform of the rules of international commerce (i.e., undertake new obligations) by which the United States is prepared to play.

Section 301 also permits the President to implement any retaliation on a nondiscriminatory (most favored nation) treatment basis or otherwise for any restriction which is "unjustifiable." For actions deemed "unreasonable," the President must act on a discriminatory (non most favored nation) basis. Existing law, Section 252 of the Trade Expansion Act of 1962, is not explicit on the point.

Because existing law is not explicit, inequity has resulted. The authority granted under Section 252 of the Trade Expansion Act has been used on only one occasion—during the so-called "Chicken War." In 1963, in retaliation for the imposition of European Community (German) tariffs on United States poultry exports, the United States took a number of actions. They included the withdrawal of the U.S. concession on trucks valued over $1,000.

The retaliation, which was aimed at a particular German vehicle, was nevertheless applied on a most favored nation basis. It has had the effect, in the more than ten years it has been in force, of penalizing countries that played no role in the "Chicken War." MVMA believes such a result to be both unnecessary and undesirable. We recommended that the authority granted the President under Section 301 of the proposed Trade Reform Act explicitly require implementation on a *non* most favored nation basis to assure that it will not have unintended effects on third countries.

CHAPTER 3

Section 303 (e).—This section denies the Secretary of the Treasury discretion, one year after enactment of the bill, to refrain from imposing countervailing duties on merchandise produced by facilities owned or controlled by the government of a developed country when the investment in or operation of such facilities is subsidized. On all other merchandise, the Treasury Secretary is given a four-year period of discretion following date of enactment of the bill. MVMA fears that a one-year discretionary period is too short to permit negotiation of an agreement on international standards relating to subsidies. Premature unilateral countervailing duty actions by the United States could seriously jeopardize satisfactory completion of the negotiations. We recommend that the one-year discretionary period be deleted, thereby extending the four-year period to all merchandise.

A second deficiency of these provisions is the limitation in section 303 (e) on the Secretary of the Treasury's discretion to refrain from imposing countervailing duties solely when the possibility exists of seriously jeopardizing trade negotiations. MVMA also feels that the bill should broaden the factors that the Treasury Secretary should take into account in exercising discretion. In addition, if countervailing duty actions were contemplated, the Secretary of the Treasury should be required to evaluate the total effect of countervailing duties on the domestic interests (including consumers and exporters) that might be adversely affected by them.

Title IV—Trade Relations with Countries Not Enjoying Nondiscriminatory Treatment.—MVMA supports nondiscriminatory trade with all nations.

The absence of meaningful commercial relations between the United States on the one hand and the Soviet Union, China, and the countries of Eastern Europe on the other for a long time in no way prevented these countries from developing mutually beneficial trading relations with all of America's major trading partners—where they have obtained the same products and services they could have obtained from the United States. Thus, the effect of U.S. policy to date has served only to bar American participation in their growing markets. This realization, and the realization that a political and military detente might be pursued through expanding commercial ties with the Soviets led the Administration to request authority from Congress to trade with non-market economy countries on a nondiscriminatory basis.

In this same period Americans have grown increasingly concerned with the failure of some of these countries to grant their citizens basic human rights. Particularly notable has been the plight of Jews in the Soviet Union. The U.S. House of Representatives demonstrated its sensitivity to this problem by conditioning the extension of Most-Favored-Nation treatment and Export-Import Bank credits to these countries upon their adopting free emigration policies.

The issues involved here extend far beyond international trade. International political and military affairs, detente, and appropriate strategies to achieve the universal acceptance of basic human rights and their interaction with trade exceeds the bounds of competence of MVMA. For us to comment upon them would be inappropriate.

Title V—Generalized System of Preferences.—MVMA strongly supports this title of H.R. 10710 which provides for preferential access of the products of developing countries to the American market. The creation of export opportunities for the poorer countries will help them expand and diversify their economies, generating badly needed employment, income, and foreign exchange. In our interdependent world, the frustration generated by growing income gap between rich and poor will destabilize international economic relations.

Appendix

A Noncomprehensive Survey of Trade Distortions Affecting Motor Vehicles for Selected Countries

Table of Contents

Abbreviations

ad val cif, ad valorem cost including insurance and freight
ANCOM, Andean Common Market
BPT, British Preferential Tariff
b/u, built-up vehicle
CDV, current domestic value in country of origin
CKD, completely knocked down
CV, commercial vehicles, including buses unless mentioned separately
CXT, common external tariff
DTPV, duty and tax paid value
DPV, duty paid value
DVV, depends on value of vehicle
EC, engine capacity
EEC, Common Market Countries—Benelux, West Germany, France and Italy
EFTA, European Free Trade Association—U.K., Austria, Denmark, Finland, Norway, Portugal, Sweden and Switzerland
FH, fiscal horsepower
GVW, gross vehicle weight
GT or GTR, general tariff rate
KG, kilogram gross weight—includes all packing
KL, kilogram legal weight—includes inner wrappings only
KN, kilogram net weight
KR, Kennedy Round
LAFTA, Latin American Free Trade Association
MFN, Most Favored Nation Tariff treatment
n.e.s., not elsewhere specified
n.s.m., not specifically mentioned
n.e.m., not elsewhere mentioned
SKD, semi-knocked down
SPV, special purpose vehicle
S/W, station wagon (estate car)
T or t, ton
TPV, tax paid value
TVA, tax on value added
u/l.w., unladen weight
w/c, with cab
w/e, with engine

EUROPEAN ECONOMIC COMMUNITY (EEC)—ORIGINAL 6 (BELGIUM, FRANCE, WEST GERMANY, ITALY, LUXEMBOURG, AND NETHERLANDS)

Country and vehicle type	Customs duty or tariff rates		
	CXT		
	PKR (percent)	ad valorem c.i.f. 1974 (percent)	EEC-6
Cars and car chassis	22	11.0	Free.
Buses:			
(a) With spark-ignition engine, cylinder capacity 2,800 cm³ or more; or with compression ignition engine of cylinder capacity 2,500 cm³ or more		22.0	Do.
(b) Less than above capacities	22	11.0	Do.
(c) With other engines	25	12.5	Do.
Trucks:			
(a) Same breakdown as under buses for EEC		22.0	Do.
(b) Same breakdown as under buses for EEC	22	11.0	Do.
(c) With other engines	20	10.0	Do.
Chassis for buses and trucks as under (a) and (b) above: SPV's	20	10.0	Do.
Bodies:			
For the industrial assembly of cars and buses, SPV's, and trucks with cylinder capacity as in (a) above	24	12.0	Do.
For others	24	20.0	Do.
Engines:			
250 cm³ or less	18	9.0	Do.
More than 250 cm³:			
For industrial assembly of cars and buses, SPV's, and trucks with engine cylinder capacity less than 2,800 cm³	14	7.0	Do.
For other	14	12.0	Do.
Parts	14	7-12.0	Do.

Imports from new EEC members (U.K., Denmark and Ireland) and EFTA are subject to the listed rates reduced by 40%. These rates will be reduced 60% on 1/1/75, 80% on 1/1/76, and will be eliminated (duty free) on 7/1/77, for all EEC imports.

OTHER NON-TARIFF TRADE DISTORTIONS AND SPECIAL TARIFF RATES

EEC Preferential Tariff Rates.—The European Economic Community grants duty free entry to automotives having their origin in the following: the Overseas Territories and Departments; the 18 Associated African States; Morocco, Tunisia, Greece, Turkey, Kenya, Uganda and Tanzania. Automotives originating in Spain are subject ot the Common External Tariff (CXT) reduced by 60%, those originating in Cyprus and Malta, the CXT rates reduced by 70%. CXT rates reduced by 45% are charged on automotives of Israeli origin except those falling under tariff number 87.02 subheading A-I-b and B-II-a-2 for which the reduction is 28%.

GSP.—In effect, motor vehicle duty free (providing finished product content is at least 60% sourced from developing country).

BELGIUM

Value Added Tax (TVA).—25% for cars; 18% for other items.

Annual Road Use Tax.—Based on fiscal horsepower.

FRANCE

Value Added Tax (TVA).—Cars (up to 9 seats), car chassis—33⅓% cif DPV; other, including chassis—23% cif DPV.

Customs Stamp Duty.—2% of import duty.

Annual Vignette Tax.—Levied on cars and based on age and/or fiscal horsepower. Fee varies from 30 to 1,000 francs.

GERMANY

Value Added Tax (TVA).—11% DPV.

Annual Road Use Tax.—Cars: 14.40 marks per 100 cc of cylinder capacity; other vehicles, 22–166 marks per 200 Kg of total weight; tax not to exceed 11,000 marks.

ITALY

Sales Tax (TVA).—Private use pars with engine capacity greater than 2,000 cc 18%; other vehicles 12%.

Stamp Tax.—0.2% of duties and additional taxes, including road tax.

Annual Road Tax.—Levied on cars on basis of fiscal horsepower (FHP) varies from 5,110 to 241,870 lire per year (if over 45 FHP, tax is 8,680 lire per FHP). Import duties are levied on cif ad valorem plus 3% uplift.

Government Procurement.—30% of government purchasing is reserved for Southern Italy and the Italian Islands for development purposes. Government departments do not, in principle, have any relations with foreign firms or suppliers.

LUXEMBOURG

Turnover Tax (TVA).—10% of DPV.

Annual Road Use Tax.—Based on fiscal horsepower.

NETHERLANDS

Value Added Tax (TVA).—16.0% cif DPV.

Consumption Tax.—16.0% cif DPV plus markup (on retail price excluding TVA) for cars only.

Annual Car Tax.—About 13 Guilders per 100 Kg.

JAPAN—CUSTOMS DUTY RATES

Country and vehicle type	GTR (ad val c.i.f.) (in percent) PKR	1974
Cars, trucks, buses, SPV's	20-40.0	6.4
Chasis w/e, bodies w/c	30.0	8.0
Engines, parts	30.0	6.0
	Private use	Business use
Other taxes, fees, and special rates:		
Automotive tax:		
Up to 360 cm³ displacement	$12.50	$12.50
360 cm³ to 999 cm³	50.00	16.67
1,000 cm³ to 1,499 cm³	58.33	19.44
1,500 cm³ to 1,999 cm³	66.67	22.22
2,000 cm³ and over:		
Wheelbase not over 3.048 m	150.00	62.50
Wheelbase over 3.048 m	250.00	125.00

Commodity tax on DPV:	*Percent*
Cars with a wheelbase exceeding 305 cms and an engine capacity exceeding 3,000 cc	20
Cars with a wheelbase exceeding 270 cms and not exceeding 305 cms and an engine capacity of 2,000 cc up to 3,000 cc	20
Four-wheel drive cars, with wheelbase less than 270 cms, and other cars less than 170 cms wide, wheelbase less than 270 cms. and engine cap. less than 2,000 cc	15

Purchase Tax.—Of 3% of the actual purchase price is levied on all vehicles, new and used.

Road Taxes.—The annual road tax is also related to vehicle size and progresses from $50 for very small cars (not exceeding 61 cu. in. engine displacement), to $58.33 (61 to 91.6 cu. in.) to $66.67 (91.6 to 122.1 cu. in. and not exceeding the following overall dimensions: length, 185 in; width, 66.9 in; height, 78.7 in.), to $150 (exceeding 122.1 cu. in. displacement, but not exceeding 120 in. wheelbase) to a maximum of $250 for very large cars (exceeding 122.1 cu. in. engine displacement and wheelbase over 120 in.).

Supplemental Annual Road Tax.—Passenger cars $30–$140 depending on engine cc; CVs $140–$278.

Commercial vehicles are subject to both national and *prefectural* (state) *annual road taxes.* The national tax is $16.67 for vehicles under 1,000 cc; $19.44 for those between 1,000 and 1,500 cc; and $22.22 for those with engines larger than 1,500 cc. The prefectural tax starts at $13.89 for vehicles with a GVW of under 1 ton. Between 1 and 8 tons the fee is $66.68 plus $11.11 for each ton over 8 tons.

GSP.—In effect.

Standards.—Complex inspection and documentation procedures for new model automobiles result in suspension of sales of imports during peak buying periods.

Valuation.—Value uplift for customs purposes on all imported goods, particularly parent-subsidiary transactions. These value uplifts are sometimes arbitrary and excessive.

AUSTRALIA

[ad val c.i.f.; in percent]

	GTR	Preferential
Cars, CV's, SPV's:		
Up to 10 tons GVW	45.0	35.0
10 tons or more	22.5	12.5
Dumpers	35.0	25.0
Jeeps	35.0	25.0
Fire engines	7.5	Free
Parts	Varied	Varied

CKD components imported for the assembly of vehicles are given duty concessions.

OTHER TAXES, FEES, AND SPECIAL RATES

Sales Tax.—27.5% on cars, 15% on CVs and SPVs. Sales Tax is calculated on DPV increased by 20%.

NOTE.—Duties are based on CDV or sales price, whichever is higher.

Local Content Requirement.—Australia maintains an incentive system whereby manufacturers receive concessionary treatment from the government if they adhere to local content requirements which increase in stages as the volume of local production increases. Increases staged as follows:

Local content requirement

Production volume:	*Percent*
Up to 2,500 units	45
2,500 to 5,000 units	50
5,000 to 7,500 units	60
7,500 to 25,000 units	85
Above 25,000 units	95

At present, local content in production averages 95 percent.

ISRAEL

	GTR
Cars:	
Up to 1,300 cm³, plus engines	I£2.80 per KN+50 percent (ad val c.i.f.).
1,301-1,800 cm³	I£2.90 per KN+50 percent (ad val c.i.f.).
Over 1,800 cm³	I£2 per KN+65 percent (ad val c.i.f.).
Buses:	
Up to 18 seats	50 percent (ad val c.i.f.).
Over 18 seats	10 percent (ad val c.i.f.).
CV's	Varied: exempt to 70 percent or specific minimum (ad val c.i.f.).
SPV's (gen)	20 percent (ad val c.i.f.).
Other taxes, fees, and special rates:	
Purchase tax: On DPV wholesale value:	
Built-up cars:	
Up to 1,300 cm³	I£10 per kg.
1,300-1,800 cm³	I£10.50 per kg.
Over 1,800 cm³	I£13 per kg.
Buses, 11-18 seats	30 percent.
Goods vehicles up to 2,200 kg:	
Local-built closed	25 percent.
Other	I£3.50 per kg, but not less than I£2.90.
Goods vehicles over 2,200-4,500 kg	I£0.50 per kg.

Defense Tax.—20% ad val cif.

Import Restrictions.—on buses and certain trucks.

Deposit.—40% of value of imported goods (before tax) to be deposited with Bank of Israel at time of payment of customs duty for period of six months.

Purchase and Annual Property Tax.—discriminates against foreign goods.

Preferential Tariffs.—progressive tariff reductions for EEC in 4 stages to January 1, 1974; cars reduced by 30%.

NOTE.—Imports from Burma and Nepal subject to reduced rates.[1]

[1] The preferential rate applies on all parts of vehicles except body panels and sides for passenger cars including taxicabs. With the entry of U.K. into the EEC these rates are being phased out.

SOUTH AFRICA, REPUBLIC OF (BOTSWANA, LESOTHO AND SWAZILAND)

	GTR (f.o.b.)
Cars and S/W's, b/u	45 percent plus 2 percent for each 100 rand plus 1 percent for every 100 lb in excess of 2,500 lb (maximum of 100 percent).
Cars and S/W's, CKD	20 percent.
Buses, b/u	10 percent.
Buses, CKD	20 percent.
CV's	Do.
Chassis, bodies	Do.
SPV's	Free—20 percent.
Ambulances, hearses	20 percent.
Parts, gen	Do.

OTHER TAXES, FEES, AND SPECIAL RATES

Excise Tax.—On cars, S/Ws, etc., built or assembled in S. Africa weighing: up to 3700 lbs.—15 cents per lb., over 3700 lbs.—17 cents or more per lb., with a maximum excise of 3500 Rand.

Sales Tax.—5–25.0% of duty, but not on locally produced vehicles.

Wharfage Fee.—1.35%

Quantitative Restrictions.—On imports of built-up vehicles.

Government Procurement.—Preferences extended to domestic goods.

Import License.—(Under quota) required.

Local Content Requirement.—South Africa has a 65% local content requirement. An incentive is provided by government reductions in the excise tax for companies meeting the requirement.

NOTE.—Goods that are subject to excise tax are not subject to sales tax.

Country and vehicle type and Customs duty or tariff rates

	GTR (ad val. cif) (percent)
Nigeria:	
Cars, up 1,200 cc [1]	33⅓
1,201 to 1,750 cc	50
1,751 to 2,150 cc	75
2,151 to 2,750 cc	100
Over 2,750 cc	150
CVs and SPVs [2]	33⅓
Buses, b/u, 20 or more passengers	10
Bodies, parts	Free to 33⅓
Chassis w/e	25–30
Engines	33⅓
Fire engines, ambulances, sprayers, and mobile dispensaries	Free

[1] CKD—15 percent less than b/u.
[2] CKD—25–33⅓ percent.

OTHER TAXES, FEES, AND SPECIAL RATES

Surtax.—5% of DPV.

Country and vehicle-type and Customs duty or tariff rates

Argentina:	GTR (ad val. cif) (percent)
(1) Passenger cars [1] weighing under 1,000 Kg: under U.S. $1,600	140
U.S.$1,601–U.S.$2,000	140
Weighing 1,001–1,500 Kg:	
Under U.S.$1,601–$2,000	140
(2) Passenger cars, n.e.s	140
(3) Buses	100
(4) Ambulances [1]	90
(5) CVs—2 axles, cab, chassis [2]	90
3 axles (2 power driven), cab, chassis [2]	90
b/u, under 1,000 Kg	90
1,001–2,000 Kg	90
over 2,000 Kg	90
(6) CVs, n.e.s	90
(7) SPVs	80
(8) SPVs, n.e.s	90
(9) Chassis	90–120
(10) Bodies—cars, CVs, buses	120
Bodies—other	120
(11) Parts and accessories	120
(12) Engines	80

[1] Chassis are imported at the same rate as the assembled vehicle.
[2] Additional specifications required for these categories.

OTHER TAXES, FEES AND SPECIAL RATES

Statistical Tax.—1.5% of the cif.

10% Tax on ocean freight charges.

Steel Fund Tax imposed upon metallic products 8%.

Capital Goods.—Financing on all goods above, except passenger cars, must meet requirements set by the Central Bank (unless the value of the shipment is under U.S. $10,000).

Prior Deposit.—40% of cif value for 180 days, held without interest.

Sales Tax.—10–12%.

NOTE.—Unassembled vehicles are classified as assembled vehicles. Importation currently prohibited for items (1) through (6), (8), (9), (10), and (12); however, dumpers in (5) are permitted.

Local Content Requirement.—Argentina's local content requirement is 96% and is based on weight. Automobile parts imported from Chile are considered having been produced "locally."

BRAZIL

[In percent]

	GRT (ad val c.i.f.)	Surtax (DPV)
Passenger cars, S/W's:		
Weighing up to 800 kg, valued at US$4,000 c.i.f	70.0	24.0
Weighing 800–1,100 kg, valued at US$4,800	85.0	28.0
Weighing over 1,100 kg, valued at US$6,300	105.0	30.0
Jeeps	70.0	12.0
Buses	85.0	12.0
CV's	85.0	10.0
Engines	45.0	5.0
Body and chassis parts	15-85.0	5–12.0
Bodies	105.0	12.0
Chassis (gen.)	105.0	12.0
SPV's:		
Firefighting, spraying, cleaning	37.0	12.0
Ambulances, vans	105.0	12-16.0

OTHER TAXES, FEES, AND SPECIAL RATES

Import of passenger vehicles prohibited over U.S. $3,500 or 1600 Kg.
Port Assessment.—2% of cif value.
Marine Assessment Tax.—20% of net ocean freight.
Merchandise Circulation Tax.—13–16% of DPV, depending on state.
Import License.—Required.
Industrialized Products Tax.—4–30% cif DPV and up to 70% for "luxury" goods.

Local Content Requirement.—In 1961 Brazil officially set its local content requirement at 100% for cars and 98% for commercial vehicles. At present, however, local content in production averages 85% for passenger cars (Volkswagen—95%; Dodge Dart—65%, example), 80% for commercial vehicles, and 82% for buses. Local content based on the fob value of the vehicle were it to be imported.

Country or vehicle type and Customs duty or tariff rates

Colombia (Member of ANCOM—see page 18):

	GTR (ad val. cif) (percent)
Cars, valued:	
up to U.S. $1,000	100
$1,001–$1,500	130
$1,501–$2,000	200
$2,000–$3,300	250
over $3,300	350
Buses	60
Ambulances	70
CVs:	
up to 5,000 lbs	180
over 10,000 lbs	70
other	15
Pickups:	
up to 5,000 lbs	200
over 5,000 lbs	100
others	70
Chassis:	
Car:	
up to $1,500	80
more than $1,500	180
Bus	25
CVs:	
up to 5,000 lbs	180
over 5,000 lbs	70
other	30
SPVs	40–60
Bodies:	
Bus	60
Other	100
Parts	5–100

OTHER TAXES, FEES, AND SPECIAL RATES

Surcharge.—3% ad val cif.
Sales Tax.—4–25% DPV.
Prior Payment Deposit.—350% of final price of imported passenger cars to be paid in advance.
License.—An exchange license must be secured from the Bank of the Republic; an import registration or import license must accompany the request.
Local Content Requirement.—Colombia maintains no legal minimum local content requirement. However, the government determines the percent of local content required on the basis of the net effect of each company on Colombia's balance of payments. At present, local content averages between 23% and 30% of the fob value of the vehicle were it to be imported.

Country and vehicle type and Customs duty or tariff rates

Turkey:	*GTR (ad val. cif) (percent)*
Cars	25
Buses	25
Chassis w/e	10
Trucks, SPVs and ambulances	25
Engines (quotas exist)	35
Bodies	50
Parts and accessories	25
Parts of chassis	10

OTHER TAXES, FEES, AND SPECIAL RATES

Quota Restrictions.—Imports of most types of vehicles prohibited.

Import License.—Required, special consideration given to items from countries with whom Turkey has bilateral agreements.

Prior Deposits.—10–50% deposit on most items; *150%* for quota list items.

Stamp Tax.—10% ad val cif.

Customs Surtax.—15% of Customs Duty.

Customs Clearing Expenses.—Variable.

Port Tax.—5% of cif value plus Customs Duty, Customs Surtax, and Customs Clearing Expenses.

Production Tax.—Cars, buses, 25.0% (customs duty plus customs surtax plus customs. Trucks 20.0% clearing expenses and port tax).

Trucks 20.0% clearing expenses and port tax).

Preferential Tariffs.—Applicable to imports from the EEC.

Special Surtax.—Varies with age and weight of passenger car.

INDIA

	Ad valorem c.i.f. (percent)	
	GTR	BPT [1]
Cars, taxis, S/W's, complete	100	20.0
Trucks, complete	60	10.0
Buses, complete	100	92.0
Chassis, bodies, parts	100	52.5
Machinery, not elsewhere classified, including internal combustion engines	40	(2)

[1] The preferential rate applies on all parts of vehicles except body panels and sides for passenger cars including taxicabs. With the entry of the United Kingdom into the EEC, these rates are being phased out.
[2] Free.

OTHER TAXES, FEES, AND SPECIAL RATES

Import Restriction.—No b/u vehicles permitted.

Import License.—Required; *quotas* exist for parts.

Consular Fee.—$3.15.

Excise Taxes.

Cars up to 16 RAC hp—Rs 1,500 or 15% ad val, whichever is higher. Cars over 16 RAC hp—Rs 4,000 or 20% ad val, whichever is higher.

Other (with gasoline engines):	
Up to 500 Kgs	Rs 1,500
4500—9100 Kgs	Rs 2,450
With diesel engines (4500–9100 Kgs):	
Bedford	Rs 3,180
Fargo and Dodge	Rs 3,230
Others	Rs 3,540
9100–12,250 Kgs:	
Alco and Alcop	Rs 4.450
Mercedes	Rs 3,660

Regulatory Duty.—2.5–10%.

Local Content Requirement.—Requirement is 95%.

NOTE.—Imports from Burma and Nepal subject to reduced rates.

STATEMENT BY IRVING W. ALLERHAND, EXECUTIVE VICE PRESIDENT, CITC INDUSTRIES, INC.

I am Irving W. Allerhand, Vice President, CITC Industries, Inc., 1 Park Avenue, New York, New York, a firm engaged in the sale and distribution of imported footwear throughout the United States.

Our company has been in business for twenty years and has pioneered the introduction of new shoe styles which have revolutionized the casual footwear market in the United States. When this company started business, the casual footwear industry in America was a restricted, self-contained market selling approximately fifty million pairs a year of white tennis shoes (red and blue in summer) and black and white basketball shoes. We introduced style, color, fashion, and design heretofore unknown in the American rubber footwear industry. It is a matter of record that the United States domestic market has increased probably five-fold in the last twenty years—all to the benefit of the American consumer.

The Rubber Manufacturers Association (hereinafter referred to as "RMA") has again implored this Committee, to perpetuate, for their members' interests, the American Selling Price (hereinafter "ASP"). The universally criticized ASP affords a few domestic companies a means of extraordinary protection and competitive advantage through the imposition of some of the highest duties in the free world.

The RMA has protested to this Committee that "since the Kennedy Round several domestic rubber footwear plants have closed as a direct result of foreign competition." The facts do not support this contention. Companies such as Uniroyal and B.F. Goodrich in recent years have closed old, antiquated facilities in the North; i.e., Watertown, Massachusetts, and moved to modern plants in the South. A few years ago B. F. Goodrich disposed of its footwear division because of the "current competitive nature of the footwear business". The New York Times, commenting on the Goodrich decision, opined that one of the reasons Goodrich dropped footwear was that a tire manufacturer has to pay its workers, whether tire or shoe manufacturers, much higher wages under its union contract than the average U.S. footwear producer. Other observers have noted that the tire manufacturers are not really so concerned with footwear imports as they are with the prospect of the higher profits to be made in their tire and chemical divisions.

If domestic manufacturers have reservations about the future of making rubber footwear, a recent development in California may interest them and this Committee. Due to soaring labor costs in Japan that country has lost footwear production to Korea and elsewhere. Last month a Japanese firm announced that it will lease a rubber footwear plant in California to make high grade canvas shoes. If the Japanese can no longer produce and export profitably from Japan, they are obviously convinced that there is an opportunity to compete successfully inside the U.S. market as a manufacturer.

Since 1962, our Government has sought the elimination of ASP. It is a constant irritant in multi-lateral trade talks and almost caused the collapse of the Kennedy round GATT negotiations. How can successful domestic corporations, in good conscience, ask this Congress to maintain such a unique means of market dominance? The RMA would have this Committee believe that its members and a very few others, among the whole array of domestic industries, need some of the world's highest duties to survive. Such a need cannot be demonstrated. As noted above, there has been an enormous expansion of the domestic rubber footwear market, triggered by imported style and design changes and profitably taken advantage of by the U.S. producers. In the field of non-rubber footwear one of the most significant findings by our Government Task Force was:

> Import competition has not prevented the industry from raising footwear prices, raising them, in fact, at a faster rate than most components of the price indexes. Moreover, the period of greatest acceleration in price increases was accompanied by the most rapid growth of imports.

There is little evidence that the domestics have really tried to compete abroad. If these companies can sell tires throughout the world, certainly they can emerge from their ASP shell and with their technology and sales ability compete internationally as well as here in the sale of footwear.

In has been asked many times—"Why does this industry feel it has a special status in the world economy?" Even its domestic non rubber competitors have posed the question, such as when Genesco's management said after the Kennedy Round:

It's rather remarkable that rubber footwear, which had a very high duty before, has not been changed. Rubber footwear was 37.5% and is still that same duty. On sneakers, the old duty was 20% and this has been unchanged. Apparently the rubber industry gets preferred treatment in Washington.

RMA has said that the members of their association "account for most of the waterproof footwear and rubber-soled footwear with fabric uppers produced in this country." The adjective "most" would appear to suggest that the vast majority of such footwear was produced by members of the Rubber Manufacturers Association. The facts are otherwise. In discussing rubber-soled footwear, we must distinguish between hand wrapped and machine made shoes. There is, in the United States today, a large rubber-footwear industry whose members do not belong to RMA. These companies produce in the United States as much or more of rubber footwear than the RMA subscribers.

In addition to understating the domestic production, the United States producers have failed to make the critical distinction between hand wrapped and machine-made shoes.

Ten years ago this company advised the Congress, the Tariff Commission and the Office of the President's Special Trade Representative that foreign patented machinery would soon be imported into the United States and its use would revolutionize the canvas footwear business in this country. Much to our regret this was an accurate prophesy. All of the non RMA members and some of the RMA producers themselves manufacture the machine-made shoes. Out of total domestic production, 66⅔% are machine-made. The totality of machine-made production in the United States by all of the non RMA members and a certain percentage of RMA members production would likely be 66⅔% machine-made and 33⅓% hand wrapped.

We, as manufacturers, cannot compete with machine-made shoes in the United States. Our company, today and historically, imports quality footwear retailing at prices comparable with the best American made hand wrapped shoes as well as the lowest. In fact, several years ago our company, at the expense of almost $200,000, purchased 60 injection-molding Desma machines for use in the production of canvas sneaker basketball shoes. Subsequently, we found that the rapidly developing growth of injection-molded shoes produced in the United States made it impossible for us to compete in this market. Our equipment sits unused in warehouse storage today.

The application of the extraordinarily high ASP duties are made even more punitive by the administration of ASP assessments. For many years, our company was forced to pay the exorbitant duties on the basis of a Customs appraiser selecting the highest priced United States shoe for comparison with the imported production in determining the American Selling Price. After a 3½ year investigation that was impeded at every step by the domestics, the Customs Bureau in 1966 adopted guidelines for appraisement of ASP rubber footwear to replace what Customs had determined were previous erroneous practices. Following the guidelines adoption, the Commissioner of Customs advised the Finance Committee as to the reason for the new regulations:

> On the basis of a full-scale investigation undertaken to determine whether reconsideration and revision of appraisement procedures in this area were warranted, *it was concluded that the practice of using the highest priced United States products as our yardstick was clearly wrong,* and that we were not complying with the Presidential mandate that 'similar' articles offered in the United States' principal markets should be used as a basis for comparison. Judicial precedents clearly indicate that price is a factor to be considered in determining similarity for purposes of the customs valuation statutes, including the American selling price statutory basis of valuation. If all other factors bearing on similarity are equal, an article which is closest in price to another article will ordinarily be the acceptable substitute in the marketplace. This has been the practice in all areas of customs valuation other than American selling price of rubber-soled footwear.

At the outset, appraisement under the new guidelines produced generally reasonable rates of duty albeit still monstrously high in relation to all other imports. It then became apparent to the domestics that the administration of the new guidelines was working to their economic detriment.

As noted, the guidelines require Customs to consider, along with all the other elements of similarity, a domestic product which is the closest in price to the imported shoe. In order to determine similarity in all respects, including price, Customs appraisers must of necessity rely upon information submitted to them by the U.S. rubber footwear producers. Thus, both Customs and the American importers are put in a position of having duty rates determined by domestic, commercial, competitive interests.

The use of list prices for ASP purposes is extremely vulnerable. Domestic manufacturers, through apparent manipulation of the technical language relating to special discounts and specially bargained prices, create artificially high figures and thus, the highest catalog prices are taken for the purpose of assessing ASP duties. In fact, a majority of such goods sold in the market place are retailed at lower prices. Only token sales are made at the artificially high prices for the sake of pretended compliance.

In choosing the American products freely offered on a national basis, moreover, Customs generally winds up with a limited number of American companies and most often uses prices found only in their "catalogs." This often results in a choice of the highest prices, rather than industry wide lower prices because in most cases their apparent similarity as to real likeness makes time-consuming research unnecessary. This was not, and is not, the intention of even such a punitive law as ASP.

An actual case will serve to illustrate: Bata Shoe Company's regular basic women's canvas bal sneaker had been used by Customs directly after the guidelines investigation as the most similar U.S. shoe of its type. The Bata price was then $1.55 per pair, and that price was listed in the first two pricelists issued in 1966 covering periods from February 18, 1966, through May 18, 1966, and May 19, 1966, through May 26, 1967. When the next pricelists were issued to cover the period from May 27, 1967, through December 31, 1967, the price became $1.95. Purportedly, the $1.55 Bata shoe was not in their new catalog as had been the case for many years prior. This implied that they were no longer making, nor freely offering, this sneaker when, in fact, they were producing not only as many but somewhat more than before and selling such products in basically the same manner. In the most recent pricelist issued toward the end of 1971, covering the period from November 1, 1969, to September 30, 1970, we were informally advised that, as a result of our insistence for investigation of ASP appraisement practices, Bata answered Customs' questions in such a manner as to make it a non-freely offered company. Therefore, their shoes could not be used at all by Customs when determining like or similarity of any imported product. Bata was the company whose catalog prices most closely approximated actual and direct market prices existing in that selling period (November 1, 1969, to September 30, 1970).

In another case, Randolph Shoe, in a catalog covering the period of 1969, had a women's basic bal sneaker listed at $1.75 per pair. Customs use of the $1.75 price in appraisement came only after our relentless insistence that this was the true freely offered price. In a later catalog covering the period from the end of 1970 through 1971, this shoe did not appear at all, although large quantities were still being made and the lowest price in this new catalog for such a shoe was $2.85 per pair.

Beginning in 1969, our company imported a striped adidas-type shoe that was popularized by usage at the 1968 Mexico City Olympics. At the time we brought in this shoe, there was no comparable American product and hence the duty rate was 20% ad valorem of the FOB price. Our version of the adidas-type shoe was very popular and met with wide acceptance by wholesale and retail customers alike. Within 6 to 8 months after we brought in this shoe, at least one domestic producer began showing samples of a similar product. Let me emphasize that these were samples of goods not in production. As a result of the representations made by certain domestic producers, imported goods which had been designed, manufactured and sold in the U.S. market by American businessmen, originally entered under non-ASP duties, were subsequently found to be subject to the enormously high ASP tariff. It is impossible to believe that the Congress in enacting ASP intended that domestic manufacturers' production schedules and token sales methods would set off a series of events in the administration of ASP that result in a time lag of up to two years thus making ASP duties retroactive.

In fairness, Congress should provide that at least twelve months elapse between the time that the domestics freely offer a production line shoe and the time when Customs may use such shoe in assessing ASP duties on a similar imported shoe which theretofore was admitted under an ad valorem FOB rate.

There is for the importer a twelve month lag between design and retail sale.

Administration of ASP has had adverse effects on our business volume. In 1970 and 1971 our volume was up and in 1972 it had started down. Furthermore, for the first time in our company's history we had an extremely large and costly inventory approaching the staggering proportions of approximately $9,000,000—30% greater than the previous largest inventory and 600% greater than the general average dollar inventory over the past five years. The inequities present in the Administration of ASP have resulted in a situation whereby our planned and booked costs are considerably higher than anticipated. While it has been our company's policy to limit inventory to approximately $1,500,000 worth of goods, the higher actual cost resulting from ASP administration has priced us out of the market, thereby causing the above-mentioned astronomical $9,000,000 inventory.

In addition to this enormous duty burden, we are experiencing ever rising costs from our production sources. Rising labor and raw material costs forced Japan almost entirely out of the canvas footwear market. The same factors are now occurring in Korea and Taiwan.

Domestics always complain that whatever their economic woes the cause is foreign competition. The Government Task Force apparently did not agree because it "*was unable to find any clear evidences of resolute self-help efforts during recent years.* In 1957 the industry itself financed a study by the Harvard Business School of efforts it could make, but appears to have pursued few if any of the recommendations, many of which still appear equally valid in 1970. In 1965, the Department of Commerce financed a somewhat similar study on behalf of the industry by the Battelle Institute, and again, little if anything appears to have come from the effort. Many of the larger, faster growing companies, of course, have adopted some of the individual measures recommended in these studies as part of modern management techniques. For many of the smaller firms, however, individual efforts to adopt these techniques or to make requisite capital expenditures appear out of the question."

In an objective comprehensive study, the Federal Reserve Bank of Boston found that restrictions on the volume of imports would not solve New England's footwear problems. Since it is the New England segment of the industry which is the most vocal in asking for import restrictions, a study of the economics of that region is most useful. The shoe industry as it exists in New England is composed of a large number of relatively small firms. It is an easy business to enter and leave, thus explaining many of the so-called failures. The required capital investment is relatively limited and the leasing of equipment is widespread. Another factor found by the study was the competition for labor in New England. Specialized industries such as electronics have been winning the battle for workers from the shoe producers. As the study says, this may explain why shoe production employment was increasing in some southern states and declining in New England. In addition, the old New England facilities were found to be unattractive and unappealing places in which to work. The following significant conclusion was made:

> In fact, many New England shoe manufacturers feel that the major constraint upon the level of their output is not foreign competition but the high cost of labor in New England.

It is also noted that one major problem facing the New England shoe industry can be traced directly to the nature of the industry. The modest level of required capital outlay for entry is characteristic and when styles undergo major and frequent changes, most small producers experience financial strain. The companies most frequently cited as experiencing difficulty were makers of high fashion women's shoes. They lost their business not to imports, but to the manufacturers of women's casual flats, when the traditional dress shoe heel dropped.

In contrast to the inefficient, under capitalized, mismanaged shoe firms are the many aggressive, profitable domestic companies. For example, just this month G. H. Bass & Co. of Maine announced a long-term expansion plan and its acquisition of the remaining stock of its successful Dunham subsidiary. At the same time, Genesco of Tennessee is building a huge new plant which will increase employment by 100 workers. Interco, on April 8, 1974, announced that net earnings rose 10.8% over a year ago as sales and earnings were records for the tenth consecutive year.

The Federal Reserve Bank study concludes that it is debatable whether trade restrictions would permanently solve the problems of the New England shoe industry, noting that the regional wage differentials in the nation make the New

England industry vulnerable to domestic competition. Other reasons given for rejecting a quota approach are (1) damage to exporters in New England, (2) much higher priced shoes and restricted choice for consumers, (3) retaliation by foreign governments against U.S. exports, and (4) the inherent conflict with the movement toward freer trade in the world. According to Arthur H. Watson, of IBM, jobs directly attributable to exports are estimated at 300,000 in New England alone.

We strongly urge rejection of any attempt to add to this Trade bill riders such as H.R. 8518, the Footwear Articles Import Relief Trade Act. This backward-looking legislation was considered by the Ways and Means Committee and soundly defeated. The domestic shoe producers would benefit our country much more by developing their own export trade rather than spending their resources on legislative proposals that could only provoke retaliation against other American exporting industries.

With few exceptions, the domestic footwear manufacturing companies that have gone out of business have listed "imports" as the reason for their failure. The Tariff Commission in its wisdom, and the objective sources have—after careful scrutiny—found that crying wolf was not good enough and that factual data to support this claim was lacking.

A good example of the domestics' nonsupportable claims is their insistence that the 1965 Congressional action raising duties on protective footwear from 12½% ASP to 37½ ad valorem was a serious setback. Their complaints today are completely at odds with the industry's reaction in 1965.

A leading trade journal, Footwear News, termed the increased tariff on protective rubber footwear a "stunning Congressional victory of domestic rubber footwear makers."

Observers in government, in the press, and elsewhere are agreed that the most unfortunate by-product of the rubber footwear amendment is the establishment of a principle that a major tariff matter can be handled by a few members of Congress, without prior, public airing of the case for, or against, higher tariffs.

There are many advantages in a government export expansion program. The publication and dissemination of meaningful statistics would show the states and their elected representatives, the value of export trade in the creation of jobs and income. A thorough study in this area would likely reverse the anomalous situation in which state business leaders are working many times at cross-purposes to their Congressional delegations.

It makes little sense for state officials to be traveling abroad and establishing offices in foreign countries for the expansion of exports when others are leading the fight to restrict trade.

If this Committee should decide to abolish ASP in favor of a straight ad valorem rate, as was done in the case of protective footwear, the rate should be no higher than the basic 20%. As this Committee knows, 20% ad valorem is the duty rate for canvas footwear against which ASP is applied. There is actually no need for any tariff protection for a basically sound, growing domestic rubber footwear industry.

Even in the case of non-rubber footwear, an industry which claims even more distress and does not enjoy the extreme ASP protection, a U.S. Government Task Force did not find facts of import competition to "constitute a case of injury to the overall footwear industry." The report found a few companies suffering, not from the imports, but mismanagement or under capitalization. Overall, the industry was healthy.

Justice and fair play dictate that ASP duties be eliminated entirely. They are an anachronism dating back to 1933, are unnecessary, impede trade, and have been punitive in their application as Commissioner Johnson of Customs admitted when he said that ASP appraisement for years has been "clearly wrong."

This bill could materially affect the course of international trade for years to come. This Committee has the unique opportunity to promote the expansion of world trade that is so vital to better understanding and closer relationships between all nations.

Testimony of the Anti-Friction Bearing Manufacturers Association

Summary of Principal Points

I. Products of industries which have received affirmative findings of injury by Tariff Commission should be exempt from those subject to duty reduction under GATT revisions.

II. Provisions maintaining the present right of Congress to adopt Tariff Commission recommended relief should be clarified and revised.
III. The public hearings proposed in section 203(g) should be deleted on the grounds of being redundant and unfair.
IV. Import relief under section 203 of the bill should not be denied simply because dumping or countervailing duty conditions are also found to exist.
V. Products receiving an affirmative finding of inury by the Tariff Commission should be exempt from the eligible article list for generalized system of preferences regardless of whether any relief has been granted.
VI. The prescribed percentage of value contributed in the "preferred" country should not be less than fifty percent (50%).
VII. The act should specifically provide for judicial review of negative anti-dumping findings.
VIII. Profit should be a deductible element in price determinations under the Anti-Dumping Act.
IX. In determining whether imports are a "substantial cause" of injury, actions by foreign producers or importers which would constitute prohibited anti-trust conduct if engaged in by a domestic producer should not be considered as a factor which could form basis for denial of relief.
X. The reliability of import statistics should be improved and procedures established to assure validity.

STATEMENT

The *ANTI-FRICTION BEARING MANUFACTURING ASSOCIATION* represents 37 companies, which produce approximately 75% of all anti-friction bearings manufactured in the United States.

As the Committee is no doubt aware, the Tariff Commission recently issued the first unanimous finding of injury ever issued following a Section 301 "Escape Clause Investigation" under the 1962 Act. This finding related to certain sections of the ball bearing industry. Not as well known is the fact that the roller bearing section will soon face equal injury according to the evidence of import trends.

In 1969, roller bearing imports amounted to $14,000,000 and 2.2% of the total U.S. consumption. In just four years, dollar value has increased 220% to $45,000,000, and share of total consumption increased 200% from 2% to 6%.

The implications of this situation deserve prompt and careful consideration in respect to the national defense capabilities of the country, as well as its impact on the economy and the jobs of 55,000 employees.

For these and related reasons, the AFBMA respectfully submits the following proposals relating to H.R. 10710.

I. PRODUCTS OF INDUSTRIES WHICH HAVE RECEIVED AFFIRMATIVE FINDINGS OF INJURY BY TARIFF COMMISSION SHOULD BE EXEMPT FROM THOSE SUBJECT TO DUTY REDUCTION UNDER GATT REVISIONS

Where an industry has been found to be suffering injury under "Escape Clause" procedures, the Act should specifically exempt the product in question from the list of products which may be subject to further duty reductions.

A candid and realistic appraisal of our national policy compels the conclusion that even when an industry is found to have suffered serious injury because of imports, in the vast majority of cases, reasons will be found for NOT increasing the duty or affording other relief. The reasons may very well be valid. There would seem to be, however, little justification for imposing further injury by allowing further duty reductions.

While Section 128 provides several bases for reservation of an article from the "eligible list," it is not fair to an injured industry to even face the risk of an adverse decision. Reservation from the list should be automatic in cases where injury, or the threat thereof, has already been established.

Such an automatic exclusion would also be consistent with the provisions of Section 203(f)(2) which states that suspension of an article from the list for Title V purposes is to be treated as import relief under subsections (a) and (b) of Section 203.

Especially would it appear to be the height of folly to allow further injury to an industry which is critical to our national defense efforts. We predict that there would be little disagreement among military experts that the loss of no other single piece of defense hardware could, to an equal extent with equal speed, so effectively cripple if not bring to a complete halt, the mobilization capability of this country as would the loss of a viable domestic anti-friction bearing industry.

Because of the existing import level of ball bearings, domestic producers have, in varying degrees:

1. Reduced capacity.
2. Diverted capacity.
3. Failed to expand capacity to demand levels.

This trend has continued for a sufficient time and to a sufficient extent where we now question the ability of the domestic industry to supply this country's full mobilization needs in the specified time period. We further allege that no agency, or department of the government, and no individual in this entire United States has reliable knowledge as to the shortfall or capacity of the domestic industry for total defense needs, which has to include essential civilian needs. Thus, we feel that the provisions of Section 128(a) are not a sufficient safeguard.

We feel that Congress cannot allow political motivations to subject the country to the risk of being so vitally exposed in such a critical industry.

We say again, that in the light of such a situation, it would be an incredibly reckless act to allow even the possibility of further injury to this industry.

A further reason for not relying on the present language of Section 128 is that subsection (b) calls for hearings by the Tariff Commission in respect to reserved articles. Where there has been a current injury finding, it would seem to be a substantial waste of Tariff Commission time and the injured industry's time and money to hold a second hearing on the same subject.

And so, we urge that the Bill contain a specific exclusion of any authority on the part of the President to further reduce duties on anti-friction bearings. We submit this prohibition should apply equally to any other industry or product which has similarly qualified under "Escape Clause" provisions.

Accordingly, it is proposed that the Act be amended by adding:

> "Sec. 101(b)(1)(C) in any case where an affirmative finding of serious injury, or the threat thereof, has been made pursuant to the provisions of Sec. 201, and provided that the Tariff Commission has not advised the President, under the provisions of Section 203(j), that relief should be terminated."

II. PROVISIONS MAINTAINING THE PRESENT RIGHT OF CONGRESS TO ADOPT TARIFF COMMISSION RECOMMENDED RELIEF SHOULD BE CLARIFIED AND REVISED

Section 351 of the 1962 Act makes it clear that Congress can specifically adopt the relief proposed by the Tariff Commission in respect to an industry or a product which is found to be suffering injury or is threatened by injury due to imports.

We feel there is a possibility that such Congressional authority could be questioned under the new bill. As Congress has so often recognized, certain agencies and commissions are able to develop unique expertise in specialized areas of our economy and our social and business affairs.

When such expertise is exercised, but its implementation is frustrated for political purposes, surely the representatives of the people in Congress should have the right to adopt and cause to be operative the expert judgment of such an agency or commission.

We urge that this present right of Congress be retained in clear language. This existing authority is stated in Sec. 351 of the Trade Expansion Act of 1962. The Report of the Committee on Ways and Means To Accompany H.R. 10710 contains on pages 189 through 191 the changes proposed in that Section.

Sec. 602 of the proposed act lists, among others, the conforming amendments.

We respectfully suggest that some necessary conforming amendments to Sec. 351(a) of the 1962 Act have been omitted. At the same time, we believe that this omission resulted from the intent of the House of Representatives or Congress to retain the right to adopt the relief specified by the Tariff Commission, such authority being declared in Section 351(a). This is consistent with the provision in the proposed bill that requires the Tariff Commission to include in its affirmative findings the relief it considers necessary to prevent or remedy injury (Sec. 201(d)).

We propose therefore that section 602 Relation to Other laws be amended as follows:

1. Sec. 602(c)—delete.
2. Sec. 602(d)—by striking out "351(c)(2) and (d)(3)" and inserting in lieu thereof "351(a), (b), (c), and (d)" and renumbering the section as (c).
3. Sec. 602(e)—by renumbering it as section (d).
4. Sec. 602(f)—by renumbering it as section (e).

Sec. 202(b) would be amended by adding:

Sec. (b)(1) "In the event the President has so determined not to provide import relief or not to proclaim the increase in, or imposition of, and duty or other import restriction on such article found and reported by the Tariff Commission pursuant to Section 201(d)(1), such increase or imposition shall take effect (as provided in Section (b)(3) upon the adoption by both Houses of the Congress (within the 60-day period following the date on which the report referred to in section (b) is submitted to the House of Representatives and the Senate), by the yeas and nays by the affirmative vote of a majority of the authorized membership of each House, of a concurrent resolution stating in effect that the Senate and House of Representatives approve the increase in, or imposition of, any duty or other import restriction on the article found and reported by the Tariff Commission.

(2) "For purposes of section (b)(1), in the computation of the 60-day period there shall be excluded the days on which either House is not in session because of adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die. The report referred to in section (b) shall be delivered to both Houses of the Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House of Representatives is not in session and to the Secretary of the Senate if the Senate is not in session.

(3) "In any case in which the contingency set forth in section (b)(1) occurs, the President shall (within 15 days after the adoption of such resolution) proclaim the increase in, or imposition of, any duty or other import restriction on the article which was found and reported by the Tariff Commission pursuant to section 201(d)(1).

(4) "The President may, within 60 days after the date on which he receives an affirmative finding of the Tariff Commission under section 301(b) with respect to an industry, request additional information from the Tariff Commission. The Tariff Commission shall, as soon as practicable but in no event more than 120 days after the date on which it receives the President's request, furnish additional information with respect to such industry in a supplemental report. For purposes of section (b)(2), the date on which the President receives such supplemental report shall be treated as the date on which the President received the affirmative finding of the Tariff Commission with respect to such industry."

Sec. (c) No proclamation pursuant to subsection (a) shall be made—

(1) increasing any rate of duty to a rate more than 50 percent above the rate existing on July 1, 1934, or, if the article is dutiable but no rate existed on July 1, 1934, the rate existing at the time of the proclamation.

(2) in the case of an article not subject to duty, imposing a duty in excess of 50 percent advalorem. For the purposes of paragraph (1), the term "existing on July 1, 1934" as applied to a rate of duty, refers to the rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing on such date.

III. THE PUBLIC HEARING PROPOSED IN SEC. 203(Q) SHOULD BE DELETED ON THE GROUNDS OF BEING REDUNDANT AND UNFAIR

Despite the surface appearance of reasonableness of Section 203(g), it would undoubtedly operate in such a manner as to cause disastrous delays.

In the first place, the opportunity for interested parties to be heard on the question of import relief will have already been afforded under Section 201 (c), which requires the Tariff Commission to hold public hearings.

Further, under several subsections of Section 202(c), the President is obliged to have considered the effect on "interested parties" before he reaches a decision to grant relief.

It is obvious that the public hearings proposed in Section 203(g) would be redundant to say the least.

Most importantly, however, such hearings could extend for an indefinite time the initiation of the relief which has the full support of the Tariff Commission, the President, and/or the Congress.

Little imagination is required to see how the hearings could be delayed in starting, extended in duration, and even re-opened for alleged important "new" information. Presumably, the hearings would be next transcribed, analyzed, and summarized. Then a report would be drafted and recommendations or conclusions offered. The obvious intent is for the President to consider the claims of the interested parties. How long would he have to do this?

What if, for any one or more of a variety of possible reasons, he then changes his mind and decides to grant no relief, or relief that the Congress would deem inappropriate?

Would the parties who had previously proven injury also be afforded a second opportunity to establish the soundness of the original decision?

We submit that the section in question is unnecessary. Despite its apparent simplicity, it establishes a potential for unfair delays, complexities, and even complete vitiating of the remedies otherwise provided.

IV. IMPORT RELIEF UNDER SECTION 203 OF THE BILL SHOULD NOT BE DENIED SIMPLY BECAUSE DUMPING OR COUNTERVAILING DUTY CONDITIONS ARE ALSO FOUND TO EXIST

The existence of dumping or countervailing duty advantages does not necessarily mean that the injury to a domestic injury cannot best be cured by duty relief.

However, Section 201(b)(6) could be used as ar "excuse" to suspend an investigation or deny the most appropriate relief.

We would recommend adding to that section language to the effect that under the conditions stated, the Tariff Commission may proceed with its Escape Clause procedures and make any remedy recommendations called for in the light of its findings, notwithstanding the possibility of concurrent action under the Anti-Dumping Act or countervailing duty provisions.

Section 201(b)(6) should be amended by inserting the following sentence at the end of the paragraph:

> "The fact that action has been taken or contemplated under the Anti-Dumping Act, 1921, Section 303 or 337 of the Tariff Act of 1930, or other remedial provisions of law, shall in no way affect a petitioner's right to relief under this section."

V. PRODUCTS RECEIVING AN AFFIRMATIVE FINDING OF INJURY BY THE TARIFF COMMISSION SHOULD BE EXEMPT FROM THE ELIGIBLE ARTICLE LIST FOR GENERALIZED SYSTEM OF PREFERENCES REGARDLESS OF WHETHER ANY RELIEF HAS BEEN GRANTED

The House report, as well as the language of the proposed bill, makes it plain that for what can be classed as overriding interests of the country as a whole, an industry that is admittedly suffering even gross injury from imports may be left to fend for itself. For foreign policy bargaining purposes, as well as other reasons, no relief may be granted.

Under such conditions, there would seem to be little justification for the country to take positive steps to inflict still further injury by granting further import concessions.

We submit that no industry should be subject to such a hostile, punitive attack by its government, to whom the industry has paid taxes, justifiably expecting that in return it will at least not be attacked, if not aided.

Our specific proposal is to amend Section 503(a) by adding the following sentence: "No article which has been the subject of an affirmative determination under Section 201(b)(1) shall be designated as an eligible article under this section until such time as a finding that relief should be terminated has been made under Section 203(j)."

VI. THE PRESCRIBED PERCENTAGE OF VALUE CONTRIBUTED IN THE "PREFERRED" COUNTRY SHOULD NOT BE LESS THAN FIFTY PERCENT (50%)

At the discretion of the Secretary of the Treasury, as little as 35 percent of the appraised value could be contributed in the preferred country in order to qualify for duty-free entry.

The establishing of a limit, is, obviously, to prevent the country from simply being a conduit for products produced in developed countries, and to assure that the underdeveloped country is benefitted by increased internal industrial or agricultural activity.

We submit that only half of this objective is achieved if the proposed percentage range is adopted.

So far as the preferred country is concerned, a benefit will result from any appreciable advance in the amount of internal industrial or agricultural activity, in addition to the advantages from increased exports. This benefit must be contrasted, however, with the potential injury to domestic producers AND the unfair advantage available to foreign producers supplying semi-processed material to the preferred country.

Some might consider that a 50 percent contribution requirement was sufficiently high to prevent use of the Act as a "pass-through" technique and at the same time sufficiently low to encourage industrial and agricultural growth in the preferred country.

A range of 35 to 50 percent does not meet that test. We are confident that with such a range, the opportunity for duty-free entry would provide more of the Act by industries located in developed countries. Present trends, even without the advantages proposed by the bill, should be ample evidence of this.

The minimum should not be less than 50%, a 65% maximum would be fair.

VII. THE ACT SHOULD SPECIFICALLY PROVIDE FOR JUDICIAL REVIEW OF NEGATIVE ANTI-DUMPING FINDINGS

Since the enactment of the Anti-Dumping Act of 1921, it has always been questionable whether or not a domestic industry which files a complaint pursuant to the Anti-Dumping Act has any right of judicial review in the event that either the Secretary of the Treasury of the Tariff Commission make negative determinations under the Act. No attempt has ever been made by a domestic industry to bring an action in the United States Customs Court pursuant to Section 210 of the Anti-Dumping Act since its enactment in 1921. Although a provision has been made under Section 516 of the Tariff Act of 1930 (American Manufacturers Protests) to permit the domestic industry to obtain judicial review of the negative determination in connection with countervailing duties, no such provision has been made in negative cases under the Anti-Dumping Act. With respect to the Countervailing Duty Law, the Court of Customs and Patent Appeals in *United States v. Hammond Lead Products, Inc.*, 58 C.C.P.A. 129 (1971) specifically held that the domestic industry had no right of judicial review where the Secretary failed to impose a countervailing duty. With respect to the Anti-Dumping Act, there is *dictum* in the Court's decision in *Hammond Lead Products, Inc.* which at least questions the right of a domestic industry of judicial review where the Tariff Commission or the Secretary of the Treasury make negative determinations, (58 C.C.P.A. at 136–137).

Apparently, the House Committee on Ways and Means recognized that no specific provisions for judicial review was contained in the amendments to the Anti-Dumping Act under the Bill, but in its Report indicated that the Secretary of the Treasury had assured the Committee that the domestic industry did have the right of judicial review in Anti-Dumping cases. In this respect, the Report concludes that it wanted to make it clear that the absence of amendments to Section 516 with respect to anti-dumping cases should not be considered to mean that negative anti-dumping findings are not subject to judicial review. (Report at 73). It is highly questionable whether the Customs Court in determining its *own* jurisdiction would rely on a letter from the Secretary of the Treasury. Accordingly, it is suggested that a new provision be added to the Anti-Dumping Act which specifically states that the domestic industry has a right to judicial review in negative anti-dumping cases.

It is manifestly unfair to continue the present provisions which allow the foreign "defendant" access to the courts in the event of an affirmative finding while denying the domestic producer any appeal from a negative finding.

The Anti-Dumping Act of 1921, as amended, should be further amended by inserting the following new section:

> "Section 210(2). Whenever, the Secretary issues a determination terminating or discontinuing an investigation pursuant to Section 201(b) of this Act, or the Tariff Commission makes a negative determination pursuant to Section 201(a) of this Act, a domestic producer producing a like or competi-

tive product of the same class or kind of merchandise which was the subject of the anti-dumping investigation, shall have a right of immediate appeal to the United States Custom Court and the Court of Customs and Patent Appeals."

VIII. PROFIT SHOULD BE A DEDUCTIBLE ELEMENT IN PRICE DETERMINATIONS UNDER THE ANTI-DUMPING ACT

Although Section 204 of the Anti-Dumping Act which defines "exporter's sales price" has been extensively revised, there is still no provision for a deduction for profit from exporter's sales price. One of the advantages that an importer has under the Anti-Dumping Act where exporter's sales price is involved is that the element of "profit" is not taken into consideration by Treasury when they look at the sale to the unrelated U.S. purchaser. Thus, in a given situation there could be a built-in 10% profit on the sale to the unrelated U.S. purchaser which Treasury in making their computations completely overlook. Of course, a 10% margin would be more than enough for Treasury to make an affirmative determination of sales at less than fair value under the Anti-Dumping Act. In a purchase price situation, under the Anti-Dumping Act, there is no such profit advantage.

Section 204 of the Anti-Dumping Act should be further amended by inserting after the words "(3) an amount equal to the expenses, if any," the following: "and reasonable profits."

IX. IN DETERMINING WHETHER IMPORTS ARE A "SUBSTANTIAL CAUSE" OF INJURY, ACTIONS BY FOREIGN PRODUCERS OR IMPORTERS WHICH WOULD CONSTITUTE PROHIBITED ANTI-TRUST CONDUCT IF ENGAGED IN BY A DOMESTIC PRODUCER SHOULD NOT BE CONSIDERED AS A FACTOR WHICH COULD FORM BASIS FOR DENIAL OF RELIEF

Section 201(b) requires the Tariff Commission to consider certain factors in determining whether increased imports are a "substantial cause" of serious injury. It is plain from a reading of the listed factors that the Commission could find it was not low duties causing increased quantities and thus injury, but an inability of domestic producers to match competitive techniques employed by foreign producers.

If those "techniques" involve actions taking place outside the jurisdiction of the United States that would be in violation of our criminal or civil statutes and attending regulations if performed by domestic producers, there is no reason to further penalize domestic producers for being honest, for complying with the law.

It is difficult enough to compete with lower labor costs, lower material costs, lower taxes, less restrictive government regulations pertaining to environmental and safety controls without having also the burden of having such behavior cited as a denying factor under Section 201(b) (2) and (4).

We, therefore, earnestly request that Section 201(b)(4) be amended to read:

> "Section 201(b)(4) For purposes of this section, the term 'substantial cause, means a cause which is important and not less than any other cause; provided that, any cause which arises out of any conduct, agreement, or understanding on the part of a non-domestic producer or importer of the imported article which a domestic producer would be prohibited from engaging in or entering into shall not be considered as a cause under this section."

X. THE RELIABILITY OF IMPORT STATISTICS SHOULD BE IMPROVED AND PROCEDURES ESTABLISHED TO ASSURE VALIDITY

These is one serious omission in the bill as printed, an omission which puts in jeopardy all meaningful studies of imports and their effect on the economy of the United States. This is an omission which can be corrected without controversy and at practically no cost to the public treasury. The oversight is that nowhere in the bill is any mention made of the need to have complete and reliable statistical reports of imports.

Import statistics are not reliable today simply because there has not been a concerted effort to require the Customs Service to demand accurate reporting by importers agents and back Customs when it rejects paperwork because of obvious errors. All of your studies of The Effect of Imports and Exports on the Commerce of the United States are without meaning if those reports are grossly inaccurate and we regret to say there are gross inaccuracies in the reports. Some of these inaccuracies can only be detected by physically checking the actual imports against the reports of imports, but others of these inaccuracies can be detected by inspection of the published reports by any person with knowledge of the commodities concerned.

As an example, consider a miniature ball bearing. The tariff schedules of the United States require that each importation of these bearings be reported in terms of the number of bearings, the value of them, and the weight of the shipment. The technical description of this bearing in the schedules is found under Item 680.3504 where it is described as ball bearing, radial, having an outside diameter of under nine millimeters. This very small bearing is the largest and heaviest ball bearing which will fit this particular description. Its weight is .002 lb. In other words, five hundred of these bearings only weigh one pound. If on inspection of import reports, we find quantities of these bearings related to the weights in such a way that there are only fifty to the pound, or ten, or one, we know at once that there is an error. Either the number is understated or the weight is overstated or the commodity reported is not a miniature bearing. And this simple relationship is known to the people who gather and publish import statistics. And they have computers which can check quantity against weight of these bearings and automatically flag any reports which contain these obvious errors. But do they flag these reports and reject them? No, they do not.

In the first ten months of 1973, 85 shipments of miniature ball bearings were reported in IM 145. Here is a tabulation of 30 of these imports which contain errors. (See Appendix A.)

Some of the reports in error were small but in total they increased the reports of imports by 13% of value, by 17% of quantity, and by 201% of weight.

It may be that these errors were mostly a careless mistake by an importer's clerk who reported large bearings as small simply because the identification number for small bearings was the first one he saw in the book. We don't know what the errors were. We only know that there were errors.

One thing we do know is why the errors keep occurring. We report the major errors to the people in the Bureau of Census who are responsible for publishing the statistics. They refer to their report from the Customs Inspector and if they do not find an obvious clerical error they send them back to the port of entry for verification by the Customs Inspector. And at this point the system breaks down.

If the Customs Inspector were able to call in the Import Broker who submitted the wrong information, point out that the information is obviously impossible, obtain a correction and tell the broker that his next shipments would be held up until correct information is supplied, the situation would be cleared up in a very few months. Unfortunately, if the Customs Inspector holds up shipments because statistical descriptions are not correct, he finds himself in hot water for not going along rather than being commended for diligence.

Strong leadership is needed from the Secretary of the Treasury through the Commissioner of Customs to each supervisor in each port of entry to improve the reporting situation. But even with such leadership, legislation is needed to get the improved statistical reporting the nation must have.

We respectfully request that H.R. 10710 be amended to provide for accurate reporting of imports. The following language is suggested:

SEC. 604. ACCURATE REPORTING OF IMPORTS

The Commissioner of Customs shall establish such procedures as may be required to insure that reports of quantity and value of imports are reported with substantial accuracy. As part of such procedures he shall require that—

(1) When an import entry must be returned for correction of substantial erroneous data or clarification of incomplete data, the cost of such duplicate handling of documents shall be assessed against the customs broker responsible in amount of one tenth percent of the entered value but not less than $25.00 for each entry returned; and

(2) The Commissioner of Customs also shall keep records of returned import entries and if any individual customs broker is found to be responsible for multiple errors his license shall be suspended for such period as is required for retraining his personnel.

C. E. HARWOOD, *Chairman.*

Appendix A

INCORRECT REPORTS OF IMPORTS, 680.3504 RADIAL BALL BEARINGS UNDER 9 MM OUTSIDE DIAMETER, JANUARY TO OCTOBER 1973

Country of origin	Quantity units	Weight pounds	Value dollars	Number of units per pound
January:				
United Kingdom	1,766	55	1,572	32
West Germany	700	36	564	19
Do	500	41	321	12
February:				
Canada	2,630	75	4,979	35
West Germany	1,625	45	683	36
March:				
Canada	6,249	570	3,750	11
Do	11,440	975	17,680	12
Denmark	160	16	258	10
West Germany	600	10	585	60
Spain	830	30	311	28
Japan	15,000	462	5,053	32
April:				
Canada	10,912	239	4,256	46
West Germany	12,676	142	5,015	89
Japan	1,900	106	797	18
Do	83,300	3,020	28,317	28
May:				
Canada	6,372	605	3,505	11
Netherlands	8,000	211	2,160	38
Japan	8,400	630	3,627	40
June:				
Sweden	262	5	671	52
West Germany	1,150	15	2,909	77
Do	300	30	296	10
July:				
Italy	400	9	320	44
Japan	457	5	270	91
Do	750	12	1,671	63
August:				
Denmark	2,300	92	1,319	25
Japan	104,501	3,734	56,519	28
September:				
West Germany	250	4	378	63
Japan	70,166	841	40,164	83
October:				
Austria	6,105	180	1,782	34
Italy	1,550	30	1,324	52
Total	361,251	12,225	191,056	30
10 months:				
Reported	2,452,411	18,313	1,657,286	133
Errors	361,251	12,225	191,056	30
Correct	2,091,160	6,088	1,466,230	353
Percent	17	201	13	

Source: Extracted from IM-145, Bureau of the Census.

STATEMENT SUBMITTED BY LOUIS STULBERG, PRESIDENT, INTERNATIONAL LADIES' GARMENT WORKERS' UNION; MURRAY H. FINLEY, PRESIDENT, AMALGAMATED CLOTHING WORKERS OF AMERICA; SOL STETIN, PRESIDENT, TEXTILE WORKERS' UNION OF AMERICA; AND FRANCIS SCHAUFENBIL, PRESIDENT, UNITED TEXTILE WORKERS OF AMERICA

This statement is submitted on behalf of the International Ladies' Garment Workers' Union, Amalgamated Clothing Workers of America, Textile Workers' Union of America and United Textile Workers' Union, labor organizations affiliated with the AFL-CIO, in opposition to the passage of the Trade Reform Act of 1973, H.R. 10710.

The four unions believe that this Act is not in the public interest. It does not meet the needs of the textile and apparel industries and their workers any more than it meets the needs of other American industries and their workers. In ways too numerous to recite at this time, but extensively reviewed by President George Meany of the AFL-CIO in his March 27, 1974 testimony before your Committee, this bill fails to recognize that a totally different approach to international trade is currently required. It fails to deal squarely with the issues created by the operations of multinational corporations. It does not concern itself with the threat to domestic employment posed by these corporations and by low-wage imports in a realistic fashion. While it calls for grants of readjustment assistance to firms and workers displaced by imports, it fails to recognize that such programs are not meaningful when unemployment is rife and the demand for labor is inadequate. This bill would even eliminate the identification of foreign origin on imported goods, the only information available to consumers regarding them. We support the views of President Meany regarding the nature of the called-for legislation.

The failure of H.R. 10710 to deal realistically with the threat posed by imports to employment in this country was recognized by your own Committee's staff in its February 26, 1974, study "Summary and Analysis of H.R. 10710—the Trade Reform Act of 1973." As it points out, multinational negotiations which have taken place since the end of the second world war "whittled down tariff barriers to the point where, in most commodities and for most countries, tariff barriers are not considered to be the most significant form of protection." The developments which took place throughout the world generated a new era in international trade relations, "a new ball game, which was not envisaged in the planning and conception of the Trade Reform Act."

We take the liberty of appending herewith the presentations made to the Ways and Means Committee of the House of Representatives on June 6, 1973 and request that your Committee make them a part of your record. These statements review the special problems facing apparel and textile workers in the wake of sharp increases in imports in the last decade and a half which negatively affected work opportunities in these industries.

The fact that textile and apparel industries and their workers face special problems as a result of mounting imports was recognized by Presidents Kennedy, Johnson and Nixon. To deal with them, as a result of the initiative taken by the United States, a multinational agreement was negotiated under GATT auspices in 1961 which sought to bring some order in the cotton textile and apparel trade. This agreement was renewed several times. Under its terms, the United States was able to conclude some 35 bilateral agreements with key exporting countries which provided for an orderly growth of cotton textile and apparel imports in order to avoid market disruption or a threat thereof.

It was hoped that the conclusion of the multinational Cotton Textile Arrangement would lead to similar arrangements regarding international trade in textiles and apparel made of wool or manmade fibers. While such efforts remained fruitless for many years, the United States succeeded in concluding a bilateral agreement applicable to wool and manmade fiber textiles and apparel with Malaysia in 1970 (a rather small exporter) then with Japan, South Korea, Republic of China (Taiwan) and Hong Kong in 1971, with Macao in 1972 and Singapore in 1973. As time went on, more and more nations began to feel a need for a multinational, multifiber pact that would establish rules for an orderly development of international trade in textiles and apparel. After extensive discussions, such a multifiber agreement was finally agreed upon on December 20, 1973 under GATT auspices. Just as the earlier cotton arrangements, the new agreement provided the necessary framework for the development of orderly trade between nations in the field of textiles and apparel in order to avoid market disruptions with its negative impact on employment in the importing and exporting countries.

Multinational and bilateral cotton textile agreements did not halt the growth of imports. They did, however, bring it to a more reasonable rate. Thus in 1973, despite some declines in that year caused by unsettled world monetary situation and the depressed apparel market in this country, total cotton textile imports (measured in equivalent square yards) were 121 percent greater than in 1961, with imports of cotton apparel 74 percent higher. In many cases, exporting nations actually failed to send goods to this country in the past year anywhere near the maximum they could under the terms of their cotton agreements with the United States. By the way of contrast, total imports of manmade fiber textile products, not subject to any checks prior to the last couple of years, were up 2174 percent in square yards equivalent in this period, while those of apparel made of these fibers increased 5508 percent!

In apparel alone, imports accounted for about 25 percent of domestic consumption in 1972 (the latest year for which data are available) compared with some four percent in 1956 and six percent in 1961. As a result of these increases in apparel imports, more than 300,000 potential job opportunities have been wiped out in this country, jobs that could have had a decided impact in reducing the nation's unemployment among minority groups that make up a good fraction of apparel workers and would have had a decided impact in reducing our welfare rolls.

The importance of orderly trade in textiles and apparel, as developed under the terms of the multinational and bilateral cotton textile agreements, cannot be underestimated. These agreements provide a viable and useful device for slowing down the tempo of import penetration and to assist domestic industry, and more importantly for its workers to meet the challenge. The present extension of the basic concepts of the cotton textile agreements to products made of other fibers offers a possibility, given appropriate implementation, for an orderly growth of international trade in our industry that will not result in a drastic erosion of jobs and potential employment opportunities in the future as occurred in the past while wool and man-made textiles and apparel were not subject to regulatory action. Whatever is the ultimate legislation adopted by the Congress affecting international trade, it is important therefore that the existing agreements and the legislative authority under which they are negotiated remain undisturbed.

It must be emphasized that American textile and apparel industries are technologically efficient, second to none in the world. What undercuts domestic production and employment potential is not comparative technology but the appallingly low wages paid in many of the exporting countries, some as low or lower than 10 cents per hour. So long as international trade develops in an orderly fashion, our industries can and will continue to offer the American consumer a broad spectrum of textile products, including apparel, in a wide variety of price ranges despite the incentive the lower-cost imports offer retailers in the form of higher markups than they normally add on top of prices they pay their domestic suppliers.

This is a likely reason why retail interests at times spread unjustified fears regarding presumed unavailability of domestically-produced goods to satisfy consumer needs were imports regulated. Take for example, the remarks of Stanley J. Goodman on behalf of the National Retail Merchants Association and the American Retail Federation before your Committee on April 8, 1974. He argued that "if you prevented the low price goods from coming in that now come in you would be working a tremendous hardship on the total public." He then suggested in an alarmist fashion: "The children's clothes are almost all imported. If you want to buy for three dollars an outfit that your little girl can wear, age four or five, it has got to come from Taiwan or Korea. It used to be Japan, but not any more. If you chop that off, you cannot make it in this country for that price."

No one, of course, seeks to ban imports. What the legislation proposed by the AFL–CIO would do, as indeed is done under the provisions of existing textile agreements, is to assure an orderly trade. The alarmist claims made by Mr. Goodman remain unsubstantiated. Even though domestic production of children's clothes was negatively affected by imports, substantial quantities continued to be produced in this country as can readily be checked by consulting the annual Apparel Survey made by the U.S. Bureau of the Census. In the case of children's dresses made for youngsters of pre-school age from about 3 to 6 years, 40,068,000 garments were produced in the United States during 1972 (the latest year for which data are currently available) valued $40,068,000 or *on the average* $2.85 per dress. If this is the average wholesale price, obviously a substantial quantity had to be produced at lower prices, in the price brackets referred to by Mr. Goodman. Information on the wholesale value of shipments of children's dresses is available in the Census survey since 1967. The average unit values since then are as follows:

1967	$2.67
1968	2.78
1969	2.88
1970	3.08
1971	3.03
1972	2.85

It should be noted that the average price of a child's dress in 1972 was lower than in 1969, attesting to the increase of domestic output in the lower-price brackets. Interestingly enough, the average markups added by retailers on top of prices they paid to their suppliers of children's clothes (as attested by the data published by the National Retail Merchants Association) from 76.4 percent in 1968 to 82.1 percent in 1972 (the figure for 1967 is not available but other N.R.M.A. data suggested that it probably approximated 72.8 percent in that year).

Mr. Goodman seems to care much less for the men and women who earn their living in the textile and apparel industries, than we do. "We have got no business making that stuff", he told your Committee. "We should make other things where our American skills are appropriate and productive." Mr. Goodman thus seems to be ready to destroy jobs for some 1.3 million American production workers who made knit and woven apparel in 1973, to say nothing of an additional million textile workers who supply the domestic apparel industry with its raw materials. The fact that there are no alternative job opportunities for these workers seems to be of little concern. We, on the other hand, do not believe that it is in the national interest to destroy the jobs of textile and garment workers in this country, and we are certain neither are members of the Congress.

As we pointed out earlier, we support the legislative recommendations made by the AFL–CIO. We believe that it would strengthen the hands of the Chief Executive in dealing with foreign nations and in negotiations agreements that would regulate international trade. We believe that the approach taken in our industries is sound and should be fully backed by the Congress. We believe that workers in our industry want work and not idleness or substitute panaceas. This, we are sure, is also the objective of others employed by the American industry. This is why jobs of textile and garment workers as well as those of other workers in the United States needs to be safeguarded.

PANEL CONSISTING OF LAZARE TEPER, RESEARCH DIRECTOR, INTERNATIONAL LADIES' GARMENT WORKERS' UNION; SOL STETIN, GENERAL PRESIDENT, TEXTILE WORKERS UNION OF AMERICA; AND HOWARD D. SAMUEL, VICE PRESIDENT, AMALGAMATED CLOTHING WORKERS OF AMERICA

Mr. SAMUEL. Mr. Ullman, my name is Howard Samuel. I am here in behalf of the Amalgamated Clothing Workers of America. Dr. Teper is on my left representing the International Ladies' Garment Workers' Union. President Sol Stetin is on my right, representing the Textile Workers Union of America.

If we may, Dr. Teper, will open the presentation and I will follow and Mr. Stetin will conclude.

Mr. ULLMAN. Thank you very much. You are recognized.

STATEMENT OF LAZARE TEPER

Mr. TEPER. My name is Lazare Teper. I am director of research of the International Ladies' Garment Workers' Union. I appreciate the opportunity given us to present the views of our organization and its 410,000 members in the United States and Puerto Rico on the problem of imports which steadily and progressively have undermined job opportunities for workers in our industry.

Factory production of apparel originated in this country. It continues to be carried on by small firms. The average plant producing apparel employs 70 workers at the height of the season. The average firm owns on the average but 1.1 plants. To supplement their own output firms in the industry rely on contracting establishments where apparel is produced in whole or in part from goods owned by the work-supply firms and to their specifications.

The apparel industry in the United States is widely scattered throughout the Nation even though it is more heavily concentrated in the East (appendix 1 presents a regional distribution of the industry's work force). About 30 percent of workers come from rural areas where an apparel plant is frequently the sole source of manufacturing employment. Over a third of the wrokers are employed in those metropolitan areas in which the apparel industry provides more than 10 percent of manufacturing jobs.

The apparel industry itself is one of the most competitive in this country. It does not require large capital. Its technology is relatively simple. New firms can easily go into business. This is further facilitated by the relatively low skill required of the industry's labor force. The intense competition does, of course, contribute to high business mortality. But it also spurs on firms in the industry to attain the biggest possible productivity. It also provides internal discipline that keeps prices in line with costs and prevents profiteering and price-gouging. The ultimate consumers of the industry's products are thus assured at all times of getting good value for their money.

Because technology is comparatively simple, it is easy to train workers directly on the job. The skills that might have been required in the past have been gradually diluted by newer production techniques and fine subdivision of labor which enable workers to perform simplified tasks. After elementary instruction they can readily attain peak proficiency within a relatively short time. As a result, the industry does not call for high educational requirements on the part of its workers—1 out of every 4 persons in the industry's labor force has not completed primary schooling and virtually 3 out of 4 have not finished high school.

The industry is also a major employer of women and workers from minority groups, many of them from the ranks of the hardcore unemployed. Years back, many of the industry's workers were immigrants from Eastern and Southern Europe. Today nearly 1 out of every 5 workers is of Latin American origin, nearly 1 out of 6 is black.

Women constitute about 80 percent of the industry's workforce. Their ability to move to other localities in search of jobs is typically limited by family ties. About a third of them are either single, widowed, divorced, or separated. Work for most women workers is essential not only for their own support, but also for the support of thir dependents. About 64 percent of women workers in the industry, as shown by a women's bureau study of a sample of ILGWU members, had to support or partially support children, husbands, parents or other relatives in addition to themselves. More married women than single women actually had to use all of their earnings for daily living expenses, irrespective of whether they were or were not the sole supporters of the family.

The apparel industry's workers have few other alternative job opportunities. They do want to work and earn a living at their work. Little wonder therefore that they want their jobs safeguarded against the erosion caused by the increasing penetration of apparel imports.

The rise of apparel imports is of comparatively recent origin. It began in our own industry in the mid-fifties when Japan started to ship scarves to their country. The volume was such that, for all practical purposes, domestic production was wiped out.

This was only the beginning. An increased variety of apparel began coming in. With every trade concession granted by the United States to other nations, apparel imports surged ahead. After all, this country was open to all trades. Other nations, on the other hand, used varied devices to keep foreign-made apparel away from their borders.

Recognizing that the domestic problems caused by a rising tide of textile and apparel imports were serious, President Kennedy inaugurated a program in 1961 to deal with the issue. As a result, a multinational agreement was concluded under GATT auspices to regulate the flow of cotton textiles and apparel. Renewed thereafter, this agreement also stimulated the signing of a number of bilateral agreements with key exporting countries to supplement this program. The impact of these agreements was offset, however, by increased shipment of apparel made from other fibers. Even so, imports of cotton apparel (in square yards of material required for their manufacture) rose 110 percent between 1961 and 1972. Even though the demand for wool apparel faltered at times in this period, still their imports rose 168 percent, while imports of apparel produced from man-made textile fibers skyrocketed by 5.553 percent. On an overall basis, apparel imports moved up 605 percent. Annual figures on apparel imports by type of fiber are shown in appendix 2 in square yards equivalent and in appendix 3 in poundage.

What was the result of this growth?

In 1961 imported apparel accounted for 6.4 percent of domestic consumption (5 years earlier in 1956 it was only 3.8 percent).

In 1972, however, imports preempted 25.2 percent of domestic apparel consumption. (Yearly figures showing apparel imports in relation to domestic consumption and domestic production are shown in appendix 4.)

These are global figures. But here are some specifics on the rise of imports between 1961 and 1972. Imports of women's and children's playsuits went up 101 percent; blouse imports gained 251 percent; women's and children's slacks and shorts—368 percent; raincoats for men and women up 699 percent; and imports of skirts grew 1,324 percent, those of underwear 1,407 percent, sweaters for both sexes 1,518 percent and women's and children's coats a stupendous 3,847 percent. Quantities of key women's and children's wear imports are shown in appendix 5. For comparative purposes domestic production of the same products is given in appendix 6.

More recently checks on import growth of wool and man-made fiber textiles and apparel were attained when the United States concluded agreements first with Malaysia in 1970, then with Japan, South Korea, Taiwan and Hong Kong in 1971, and with Macao in 1973. Prolonged and most difficult negotiations were needed to reach these limited agreements while imports kept growing and growing.

Bear in mind in this connection that the cotton textile agreement concluded under GATT auspices is due to terminate unless renewed at the end of September 1973. Some liberal agreements relating to cotton textiles and apparel expire unless renewed this year, others thereafter. Agreements dealing with wool and man-made fiber textiles and apparel are scheduled to terminate unless renewed in 1974 in the case of Malaysia and Japan, in 1976 in the case of South Korean, Taiwan and Hong Kong, and in 1977 in the case of Macao. In the meantime, while the growth of wool and man-made fiber apparel exports by these six countries is limited, other nations have begun to speed up their shipments, producing some of their exported apparel frequently from yarn and fabrics originating in the countries with which we do have agreements. Thus, for example, Japanese fabrics are used in other Asian and in Latin American countries to produce apparel for export to the United States. As a result, while imported wool apparel from the countries under agreement with the United States rose 12.4 percent in 1972, shipments from other nations forged ahead 29.5 percent. While shipments of apparel made from man-made fiber textiles declined 4.2 percent in the case of signatories, shipments from other countries jumped 69.3 percent in that 1 year. The rapid buildup of exports that is taking place illustrates the need for help to the employment of garment workers in this country which will persist so long as import growth is not subject to control on a world-wide basis.

And this is indeed a serious matter. If not for the increase in imports, we estimate that this country could have provided work for some 310,000 additional apparel workers between 1961 and 1972. Bear in mind the workers come from the hard-core unemployed and from communities where other employment may not be available. Yearly figures on the number of potential jobs lost in this country as a result of an increase in apparel imports since 1961 are shown in appendix 7.

Peak employment of production workers engaged in the making of apparel and accessories from knit and woven materials was reached in the United States in 1966. Thereafter, under the impact of imports and other economic adversities, employment faltered. Thus, 39,100 fewer production workers were employed in the industry in 1972 than in 1966. At the same time, the total number of man-hours spent at work was down 1,693,000 hours per week, or 88 million man-hours in the year. Yearly data on the number of production workers engaged in making apparel from knit and woven materials and their average weekly man-hours are shown in appendix 8.

Unless the problems stemming from the past and potential import growth are faced squarely, workers in this industry will continue to be severely affected. Yet they are the ones that can least afford to face this impact. They are the onces for whom it is hard to find alternate employment elsewhere, no matter how hard one tries.

In years past, the apparel industry was notorious for its poor working conditions. As a result of public indignation, legislative intervention and union activity, the industry's labor standards have been gradually improved. Yet today, in the face of competition from abroad, the earnings of apparel workers continue to lag behind other American industries. This is readily understandable when one examines what American apparel workers have to compete against. Here are some sample wages abroad. These figures are all for 1971 because this was the year for which we could make the maximum number of comparisons with other countries:

Ten cents an hour in Korea; 12 cents an hour in Pakistan; 13 cents an hour in India; 17 cents an hour in Taiwan; 18 cents an hour in Singapore; 23 cents an hour in Portugal; 29 cents an hour in Brazil; 34 cents an hour in Jamaica; and 70 cents an hour in Japan—to cite a few examples. Data on hourly earnings for additional countries are shown in appendix 9. Bear in mind that technology in the apparel industry is internationalized and there are no substantial differences in productivity of workers as between the different countries.

Sweatshop wages, child labor, long hours of work—everything that we have succeeded in banning from the American scene as a matter of public policy—have to be faced by American workers all over again when they face competition from abroad.

The problem is further aggravated by the increasing resort by some domestic entrepreneurs to the provisions of item 807.00 of the tariff schedules of the United States. These permit the American businessmen to produce apparel abroad out of parts cut over here and then pay only fractional duties on finished goods when they are brought back to this country. This is done either by setting up contracting operations in foreign countries controlled by American firms or else by relying on the services of foreign contractors. Aside from the lure of lower unit labor costs and lower U.S. customs duties, domestic entrepreneurs are also enticed to move their contracting operations abroad by tax concessions, remission of custom duties on imports of machinery and other materiel, subsidized plant construction, special low-interest loans and remissions of income and other taxes provided and that is an important proviso, that the goods processed in the particular foreign country are not sold there and the whole output is exported 100 percent.

Even though such tax remissions and subsidies would justify the imposition of countervailing duties under the existing law, this has never been done.

Bear something else in mind:

On the average, roughly one production worker in an apparel plant out of every 20 does the work related to the cutting of fabrics and finishing operations that are not done abroad in order to qualify to bring back these goods under item 807.00. Thus resort to this section causes an export of some 19 apparel worker jobs for every one that remains in this country.

The incorporation of item 807.00 into our tariff schedules has served as an additional catalyst to move apparel production abroad. Together with other stimuli, such as low wages and the subsidies offered by foreign countries, item 807.00 led to a stupendous rise in such imports. Thus, in the short span from 1965 (when the Census Bureau first began to collect data on item 807.00 shipments) through 1972, the dollar volume of these imports rose 5.390 percent. Appendix 10 shows the dollar volume of item 807.00 apparel imports by type of product in valuation at the point of entry into the United States, and appendix 11 provides similar data on quantities shipped.

The rise in item 807.00 apparel imports is all the more shocking since its growth is on top of the already execssive expansion in the level of other apparel imports. The public interest would indeed be best served if item 807.00 were expunged from our books and if countervailing duties were imposed in all cases of import subsidies such as as called fcr under the existing law.

I have outlined some of the problems of job erosion and job disappearance faced by garment workers. Today their problems are, of course, not unique even though apparel and textiles do possess special importance to the Nation's economy justifying the efforts made by the United States in the past to slow down the tempo of their import penetration.

What needs to be done?

As we see it, the administration's Trade Reform Act of 1973, H.R. 6767, will not meet the needs of our industry and its workers any more than it will meet the needs of other American industries and their workers. In many respects too numerous to mention now, but reviewed extensively by I. W. Abel in his testimony on behalf of the AFL–CIO before your committee, this bill fails to meet the challenge currently posed by the growing threat of imports and the activities of multinational corporations. It would even scrap the one bit of information still left to the American consumer which identifies the foreign origin of the finshed product. We are fully in accord with the valid critique of H.R. 6767 offered on behalf of the AFL–CIO and will not repeat it.

Legislation should require positive action. That is why it is the considered judgment of the International Ladies' Garment Workers' Union that in order to strengthen the hand of the President of the United States in dealing with foreign nations and in negotiating agreements designed to check import growth in textiles and apparel, and to assist workers who are faced with a loss of their jobs in other industries under the impact of growing imports, that this committee should recommend and the Congress should pass legislation such as is embodied in H.R. 62 introduced by the distinguished member of this committee, Congressman Burke, and many of his colleagues, and the companion bill S. 151 introduced in the other body by Senator Hartke. The passage of such legislation would check import growth, improve the ability of the President to negotiate agreements with foreign countries and eliminate the inducements currently present in our tax structure that encourage American companies to move their production activities outside the United States in order to produce goods for sale to the American buyer.

Mr. Chairman, I thank you.

Mr. BURKE [presiding]. Without objection the appendixes that you have attached to your statement will be included in the entire record.

Mr. TEPER. Thank you.

[The appendixes referred to follow:]

APPENDIX 1

NUMBER OF ESTABLISHMENTS AND EMPLOYMENT, APPAREL (KNIT AND WOVEN) INDUSTRY, BY REGION, MID-MARCH 1971

	Establishments	Employment
New England	997	66,495
Middle Atlantic	11,167	495,304
East North Central	735	62,923
West North Central	423	40,954
South Atlantic	2,689	355,056
East South Central	810	182,994
West South Central	570	89,776
Mountain	127	12,478
Pacific	1,891	74,825
Puerto Rico	415	37,710
United States	19,824	1,418,513

Note: Products of the apparel (knit and woven) industry not covered by the data are leather, rubber and plastic gloves, vulcanized rubber garments and garments made from rubberized fabrics produced in the same establishment, surgical corsets produced in establishments primarily engaged in manufacturing surgical and orthopedic appliances, and artificial flowers. Products covered by the data which are not products of the Apparel (knit and woven) Industry are hosiery, knit fabrics, and fur goods.

Source: U.S. Bureau of the Census, County Business Patterns, 1971.

APPENDIX 2

GENERAL IMPORTS OF COTTON, WOOL, AND MANMADE FIBERS APPAREL, UNITED STATES (EXPRESSED IN MILLIONS OF SQUARE YARDS EQUIVALENT)

Period	Cotton	Wool	Manmade fiber	All fibers
1961	257.8	28.2	28.2	314.1
1962	381.8	45.6	48.9	476.3
1963	384.2	54.6	53.7	492.5
1964	414.7	53.9	92.1	560.7
1965	457.1	67.6	159.5	684.1
1966	485.0	62.9	229.5	777.4
1967	475.4	59.3	343.0	877.7
1968	514.7	79.8	558.3	1,152.8
1969	524.5	80.8	914.8	1,520.1
1970	477.8	76.1	1,140.3	1,694.2
1971	497.8	63.7	1,536.1	2,097.6
1972	545.0	75.6	1,605.6	2,226.2

Source: U.S. Department of Commerce, Office of Textiles (1961 data estimated by ILGWU Research Department).

APPENDIX 3

IMPORTS FOR CONSUMPTION OF COTTON, WOOL AND MANMADE FIBER APPAREL, UNITED STATES

[Expressed in thousands of pounds equivalent]

Year	Cotton	Wool	Manmade	Total
1961	60,267	13,717	5,033	79,017
1962	91,823	22,790	10,443	125,056
1963	94,204	28,039	12,847	135,090
1964	107,578	28,421	21,842	157,841
1965	119,891	35,443	30,798	186,132
1966	128,000	33,021	38,613	199,634
1967	133,092	33,771	61,056	224,919
1968	140,047	41,358	91,511	272,916
1969	142,716	41,473	144,054	328,243
1970	135,223	38,124	188,179	361,526
1971	149,404	31,218	255,934	436,616
1972	177,893	27,459	283,611	488,963

Source: U.S. Department of Agriculture.,

APPENDIX 4

IMPORTS AS PERCENT OF DOMESTIC PRODUCTION AND CONSUMPTION APPAREL (KNIT AND WOVEN), UNITED STATES

Year	Percent of— Production	Percent of— Consumption	Year	Percent of— Production	Percent of— Consumption
1961	6.8	6.4	1967	15.8	13.8
1962	10.2	9.3	1968	18.8	15.5
1963	10.6	9.6	1969	22.6	18.6
1964	11.9	10.7	1970	24.9	20.1
1965	13.5	12.0	1971 [1]	28.7	22.5
1966	14.2	12.6	1972 [1]	33.4	25.2

1 Preliminary estimate.

Source: ILGWU Research Department.

APPENDIX 5

IMPORTS OF SELECTED WOMEN'S AND CHILDREN'S GARMENTS

	1961	1966	1972	Percent of change 1961–72	Percent of change 1966–72
Coats	558,000	3,452,000	19,235,000	+3,347	+457
Suits	75,000	181,000	992,000	+1,223	+448
Dresses	3,323,000	9,441,000	26,917,000	+710	+185
Blouses	29,426,000	63,647,000	103,209,000	+251	+62
Skirts	504,000	3,221,000	7,178,000	+1,324	+123
Sweaters (for both sexes)	7,201,000	38,779,000	116,535,000	+1,518	+200
Slacks and shorts	31,145,000	49,509,000	145,677,000	+368	+194
Playsuits	10,958,000	7,224,000	22,037,000	+101	+206
Raincoats (for both sexes)	1,337,000	4,167,000	10,631,000	+699	+155
Dressing gowns and robes	476,000	3,629,000	3,175,000	+567	−12
Nightwear and pajamas	4,492,000	7,297,000	10,872,000	+142	+49
Underwear	1,650,000	3,517,000	24,870,000	+1,407	+607
Brassieres	31,523,000	31,428,000	71,594,000	+127	+128

Note: Peak employment in the U.S. apparel industry producing garments and accessories from knit and woven materials occurred in 1966.

Source: U.S. Bureau of the Census and ILGWU Research Department.

APPENDIX 6

PRODUCTION OF KEY ITEMS OF WOMEN'S AND CHILDREN'S GARMENTS, 1961, 1966, AND 1972

	1961	1966	1972	Percent change 1961–72	Percent change 1966–72
Coats	35,400,000	39,600,000	32,400,000	−8	−18
Suits	23,600,000	25,100,000	13,100,000	−44	−48
Dresses	390,100,000	435,600,000	381,400,000	−2	−12
Blouses	232,400,000	259,300,000	268,900,000	+16	+4
Skirts	122,300,000	148,650,000	116,800,000	−4	−21
Sweaters (both sexes)	165,200,000	197,000,000	183,550,000	+11	−7
Slacks and shorts	108,700,000	191,800,000	[1] 239,600,000	+120	+24
Playgarments	198,900,000	213,000,000	140,000,000	−30	−34
Raincoats (both sexes)	22,000,000	25,000,000	[1] 19,200,000	−13	−23
Dressing gowns and robes	27,900,000	40,800,000	[1] 40,000,000	+46	0
Nightwear and pajamas	191,500,000	234,400,000	[1] 272,350,000	+42	+16
Underwear	788,400,000	765,900,000	613,500,000	−22	−20
Brassieres	207,600,000	250,500,000	[1] 231,350,000	+11	−8

[1] The latest available data are for 1971.

Note: Peak employment in the apparel industry producing garments and accessories from knit and woven materials occurred in 1966.

Source: U.S. Bureau of the Census and the ILGWU Research Department (National Cotton Council data for dressing gowns and robes).

APPENDIX 7

Net loss of potential jobs attributable to import growth apparel (knit and woven) industry, United States 1961–72

Period:	Job loss (−)	Period:	Job loss (−)
1961 to 1962	45,500	1967 to 1968	31,600
1962 to 1963	5,500	1968 to 1969	59,200
1963 to 1964	18,500	1969 to 1970	30,500
1964 to 1965	20,300	1970 to 1971	47,300
1965 to 1966	14,600	1971 to 1972	62,300
1966 to 1967	21,600	1961 to 1972	309,600

Source: ILGWU research department.

APPENDIX 8

AVERAGE PRODUCTION WORKER EMPLOYMENT AND WEEKLY MAN-HOURS APPAREL (KNIT AND WOVEN) INDUSTRY, UNITED STATES

Period	Production workers	Weekly man-hours	Period	Production workers	Weekly man-hours
1961	1,030,600	36,501,000	1967	1,185,100	42,610,000
1962	1,075,000	39,025,000	1968	1,193,800	43,202,000
1963	1,038,000	39,311,000	1969	1,195,900	42,975,000
1964	1,109,500	39,825,000	1970	1,167,300	41,386,000
1965	1,160,400	42,281,000	1971	1,156,600	41,439,000
1966	1,198,200	43,677,000	1972	1,159,100	41,984,000

Note: Products of the apparel (knit and woven) industry not covered by the data are leather, rubber and plastic gloves, vulcanized rubber garments and garments made from rubberized fabrics produced in the same establishment, surgical corsets produced in establishments primarily engaged in manufacturing surgical and orthopedic appliances, and artificial flowers. Products covered by the data which are not products of the apparel (knit and woven) industry are knit fabrics, and fur goods.

Source: U.S. Bureau of Labor Statistics.

APPENDIX 9

Estimated average hourly earnings, apparel industry, United States and abroad, 1971

(Expressed in U.S. dollars)

Country:	*Average hourly earnings*
United States	$2.49
Austria	.91
Barbados	.29
Brazil	.29
British Honduras	.27
Canada	2.07
Colombia	.28
Costa Rica	.30
Dominican Republic	.38
France	.97
French West Indies	.37
Germany	1.57
Guatemala	.29
Haiti	.22
Honduras	.28
Hong Kong	.29
India	.13
Ireland	.98
Israel	.58
Italy	.75
Jamaica	.34
Japan	.70
Leeward and Windward Islands	.23
Mexico	.34
Pakistan	.12
Panama	.64
Philippine Republic	.24
Portugal	.23
Salvador	.32
Singapore	.18
South Korea	.10
Spain	.35
Taiwan	.17
Trinidad and Tobago	.30
United Arab Republic	.16
United Kingdom	1.05

NOTE.—These figures do not take account of earnings of cottage workers (i.e., industrial homeworkers) in foreign countries. In some areas their number is significant. Homeworker wages are but a fraction of the earnings of factory workers in the same countries.

APPENDIX 10

DOLLAR VOLUME OF IMPORTS UNDER ITEM 807 TSUS, APPAREL (KNIT AND WOVEN), BY PRODUCT (IN VALUATION AT THE POINT OF ENTRY INTO THE UNITED STATES)

Product	1965	1966	1967	1968	1969	1970	1971	1972
Coats, men's and boys			$421,165	$748,600	$699,465	$864,764	$1,012,658	$3,296,410
Coats, women's, girls', and infants'		$36,299	433,498	835,085	1,684,363	2,454,166	2,791,543	4,547,840
Rainwear		567	173,464	71,470	890,713	1,757,354	1,954,255	1,483,622
Suits, men's and boys'	$1,563	363	27,703	59,460	133,057	124,587	67,527	83,877
Suits, women's girls', and infants'		14,734	25,580	120,337	737,054	283,700	186,015	137,499
Dresses, women's girls', and infants'	124,688	706,640	1,312,226	3,094,812	5,619,404	4,758,012	6,644,641	8,704,802
Shirts, not knit, men's and boys'	317,642	71,740	633,727	832,414	756,502	3,093,458	5,943,940	6,359,051
Shirts, knit, men's and boys'	278			2,027	9,974	130,973	613,365	2,075,171
Blouses, women's, girls', and infants'	9,606	508,268	[1] 604,459	[1] 1,807,619	[1] 3,041,757	5,482,289	4,725,856	6,115,935
Sweaters	14,648	9,375	4,985	17,379	23,265	18,732	34,349	11,218
Skirts, women's, girls', and infants'	2,426	230,190	[1] 146,720	[1] 728,988	[1] 425,172	261,986	663,919	630,685
Trousers, slacks and shorts, men's and boys'		9,310	1,047,752	1,260,045	1,914,104	1,605,771	2,391,192	3,672,691
Trousers, slacks and shorts, women's, girls', and infants'	3,850	466,328	[1] 348,935	[1] 1,671,337	[1] 4,266,492	5,411,167	7,836,320	11,719,111
Playsuits, Washsuits, sunsuits			30,891	194,735	77,930	225,727	831,252	1,067,651
Underwear, men's and boys'		49,871	80,945		11,773	25,455		
Underwear, women's, girls', and infants'				376,271	584,013	706,475	1,423,021	1,262,851
Body supporting garments	304,161	2,292,575	4,200,954	5,509,156	7,830,952	9,890,181	15,736,823	22,467,453
Pajamas and other nightwear	1,136	765	20,441	136,780	182,932	35,143	46,927	471,323
Dressing gowns, bathrobes, beachwear		277,336	120,000	360,484	338,901	234,253	144,827	14,034
Neckties, men's and boys'			9,302	3,476		15,409	177,453	122,785
Mufflers, scarves, and shawls			449	8,870				
Handkerchiefs	712							
Gloves		11,781	582,423	3,059,218	5,842,624	6,917,713	6,642,088	6,676,162
Other apparel	324,558	1,670,902	1,973,615	3,364,198	5,393,211	5,937,964	9,450,161	14,081,954
Total	1,730,377	6,360,913	12,215,829	24,002,702	40,537,850	50,385,278	69,293,172	95,002,229

[1] Figures adjusted for cotton products reported in sets under TSUSA 382.33.92.

Source: U.S. Bureau of the Census.

APPENDIX 11

QUANTITY OF IMPORTS UNDER ITEM 807 TSUS, APPAREL (KNIT AND WOVEN), BY PRODUCTS

[Numbers, pairs, or pounds]

Product	1965	1966	1967	1968	1969	1970	1971	1972
Coats, men's and boys'			59,880	173,242	175,200	223,227	320,717	728,305
Coats, women's, girls', and infants'		6,349	153,446	158,870	325,617	559,974	500,098	816,206
Rainwear		72	31,320	16,920	87,840	177,588	180,648	188,016
Suits, men's and boys'	33	13	812	1,635	8,080	2,480	1,054	2,921
Suits, women's, girls', and infants'		1,245	2,715	12,039	50,410	220,900	155,395	95,976
Dresses, women's, girls', and infants'	104,172	105,038	400,593	1,204,873	1,639,068	2,444,363	3,230,844	3,851,172
Shirts, not knit, men's and boys'	275,098	56,712	651,516	521,028	621,852	3,101,400	5,299,632	4,640,820
Shirts, knit, men's and boys'	564			1,500	3,432	64,500	324,934	1,029,192
Blouses, women's, girls', and infant's	4,404	188,181	[1] 265,327	[1] 1,046,128	[1] 2,103,720	3,939,437	2,883,732	3,314,110
Sweaters	3,551	2,544	13,383	12,192	7,407	4,292	10,140	4,056
Skirts, women's, girls', and infants'	948	69,980	[1] 76,421	[1] 320,144	[1] 287,844	187,375	316,369	265,989
Trousers, slacks, and shorts, men's and boys		5,247	614,688	893,532	1,376,710	831,573	861,966	1,361,787
Trousers, slacks, and shorts, women's, girls', and infants'	2,400	464,352	[1] 155,097	[1] 1,084,480	[1] 2,727,992	2,655,669	3,730,521	5,510,322
Playsuits, washsuits, sunsuits			10,440	136,884	65,028	197,964	926,556	1,900,320
Underwear, men's and boys'		283,248	443,500		64,512	27,240		
Underwear, women's, girls', and infants'				1,785,648	1,502,484	1,326,168	6,206,136	4,963,884
Body supporting garments	44,352	3,847,248	6,365,224	9,718,581	13,155,108	17,862,732	32,201,376	44,003,435
Pajamas and other nightwear	276	996	12,000	74,004	95,708	17,208	25,308	293,772
Dressing gowns, bathrobes, beachwear		390,684	123,564	308,616	123,324	143,040	65,230	9,355
Neckties, men's and boys'			13,929	11,424		28,740	228,396	146,316
Mufflers, scarves and shawls			240	36,000				
Handkerchiefs	4,080							
Gloves (pairs)		11,328	393,948	2,726,640	4,363,392	5,639,640	8,428,176	11,639,258
Other apparel (pounds)	142,162	524,591	405,785	871,483	[2] 1,353,658	[2] 1,169,435	[2] 1,890,917	[2] 4,035,540

[1] Figures adjusted for cotton products reported in sets under TSUSA 382.33.92.
[2] Excludes products for which quantity data were not reported, valued at $361,318 in 1969; $1,103,817 in 1970; $1,157,659 in 1971, and $2,186,959 in 1972.

Source: U.S. Bureau of the Census.

Mr. SAMUEL. Mr. Chairman, shall I make my presentation?

Dr. Teper has covered much of the material which is in my statement also, so that I am going to summarize, if I may, and perhaps simply highlight a few comments in behalf of my organization.

Mr. BURKE. Your entire statement will appear in the record.

STATEMENT OF HOWARD D. SAMUEL

Mr. SAMUEL. The Amalgamated is very pleased to appear before this committee today. However, we can't help wishing that this committee could have talked with the members who came to visit our office the other day—a few victims of a U.S. trade policy that is so destructive to the apparel industry and to the men and women who labor in its shops. This was not an unusual visit, nor was it an unfamilar story they had to tell.

The delegation that came to our office worked in a shop that was working 2 weeks a month because of the competition of rising imports. They were discouraged and angry and wanted an answer from their union. We tried to explain what we were hoping to do and we talked about our coming appearance before this committee. This was small comfort and really no answer at all. Only you and this Congress can answer these members and the many thousands like them whose destiny is in your hands.

It is time for our Nation to face the facts of modern international trade and design new policies to cope with new challenges to our economy; a policy that will provide the workers in endangered industries with an opportunity to work, to produce, to be part of the mainstream of our industrial society.

This committee has heard many times, with singular patience, about the disruption caused by imports manufactured in other countries. But if it is possible, the loss of a job is more feared in the textile and apparel industries than in most others. Our workers are mostly semiskilled, often educationally disadvantaged and usually minorities and women—the kind of people who are found at the end of the employment queue. They are untrained for other kinds of work and their employment means not only income but it also means dignity and being self-sustaining. The alternative, most often, is not another job but public support and loss of pride.

We are not an inconsequential industry to be abandoned, or even ignored. We are, in fact, the manufacturing industry with the largest employment in the United States, double the number of production workers in the steel and auto industries combined, approximately 2.35 million workers. Many of these employees, as we said, are women. Most entered the industry without advanced skills, yet they are willing workers who, once they become victims of an unfair trade policy, will almost inevitably fall into the category of unemployed who will require some sort of assistance—be it welfare or other aid. By ignoring problems of trade on the one hand, we simply create even more difficult problems on the other.

As a labor intensive industry, we are especially vulnerable to competition from low-wage countries. Some would argue that the U.S. economy can do without any industry at all where labor, rather than technology is the major cost of production. We cannot agree. In fact, we believe the case for an American textile-apparel industry is credible and conclusive. A domestic textile-apparel industry provides a large number of jobs to the people who are most difficult to place in our economy, those who are least able to compete in a technologically oriented society. At a time when more than 4½ million people are out of work, we cannot tolerate the loss of more job opportunities in an industry which provides more manufacturing jobs than any other.

There is no way our industry can compete on even terms with the bulk of industry abroad. If it were a matter of technology, merchandizing, or management we would have nothing to fear. The fact is that in these areas we retain our lead over most employers in the major exporting nations. Competition from abroad is based not on these factors, but on the huge competitive advantage they have in labor costs. Would you have American workers, who work at an average rate of \$2.50 to \$3.50 an hour, work at the same hourly rate—as of 1972-73—as the young girls of Japan at \$1 an hour or Hong Kong at 50 cent an hour, or Taiwan at 25 cent or Korea at 12½ cents? There is at least one major manufacturing sector in Korea where working hours average more than 70 hours a week and wages average less than 5 cent an hour. The answer is obvious. We cannot compete—and indeed we have no wish to compete.

As a consequence of this enormous disparity in labor costs, the level of imported apparel products continue to climb. Despite treaties with some apparel producing nations limiting the levels of imports, the total level of imports has not declined or leveled off. It continues to climb.

Look at a few examples:

In the fast growing manmade fibers area, imported shirts made up just under half (49.8 percent) of U.S. production in 1971, compared to less than a quarter (21.8 percent) of domestic production in 1967. The import growth in men's and boys' coats and jackets is even more startling rising to 57.4 percent of domestic production from only 3.6 percent in 1967. Imported men's and boys' suits in this category have risen to over 8 percent of the domestic market where, in 1967, imports amounted to only one-half of 1 percent.

Similar gains are also being registered for imports of wool and cotton shirts, men's and boys' coats and jackets, trousers and slacks, and shorts and suits.

The rising trade imbalance in apparel has been a major factor in our U.S. balance-of-payments situation. Our textile and apparel import levels in dollar value continue to be three and four times as great as our exports. In 1971 this imbalance in textiles was a whopping 86.9 percent of our Nation's negative trade balance total. In 1972, with a more than $2 billion deficit in apparel trade, the total was almost one-third of our soaring $6.4 billion trade deficit.

Let us give you just one example of the problem we presently face. Singapore, a small island nation of 2 million people, exported to the United States 190,000 square yards of wool and manmade textile and apparel products in 1968. In 1972 their exports of these products to us had climbed to just under 50 million square yards. It is obvious our market had not increased at anything near this rate, and the only result of import patterns like this must be disruption and unemployment.

The problem is made even worse by the effects of section 807 of the Tariff Schedules, which provides for minimal duty, based on value added, for articles assembled abroad. This section seems to be a direct invitation to U.S. manufacturers to uproot existing plants and move offshore—perhaps only across the Mexican border—to reap the dual advantages of low labor costs and low tariffs, plus whatever benefits are offered by the host nation. It may make economic profit for the employer, but economic disaster for his workers here and economic chaos for the United States.

The statistics clearly indicate that apparel-imports are growing, and unless a new policy of restraint is adopted they will continue to grow. The evidence is there for all of us to see whether we see it through the individuals who suffer from that policy—like that delegation who came into our office—or through the stark reality of statistics.

It might seem, for such an enormous labor-based industry, that a few jobs lost here and there could almost be ignored. And in terms of overall totals, this might seem the case. After all, in 1972 the apparel industry had 1,159,100 production workers. But in 1966, 6 years earlier, the total was 1,198,200. In the interim, the economy had expanded greatly, and so had the number of people in the labor force who need jobs.

Despite this economic and population expansion, the number of jobs in our industry declined by almost 40,000. In addition there was a reduction in man-hours of 8 million hours per year. And it isn't technology and automation that is doing it. We can't use that as an excuse.

It is the sheer loss of work opportunities because our industry can't compete with the products coming in from low-wage nations. We can't compete, and we know of no one who suggests that the wages of U.S. apparel workers should be lowered to meet foreign competition.

But we must somehow meet that competition through fair and effective trade policies if our industry and its workers are going to survive.

Ours is a basic and critical industry in the U.S. economy. Our workers are a vital asset to our Nation's productive capacity. We cannot afford to abandon this industry or its employees.

What can we do about it? There are a number of alternative approaches which have been suggested. They include: To do nothing; to depend on adjustment assistance; to give the administration the power to negotiate restraint agreements; or to adopt mandatory quotas. Let us take each in turn.

1. If we do nothing, we are saying that the apparel industry is dispensable, that we don't need it as part of the U.S. economy, that such a labor-intensive industry

has no place in our technologically advanced society. At a time when unemployment is already high, we cannot bury our heads in the sand of an outdated trade policy and give up more badly needed job opportunities.

2. Adjustment assistance is the Pied Piper's tune, which for years has enticed liberals into the trap of unrestricted free trade. We are told that our workers should put their trust in adjustment assistance, which, it is claimed, needs only to be improved and then they need not fear the loss of their jobs to imports. Unfortunately, the existing adjustment assistance program is not only a case of too little and too late—and everybody, even the chamber of commerce agrees with that—but it is not a practical answer to the problems that face us now and will continue to face us in the future. The plain fact is that adjustment assistance cannot be "improved" or made palatable, for two reasons. It is based on a fallacy. And the cost is too high. The fallacy is that the people who are put out of work by the unfair competition from imports can easily be moved into another, and equally well paying job, and that all it takes is money. But that is not true. The people who lose their jobs to imports in our industry cannot be easily moved, or retrained, or relocated. And unless we assure ourselves a permanent full employment economy, there probably would not be another job available anyway.

We are not talking about young college graduates with no particular ties to any one place or career. We are talking about adult workers with families, living in established homes in their own communities, with few skills; often women with family responsibilities; sometimes older workers.

Even if we had full employment, and training programs were feasible, the cost of any adjustment program which was serious about the real problems in an industry as large as ours would be exorbitantly high; higher than the Federal Government would be willing to go. If we assume that only 2 percent of the present number of employees in the apparel industry lose their jobs to imports each year, and we pay them in adjustment allowance equal to 100 percent the average weekly wage for a total of 1 year, and we also provided to them the manpower training to which they would be theoretically entitled—the total cost just for these workers in the apparel industry would be about $153 million—an average weekly benefit of $97 for 52 weeks to 23,000 workers representing 2 percent of the total apparel industry employment at the present time, plus an average cost of $1,600 for each. Please remember this is just for apparel workers. It does not include any workers in other industries entitled to adjustment assistance. I ask you to compare this $153 million with the $43 million that is included in the fiscal year 1974 President's budget for adjustment assistance allowances and the zero dollars included in that budget for manpower training for workers eligible for adjustment assistance.

3. The third option, which is incorporated in the administration bill, is to give to the Executive the power to raise or lower tariffs as it feels the situation demands in each industry. We are not displeased at this first recognition by any recent administration that steps should be taken to avoid unemployment caused by disruptive levels of imports, but we respectfully suggest that decisions of this nature are too important to the Nation's economy to be left entirely to the discretion of the executive branch. Even the best of good intentions are not enough. For the past several years this administration has made its ostensible goal the negotiation of international agreements regulating imports of manmade and wool fiber textiles and apparel, similar to the cotton fiber Long-Term Agreement first signed in 1963. Despite the evident determination of the administration, it took almost 4 years to negotiate agreements with the major Far Eastern exporting nations, and at this time there is no assurance that we will be able to extend this pattern on a worldwide basis. We believe it is time to enact legislation to give the administration a stronger mandate by establishing a definite policy, not only for our industry, but for all industries vulnerable to disruption caused by imports.

4. This is why we support the concept of mandatory quotas, proposed in title III of the Burke-Hartke bill. Such a mandate by establishing a national policy would give to the President the tools with which to avoid disruption and excessive unemployment, either through negotiated agreements on a multilateral basis, or through the self-imposed quota.

Let me point out that most of our major trading partners have already established quotas or other kinds of nontariff barriers to assure orderly marketing in sensitive and important industries. What are propose is nothing new or startling, but is rather an accepted institution in international trade. Our goal is not to cut off trade or even necessarily to reduce it in most cases, but to regulate it in a way to protect one of the Nation's most precious resources: Jobs for our people.

In the light of the extensive commentary on the administration trade bill you have already heard from AFL-CIO leadership, there is no need to discuss it at length. We would like to comment on one aspect only, the section which would remove the present country-of-origin identification. We believe that foreign-made products are not automatically similar to domestic products, even when they bear the same trade names, and that it would be a disservice to consumers as well as to workers to eliminate the country-of-origin requirement. As a matter of fact, we have long believed that country of origin should not only be identified on the products themselves, but also in advertising for foreign products. Currently such retail advertising of foreign-made products seeks to hide this fact, in an effort to fool consumers into thinking that an advertised product is U.S. made. The only party which benefits from this practice is the retailer.

The delegation of members who came to our office recently nnderstood—better than many economists—the significance of what had occurred to them. They were working to help their family's standard of living, and they knew instinctively that the gradual closing of their shop was only a symptom of a much greater problem. Let us remind you that these workers are not only our members but your constituents, and they look to us for a solution to this problem. We are confident you will not let them down.

The CHAIRMAN. Francis Schaufenbil, the president of the United Textile Workers of America, was supposed to be here, but he advised us he wouldn't be here. Our next witness is Mr. Sol Stetin. You may proceed, sir.

STATEMENT OF SOL STETIN

Mr. STETIN. I am Sol Stetin, the president of the Textile Workers Union of America. On behalf of the 200,000 workers represented by our organization who are engaged in the production of synthetic fibers and textile mill products in the United States and Canada, we welcome this opportunity to present our views in support of the Burke-Hartke bill—H.R. 62, S. 151.

Our support for this bill grows out of the bitter experience of witnessing unrestrained imports of textile products entering this country in ever-expanding volumes, wiping out hundreds of thousands of American jobs for the last 25 years. Mr. Peter G. Peterson, who was assistant to the President for International Economic Affairs at the time, stated on October 15, 1971, that the "sharp and sudden increase in the amount of textiles imported from other countries had accounted for a job loss of more than 100,000 since January 1969."

It was to stem this tide of imports that the United States entered into agreements with the four largest suppliers of manmade fiber and wool products imports—Japan, Hong Kong, Taiwan, South Korea. The October 1971 agreements permit regulated growth in imports from these countries. They were patterned after the Long-Term Arrangement on Cotton Textile Trade, which has permitted regulated growth in imports of cotton products since 1962.

We submit that the principles supplied by the United States to govern trade in cotton, man-made fiber and wool products have served this Nation well. In the words of Mr. Stanley Nehmer, former Deputy Assistant Secretary of Commerce,

> The LTA (Long-Term Arrangement) has clearly provided a framework for orderly international trade in cotton textiles * * * It has resulted in adequate supplies of cotton textiles at reasonable prices * * * and at the same time has provided much needed foreign exchange earnings for the exporting nations.

It is noteworthy that imports of cotton products rose by 46 percent in the decade of the sixties (from 1.1 billion equivalent square yards in 1960 to 1.5 billion in 1970). Moreover, they have continued to grow substantially, reaching 1.9 billion in 1972, a rise of 25 percent in the past 2 years.

Similarly, the arrangements respecting man-made fiber and wool product imports have achieved what Mr. Peterson described as "an appropriate balance between * * * the interests of our people and our industry in this country and, on the other hand, permitting fair access to our markets from these other countries." In the first year of these bilateral agreements total U.S. imports of covered products rose by 6 percent to 4.4 billion square yards. In the first quarter of the second year, U.S. imports of wool and manmade fiber textiles exceeded an annual rate of 4.6 billion square yards, 11 percent higher than in the corresponding period of the previous year.

BURKE-HARTKE EXTENDS REGULATED GROWTH CONCEPT

We recommend the principle of regulated growth embodied in the textile trade arrangements. It recognizes the need for permitting growing access to American markets for foreign goods. At the same time it imposes restraints on the rate of growth to prevent imports from disrupting our markets and destroying our jobs.

This is the basic concept of title III of the Burke-Hartke bill. This title would restrain imports in each category of goods for 1974 to the annual average of imports during the base period of 1965 to 1969. Increases thereafter would be permitted in proportion to the increase in domestic production of these goods.

The application of this principle would safeguard the jobs of those textile workers who are not covered by the agreements respecting cotton, wool, and manmade products. A group of such workers who are in urgent need of protection are the several thousand people engaged in the manufacture of hard-fiber and synthetic cordage products. Imports of farm twines have risen to the point where virtually all of U.S. consumption is accounted for by foreign products. Similarly, imports have captured more than 93 percent of the industrial twine market in this country. The only sector of the hard-fiber and synthetic cordage industry in which American producers are still supplying a substantial portion of the market is the rope sector.

Domestic industry sales of hard-fiber rope have declined steadily from a 1965–69 average of 52 million pounds to 29 million ponunds in 1972. Imports have continued to increase, reaching 22 million pounds last year, 38 percent higher than the 1968–69 average. Unless a sliding scale formula such as the Burke-Hartke bill provides, is applied to this category, imports will surely erode the ability of the domestic industry to survive.

THE NEED FOR EFECTIVE ADJUSTMENT ASSISTANCE

Our experience with the adjustment assistance provision of the Trade Expansion Act of 1962, and this is the final point I want to make, has convinced us that it is unworkable. This provision imposes upon the Tariff Commission the task of determining whether particular cases of unemployment are due "in major part" to increased imports, which in turn are due "in major part" to concessions granted under trade agreements. This task has involved the Commission in a series of mental gymnastics which has contributed very little to meeting the real needs of textile workers. Only one of the nine petitions we submitted on behalf of displaced textile workers has received a favorable decision by the Commission.

The Government's responsibility for easing the problems of displaced workers can best be met by requiring the payment of severance pay to all workers who lose their jobs as a result of plant liquidations for the many years of service that they gave to that corporation. The difficulties of adjustment are not limited to those whose unemployment can be traced to imports. The most severe adjustment problems are faced by workers displaced as a result of a plant closing. They generally have no opportunity to transfer to another job. Frequently the closing of a plant has a serious impact on the entire community, compounding the difficulties confronted by the unemployed workers.

We therefore urge the committee to adopt an amendment to the Foreign Trade and Investment Act of 1973 to require employers to contribute to a severance pay fund so that employees who are displaced as a result of plant liquidation will receive a severance allowance sufficient to enable them to make the necessary adjustments. Payment of an allowance equal to pay for a week and one-half's work for each year of service would go a long way toward meeting the workers' needs.

The United Kingdom has had such legislation in effect since 1965. The Redundancy Payment Act assures workers who are dismissed because of redundancy, payments to ease their transition to other work. Surely the United States should do no less.

So we say in conclusion that the enactment of the Burke-Hartke bill, with an amendment to provide severance pay to employees displaced by plant liquidation, would achieve a trade policy for America which is fair to our trade partners and to ourselves.

STATEMENT OF THE ALUMINUM ASSOCIATION INC., SUBMITTED BY THE INTERNATIONAL POLICY COMMITTEE

The Aluminum Association welcomes this opportunity to present its views on the Trade Reform Act of 1973. The Association's 72 member companies include all the domestic producers of primary aluminum and account for about 82% of the semi-fabricated aluminum manufactured and shipped in the United States.[1]

The Aluminum Association supports the position that there is need for multilateral trade negotiations looking to reform of the international trading system. The Trade Reform Act could provide the vehicle through which the United States could participate in such negotiations. The legislation is complex and covers a wide range of trade policy issues. The Aluminum Association hopes that the forthcoming trade negotiations, monetary stabilization measures, and the relaxation of restrictions on the international flow of capital, will make for world market conditions which enable industries, such as aluminum, to provide essential goods with maximum efficiency and minimum governmental interference.

This statement is confined to comments on specific features of the bill before you and to recommendations for its improvement.

The following basic characteristics of the aluminum industry determine its position with respect to foreign trade and investment policy and the forthcoming negotiations:

1. The Aluminum industry is international in character and is becoming more so over time. The international structure and operations of the industry range from the mining of ore to the marketing of its products. The evolution of the aluminum industry internationally reflects patterns of international trade, investment, marketing technology transfer, low unit freight costs, the sourcing of raw materials, and the proliferation of international production. This is true for both the United States and foreign industry; some of the largest foreign companies have major U.S. affiliates engaged in the manufacture of aluminum and aluminum products in the United States.

2. The industry's capital requirements are very large. The facilities of the United States industry represent an investment of 12 billion dollars. These expensive and large plants, once in place, are fixed and there is every incentive for reasons of cost and technology to maintain full capacity operation. This is true for the industry worldwide.

3. Technology for the production of aluminum is widely diffused throughout the free world. No one country or region has technological supremacy over the rest of the world. Similarly, cost advantages as to raw materials, power or transportation are scattered among the major producing countries.

4. Bauxite is the ore presently used in the United States to produce primary aluminum. Bauxite imports, both crude and chemically refined (called alumina), come principally from Australia and Caribbean countries. Bauxite is also mined in other parts of the world.

Aside from bauxite, the United States has very large deposits of various aluminum-containing minerals which can be used to produce primary aluminum. Technology has been developed, or is being developed, to process these minerals economically. Under current technological and economic conditions however, bauxite continues to be preferred by domestic primary aluminum producers.

These characteristics make it desirable to maintain stable and strong international relationships and mutually beneficial economic arrangements with other countries both developed and developing. They also make the domestic industry sensitive and vulnerable to distortion in world market conditions and to the trade and investment policies of governments. In order to be competitive worldwide, the United States industry must have the freedom to be as international in its activities as are its foreign competitors. Thus, because world markets for aluminum are intensely competitive, tariff differentials and other obstacles to trade have an important effect on the pattern of aluminum production and trade internationally.

Against this background, we would like to propose the following specific comments with regard to HR10710:

1. *Sector Negotiations.*—In its statement before the Ways and Means Committee the Aluminum Association endorsed the concept of sectoral approach. It believes such an approach is in keeping with the international character of

[1] See Appendix A for list of members.

the aluminum industry and the government's goal of open and equitable competitive conditions. The Ways and Means Committee amended the Administration's bill by adding Section 102(c), relating to non-tariff barriers, instructing the President to negotiate trade agreements on the basis of product sectors to the extent feasible in order to achieve, with regard to such sectors, "competitive opportunities for U.S. exports to the developed countries of the world equivalent to the competitive opportunities afforded in U.S. markets to the importation of like or similar products, taking into account all barriers (including tariffs) to and other distortions of international trade affecting that sector." The Aluminum Association urges that this provision be retained in the bill with certain additional suggestions which are noted below.

The Aluminum Association realizes that international trade rules and national trade laws cannot be custom-designed to the needs and conditions of an individual industry. Nevertheless, it believes that a number of basic industries, including aluminum, are important enough to the economy to warrant the sector approach in trade negotiations. Such selective use of the sector approach, is not urged as an exclusive negotiating technique, but as one of several techniques to deal with tariff and non-tariff barriers. So used, it could be an extremely useful tool for achieving certain highly desirable objectives in the negotiations. The first is the achievement of greater equality and fairness in trade policy. There are a number of industry sectors, of which aluminum is one, where it is inequitable to have different systems of trade restrictions in the form of tariffs and non-tariff barriers applicable in major markets. Serious distortions of trade and production result. If trade were treated equally, these distortions would be eliminated and the industry concerned would have a sense of equity in that no one would be geting special treatment. Secondly, the sector approach would provide a means to achieve greater liberalization of trade and uniformity of policy and practice within those sectors than would be the case if the sector approach were not used in the negotiations.

The sector approach is not an entirely new idea. It was tried on a limited basis in the Kennedy Round which was mainly confined to tariff negotiations and can be even more important in future negotiations which will deal with non-tariff barriers as well. This approach was recommended in future negotiations by the former Secretary General of the GATT. He identified the industry sectors that lent themselves particularly to sector negotiations as those characterized by "modern equipment, high technology and larger scale production, and by the international character of their operations and markets." He went on to observe that in these industry sectors "there are evident gains to all in arriving, within a defined period, at free trade." We agree with this assessment because we believe that sector negotiations would make it possible to reduce and eliminate tariff and non-tariff barriers, thus removing distortions of trade and progressing towards equal access to markets.

The aluminum industry's basic characteristics, as outlined earlier in this statement, qualify it as the type of industry referred to by the former Secretary General of the GATT in his comments on sector negotiations. Aluminum is a basic industry in the U.S. economy and also in the economies of other major trading countries. Compared with some other basic materials, aluminum provides less drain on limited and non-renewable resources. Aluminum containing minerals constitute an extremely large raw material base. The recyclability of aluminum provides a revolving reserve of the metal, with minimal use of energy and without consuming basic raw materials.

The potential usefulness of sector negotiations was also acknowledged during the GATT Ministerial Meeting in Tokyo last September. The Declaration of Ministers, approved on September 14, 1973, included the following among the aims of the forthcoming GATT negotiations:

> ". . . an examination of the possibilities for the co-ordinated reduction or elimination of all barriers to trade in selected sectors as a complementary technique; . . ."

We offer three recommendations with respect to the sector negotiation provisions of the Trade Bill as passed by the House:

(a) The bill should explicitly provide that the sector approach apply to tariffs as well as non-tariff barriers. The negotiations should simultaneously deal with tariffs and non-tariff barriers in a particular sector.

(b) The President's tariff negotiating authority (Section 101) should include authority for the complete elimination of duties when other principal trading countries are prepared to do the same with respect to the comparable products. This would be useful authority in sector negotiations.

(c) The Committee should consider a discussion in its report of the rationale for sector negotiations including an indication of the industries for which such negotiations are most appropriate. The criteria that are relevant, as noted earlier, include internationally-traded products, advanced technology, similar conditions of production, international price, and industry characterized by multinational corporations.

The United States should provide vigorous leadership in urging the sector approach for selected industries during the next round of GATT trade negotiations. To that end, the Trade Reform Act should be unmistakably emphatic in its support of such a policy.

2. *Trade with Non-Market Economies* (*Title IV*).—Most of the attention directed at Title IV has to do with the authority to grant most-favored nation treatment to the Soviet Union. The attention of the Committee is drawn to another aspect of this title, namely, the question of dealing with the disruption of markets and economic injury that can result from the activities of state-controlled entities that may reflect political and strategic considerations. Fundamentally, the question is: how can private, profit-dependent companies compete effectively against state-controlled suppliers?

While it is an objective of government policy to expand commercial contracts with the Soviet Union and Eastern Europe, it must be recognized that the foreign trade of these countries is not conducted in accordance with Western commercial market principles and is not subject to the constraints of fully calculated costs, and market pricing under which private companies do business. Therefore, such trade should be subject to safeguards which could be invoked quickly enough to protect domestic industries against disruptive imports. The prospect for disruptive trade will increase in the event of granting MFN treatment to imports from the Soviet Union, as well as from other state trading economies. The impact of state enterprise can be particularly severe and quick in the case of ~~world~~ traded commodities, such as primary aluminum.

The unique character of the problem of trade with the Soviet Union, was reviewed in the January 1974 issue of "Foreign Affairs" by Dr. Raymond Vernon, widely recognized for his scholarly expertise in international trade matters. Following are excerpts from his article which are pertinent to Title IV of the Trade Reform Act:

". . . For years, the Soviet Union has felt obliged on Marxist principles to disregard the cost of capital as an input to production; products like aluminum, therefore, were much cheaper in Soviet eyes than capitalist calculations might have suggested. But a more profound difficulty also exists. It stems from the fact that in the U.S.S.R. the fixing of prices is an instrument of policy. The price of labor is determined in the light of a given set of social objectives, the prices of various industrial materials are established in response to still another set of objectives, the prices of consumer products to still another. The managers of enterprises are gauged mainly by their capacity to satisfy certain physical norms. In those circumstances, the meaning of any calculation of cost and price from the viewpoint of an enterprise economy such as the United States is largely lost. Because the U.S.S.R. sets its prices in order to serve its national objectives, the prices and costs of the enterprise are not the factors that determine the import and export patterns of the Soviet Union." (Foreign Affairs, January 1974, pp. 252–3)

". . . Abrupt shifts are to be anticipated from time to time not only in the imports of the Soviet Union but also in the export mix." (ibid, p. 255)

". . . The question of abrupt changes in trade patterns takes on a special importance because the economies of the United States, Western Europe, and Japan have managed to lower their trade barriers so dramatically over the past 25 years." (ibid, p. 256)

Dr. Vernon concluded his article with these words:

". . . In our eagerness to continue the process of détente, however, it is dangerous to pretend that the problems outlined here do not exist. If we succumb to that very strong temptation one of the casualties of pretending may be the very process of détente itself." (ibid, p. 262)

The implications of Dr. Vernon's observations are of special relevance to aluminum. The Soviet Union has long been a net exporter of primary aluminum. Currently the Soviet Union is actively seeking the participation of western aluminum companies in the construction of a $1.2 billion aluminum complex in Southern Siberia. Thus, the Soviet aluminum export potential is likely to be increased with the construction of this project. In fact the Soviet Foreign Trade Minister, during a Pittsburgh press conference on February 4, 1974, said that Russia seeks to increase appreciably its sales of nonferrous metals to the United States.

The difficulty of properly appraising the implications of MFN treatment for Soviet aluminum is further compounded by the dearth of information about Soviet aluminum capacity, production and consumption. The U.S. aluminum industry is thus faced with a prospect of great uncertainty and concern, particularly if MFN is granted without adequate safeguards.

Section 405 attempts to deal with this problem but does not do so adequately. The difficulty is that this provision would not deal with disruptive sales in the U.S. markets. If such sales take place at well below prevailing U.S. market prices, their adverse impact occurs when the offers are first made. Injury would be inflicted on the domestic industry long before the Tariff Commission could complete its investigation.

Similarly, although Section 404 requires that any bilateral commercial agreement with a state-trading company shall contain "safeguard arrangements necessary to prevent disruption of domestic markets." there is no further specification as to what they should be. Nor does the Ways and Means Committee amendment to Section 301 dealing with export subsidies (Subsection 301(a)(3)) provide assistance in this regard. The difficulty with this amendment is that subsidies have no meaning in state trading economies.

This opportunity to present aluminum industry views and recommendations with respect to the Trade Reform Act is deeply appreciated.

MEMBERS OF THE ALUMINUM ASSOCIATION, INCORPORATED

AE Division
Alcan Aluminum Corporation
Aluminum Casting & Engineering Co.
Aluminum Company of America
Aluminum Mills, Inc.
Aluminum Precision Products, Inc.
Amax Aluminum Company, Inc.
American Aluminum Casting Co.
Anaconda Aluminum Company
Anaconda Wire and Cable Co.
The Arcola Wire Company
Arrow Aluminum Castings Co.
Atomized Metal Powders, Inc.
The Castings Corporation
Clendenin Bros., Inc.
Cliff Manufacturing Company
Club Products Company
Consolidated Aluminum Corporation
Coleman Cable & Wire Co.
Copperweld Corporation
ECK Industries, Inc.
EKCO Products, Inc.
Extruded Metals
Fairfield Aluminum Castings Company
Fischer Casting Company, Inc.
Foote Mineral Company
General Aluminum Mfg. Company
General Cable Corporation
General Extrusions, Inc.
The Harvey Metal Corporation
Hitchcock Industries, Inc.
Howmet Corporation
Ireco Aluminum, Inc.
Kagan-Dixon Wire Corporation
Kaiser Aluminum & Chemical Corp.
Kawecki Berylco Industries, Inc.
Magnode Products, Inc.
Mansfield Brass & Aluminum Corporation
Martin Marietta Aluminum Inc.
Metal Impact Corporation
Minalex Corporation
Morris Bean & Company
National Aluminum Corporation
Nichols-Homeshield, Inc.
Noranda Aluminum Inc.
Norandex Inc.
Permold, Inc.
Phifer Wire Products, Inc.
Progress Foundries Division of Chromalloy American Corporation
Quality Aluminum Casting Co.
Reliable Castings Corporation
Revere Copper and Brass Incorporated
Reynolds Metals Company
RJR Archer, Inc.
Rome Cable Division
Ross Aluminum Foundries
Saramar Aluminum Company
Scovill Manufacturing Company
Season-All Industries, Inc.
S-G Metals Industries, Inc.
Silberline Manufacturing Co., Inc.
Southwire Company
Stahl Specialty Company
Texas Instruments, Inc.
United Aluminum Corporation
U.S. Reduction Co.
V. A. W. of America, Inc.
Vulcan Materials Company
Werner Mfg. Corp.
Wellman Dynamics Corporation
Wells Aluminum Corporation
Wolverine Tube Division

STATE OF ILLINOIS,
DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT,
Chicago, Ill., April 10, 1974.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee,
Old Senate Office Building,
Washington, D.C.

Dear Chairman Long and Members of the Senate Finance Committee: The Illinois Department of Business and Economic Development has as its responsibility the maintenance of a healthy economic base for the vast Illinois business community. I am Howard R. Fricke, Director of the Department of Business and Economic Development. International trade plays a major role in Illinois' economy and I take this opportunity to address you in regards to H.R. 10710, The Trade Reform Act of 1973.

In fiscal year 1973, Illinois was the leading exporting state in the Nation with total exports of manufactured goods and agricultural commodities of $5.2 billion. Of that total, $3.9 billion represented manufactured goods and $1.3 billion agricultural goods. Some 900,000 Illinois workers, 17% of the State's labor force, earn all or part of their salary because of export related activities.

Governor Walker, the Department of Business and Economic Development, and the people of Illinois strongly urge the passage of a liberal trade bill and urge passage at the earliest possible time. H.R. 10710 is not as liberal as the Trade Reform Act presented by President Nixon on April 10, 1973 or as the bill originally proposed last May by the Honorable Wilbur Mills to the House Committee, but with some reservations and exceptions, I ask for its quick approval.

Speedy approval is necessary so that the United States' trading partners are aware of this country's commitment to freer international trade. It is also important to have this bill passed so that the G.A.T.T. talks to be held in Geneva this September can be meaningful, our negotiators must have the authority to negotiate from strength and be in a position to speak for the Administration and the Congress.

The Congress has the dual responsibility of providing a climate favorable for two-way trade and protecting domestic labor and industry. It is my feeling that Titles II and III of H.R. 10710 addresses itself to the dual responsibility of protecting U.S. laborers and companies against unfair and illegal trade practices by foreign companies while providing relief to industries injured by fair competition. At the same time, freer trade allows the U.S. citizen to purchase a wider variety of foreign goods at a more competitive price while demanding better quality. It is also imperative that foreign countries earn U.S. dollars so that they are in a position to buy U.S. goods.

My primary reservation to H.R. 10710 is the inclusion of the Jackson-Vanik Amendment as it addresses itself to the granting of Most Favored Nation treatment (Title IV) to countries which place immigration restrictions upon its citizens. If the President or the Congress refuse to grant M.F.N. to the Peoples Republic of China, to the U.S.S.R., Poland, East Germany, and others, they will create a major impediment to trade with those countries. Our competitors around the world are pursuing those markets energetically with all kinds of credits and incentives, our competitors have good equipment and modern technology, should not U.S. manufacturers be able to compete? There is currently concern as to future trade with the Common Market countries, traditionally our largest customers, should we not pursue a policy of seeking new potential markets?

The feeling that the Jackson-Vanik Amendment is harmful to U.S. business interests and is not an appropriate part of the Trade Reform Act is not approval of immigration policies practiced in Soviet Russia nor do we think it inappropriate for the Congress to try to influence other Government's policies as it relates to human rights and human freedom, but in so doing the Congress must avoid (1) the stifling of international trade and its benefits, (2) possibly creating a backlash that could hurt those the Congress wants most to help, and (3) creating a barrier to real detente and diminishing world tensions.

Our Department would like to urge the inclusion of Senator Mondale's Amendment to the Trade Reform Act—we can no longer ignore the need for access to raw materials and such access is a proper part of the Trade Reform Act and of the G.A.T.T. negotiations. The President (or his designee) must be in a position to speak with authority and with the support of Congress on this issue.

To summarize and conclude, I would urge the Committee to recommend passage of H.R. 10710 with the deletion of the Jackson-Vanik Amendment (or at least with a much more flexible version that would not definitively deny M.F.N. to the U.S.S.R., China, etc.) and the inclusion of the Mondale Amendment. Freer trade between countries contributes to our domestic economic development, it creates jobs, and enables U.S. citizens to purchase better goods from abroad.

It is our hope that the Senate will act swiftly and liberally. Thank you.

HOWARD R. FRICKE, *Director.*

STEPTOE & JOHNSON,
Washington, D.C., April 12, 1974.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee,
New Senate Office Building, Washington, D.C.

DEAR SENATOR LONG: Enclosed is an amendment to Title IV of the pending trade reform bill, that is addressed to the volatile problem of dumping from countries that would receive most-favored-nation treatment under Title IV. I am submitting this amendment with attached commentary for your Committee's consideration on behalf of Talley Industries, Inc., and its subsidiary, General Time Corp.

The prospect of dumping from countries presently receiving column 2 rates creates dangers for which neither the present Antidumping Act nor the pending trade bill provide an adequate remedy.

As you know, determination of dumping under our Antidumping Act usually depends upon a comparison between the U.S. selling price of an imported article and the home market price or value of the same article. Those countries presently receiving column 2 tariff treatment, however, generally have state-controlled non-market economies. Home market prices and values of products from such countries are therefore extremely difficult, if not impossible, to determine or approximate.

Section 321(e) of the pending trade reform bill attempts to address itself to this problem. Its proposed solution of permitting the Secretary of the Treasury to rely upon prices of comparable products in third countries having free-market economies, however, it is not an efficacious remedy. The search for an appropriate product from an appropriate third country in an effort to approximate home market prices and values in a country having a state-controlled economy, will be a time-consuming process. And the Secretary could well come to the conclusion that no third country prices provide a reasonable guideline for measuring the dumping he believes is taking place.

A similar gap in the applicable antidumping laws of Canada has resulted in severe damage to Canadian industries. A few years ago in Canada, most-favored-nation status was accorded to imports from communist-bloc countries. Among the consequences of this action was a tremendous influx into Canada of spring-wound clocks from Eastern Europe and the U.S.S.R., at prices well below those of comparable, domestically produced clocks.

For example, the number of such clocks from the Soviet Union and Eastern Europe imported into Canada jumped from near zero in the early 1960's, to about 350,000 in 1971, and to approximately 700,000 in 1972. Canadian clock manufacturers instituted a proceeding under Canada's antidumping laws, but the Canadian government thus far has been unable to procure sufficient data to make an expeditious determination of dumping. The absence of adequate interim measures has led to the near-ruin of several Canadian clock manufacturers.

The amendment submitted herewith is an attempt to fill this void. The amendment would permit the imposition of an *interim* or *provisional* antidumping duty where the Secretary of the Treasury has received information indicating: (1) that the likelihood of dumping exists, and (2) that this alleged dumping is causing or is likely to cause "market disruption" as defined in section 405(c) of the bill.

The amendment provides that the amount of such a provisional duty would be equal either to the difference between the U.S. selling price of the imported article and the prevailing selling price of comparable or competitive domestic articles, or to some other amount reasonably approximating the estimated dumping margins based on available information at the time.

The amendment includes several safeguards. For example, if the Secretary ultimately determines that dumping has not occurred, or if the Tariff Commission ultimately determines that the injury requirements have not been met, all provisional duties would be promptly refunded to each importer who had paid them. If the Secretary should ultimately determine that the provisional duty exceeded the actual dumping margin, he would be required to refund the excess to each importer who had paid the duty.

If, within six months after first imposing a provisional duty, the Secretary had not received sufficient information to make a final determination of whether dumping or its likelihood had occurred, or if he did not have sufficient data concerning home market or appropriate third country prices and values from which to determine the actual dumping margin, the provisional duty would be converted into an ordinary antidumping duty.

This proposed amendment would not violate any known international commitments of the United States. In fact, its provisions would be consistent with article 10 of the controversial International Dumping Code.

East-West trade under Title IV of the bill will create special risks for American industries. Traditional antidumping remedies need to be focused to help reduce these risks. We therefore urge that the Committee give full consideration to this proposed amendment, in order that increased trade with "column 2" countries under Title IV of the Trade Reform Bill will not leave American industries without an adequate remedy for the special dumping problems that this trade will generate.

Respectfully submitted.

MONROE LEIGH,
Counsel for Talley Industries, Inc.

Amendment

TO TITLE IV OF THE TRADE REFORM BILL

(H.R. 10710)

On page 137, following line 13, insert the following new section:

SEC. 408. *Special Antidumping Procedures.*

(a) Where information concerning the dumping of imported merchandise is submitted pursuant to section 201(b) of the Antidumping Act of 1921 (19 U.S.C. sec. 160(b)) with respect to imports of an article receiving nondiscriminatory treatment pursuant to this title, and where this information tends to show that imports of the article are causing or are likely to cause "market disruption" as defined in section 405(c) of this title, the provision of this section shall apply.

(b) Following the submission of information referred to in paragraph (a) of this section, the Secretary of the Treasury shall, within thirty (30) days, determine whether there is a reasonable likelihood that imports of an article receiving nondiscriminatory treatment pursuant to this title are causing or are likely to cause "market disruption" as defined in section 405(c) of this title. If this determination is in the affirmative, the Secretary of the Treasury—

(i) shall immediately levy and collect a provisional duty equal to the difference between the selling price of the imported article in the United States and the prevailing selling price in the United States of comparable or competitive domestic articles, or some other amount reasonably approximating the estimated dumping margin based on available information at the time; and

(ii) shall establish a separate "provisional duty account" into which any provisional duty, thus levied and collected, shall be deposited.

As used in this paragraph, "selling price" means the wholesale price of the article, unless retail transactions are the subject of the antidumping proceeding in question.

(c) If, within six months after first levying a provisional duty pursuant to paragraph (b) of this section, the Secretary of the Treasury has received sufficient data and information to make a final determination of whether dumping or the likelihood of dumping has occurred within the meaning of section 201 of the Antidumping Act of 1931 (19 U.S.C. Sec. 160) with respect to the article in question, or of the margin of dumping, then—

(i) in the case where the Secretary determines that dumping or its likelihood have *not* occurred, the Secretary shall promptly refund all provisional duties to each importer who paid these duties with respect to the imported article in question, paying said refund from the "provisional duty account" established under paragraph (b) of this section;

(ii) in the case where the Secretary determines that dumping or its likelihood have occurred, the Tariff Commisison shall make a determination of injury or its likelihood pursuant to section 201(a) of the Antidumping Act (19 U.S.C. Sec. 160(a));

(iii) pending the Tariff Commission's determination, the Secretary shall continue to levy and collect the provisional duty referred to in paragraph (b) of this section;

(iv) if the Tariff Commission's determination is in the negative, the Secretary shall promptly refund all provisional duties to each importer who paid these duties with respect to the imported article in question, paying said refund from the "provisional duty account" established under paragraph (b) of this section;

(v) if the Tariff Commission's determination is in the affirmative, the Secretary shall thereafter levy and collect a "special dumping duty" computed under section 202 of the Antidumping Act of 1921 (19 U.S.C. Sec. 161);

(vi) in the case where the amount of the provisional duty computed under paragraph (b) of this section exceeds the amount of this "special dumping duty," the Secretary shall refund the excess amount to each importer who paid the provisional duty with respect to the imported article in question, and shall transfer to the general fund of the Treasury of the United States any sums remaining in the "provisional duty account" established pursuant to paragraph (b) of this section and attributable to the imported article in question; and

(vii) in the case where the amount of the provisional duty is equal to or less than the amount of this "special dumping duty," the Secretary shall transfer to the general fund of the Treasury of the United States any sums remaining in the "provisional duty account" and attributable to the imported article in question.

(d) If, within six months after first levying a provisional duty pursuant to paragraph (b) of this section, the Secretary of the Treasury has not received sufficient information to make a final determination of whether dumping or the likelihood of dumping has occurred within the meaning of section 201 of the Antidumping Act of 1921 (19 U.S.C. Sec. 160) with respect to the article in question, or of the margin of dumping, then the Secretary of the Treasury—

(i) shall redesignate the provisional duty as a special dumping duty, and shall thereafter levy and collect it as a special dumping duty, notwithstanding the provisions of section 202 of the Antidumping Act of 1921 (19 U.S.C. Sec. 161); and

(ii) shall transfer to the general fund of the Treasury of the United States any sums remaining in the "provisional duty account" established pursuant to paragraph (b) of this section and attributable to the imported article in question.

(e) The Secretary of the Treasury shall promptly publish in the Federal Register notice of any determination or action made or taken pursuant to this section.

(f) The Secretary of the Treasury may promulgate appropriate regulations to carry out the provisions of this section.

COMMENTARY TO PROPOSED SECTION 408

Section 408 provides for the imposition of provisional antidumping duties on certain imports that would receive nondiscriminatory treatment pursuant to Title IV. Such provisional duties would be imposed *only* where information has been received by the Secretary of the Treasury indicating (1) the likelihood of dumping and (2) that the imported article in question is causing or is likely to cause "market disruption" as defined in section 405(c) of the bill.

The purpose of section 408 is to provide an interim and flexible remedy with respect to the special problems involved in the dumping of imports from countries whose products are not eligible for "column 1" tariff treatment. A determination of dumping under the Antidumping Act of 1921 as amended (19 U.S.C. § 160 *et seq.*) usually depends on a comparison between the U.S. selling price of the imported article and the home market price or value of the article in the country of origin.

It would, however, be extremely difficult, if not impossible, to determine expeditiously the home market price of value of articles originating from "column 2" countries, because prices and values in such countries are generally determined by state regulation instead of by market forces.

Even an approximation of home market prices and values in "column 2" countries by reference to prices and values in an appropriate third country is expected to be a relatively time-consuming process. This section 408 would provide an interim remedy until sufficient data was received to apply the standards established in section 321(e) of this bill, adding a new section 205(c) to the Antidumping Act of 1921. This interim remedy is consistent with Article 10 of the International Dumping Code.

Where section 408 is applicable, the amount of the provisional duty would equal the difference between the U.S. selling price of the imported article and the prevailing selling price of a comparable or competitive domestic article, or some other amount reasonably approximating the estimated dumping margin based on available information at the time. The Secretary must determine the existence of probable "market disruption" and immediately impose a provisional duty, within thirty days after receiving information indicating the likelihood of dumping.

If the Secretary ultimately determines that dumping has not taken place, or if the Tariff Commission determines that the requisite injury requirement has not been met, then all provsional duties assessed against the imported article in question would be promptly refunded to each importer who paid these duties. If the amount of the provisional duty is ultimately found to exceed the actual dumping margin, then the excess would be refunded to each importer who paid the provisional duty in question. If, within six months after the provisional duty is first imposed, the Secretary has not received sufficient information to make a final determination of whether dumping or its likelihood have occurred, or if he does not have sufficient data to determine the amount of the dumping margin, then the provisional duty would become an ordinary antidumping duty.

The Secretary of the Treasury would have the authority to promulgate regulations to carry out the provisions of section 408. The Secretary must promptly publish in the Federal Register notice of each determination or action made or taken pursuant to section 408.

Statement by the Scotch Whisky Association

Summary

The Scotch Whisky Association believes that the wine-gallon basis for assessment represents a classic American nontariff barrier of special significance. This trade distorting feature of U.S. law is of concern to European countries, and is of particular concern to the United Kingdom—since whisky and other alcoholic beverages constitute a large share of British exports to the U.S., one-third of a billion dollars annually. This is the approximately equal to the combined American exports to the U.K. of unmanufactured tobacco and electronic computers and other office machines.

A willingness of American negotiators to deal with this matter, pursuant to Congressional authority, would make clear to America's trading partners that the United States is indeed quite serious in its desire to eliminate nontariff trade distorting measures.

Even apart from its great symbolism, the wine-gallon trade distorting device is quite apt for negotiation since:

It is easily quantifiable;

Its removal would not result in a flood of new products overwhelm domestic products; and

It is directly comparable to foreign restrictions would hamper expanded American exports of wine and distilled spirits.

The negotiated removal of the wine-gallon basis of assessment will not have a negative impact on overall American revenues. Its removal will allow the normal pressures of the marketplace to operate, without the burden of the

patently unfair and discriminatory "water tax" now imposed upon imported bottled whisky.

Job security for American workers in the aggregate should be enhanced, rather than injured, if the U.S. negotiators were armed with the authority to remove the wine-gallon basis of assessment. The negotiated removal of this trade distorting element will have its impact only upon the manner in which the whiskey is imported (i.e., bulk or bottle); it will not dramatically affect the competition which the domestic bourbon producers may experience from Scotch, gin, vodka and lighter whiskies.

STATEMENT

The Scotch Whisky Association is a corporation organized under the laws of the United Kingdom, formed by and composed of producers of Scotch Whiskey. The Association, composed of 150 members, is grateful for this opportunity to present for the record a statement with respect to the Committee's consideration of the proposed Trade Reform Act of 1973. The Association wishes to confine its comments to Section 102 of the proposed Act which is subtitled "Nontariff barriers to and other distortions of trade."

The Importance of Nontariff Distortions of Trade

Substantial reductions have been made in the tariff barriers to international trade, beginning with the reciprocal trade agreements and more recently as a result of the Kennedy Round of tariff reductions. As these tariffs have been lowered, nontariff trade distorting practices have become a more important hindrance to an open international trading system. Trading nations worldwide now appear to be prepared to make a serious attempt to deal with the maze of nontariff barriers that are hindering a normal expansion of world trade.

In 1962, Congress expressed concern that barriers other than tariffs were nullifying concessions which the United States had obtained through trade agreements. Congress again expressed concern about NTB's in committee reports on the proposed Trade Act of 1970. However, we understand that the Trade Act of 1973 is the first piece of legislation which really comes to grips with the problem.[1]

Request by the executive.—The Executive requested advance authority to implement agreements with respect to methods of customs valuation, establishing the quantities on which assessments are made, and the requirements for marking of country of origin. In the section-by-section analysis of the proposed legislation, the Executive provided illustrations of this particular proposed authority:

> *Agreements relating to* American Selling Price, the "Final List", simplification of methods of valuation and the *wine-gallon/proof-gallon basis for assessment*, for example, *could be implemented under this authority.* [Italics added]

Response by the House.—The House of Representatives recognized the need for broad negotiating power—as requested by the Executive—but disagreed with the wisdom of including the authority to pursue agreements on some NTB's in advance of Congressional review. As a practical matter, the House Ways and Means Committee also recognized the risk that the U.S. negotiators might give up more than might be desirable in pursuit of a particular agreement. The House, therefore, widened the Congressional veto procedure to cover all NTB agreements and provided for consultation, in advance of the completion of such agreements, with appropriate Congressional committees. We understand that it was considered that this revised mechanism would give the U.S. negotiators the credibility they need at the bargaining table, because there would be a reasonable expectation that negotiated agreements would be implemented, and, at the same time, the mechanism would preserve Congressional responsibility for domestic legislation and the protection of domestic interests.[2]

Status of veto procedure.—The Congressional veto procedure would permit the President to submit agreements and implementing documents when domestic statutes would be affected or when further Congressional action, while not required, would otherwise be appropriate. No special interests are, or should be,

[1] This is the conclusion of Congressman Brotzman of Colorado during House floor consideration of H.R. 10710; Cong. Rec. H10956 (December 10, 1973).

[2] This is the conclusion of Congressman Clancy of Ohio during House floor consideration of H.R. 10710; Cong. Rec. H10964 (Dec. 10, 1973).

excluded from its scope. Indeed, the *only* NTB-related area where this veto procedure would *not* be applicable is with respect to the adoption of a new system of customs valuation or the Brussels tariff nomenclature—and this is due solely to the unique legislative character involved.[1] Especially in light of the expressed exception relating to valuation and the Brussels nomenclature, it is clear that the wine-gallon matter is contemplated within the Congressional veto procedure.

In his testimony for the record, Ambassador Eberle stated that the veto procedure "could also be used to implement an agreement involving elimination of the wine-gallon/proof gallon basis of assessing duties and taxes. . . ." Similarly, the wine gallon matter was listed among the measures within the scope of the veto procedure in the Finance Committee Staff Summary and Analysis. (at p. 15)[2]

The Wine-Gallon Method of Assessment

Probably the most widely known illustration of an American nontariff trade barrier is the American Selling Price (ASP) system. Symbolic as it is, however, the ASP is by no means the only major U.S. nontariff barrier. The wine-gallon/proof-gallon basis for assessment represents a classic American nontariff barrier of great significance. Indeed, it would completely undercut the effectiveness of the American position on nontariff distortions during the Tokyo Round negotiations if the U.S. did not indicate an express readiness to negotiate about the wine-gallon/proof-gallon issue.

Discriminatory tax on imported bottled whisky.—This trade distorting practice relates to the method of assessing the Federal excise tax and duty on imported whisky. Perhaps the best brief description of this practice was made by Professor Baldwin, one of America's leading experts on nontariff barriers:

> The excise tax is $10.50 on each gallon of whiskey that is 100 proof or less (50 percent or less alcoholic content). Since bottled Scotch and Irish whiskey is normally 86 proof (43 percent alcohol), the excise tax falls on 14 percent water, and the actual rate paid on bottled whiskey is equivalent to . . . $12.21 per gallon of whiskey under 50 percent alcoholic content. There would be nothing discriminatory about this if U.S. producers were taxed in a similar way. However, U.S. producers pay the tax prior to bottling when the whiskey is at least 100 proof (50 percent alcohol). Consequently, 86 proof *whiskey imported in bottles is subject to a tax of $12.21 per gallon* on the alcoholic content *whereas* 86 proof *whiskey bottled in the U.S. is subject to only $10.50 in taxes* on the alcoholic content.[3] [Italics added]

This aptly describes the dissimilar and unequal tax treatment of bottled distilled spirits. A bottle of Scotch whisky imported into the United States not only is charged a tariff duty upon its entry into the United States, but in addition an internal excise tax is charged by a method of assessment which makes the tax rate significantly higher on the imported bottle than on a similar bottle produced domestically. Accordingly, the imported bottle must pass the barrier of the tariff wall and also the nontariff barrier placed by the excise tax which discriminates in favor of domestically produced whisky as a results of the wine-gallon/proof-gallon method of assessment. If the basis for assessment were exclusively on a proof-gallon basis, there would be equality of tax treatment of imported bottled and bulk spirits. As a result, domestically produced and imported spirits would

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[1] As stated by Congressman Ullman: "The [Ways and Means] Committee has been assured, however, that due to the complexities involved and, in particular, to the unique legislative character of establishing a valuation and classification standards for international trade that the adoption of a new system of customs valuation or the Brussels tariff nomenclature *will be the subject of a request for affirmative Congressional approval through the regular legislative procedure.*" [Italics added] (Cong. Rec. H10930–1, Dec. 10, 1973) This was also noted by Ambassador Eberle in his testimony for the record: "assurances have been given by the Administration that adoption of a new overall system of customs valuation or of the Brussels Tariff Nomenclature would be the subject of affirmative Congressional approval through the legislative process." (at p. 34)

[2] To the extent that it might be argued that a possible ambiguity on this point can be interpreted from colloquy between Congressmen Ullman and Rostenkowski (Cong. Rec. H10965, Dec. 10, 1973), it would be useful for the Finance Committee to make clear that the wine-gallon issue is unambiguously within the veto procedure.

[3] Robert E. Baldwin, *Nontariff Distortions of International Trade,* The Brookings Institution (1970), p. 136. Professor Baldwin's description related only to the method of assessing the excise tax, but of course the tariff duty is also affected. Accordingly, the total discriminatory impact is the sum of the tax difference of $1.71 ($12.21 minus $10.50) and the duty difference of $.08, or $1.79 per gallon.

be subject to the same tax treatment. Thus, a major distortion of a significant portion of international trade would be removed.

Historical context.—It is generally recognized that nontariff trade barriers are complex and in many cases are imbedded in domestic laws. This is certainly the case with the wine-gallon/proof-gallon basis for assessment. The wine-gallon method of assessment was imbeded in the domestic law of the United States more than a century ago. It was designed for good reasons—to remedy domestic abuses—and had no relationship whatsoever to imports.

The impact of the discriminatory feature of the wine-gallon basis for assessment did not become significant until after the second World War when the Internal Revenue tax rate increased so significantly. From that period and over the years, various attempts have been made, through litigation and through legislation to remove this trade distorting practice. The fact of the long-standing nature of the complaint of this historic anomaly has clothed it with a great symbolism.[1]

Importance to trading partners.—Without question the wine-gallon issue is of real importance to America's trading partners. The wine-gallon assessment is listed under the GATT category of "Charges on Imports" as an American practice that has been the subject of complaints or protests by foreign officials or exporters or by U.S. importers.[2] This trade distorting feature of U.S. laws is of concern to European countries, and is of particular concern to the United Kingdom, since whisky and other alcoholic beverages contribute a large share of British exports to the United States—one-third of a billion dollars annually. The size of this British export to the United States is approximately equal to the total combined American export to the United Kingdom of unmanufactured tobacco and electronic computers and other office machines. The size of this British export to the United States is also approximately equal to the total combined U.S. export of corn to all countries. (In this context, it may be of interest to note that the Scotch Whisky Industry itself imported approximately one million tons of American Maize during the 1968–1972 period.) In short, because this American nontariff trade distorting device impacts upon such an important export industry, it is of real concern to America's trading partners.

Trade distortion impact.—The impact of this method of assessment is reflected in the dramatic shift in the manner of imports of Scotch whisky: an increasingly larger share of the total Scotch imports into the United States is in bulk form at over 100 proof for reduction in strength and bottling in the United States, rather than imported in bottles from Scotland. In 1962, for example, approximately ten gallons of bottled Scotch whisky were imported for every one gallon of bulk imported; whereas, in 1972, this ratio had diminished to a point where less than two gallons of bottled Scotch were imported for each gallon of imported in bulk. This is a clear distortion of trade caused by the U.S. method of taxation which discriminates against imported bottled whisky.

The Wine Gallon Assessment is an Appropriate Negotiating Subject

It is quantifiable.—In a general context, it is difficult to deal with nontariff barriers in part because most do not lend themselves to quantifiable terms: most do not take the form of discriminatory payments (as do tariffs) nor are they expressed as absolute limitations on trade (as are quotes). This general difficulty in grappling with nontariff trade distorting practices is not present in the case of wine-gallon methods of assessment. It is easily quantifiable. It is, therefore, easier to deal with in a negotiating framework. This ease of handling, this quantifiable character of the wine-gallon issue, is yet another reason why the United States should be prepared to negotiate about this matter.

Removal will not overwhelm U.S. products.—It is often charged that the removal of some nontariff barriers to trade might result in a virtual flood of new products from abroad overwhelming domestic products. This is a legitimate area of concern to American legislators and negotiators. But this understandable general concern is not applicable to the wine-gallon issue. Its removal as a trade distorting mechanism would not result in a sudden flood of new products into the U.S. The result would be that the relationship between Scotch whisky imported in bottles and imported in bulk would be determined by the pressures

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[1] Attached to this statement is a more detailed memorandum containing a review of the history of the wine-gallon/proof-gallon method of assessment.

[2] Committee on Ways and Means, (93d Cong., 1st sess.) Briefing Materials (May 1973) pp. 144, 150.

of the marketplace, and not by the artificial pressures of discriminatory tax treatment. The removal of this discrimination would not serve to create any dramatic increase in the rate of total Scotch imports.

Direct relationship to foreign restrictions.—A principal stated negotiating requirement of the bill as passed by the House is that negotiations on nontariff barriers should be conducted on a product sector basis to achieve equivalent market access and nondiscriminatory trading treatment among countries within the particular product sector. However, there are some U.S. nontariff barriers which do not have a direct foreign equivalent, and vice versa. In such situations, negotiations which thus must take place across sectoral lines with tradeoffs of concessions between sectors become more difficult and complex. In the case of the wine-gallon matter, however, there exist directly comparable foreign restrictions, the elimination of which are very much in the U.S. interests so that U.S. exports may have a better opportunity to compete abroad. This is not to suggest that the United States and its negotiators might not feel that additional concessions with respect to other products might be needed to make a fair exchange.

The foreign restrictions on wines and spirits are illustrated in an inventory of the nontariff barriers of the major U.S. trading partners, prepared by the Office of the Special Trade Representative. The inventory includes those foreign restrictions which have been reported by U.S. diplomatic missions overseas or have been the subject of U.S. industry complaints. Foreign restrictions on wines and spirits which harm U.S. export potential can be illustrated in the following areas: (a) in France, excise taxes fall more heavily on whisky and spirits distilled from cereals than on fruit-based spirits, and also there are advertising restrictions on whisky and spirits distilled from cereals; (b) the Italian state seal tax applies discriminatorily to spirits distilled from cereals or sugar cane as opposed to liquors distilled from fruit or grapes; and, (c) in Japan, the progressive internal tax on whiskies and brandies represents de facto discrimination against high-priced imports.

It is expected that the U.S. negotiators will attempt to get these foreign restrictions removed, for they are of understandable concern to American exporters. For example, the American wine industry has forcefully urged that the U.S. "strenuously support placing the elimination of . . . non-tariff trade barriers against U.S. produced wine high on the agenda.[1] American bourbon producers have stated that "because of foreign restrictions, taxes and trade policies, a mere four million gallons of bourbon were exported [in 1972] to our trading partners."[2]

Bargaining power.—The U.S. negotiators will certainly strive for the elimination of such foreign nontariff barriers relating to restrictions on alcoholic products. But, foreign negotiators will be very much more difficult to bargain with—indeed, virtually intractable—unless the U.S. negotiators are able to evidence ability and willingness to negotiate about the elimination of the chief American trade distorting practice in this area, the wine-gallon method. Representative Clancy of Ohio noted during the House debate that "our negotiators must have sufficient authority. If they do not, their foreign counterparts simply will not be willing to bargain with them."[3] Authority and willingness to negotiate about the wine-gallon method will certainly enhance the prospects that American negotiators will have success in eliminating these foreign restrictions, so that U.S. exports of wine and bourbon and other alcoholic beverages can increase in the freer competitive atmosphere.

It is peculiarly within the province of the negotiators to balance interests either exclusively on a sector basis, or by additional concessions outside this immediate sector.

There is no Reasonable Objection to Negotiating on the Wine Gallon

Possible revenue loss.—Some who oppose a willingness to negotiate about the wine-gallon method of assessment point to a substantial number of tax dollars which they allege might be lost to the U.S. Treasury if this method were eliminated as a result of the negotiations. Aside from the fact that the actual direct identifiable loss may be relatively modest, this argument rests on a very narrow viewpoint. It should not be looked at in isolation, however, for focusing only on the possibility of some direct tax dollar loss to the Federal Treasury, the propo-

[1] Statement of the Wine Institute, Hearings, part 9, p. 3049.
[2] Hearings, part 14, p. 4831.
[3] Cong. Rec., H10964 (Dec. 10, 1973).

nents of this argument fail to recognize the wider context: that any possible direct loss to the Federal Treasury will be more than made up by the increased prosperity of the U.S. exporting industries as a result of the negotiated removal of foreign nontariff barriers. It must be remembered that the net result of the negotiation process, whether within or across sectoral lines, must be in the overall interest of the United States.

Another consideration which forces the rejection of such a "tax loss" argument is that the current direct Federal tax revenues obtained as a result of the wine-gallon basis of assessment are simply not fairly gained. The application of this tax to imported bottled distilled spirits is manifestly unfair: a portion of the tax is assessed on the water content in the bottled imported distilled spirits. There is no objection to the payment of a tax on the alcoholic content of the bottle, since this same amount of tax is paid by the producers of domestic spirits. But, under the wine-gallon basis of assessment, the tax is applied also on the 14% of the imported bottle of whisky (at 86 proof) which is water; the water in the domestically produced bottle has not been taxed. It is the revenues obtained from this "water tax" which are not fairly gained.

As a result of the distorting impact of this method of assessment, an increasing percentage of Scotch imports are in bulk form, rather than in bottles. If this trend toward bulk continues—as a result of the continuation of this discriminatory method—the relative proportion of whisky imported in bottles will continue to decrease. Thus, it is possible that there will be a proportionate reduction in the amount of Federal tax revenues obtained from the water content of imported bottled distilled spirits, simply because there will be relatively fewer imports of bottled Scotch. Indeed, if it is not eliminated, the "water tax" revenues will decline in significance.

Domestic employment.—Some American distillers who object to negotiating the removal of the wine-gallon assessment have speculated that the elimination of this trade distorting technique would result in the loss of employment by American workers. Job security for American workers is a very genuine concern to U.S. officials. But, the best protection of American jobs is not offered by the maintenance of discriminatory trade distoring measures. This point was most aptly made during the House Ways and Means Committee hearings on behalf of the President of the Distillery, Rectifying, Wine and Allied Workers' International Union of America, AFL-CIO:

> Those [alcoholic beverages] that come in bulk are bottled by our members and to that degree it gives employment to our members. But I should add that I certainly would prefer that more work be done by our members producing American whiskey. I think we will get a lot more jobs in that particular way.[1]

The best way to ensure that more American whisky is exported—and that more American products can be sold in foreign markets—(and more American jobs are created) is to cut away the foreign restrictions which now serve to hamper this development; and the best way to ensure that the U.S. can accomplish this is for the American negotiators to be prepared to negotiate the removal of the U.S. discriminatory measure, the wine-gallon method. Accordingly, job security for all American workers is enhanced rather than injured when the U.S. negotiators are armed with the authority to remove the wine-gallon method of assessment.

Domestic industry.—Some opposition to the elimination of this discriminatory tax method centers around the allegation that the domestic distilling industry would be severely damaged. This opposition may produce statements and exhibits showing the growth of imported distilled spirits over the past years, a growth which they allege has curtailed the sale and production of domestic distilled spirits. They point out that there will be an increase in the momentum of foreign products capturing a greater share of the U.S. market.

Quite to the contrary, the negotiation of the removal of the wine-gallon method has nothing whatsoever to do with the allegations of some domestic industry representatives that imports are having an adverse effect on their business. The wine-gallon method—whether or not it continues to exist—will have no dramatic impact at the expense of the bourbon industry upon the expected increase in total number of gallons of Scotch whisky imported into the U.S. in the future. The real impact relates merely to the manner in which the whisky is imported, i.e., in bulk or bottle.

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[1] Hearings, part 14, p. 4858–59.

The Scotch Whisky Association wishes again to express its appreciation for the opportunity to record for the committee this statement of its views.

ATTACHMENT

THE PAST AS PROLOGUE: REVIEW OF THE HISTORY OF THE WINE-GALLON/PROOF-GALLON METHOD OF ASSESSMENT

Formation

On March 12, 1868, the House of Representatives prepared a Report on Whiskey Frauds.[1] Out of this Report developed the wine-gallon/proof-gallon basis of tax assessment—the same method which is in use today. The Report culminated more than a year's study and testimony, and had as its aim the recovery of additional tax revenues by the Government through the prevention of fraudulent practices, and the reduction in the number of Federal Officers.

At the time of the Report the tax on whiskey recently had been raised to $2 per gallon. (Whiskey then cost 30–40¢ a gallon to manufacture.) It was estimated in the Report that full payment of the tax would realize $200 million, whereas only $25 million was paid in taxes the year before. In addition, the situs of whiskey distillation had undergone a dramatic movement toward the large cities, especially in the north. For example, in 1860 New York City had 10 or 12 distilleries but at the time of the Report, there were several hundred. Apparently the non-payment of whiskey taxes was so widespread that whiskey was very often sold for $1.50 a gallon—less than the tax alone. The Report placed the weight of blame on the dishonest core of revenue inspectors. In turn, the Report charged the President with being unwilling to dismiss the dishonest inspectors.

One of the ways in which the frauds were engineered related to overseas "sales' and was described in the report in the following manner:

> If the operators were determined to steal from the government to the last dollar, an exportation bond would then be filed, the whiskey put on the market, the *barrels filled with water* and shipped. In due time, a consul's certificate from the port to which it was consigned would be produced to cancel the bond for exportation. Here the bonds for each transfer would be good and the government completely swindled. [Italics added]

Among the papers of one warehouse keeper, according to the Report, was a letter from an agent abroad urging speedy shipments, and also containing the gratifying announcement that the counsul had assured him he would merely count the barrels received and not examine the contents. Another example noted in the Report is the outline of a proposal put by a dishonest revenue inspector in New York: "The proposition, as submitted, contemplated taking whiskey out of bond for exportation, *substituting water for shipment,* and putting the whiskey on the market." [Emphasis added] The general corruption is reflected in the following passage of the Report:

> The whiskey ring is stronger than political combinations, controlling the selection of inspectors; in some instances it has dictated the appointment of consuls, to have a willing tool at foreign ports. In New York City, today, consul certificates can be obtained as easily as tax receipts.

The House Report carefully reviewed the tax situation in the United Kingdom, which had one of the highest whiskey tax rates in the world. The Report indicates that it had been impossible in the United Kingdom to prevent illicit distillation and evasion of tax. It was considered important that even in a country of limited area, dense population, well established system of law, few distilleries (New York and Philadelphia alone had more distilleries than all of the United Kingdom), and a thoroughly organized and experienced core of revenue officers, it still had been impossible to prevent fraud and avoidance of paying the high tax.

The answer to this situation, according to the Report, was to reduce the tax, down to fifty cents a gallon. Even with such a reduction, the Committee was confident that the amount of revenue would double, since the amount of gain to potential tax evaders would be reduced relative to the risk of their being caught. The second major recommendation of the Committee was that there should be a simplification of the system and abolition of bonded warehouses so that "the great and rapacious army of officials may be mustered out." The tax, said the Committee, should be collected at the distillery, "and after leaving there, the

[1] H.R. Rep. No. 24, 40th Cong., 2d sess. (1868).

whiskey should be free; no spies to follow it into the rectifier's, the druggist's, or dealer's, to seize stores, break open safes, and examine the private papers of the citizen."

The Report of the Committee, and the two specific recommendations contained therein, were acted upon promptly. On July 20, 1868, the Congress adopted a lengthy (26 page) Act[1] setting up a new regime for the imposition of taxes on distilled spirits. The Act reduced the tax on distilled spirits down to fifty cents, as recommended in the Committee Report. The Act also provided that the tax be attached to the spirits as soon as they came into existence. A host of heavy fines and detailed safeguards were spelled out in the Act: distillers had to be registered and bonded, all distilleries had to be surveyed and capacities reported, and there was to be a physical separation of the distillation and rectification processes. The distiller had to provide a "distillery warehouse" at the distillery, and the distillery warehouse then came under the direction and control of the tax collector of the district. Importantly, the tax had to be paid before the removal from the distillery warehouse. Upon withdrawal, after the tax had been paid, the cask was to be officially guaged and stamped, and engraved with the number of proof gallons. Tighter restrictions were also applied with respect to spirits withdrawn for export to foreign countries.

Section 1 of the Act introduced the wine-gallon/proof-gallon method. The Act provided that the tax shall be levied and collected.

> . . . on each and every proof gallon, to be paid by the distiller, owner, or person having possession thereof before removal from distillery warehouse; and *the tax on such spirits shall be collected on the whole number of guage or wine-gallons when below proof*, and shall be increased in proportion for any greater strength than the strength of proof spirit as defined in this Act.

In accordance with this method of assessment, regardless of the proof of the whiskey in the cask, the distiller—the taxpayer—was nevertheless assessed a tax as if the cask contained 100 proof spirits.

It is obvious from the Committee Report and Act itself that the wine-gallon/proof-gallon method of assessment was created for the purpose of guarding against any continuation of earlier fraudulent practices in which the taxpayer removed the whiskey in order to evade the payment of the tax. The abuses which the Act sought to eliminate related to the U.S. domestic scene, including fraudulent export practices. The import from abroad of distilled spirits does not appear at all as a factor in the history or intent of this Act or in the establishment of the wine-gallon/proof-gallon method. The establishment of this assessment basis in 1868 was to prevent frauds against the Treasury with respect to domestically produced distilled spirits. The corrective and punitive measures were taken against domestic distilled spirits only, not against imports.

Application to Tariff Duty Assessment

A revenue Act of July 14, 1870[2] established a new set of duties and rates of duty for goods imported from abroad. Section 21 of the Act provided for a duty on distilled spirits of $2 per proof gallon. The standard for proof (percentage of alcohol content) was expressly made the same as set out in the 1868 Act. In addition, this Section of the 1870 Act also provided that "each and every guage or wine gallon of measurement shall be counted as at least one proof gallon".

There is no indication why Congress applied the wine-gallon/proof-gallon method of assessment to the tariff duty on imported distilled spirits. The domestic abuses and fraud which led to the establishment in 1868 of that method were not present with respect to the duty levied on imports. It would seem, therefore, that since the proof standard was understandably to be consistent with the 1868 Act (and that was expressly provided for), it was simply for the sake of complete conformity that the authors of the 1870 Act took also the method of assessment from the 1868 Act. Literary conformity, rather than reasoned judgment, appears to be the basis for the introduction in 1870 of the wine-gallon/proof-gallon method of assessment for import duties on distilled spirits. This method—while perhaps harmless at the time of its almost accidental adoption—now serves as a virtual hidden protective duty.

[1] Act of July 20, 1868, Ch. 186. (40th Cong., 2d sess.)
[2] Act of July 14, 1870, Ch. 255. (41st Cong., 2d sess.), 16 Stat. 263.

Continuation of the Tax and Duty

In 1872, Congress again turned its attention to the tax on distilled spirits. The tax was increased from 50¢ to 70¢ in June,[1] and the offices of assessor and assistant assessor were abolished in December.[2] While these acts made additional changes in the regime set up under the 1868 Act, the wine-gallon/proof-gallon method of assessmbent was not altered.

The tax was raised again (to 90¢) in 1875 by an Act which clarified the text of the earlier provision. The revision provided that:

> . . . there shall be levied and collected on all distilled spirits thereafter produced in the United States, a tax of ninety cents on each proof gallon, or wine gallon when below proof, to be paid by the distiller, owner or person having possession thereof, before removal from the distillery bonded warehouse.[3]

It would appear evident that the Congress intended that the relatively low *tax* should continue to be applied only on domestically produced distilled spirits, while the only burden on spirits imported from abroad would be the relatively higher customs *duty*.

The $2 rate of duty was continued in the duty Schedule for imports in 1883. The provision in the Act was that:

> Brandy, and other spirits manufactured or distilled from grain . . . two dollars per proof gallon; each and every gauge or wine gallon of measurement shall be counted as at least one proof gallon; and the standard for determining the proof . . . shall be the same as that which is defined in the laws relating to internal revenue. . . .[4]

The duty on imported distilled spirits was decreased to $1.80 in 1894.[5] The same 1894 Act, in Section 48, also increased the internal revenue tax on distilled spirits produced in the United States to $1.10 "on each proof gallon, or wine gallon when below proof." The Tariff Act of 1913[6] increased the duty on imported distilled spirits to $2.60.

A significant change in the tax was introduced in 1917. In the Act of October 3, 1917,[7] Title III was captioned "War Tax on Beverages." It provided, in Section 300, that:

> There shall be levied and collected on all distilled spirits in bond at that time or that have been or that may be then or thereafter *produced in or imported into* the United States, . . . in addition to the tax now imposed by law, a tax of $1.10 [or $2.10 if withdrawn for beverage purposes] . . . on each proof gallon, or wine gallon when below proof . . . *to be paid by the distiller or importer*. . . .

As a result of the revenue needs of the war, this internal revenue tax for the first time was applied to imported distilled spirits as well as domestically produced spirits. The same Act also prohibited further imports; Section 301 stated that "no distilled spirits [used for beverage purposes] produced after the passage of this Act shall be imported into the United States from any foreign country. . . ."

It would appear clearly that the decision of the Congress to apply an internal revenue tax to imported spirits—in addition to the tariff duty—was based upon the need to secure additional revenues as a result of the First World War. Again, there is no evidence that any serious consideration was given as to whether the method of assessment for domestic whiskey was relevant to the situation of imported spirits. The chief reason for this lack of serious consideration was because wartime prohibitions became effective in 1917 and national prohibition became effective in 1919.

The revenue Act of 1918[8] repealed the 1917 Act, although it continued in Section 601 the prohibition of imported distilled beverage spirits produced after the date of the 1917 Act. The tax on distilled spirits was greatly increased by Section 600(a) of the Revenue Act of 1918—to $2.20 (or $6.40 if withdrawn for beverage

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[1] Act of June 6, 1872, Ch. 315. (42nd Cong., 2d sess.)
[2] Act of Dec. 24, 1872, Ch. 13. 42nd Cong., 3d sess.)
[3] Act of Mar. 3, 1875, Ch. 127. (43rd Cong., 2d sess.), section 1.
[4] Act of March 3, 1883, Ch. 121, (47th Cong., 2d sess.), Title XXXIII, Schedule H.
[5] Act of Aug. 27, 1894, Ch. 349. (53d Cong., 2d sess.), Schedule H.
[6] Act of Oct. 3, 1913, Paragraph 287.
[7] Ch. 63. (65th Cong., 1st sess.) ; 40 Stat. 308.
[8] Act of February 24, 1919 (65th Cong., 3d sess.), title VI.

purposes). The same wine-gallon/proof-gallon method of assessment was employed. Importers of distilled spirits for many years litigated whether they were required to pay *both* the duty (under the Tariff Act of 1913) and also the internal revenue tax imposed by the Revenue Act of 1918. The courts uniformly held that the importer had to pay both the tariff duty and the internal revenue tax. *Shaw & Co. v. U.S.*, 11 Ct. Cust. App. 226 (1922), *Shaw & Co.* v. *U.S.* 12 Ct. Cust. App. 88 (1924), and *Alex D. Shaw & Co. v. U.S.*, 20 C.C.P.A. 188 (1932) The Court of Customs and Patent Appeals pointed out:

> If we were to give to the controverted provision [Section 600(a) of the Revenue Act of 1918] the interpretation contended for by the importer it would be to hold, contrary to the obvious intent of the legislature, that in this wartime taxing provision, Congress intentionally reduced the amount of revenue to be raised from imported spirits. No plausible reason has been suggested why Congress would have so intended. . . .[1]

This internal revenue tax on distilled spirits, as provided for in the Revenue Act of 1918, has remained essentially intact, and now appears at 26 U.S.C. § 5001(a)(1). The Revenue Act of 1926[2] changed the authority responsible for collection of the tax on imported spirits, from the collector of internal revenue to the collector of customs, so that the customs authorities collect both the tariff duty and the revenue tax. This provision now appears at 26 U.S.C. § 5007(b)(1).

The foregoing review of the formation and early history of the wine-gallon/proof-gallon method of assessment makes it abundantly clear that this method is at best an historical anomaly when related to imported bottled distilled spirits. This basis was established to prevent frauds on tax revenues as a result of domestic abuses. It was then applied to customs duties probably merely for the sake of literary conformity. The anomaly was compounded at the time of the First World War, when the internal revenue tax was made applicable also to imported distilled spirits. From that point, importers of distilled spirits have been burdened with both a duty and a tax, each employing the wine-gallon/proof-gallon method of assessment. While importers complained about the imposition of both the tax and the duty, there is little evidence during this early period of complaints addressed to the method of assessment—probably because of the relatively low internal revenue tax rate. After the American experiment with Prohibition and the Second World War, the situation changed. The discriminatory effect of this method of assessment—which was applied to imports by virtue of historical accident—began to be felt, because the internal revenue tax rate increased dramatically from $2.25 in 1940 to $9 during the 1943–1951 period, and finally to $10.50 beginning in 1952.

Attempts To Change the Method Through Legislation

In 1947, the United States invited 19 countries to take part in the negotiation of a multilateral trade agreement in Geneva. During the course of the negotiations several new countries were added, and the result was that 23 countries participated in the final negotiations. Tariff reductions and concessions were conducted bilaterally on a product-by-product basis, and the various bilateral agreements were combined to form a single General Agreement on Tariffs and Trade, known as GATT. GATT did not become in effect immediately, but President Truman proclaimed the Geneva agreement in effect provisionally as of January 1, 1948.

GATT did not enter into force fully because certain of the general provisions were in direct conflict with domestic legislation and there was Congressional resistance to change the domestic provisions. An attempt to overcome these provisions was made in the 81st Congress when the Executive submitted the Charter of the abortive International Trade Organization (ITO) to the Congress for approval. The objectives sought by the GATT closely paralleled those sought in the ITO, and most of the provisions were similar. Approval of the ITO Charter would have virtually eliminated the conflicting domestic legislation. The House, however, refused even to bring the ITO Charter to the floor for consideration, and the Executive then withdrew it. The Executive then attempted to achieve its objectives through the proposed Customs Simplification Act of 1951.

The key relevant provision of the GATT is contained in Article III, Section 2: "The products of the territory of any contracting party imported into the

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[1] *Alex D. Shaw & Co.* v. *U.S.*, 20 C.C.P.A. 188 (1932), at 191.
[2] (69th Cong., 1st sess.), 44 Stat. 104, section 900.

territory of any other contracting party shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to the like domestic products. . . ."

With this Article in mind, the Executive introduced the Customs Simplification Act of 1951. The proposed Act would have repealed the wine gallon method of assessment by requiring the tax on both imported and domestic spirits to be assessed on the basis of the proof gallon only. Testifying on the proposed bill, the Assistant Secretary of the Treasury stated:

"The second of these provisions, which has caused concern, has to do with the method of assessing taxes and duties on distilled spirits. The [GATT] states the principle that internal taxes in any country should not be used to discriminate against imported products. Our method of taxing distilled spirits is open to question under this provision." [1]

The Tariff Commission was even more explicit in its memorandum for the Ways and Means Committee, in which it stated that the sections of the bill containing the repeal of the wine gallon method "are concerned with the removal of certain tax discriminations against imports under the Internal Revenue Code, to meet the requirements of the ITO or the GATT." [2]

The Customs Simplification bill failed to achieve its purposes, and the representatives of the domestic liquor industry were successful in ensuring that the wine gallon method was not eliminated. In the Trade Agreements Extension Act of 1951,[3] Congress stated that passage "shall not be construed to determine or indicate the approval or disapproval by the Congress" of GATT.

Thus, with the failure of the attempt by the Executive to repeal the wine gallon method of assessment, this method of assessment was continued with the protectionist support of the domestic industry to act as a discrimination in favor of one method of packaging imports (barrels) and against another method of packaging (bottles).

Through the Courts

A significant litigation, which ended in *Bercut-Vandervoort & Co. v. U.S.*, 46 C.C.P.A. 28 (1958), *cert. den.*, 359 U.S. 953, began in 1952 when an importer of 90-proof gin protested the assessment on a wine-gallon basis. The basis of the protest was that such a method of assessment was contrary to the GATT. The Customs Court overruled the protest, and appeal was taken to the Court of Customs and Patent Appeals. That Court—which assumed that domestic producers universally conducted their operations so as to be able to pay the tax on a proof gallon basis, and that GATT created an international obligation[4] applicable to the revenue law—affirmed the Customs Court decision. The Appeals Court reached its conclusion by finding that the revenue statute had created two classifications of distilled spirits, proof gallon and below proof gallon. In short, by relying on clever legal niceties, the Court allowed the wine gallon method of assessment to stand.

Through Negotiation

The next significant attempt to remove the wine gallon method of assessment took place in the context of the preparation for the "Kennedy Round" of general tariff negotiations (1964–67). The basic statutory authority was the Trade Expansion Act of 1962, 18 U.S.C. § 1821. This Act represented a radical departure in philosophy and scope from its predecessor, and attempted to bring about a new approach to old problems with vastly different dimensions resulting, for example, from the Common Market. The Act conferred upon the President the authority to modify any existing "duty or other import restriction."

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[1] Hearings before the Committee on Ways and Means, House of Representatives, (82d Cong., 1st sess.), on H.R. 1535, at pp. 42–3.

[2] *Id.*, at p. 221.

[3] Section 10, 65 Stat. 72, 75. This was the renewal legislation on the expiring trade agreements legislation pursuant to which the U.S. trade agreements (including GATT) had been negotiated.

[4] The Court did, in fact, not decide that the wine gallon issue fell within the GATT prohibition, in the sense of the supremacy of GATT to modify internal revenue excise tax laws enacted prior to Jan. 1, 1948, since the Protocol of Provisional Application pursuant to which the U.S. accepted GATT specifically stated that the government undertook to apply Part II of GATT "provisionally on and after Jan. 1, 1948—to the fullest extent not inconsistent with existing legislation." Therefore, the U.S. did not obligate itself under GATT to eliminate the wine gallon discrimination because it was part of its "existing legislation" as of the date of the execution of the Protocol.

Attempts were made to explain the impact of the wine gallon method of assessment in that context. For example, briefs were submitted to the Trade Information Committee, Office of the Special Representative for Trade Negotiations, urging that the United States offer for negotiation the modification of the wine gallon method of excise tax and duty assessment in the proposed trade agreements negotiations to be conducted pursuant to the Act. Through 1963 and into 1964, presentations were made, but much of the consideration centered chiefly on whether the Act in fact gave the President authority sufficiently broad to include this method of assessment, or whether the authority related more specifically to rates of duty. In the end, for a variety of reasons, the wine gallon method of assessment was not offered for negotiation.

Through the Courts, Again

The scene for the next major attack on the wine gallon assessment shifted again to the courts. The case of *Schieffelin & Co. v. U.S.* arose out of the importation in 1964–65 of bottled Scotch and Irish whisky at 86 proof, upon which the revenue tax was assessed in the wine gallon basis. The importers duly filed a protest, claiming that the tax should have been assessed on the proof gallon basis. The basis of the argument was that the assessment of Irish whisky on the wine gallon method resulted in according less favorable treatment to Irish whisky than domestic whiskey in contravention of the treaty between the U.S. and Ireland. The same concept was applicable to Scotch whisky because of the most-favored-nation provision of the treaty between the U.S. and Great Britain. Suit was filed in the Customs Court early in 1967. At the end of 1968, that court held that the "like situations" contemplated in the treaty provisions—which bar discriminatory tax treatment as betwen domestic and imported products—did not exist as between the domestic over-proof spirits and imported spirits bottled under-proof.

Appeal was taken to the Court of Customs and Patient Appeals. The Government of Great Britain submitted a brief in support as *amicus curiae* in which the correctness of the 1958 *Berout* decision was questioned. The Appeals Court affirmed the lower court decision on April 28, 1970. Subsequent petition for a Writ of Certiorari was denied by the Supreme Court.

Conclusion

The wine gallon method of assessment appeared in the law of the United States for good and valid reasons more than a century ago. It was designed to remedy domestic abuses. Its extension to foreign trade, by its application to the customs duty, was probably by accident—to achieve no more than literary conformity. The further extension to imports of the method as used in the tax law was an outgrowth of the need to acquire more revenues in the period of the First World War.

The discriminatory feature of this method did not become serious until after the Second World War when the United States dramatically entered the stage as a leader of the world's trading nations and when the internal revenue tax rate increased so significantly. The Executive attempted to remove the wine gallon method of assessment so as to bring the United States in conformity with the trading principles of GATT. But, by that time, the wine gallon method was clearly seen by the domestic industry as a way of further protecting its position against imports. Legislative efforts by the Executive then failed.

Private parties took up the attack through the judicial branch. The basis for these efforts by their nature required the establishment of a severe test—that the imposition of the wine gallon method violated established treaty provisions. These efforts also failed.

Whether or not it can be established that the wine gallon assessment violates U.S. international commitments, it is clear that removal of the method would be a wise concession by the United States during the "Nixon Round" of trade negotiations. The fact of the long-standing nature of the complaint over this historical anomaly has clothed it with a great symbolism. The effectiveness of the U.S. position at the Nixon Round would be undercut if it did not include an express willingness to negotiate about the removal of the wine gallon method of assessment.

DEPAUL UNIVERSITY,
25 EAST JACKSON BOULEVARD,
Chicago, Ill., April 9, 1974.

Mr. MICHAEL STERN,
Committee on Finance,
Dirksen Senate Office Building,
Washington, D.C.

DEAR MR. STERN: I want to express general approval of the Trade Reform Act of 1973, HR 10710, but also express some reservations. I represent only myself and not the International Trade Club of Chicago, with some of whose stated views I disagree, and not the University at which I teach International Business courses, as well as other courses.

There is no doubt that the Trade Reform Act is essential. Also, Senator Mondale's amendment is desirable. However, while I support the Jackson-Vanik amendment, it should be put into a wider perspective. Arguments have been advanced that this amendment is an attempted interference in the internal affairs of another country. This is true if we take a very narrow perspective. If we face up to the fact that in this age internal politics and external behavior are closely linked, we must take a broad view in our defense. After all, we are not telling them how to run their truck plants or their agriculture, how to train their doctors or engineers. We are saying to them that they should live up to the principles of the United Nations to which they say, they subscribe.

Now obviously we cannot be missionaries and convert anybody to our ways. However, history has shown that a government which mistreats its own citizens cannot be expected to behave better to the citizens of other lands. Thus, oppression at home is bound to lead to oppression abroad. The U.S.S.R. has demonstrated this extensively in the past—and in the view of many of us, is doing it now.

In view of the destructive nature of modern warfare, we have reached a state of military stalemate. Warfare is being carried on by economic means. The Arab oil boycott may have been the first major battle in this new era. Other engagements will no doubt follow. The Russians are putting themselves into the position of making Western Europe into an economic appendage by tying its economy into the oil and gas pipeline system originating in Russia.

It follows from the above that the Jackson amendment is but one small step in the right direction. It attacks one symptom of the disregard of human life and liberty which is symptomatic of most dictatorial regimes. We must, therefore, adopt this amendment in order to pressure the Russians in the only way open to us. The Soviets say it is a matter of internal politics. In fact, it is a matter of human dignity—and therefore of great importance to us if we want to influence the shape of the world to come.

Yours truly,

J. IRWIN PETERS,
Associate Professor.

POSITION PAPER ON HR 10710 SUBMITTED BY ALFONSO B. TAGGUEG

BACKGROUND

Then and now, I have always been identified with the preservation and promotion of the basic historical closeness of America and the Philippines with necessary adjustments to contemporary "detente" developments among super-powers in Asia and in the ASEAN region.

In US–RP relationship, here comes the reality, in terms of full tariff duties, of the impact of the termination of the Laurel-Langley Agreement on July 3, 1974 (for all practical purposes December 31, 1973). There is an on-going exploratory dialogue on new economic agreement in lieu of the L–L Agreement, the framework and substance of which no longer serve in the new and changing situation. But it would take time for such a new agreement to be negotiated and formalized.

Fortunately, there is HR 10710, Trade Reform Act, already passed by your House of Representatives, now with your Finance Committee, which is the enabling Act for the US General Scheme of Preferences, for developing countries exporting into the US market.

While at this point, the individual export products are not up for deliberation until after the passage of the enabling Trade Reform Act, still the provisions of Bill No. 10710 must consider the coverage of the broad spectrum of US imports from developing countries.

OBSERVATIONS

I respectfully submit the following observations on RP cigar-filled tobacco with US traditionally imports from RP by your Cigar Manufacturers, like Consolidated Cigar Corporation and others:

1. This is one product that US needs in cigar manufacturing, and your cigar manufacturing group (CMAA) would be happy to have this product receive the coverage benefits of the US GSP in the proposed Trade Reform Act.

2. The product does not compete with your US grown tobacco types. You need this tobacco; hence, the US GSP should somehow give it all the possibilities of continued entry and supply.

3. A *new development* conduces towards a bigger and continuing US demand for this RP grown cigar-filler, not only for cigar manufacturing but also for use as a new "blending component for safer cigarettes" because of its "full combustibility" characteristic. I am furnishing herewith press dispatches from London and New York, February 1 and February 5, 1974 which made the tobacco industry sector here see a *tremendous impact* of the "full combustibility" feature. The *RP cigar-leaf tobacco, with this unique characteristic not found in other tobacco types, does not produce the carcinogenic hydrocarbons found to be the factors conducing to lung cancer*, per Report of the US Surgeon General.

4. The end product envisaged is a "cigarette" that "fully and uniform burns" so that the tar produced does not contain the offending hydro-carbons. It is a "revolutionary product" that potentially would calm the fears and apprehension of the cigarette smoking public. Thus, *if we can not stop the habit*, we have to make it safe.

5. Our Philippine Veterans Legion here and their counterpart American Veterans Legion have picked this development up, and we are informed that the PVL will cable their views to this committee through the AVL. It is important to note that almost all tobacco farmers in the Philippines particularly in Northern and Central Luzon where the cigar-leaf tobacco exported is grown, are veterans.

6. The American Chamber of Commerce in the Philippines is also keenly following this development.

7. Even as we look forward to the benefits of our inclusion in the US GSP, there is a strong movement gathering momentum to scale down the 100% ad valorem duties on imported US Virginia tobacco blends we need to support our fast developing domestic market of US brand cigarettes being manufactured in the Philippines under special licensing agreements. It is expected that even before the Trade Reform legislation shall have been passed, this proposed measure shall have been decreed in RP.

8. In the face of the contemporary upward behavior of cost and prices in what appears to be a pervasive international inflation triggered by the energy crisis, the limitations imposed (50% volume or $25 million) may, unless liberalized, defeat the primary purpose of the US GSP in helping developing countries.

9. Preferably, the ceilings should be eliminated to afford greater flexibility in relation to divergent factors affecting the products entering the US under the GSP from developing countries.

10. Alternatively, an automatic renewal clause may be incorporated, similar to the GSP of the EEC and Japan.

11. Finally, it is requested that a *supplemental statement* of *position* by no less than Colonel (Retired) Demetrio P. Tabije, the Chairman-General Manager of the Philippine Tobacco Administration, the RP Agency most concerned with the development of the RP cigar leaf industry, be permitted for submission later, also for the record of the public hearings, or in the Senate Floor at subsequent stages of the consideration of the bill.*

These representations are submitted in the mutual interest, of the two countries and to help shape and crystalize decision on this important legislation.

Respectfully submitted.

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* See p. 2063.

STATEMENT OF PETER BOMMARITO, PRESIDENT, UNITED RUBBER, CORK, LINOLEUM & PLASTIC WORKERS OF AMERICA

INTRODUCTION

Our concern with the problems of international commerce is not of a recent origin. It was not spontaneously spawned by emotionally energized issues of shallow substance. We are concerned because all foreign trade policies involve people.

We are even more concerned because we believe that the wealth and strength of this great nation is not in its multinational corporations, or its wealthy insurance firms. It is not in the hands of the stock market manipulators or in the coffers of the international banking institutes. We believe that the wealth and strength of this great nation lies in its people—people who are fully employed in a decent job with decent wages—people whose children are afforded the opportunity to attend the school of their choice—people whose heritage forms the foundation of this great nation.

We know that foreign trade and the welfare of our people are inter-related and inseparable. However, when we see our government formulating trade policies with apparent disregard of the impact that these decisions would have on our people, then mere concern or token involvement is not enough. There must be a total commitment by us at every level.

Previous Appearances

We appeared before Congress in 1965 when we represented over 10,000 workers in the rubber-soled footwear industry. At that time, we pointed out the impending disaster facing the shoe industry if the trade programs which were easing trade barriers on these products were to continue. Nothing was done and within three short years we lost over 2,000 workers.

We appeared again in 1970 and again we asked for relief through the adoption of a revised and sensible trade program. Yet, and despite the fact that the United States Tariff Commission found that increased imports were the major factor causing or threatening to cause unemployment or underemployment in the canvas-rubber footwear industry, our pleas again fell on deaf ears. Thousands of rubber-soled footwear employees have since joined the ranks of the unemployed. Scores of plants have been closed.

We appeared before the House Subcommittee on Trade Adjustment Assistance on May 17, 1972. We reviewed the past record, the successes and failures of the program and offered our suggestions for future adjustment assistance programs. Our suggestions were not heeded and adjustment assistance continued to be more promise than fact.

Our most recent appearance was before the House Ways and Means Committee on June 12, 1973 on essentially the same Trade Reform Act of 1973 that is before you now. We were very critical of the trade bill then and we continue to oppose it one year later.

Trade Adjustment Assistance

In adopting and developing new trade policies and with full knowledge of what would happen, Congress in 1962 inserted a section into its trade bill which dealt with Trade Readjustment Allowances. The intent of this section was to aid and assist workers whose employment was affected by imports by granting to them subsistence or by reeducating them for a different line of work.

Scores of former footwear workers applied for adjustment assistance. As a matter of fact 91 different groups of shoe manufacturers' employees have requested aid since 1970. Eleven were granted TRA. It required Presidential action to help 21 others. The remaining two-thirds were denied relief even though our government caused them to lose their jobs. Obviously Trade Readjustment Allowance Assistance is not the answer.

No federal program offering relief or federal assistance is a meaningful answer to the concept of maintaining full employment, nor will it serve as a replacement for the exportation of jobs. The American taxpayer should not be called upon to subsidize unemployed workers who have lost their jobs because of trade policies enacted for the sole benefit of American multinational corporations.

Rubber Footwear Imports

The production of rubber footwear is a labor-intensive industry. It is highly susceptible to the impact of cheaply produced items from low-wage foreign countries. Imports of rubber-soled canvas footwear from all sources between 1968–1972 increased 15.5 percent with the greatest increase noted in imports from Korea which were up 705.7 percent. The trend continued in 1973 as is shown by the fact that imports for the first nine months of 1973 were 15 percent greater than they were for the comparable period in 1972. If this rate of import growth holds for 1973 as a whole, the U.S. will import approximately 68 million pairs, well above the previous high of 62 million pairs in 1971. This segment of the industry has been plagued by severe import competition since the early 1960's.

Imports of protective footwear from 1968–1972 showed an increase of .5 percent with the countries of Taiwan (+150.9 percent) and Korea (27.9 percent) leading the others.

During the above periods, imported canvas shoes consistently captured over 25 percent of the American market.

Recognizing the fact that increased imports would exact a toll of our workers and in the face of considerable criticism the United Rubber Workers took it upon themselves to do something.

Employees of the Uniroyal Footwear Plant, Local 45, Naugatuck, Connecticut, asked for and were granted a moratorium on wages. Goodyear Footwear Plant, Local 289 in Windsor, Vermont, waived negotiated wage increases rather than accept a phase-out of that facility. The direction of our 1973 negotiations demonstrated clearly to all of industry that we are concerned with people's problems and that job security is one of our prime goals.

When the President introduced his present trade bill, he indicated that certain import-sensitive duty-free products from less developed countries would be excluded from such prevention treatment. He was referring specifically to footwear. We are leery of promises. We don't want indications or good intentions. We want specific exclusions for specific goods incorporated into the law.

Imports and the American Tire Industry

Like many other industries in the United States, the tire industry has been adversely affected by imports and by the activities of its own multinational firms. In the following text, we have attempted to show what has happened in this industry in the past, what is currently taking place, and what we fear may occur in the relatively near future.

Bicycle and Motorcycle Tires

The experience of the cycle tire segment of the domestic rubber industry is a classic example of the consequences of this nation's lack of a realistic foreign trade policy.

Because of imports, there are only two producers of bicycle tires in the United States—Goodyear Tire & Rubber Company in New Bedford, Massachusetts and Carlisle Corporation in Carlisle, Pennsylvania. Uniroyal in Indianapolis, Indiana, is the most recent casualty, having shut down its bicycle tire operations in 1970. Total employment at the two remaining American facilities is very insignificant in the aggregate, but obviously very meaningful to those whose livelihood depends on the retention of bicycle tire production in the United States.

U.S. imports of bicycle tires began to increase and become a problem in the late 1950's. In 1958, nearly 25 percent of the total U.S. market for bicycle tires (replacement *and* original equipment) was held by imports. In 1963, imports represented 45 percent of the market. Between 1963 and 1972, imports of bicycle tires increased by more than 300 percent and enlarged their share of the domestic market from 45 to 77 percent. (Table 1)

Future Effect on Bicycle Tires

If growth continues at its present pace, the remaining two U.S. plants will be forced out of the field within the next several years. In view of the dramatic increase of imports in 1972, the end may come considerably faster for this beleagured segment of the tire industry.

In 1972, total imports of bicycle tires reached a record high in excess of 35 million units—nearly double the 1971 total of 18.5 million units. The performance of the first nine months of 1973 shows virtually no change from the comparable period in 1972.

While imports soared, domestic shipments have remained relatively stable in absolute terms, but since 1958, for example, their share of the U.S. market dwindled from 75 percent to less than 24 percent—a complete switch in 14 years. The U.S. bicycle tire industry is not able to complete with the flood of imports coming from the low-wage countries of the Far East. (Table 2)

Motorcycle Tires

A similar situation exists relative to the motorcycle tire segment of the industry. Imported motorcycle tires constituted over 80 percent of the United States replacement market in 1971—as recently as 1968, foreign tires held "only" 60 percent. (Table 3) Data on domestic shipments is not yet available for 1972 or 1973, however, 1972 imports of replacement motorcycle tires rose by 35 percent over 1971, and imports in the first nine months of 1973 ran over 8 percent ahead of the like period in 1972. This is a clear indication, we belive, that imports continued to increase their share of the U.S. market last year.

Origin of Imports

In both bicycle and motorcycle tires, it is significant to note that the majority of these imports come from low-wage, managed economies which have set up numerous barriers to goods from the United States, economies such as Japan. It is probably too late to do anything to save the bicycle and motorcycle industry. We can only hope that the United States Government will abandon its misconceived idea of what constitutes equity in foreign trade relationships before more industries and more jobs are lost.

Automotive Tires

To the United Rubber Workers, the experience of the bicycle and motorcycle tire portions of our industry stands as a warning of what can happen to the economically more important automotive tire industry unless action is taken to overhaul our trade policy and mold it to benefit the United States, rather than the rest of the world at our expense.

By way of definition, automotive tires include passenger car, truck and bus tires, and while imports have not *yet* taken over this market, they do pose a serious threat to the continuing prosperity of this segment of the tire industry. For purposes of testimony in this area, imported tires shall refer to both replacement tires mounted on imported automobiles, trucks and buses, unless otherwise noted.

In 1963, just ten years ago, imported automotive tires had less than two percent of the domestic tire market. By 1968, imports had control of 6.6 percent of the market and by 1972, more than 10 percent. Complete data for 1973 is not yet available, however some information on the first 9 months is presented in Table 5A. This has taken place in a market that has experienced increasing demand, a fact which makes even more remarkable the growth of imported tire demand. (Table 5)

Outlook for U. S. Automotive Tire Industry

Ten percent market penetration may not appear, at first glance, to be overly distressing, however, one need only look more deeply at the statistics to become concerned. Imports increased at an average annual rate of 30 percent during the period 1963–1972, while the market (including imports) expanded just seven percent per year during the same period. If these historical growth rates hold steady, we can project that imports will comprise nearly 50 percent of the U. S. market by 1980 and will control the market with 59 percent in 1981.

According to our calculations the U. S. market will hit 462.6 million units in 1981—of that total, 274.7 million units will be from other countries. Domestic shipments in 1972 totaled 226 million units. In 1981, the U. S. will only be producing 188 million units.

The growth rate of imports has slowed considerably since 1968, however, and we felt it desirable to also make a projection based on the average annual growth rates between 1968 and 1972. The total market increased by 4.8 percent per year during this more recent period, while imports rose by 16.9 percent a year. Projecting these more recent trends, we determined that imports would exceed 50 percent of the market in 1987.

Thus far, we have been concerned with the total market for tires, both original equipment and replacement. However, when we conducted the same kind of growth analysis with the replacement tire sector alone, the figures were even more alarming. According to statistics, the auto, truck, and bus replacement tire market increased at an average yearly rate of 7.6 percent between 1973 and 1972. At the same time, imports of these tires were rising on an average of nearly 44 percent per year and, consequently, increasing their share of the domestic market. Over this period, domestic shipments of replacement tires rose by an average annual rate of 6.8 percent.

If we assume that these respective rates of growth remain the same, then by 1979, imports will have succeeded in taking over the United States replacement tire market with 53 percent of the total market share.

The outlook for the continued dominance of the U. S. automotive tire industry in its own country is only slightly brighter if estimates of import penetration are made on the basis of the average annual rates of growth which prevailed in the period, 1968-1972. The average rate of growth of the domestic replacement market in this period was 5.2 percent per year. For imports, the rate was 2.4 percent. If these rates continue, imports will capture 53 percent of the market by 1984.

Whichever projections one might decide to be the more reliable as an indicator of future conditions, one fact is alarmingly clear—unless something is done, we can expect the domestic automotive segment of the tire industry to go the same route as have bicycle and motorcycle tires.

Effects on Employment

According to the Rubber Manufacturers Association, each million automotive tires annually manufactured in the United States requires the employment of 457 persons. When imports come into this country, it simply means that some workers who could otherwise have found employment in a tire factory, will have to look elsewhere.

Since 1963, nearly 12,000 job opportunities have been lost to imports. Assuming the 1968-1972 growth rate of total imports, a total of 19,000 job opportunities will have been lost by 1975, 41,000 by 1980 and 123,000 by 1987. It should be noted that we are not here considering associate industry employment.

At some point in the future, tire industry employment will actually begin to decline even in the face of a growing market if imports are allowed to increase at their historical rates.

Reasons Behind the Current Situation

There are a number of reasons why this situation has arisen. First, imported automotive vehicles have carved out for themselves a rather substantial share of the United States market and in the process created preferences on the part of some U. S. consumers for foreign tires. This is especially meaningful since tires mounted on imported vehicles account for more sales than imported replacement tires.

Secondly, the U. S. tire industry, like so many other industries, is at a distinct disadvantage in its international trade relationships because of the barriers that have been erected against our products. Many of the United States' trading partners closely control their import structures while subsidizing exports. The U.S. rubber companies give this as a reason for expanding in foreign countries rather than exporting from the U.S. They accept protectionism in other nations, but deny vehemently the right of the U.S. to fair trade. These multinationals are primarily interested in profit growth. Their position on current trade proposals before this Congress demonstrates clearly that they are interested in having the best worlds—barriers or free trade (which is unrealistic in today's world economy), whichever serves their purposes better.

Thirdly, the differences in technology have narrowed over the years partially because the rubber companies have found the sale of know-how an attractive money-making arrangement. In Japan, for example, most of the tire manufacturers either are currently involved in, or have had, technical and other agreements with their U. S. counterparts. Japan is one of four countries, each of which export over one million replacement passenger car tires to the U. S. each year and is, therefore, a major competitor of American tire companies. Yet B. F. Goodrich owns 35 percent of Yokohama, the second largest Japanese tire company, and Goodyear has a two percent interest in Bridgestone Tire, the largest Japanese tire maker. These are only two of many examples which could be given to emphasize that American multinational rubber companies are partially responsible for the degree of import penetration that exists in this industry.

Fourth, there are considerable differences in wage levels throughout the world, and with foreign tire companies catching up in terms of technology, this fact takes on added meaning.

Another factor to be considered when discussing the tire import problem is the fact that United States rubber companies regularly import tires from their foreign subsidiaries. In 1970, over 32 percent of automotive replacement tire imports came from foreign subsidiaries of United States rubber companies. In 1971, approximately 11 percent of this category of tires came from U.S. companies' foreign plants. Yet the rubber companies contend that imports from their foreign subsidiaries are a negligible factor in the domestic U.S. market.

The U.S. automotive tire industry thus faces (1) dwindling foreign markets for tires produced by American workers, and (2) rising imports.

The Special Situation Re Michelin in Canada

Michelin of France exports more tires to the United States than any other company in the world and, consequently, has long been a special source of concern. This concern was heightened in 1969 when Michelin secured from the Canadian Government an agreement to subsidize the building of two Michelin plants in Nova Scotia. In addition to financial assistance, Canada granted Michelin a deal under which it could import duty-free, for a three-year period, all tire lines which it was not going to make in Canada. This privilege has since been waived. The Canadian government did not undertake this arrangement to have its own somewhat-limited tire market penetrated—part of the deal was that at least 85 percent of Michelin's Canadian production would be exported to the United States. The probable effects on the U.S. market were obvious.

The tariff concessions Michelin received have been under vigorous attack from the time they were granted and, finally, in February, 1973, the U.S. Treasury Department ordered a 6.6 percent countervailing duty on Canadian-manufactured Michelin tires coming into the United States in addition to the standard four percent tariff on all tires shipped from Canada. With duties totaling 10.6 percent on its tires coming in from Canada, the American tire market and jobs associated with it would be somewhat protected from the unfair competition that would have otherwise been the result of the Canadian government's deal with Michelin.

We use this as an example because we feel that under the Administration's trade proposals, countervailing duties would become too discretionary to be meaningful. Presently, the Secretary of the Treasury must impose a countervailing duty whenever it is determined that a foreign bounty or grant is made. Under the Administration's bill, this requirement would be eliminated. Further, the bill conditions the imposition of such a duty on the determination of injury to the industry and then allows the Secretary of the Treasury the latitude of deciding whether or not to actually put a duty into effect. It is our opinion that the Administration's proposals on countervailing duties diminish effectiveness to the point that it is in opposition to the original concept.

New Legislation Is Needed

The rubber industry is just one of a number of industries which have been eroded by the lack of a meaningful foreign trade policy. Steel, apparel, chemical and allied products, shoes, stone, clay and glass, autos, aircraft and electronics have all been adversely affected.

The real gut issues at stake here are the American living standard, the nation's productivity advance and American job opportunities.

Other countries protect and advance their interests to fit their needs. They manage their economies, encourage and permit monopolies, grant direct export subsidies and erect import barriers. They also impose technical and capital regulations and enact domestic policies of many kinds that affect the flow of trade and technology.

But what about us, the American workers? Have we no right to ask to be protected? If our government does not care, then who does care? For years the United States has accepted on her shores goods from every nation in the world. Good old "Uncle Sugar" accepted all, rejected little. Why? Because we didn't want to hurt our relationship with other countries. Well, we just can't do that anyone. It's about time our government took a good hard look at things as they really are.

We don't think it is asking too much to suggest that the government of the United States first consider the primary interest of its own American citizens.

The American labor movement has always been known as a socially and economically progressive force. We have worked long and hard to achieve our goals—we must not lose what has been gained, but lose it we will, job-by-job, plant-by-plant, and industry-by-industry—

> If nothing is done to impress other nations of the world that the time for "fair" trade has come and that the United States is through playing "Uncle Sucker" in international trade.
>
> If nothing is done to correct the obvious and flagrant inequities which exist in our tariff laws which have added thousands to our jobless roles,

If nothing is done to curb the power of the multinationals to export jobs, plants and technology.

This nation needs a constructive and positive foreign trade policy to restore the United States to its former position in world trade. This nation needs a complete legislative program to bring together in one bill a reshaping of tax, trade and other laws to challenge the international crisis that now threatens American workers' jobs and the economic future of the United States.

The URW wholly agrees with hte position of the AFL–CIO, is firmly committed to and has provided consistent support to the implementation of an enforceable foreign trade policy which would restore an equitable balance of trade between the United States and the rest of the world. In order to obtain these we believe that any new legislation should:

1. Regulate U.S. imports and exports. Specific flexible legislative machinery is necessary to control imports. A flexible mechanism can also be applied to excessive exports that are in short supply and are vital to the U.S. economy. Exports, imports and U.S. production should be linked in relation to needs for supplies, production and job opportunities within the U.S.

2. Modernize trade provisions and other U.S. laws to regulate the operations of the multinational firms, including banks and the oil companies. Without such regulation these companies can continue to use U.S. tax, trade and other laws in combination for their worldwide advantage. They will continue to export production facilities, money and jobs and to juggle prices to the company advantage and regardless of the impact of their activities on the U.S. economy.

3. Eliminate U.S. tax subsidies and other advantages for corporations investing abroad. Specifically the tax laws should eliminate the tax deferral of income earned abroad and the foreign tax credits. In addition the legislation should curb the ability of the multinationals to apply excess tax credits to any of their overseas operations, and or to carry credit forward or backward in a way which allows them to minimize U.S. tax payments. These tax provisions not only contribute to the export of jobs, and to the erosion of the U.S. industrial base but they also encourage contrived shortages of raw materials and components for U.S. production and job needs.

4. Items 806.30 and 807 of the Tariff Code should be repealed because they encourage the foreign production and foreign assembly of goods for sale in the U.S. Imports under these provisions—which are used to shift production to cheap labor markets and away from the U.S.—have risen from $1 billion in 1967 to $3.4 billion in 1972.

5. Clear provisions should be included in the new legislation to regulate exports of capital and new technology.

6. Multilateral trade agreements with other nations should be administered in a manner which is consistent with the flexible machinery devised to regulate imports and exports.

7. Any legislative provision to authorize negotiation on non-tariff barriers should be limited and should require specific Congressional approval for the removal of any barrier, with full information about the products affected. It is not enough to have an after-the-fact veto authority. U.S. tax laws, consumer protection laws and other social legislation, including occupational health and safety laws, should be barred from such negotiations.

8. New provisions are needed to assure speedy and effective action against foreign dumping of products on the U.S. market.

9. Clear labeling on imports of products and components to mark the country of origin is needed. All consumer protection legislation should be strictly enforced on imports.

10. The need for improved statistics on imports, exports and production has become urgent. Since important policy decisions are made on the basis of statistical evidence, that evidence must be as comprehensive and accurate as possible. This is not now the case.

Objections to administration Trade Bill

For some years, the United States has possessed a trade philosophy and policy which is better suited to another period in history. This country has stubbornly held on to a "free" trade policy while other nations were recognizing that such a policy was outmoded and adopting sophisticated methods of import and export management designed to enhance their own internal economies. As a consequence, the United States experienced a trade deficit in 1971 (the first since 1893) followed by a much larger deficit in 1972. Looking behind the dollar balances, one will find that entire industries no longer exist in the United States—the victims of an influex of imports. This course of events in one of the strongest economies in the world was hastened by the activities of U.S.-based multinationals in their relentless search for higher profits.

If the United States is to recapture and maintain its former position in the world economy, U.S. trade policy must be redesigned to be in tune with the rest of the world.

We do not believe that the Trade Reform Act of 1973 would accomplish this objective. The Administration bill has no clear direction in many areas. Under this proposal, the President would be granted authority to raise and lower tariffs, institute quotas, negotiate and renegotiate trade agreements, decide whether or not relief should be granted an industry, reduce tariffs to zero on products imported from developing countries, and take numerous other actions. Yet, the Bill provides no guidelines to be followed nor any objectives to be reached and there is no assurance or guarantee that the Executive Branch will utilize its power in the proper manner. We realize that "to err is human," but we feel that the Administation bill provides too much exclusive power (and too much opportunity for mistakes) to the Executive Branch.

In many ways, the Trade Reform Act of 1973, as trade policy, is little different from that which now exists It fails to recognize that this country needs a positive trade policy if we are to restore our balance of trade; if we are to regulate the growing number of imports that have cost the U.S. economy over one million job opportunities in the last five or six years; if we are to remain a major manufacturing nation; if we are to compete with our "grown-up" trading on a "fair" rather than a "free" basis.

Not only must the United States adopt a policy of "fair trade," but we must also take steps to control the exportation of technology and jobs.

However, the Administration bill does not contain any effective provisions to regulate the activities of multinational companies nor does it propose to do any thing to close the lucrative tax loopholes which provide the incentive for companies to move abroad. A trade bill without such provisions cannot be the answer to America's problems in international trade.

The Bill gives the President the authority to remove requirements for marking of country of origin. If we are to keep jobs and production in America, consumers must insist in U.S.-made products. If marking requirements were removed, that would be impossible and it would encourage manufacturers to move their facilities to take advantage of the cheapest labor available. It is already hard enough to find an item that is "made in America" without this additional complication.

The President would be given the authority to suspend the application of 806.30 and 807.00 of the Tariff Schedules. This is not enough. These tariff loopholes should be repealed, for they have injured the American worker by encouraging corporations to shut down their U.S. operations and transfer production to low-wage countries. The Mexican Border situation is the prime example of how current U.S. trade policies work against the good of the people. The corporation using these loopholes, benefits by having labor intensive work done in Mexico, then shipping the product back to the U.S., paying duty only on the value added by cheap labor, and then selling it in the U.S. market at American prices. The corporation widens its profit margin, but the American worker is out of a job. At least two thousand of our members lost their jobs because Mattel, a toy manufacturer, took advantage of 807.00.

The Trade Reform Act purports to provide import relief to domestic industries injured by rising imports. It would do this by changing the definition of injury; authorizing relief if imports contribute "substantially" to injury rather than requiring that they be a "major" factor, as at present. The change in definition is helpful as far as it goes, but unfortunately it does not go very far. The relief is to be in the form of first, increased duties, second, tariff-rate quotas, and finally direct quotas and voluntary agreements. By the time each of the priority alternatives had been tried in turn, and proved unsuccessful, the original injury will have developed into a terminal disease.

The new legislation also purports to solve the problems of workers who lose jobs because of increased imports by "improving adjustment assistance." In fact, the bill does not improve the situation for these workers—only making it possible for more persons to qualify for less help.

TABLE 1.—BICYCLE TIRES—TOTAL U.S. MARKET, DOMESTIC SHIPMENTS, EXPORTS AND IMPORTS, 1963-72

[Thousands of Units]

Year	Total U.S. market	Domestic shipments: Total	Domestic shipments: O.E.	Domestic shipments: Replacement	Exports [1]	Imports: Total	Imports: O.E.	Imports: Replacement	Total imports as percent of total U.S. market
1963	18,294	10,151	4,038	6,113	13	8,143	2,534	5,609	44.5
1964	21,414	11,645	4,810	6,835	17	9,679	2,020	7,749	45.6
1965	20,980	10,432	4,460	5,972	14	10,548	2,078	8,470	50.3
1966	19,759	10,489	4,994	5,495	15	9,270	1,854	7,416	46.9
1967	20,942	10,410	4,982	5,428	14	10,532	2,234	8,298	50.3
1968	25,929	10,922	5,453	5,469	18	15,007	3,068	11,939	57.9
1969	22,784	8,262	3,515	4,747	17	14,522	3,962	10,560	63.7
1970	22,187	7,677	3,378	4,299	9	14,510	3,898	10,612	65.4
1971	27,801	9,344	4,714	4,630	1	18,457	4,681	13,776	66.4
1972	45,936	10,816	5,784	5,032	1	35,120	10,315	24,805	76.5

[1] Not included in total market figure.

Sources: FT135—RMA "Rubber Industry Facts."

TABLE 2.—U.S. BICYCLE TIRE IMPORTS (REPLACEMENT) BY COUNTRY, 1968-72

Country	1968	1969	1970	1971	1972	1968-72 percent change
Sweden	3,042,960	1,915,262	2,193,101	2,847,370	3,820,244	+25.5
United Kingdom	73,915	107,295	73,477	77,063	118,502	+60.3
Netherlands	1,271,184	905,223	359,406	656,200	871,283	−31.5
Belgium	430,061	509,454	352,238	327,734	629,394	+46.3
France	4,920	7,710	8,064	55,102	315,267	+5,407.9
West Germany	116,016	72,210	54,586	193,223	187,745	+61.8
Austria	212,029	177,619	170,909	240,991	214,166	+1.0
Italy	44,503	37,448	60,175	121,205	216,874	+387.3
India	306,600	135,800	154,150	181,505	257,200	−16.1
Korea	372,350	332,095	555,550	814,150	3,920,250	+952.8
Taiwan	257,450	137,215	560,430	1,229,840	3,470,505	+1,248.0
Japan	5,794,310	6,400,328	6,052,258	7,010,831	10,626,393	+83.4
Others	12,400	22,644	17,650	20,529	157,431	+1,169.6
Total	11,938,698	10,560,303	10,611,994	13,775,743	24,805,255	+107.8

Source: FT135, "Imports—Commodity by Country," U.S. Department of Commerce.

TABLE 3.—MOTORCYCLE TIRES—REPLACEMENT DOMESTIC SHIPMENTS VERSUS IMPORTS, 1968-71

Year	U.S. replacement market	Domestic shipments	Imports	Imports as percent of U.S. market
1968	547,768	217,000	330,768	60.4
1969	926,773	175,000	751,773	81.1
1970	1,212,220	199,000	1,013,320	83.4
1971	1,384,597	247,000	1,137,597	82.2

Note: Data on domestic shipments is not yet available for 1972. However, imports of replacement motorcycle tires for 1972 rose 35 percent over 1971 to 1,541,220 units.

Source: "Rubber Industry Facts," RMA FT135, "Imports-Commodity by Country," U.S. Department of Comercme.

TABLE 4.—MOTORCYCLE TIRES—REPLACEMENT

IMPORTS, 1968-72

Country	1968	1969	1970	1971	1972	Percent change 168-72
United Kingdom	92,951	115,458	125,679	140,740	216,545	+133.0
Taiwan	23,852	199,925	191,096	143,712	256,044	+973.5
Japan	161,450	307,545	557,435	666,913	796,296	+393.2
Others	52,515	128,845	139,010	186,232	272,335	+418.6
Total	330,768	751,773	1,013,220	1,137,597	1,541,220	+366.0

Source: FT135, "Imports—Commodity by Country," U.S. Department of Commerce.

TABLE 5.—U.S. AUTOMOTIVE TIRE REPORT—AUTO, TRUCK, AND BUS (ORIGINAL EQUIPMENT AND REPLACEMENT, 1968-72)

Year	Total	O.E.	Replacement
Domestic shipments (million units):			
1968	195.7	58.4	137.3
1969	202.2	55.7	146.5
1970	192.4	46.1	146.3
1971	212.3	58.9	153.4
1972	225.7	63.9	161.8
Percent change, 1968-72	+15.3	+9.4	+17.8

Year	Total	O.E.[1]	Replacement
Imports (million units):			
1968	13.9	8.7	5.2
1969	16.4	10.0	6.4
1970	19.3	10.6	8.7
1971	23.2	13.7	9.5
1972	25.9	13.6	12.3
Percent change, 1968-72	+86.3	+56.3	+136.8

Year	Total	O.E.	Replacement	Imports as percent of total
U.S. market (million units):				
1968	209.6	67.1	142.5	6.6
1969	218.6	65.7	152.9	7.5
1970	211.7	56.7	155.0	9.1
1971	235.5	72.6	162.9	9.9
1972	251.6	77.5	174.1	10.3
Percent change, 1968-72	+20.0	+15.5	+22.2	....

[1] The O.E. figure under "Imports" refers to tires mounted on cars, trucks, and buses imported by the United States. The figure was calculated on basis of 5 tires per vehicle and so represents a slight understatement.

TABLE 5A.—U.S. AUTOMOTIVE REPLACEMENT TIRE MARKET—AUTO (INCLUDING MOTORCYCLE), TRUCK AND BUS, JANUARY-SEPTEMBER 1972 VERSUS JANUARY-SEPTEMBER 1973

[Units]

	Total	Domestic shipments	Imports	Imports as per cent of tota-
1972	135,256,369	124,447,272	10,809,097	8.0
1973	141,053,579	128,726,975	12,326,604	8.7
Percent change	+4.3	+3.4	+14.0	+8.8

Note: Motorcycle tires listed with passenger tires in RMA Tire Report, hence their inclusion in the automotive tire category.

Sources: "RMA Tire Report, Statistical Highlights", September 1972 and September 1973. "FT135, Imports—Commodity by Country", September 1972 and September 1973.

TABLE 5B.—U.S. SHIPMENTS—AUTO (INCLUDING MOTORCYCLE), TRUCK AND BUS TIRES REPLACEMENT,[1] JANUARY-SEPTEMBER 1972 VERSUS JANUARY-SEPTEMBER 1973

[Units]

	1972	1973	Percent change
Passenger and motorcycle tires	109,677,166	111,774,491	+1.9
Truck and bus tires	14,770,106	16,942,484	+14.7
Total	124,447,272	128,726,975	+3.4

[1] Excludes exports.

Note: In its monthly data, RMA does not separate out motorcycle tires; however, they do not constitute a significant percentage of the figure for passenger and motorcycle tires. In 1971, for example, they constituted less than 0.2 of 1 percent of the combined figure.

Source: "RMA Tire Report, Statistical Highlights," September 1973.

TABLE 6.—U.S. IMPORTS VERSUS EXPORTS: AUTO, TRUCK, AND BUS REPLACEMENT TIRES, 1963 TO 1972

[Millions of units]

Year	Imports	Exports	Net balance (exports-imports)
1963	0.6	1.5	0.9
1964	1.4	2.1	.7
1965	1.5	2.9	1.4
1966	2.3	2.4	.1
1967	3.2	2.1	−1.1
1968	5.2	3.2	−2.0
1969	6.4	2.4	−4.0
1970	8.7	1.9	−6.8
1971	9.5	2.0	−7.5
1972	12.3	2.3	−10.0

Sources: FT135, "Imports—Commodity by Country," U.S. Department of Commerce. Statement of Rubber Manufacturers Association Before the U.S. Tariff Commission Investigation of the Impact of Imports on U.S. Industries, Nov. 25, 1970. RMA Report, December, 1972. "Rubber Industry Facts," Statistical Department, Rubber Manufacturers Association.

TABLE 6A.—U.S. IMPORTS—AUTO (INCLUDING MOTORCYCLE), TRUCK AND BUS—REPLACEMENT

	January-September 1972		January-September 1973		Percent change	
	Quantity	Value	Quantity	Value	Quantity	Value
Passenger tire	8,021,473	$146,582,565	9,089,795	$204,750,025	+13.3	+$39.7
Motorcycle tires	1,221,409	7,112,934	1,326,361	8,172,270	+8.6	+14.9
Truck and bus tires	1,566,215	91,017,340	1,910,448	126,749,291	+22.0	+39.3
Total	10,809,097	244,712,839	12,326,604	339,671,586	+14.0	+38.8

Note: Motorcycle tires included to make series comparable to RMA data.

Source: "FT135, Imports—Commodity by Country," September 1972 and September 1973.

TABLE 7.—PROJECTION OF FUTURE U.S. TIRE MARKET (O.E. AND REPLACEMENT) BASED ON AVERAGE ANNUAL GROWTH RATE FOR 1963-72 (AUTO, TRUCK, AND BUS TIRES)

[In millions]

Year	Total U.S. market	Percent change, year to year	Imports	Percent change, year to year
1963	139.0	9.4	2.6	53.8
1964	152.0	11.8	4.0	17.5
1965	170.0	3.5	4.7	44.7
1966	176.0	1.1	6.8	38.2
1967	178.0	17.8	9.4	47.9
1968	209.6	4.3	13.9	18.0
1969	218.6	−3.2	16.4	17.7
1970	211.7	11.2	19.3	20.2
1971	235.5	6.8	23.2	11.6
1972	251.6		25.9	
Average annual growth rate		7.0		30.0

ESTIMATES BASED ON AVERAGE ANNUAL GROWTH RATES FOR 1963-73

Year	U.S. market	Imports	Imports as percent of market
1973	269.2	33.7	12.5
1974	288.1	43.8	15.2
1975	308.2	56.9	18.5
1976	329.8	74.0	22.4
1977	352.9	96.2	27.3
1978	377.6	125.0	33.1
1979	404.0	162.5	40.2
1980	432.3	211.3	48.9
1981	462.6	274.7	59.4

TABLE 8.—PROJECTION OF FUTURE U.S. TIRE MARKET (OE AND REPLACEMENT) BASED ON AVERAGE ANNUAL GROWTH RATE FOR 1968-72, AUTO, TRUCK AND BUS TIRES

[In millions]

Year	Total U.S. market	Percent change year-to-year	Imports	Percent change year-to-year
1968	209.6		13.9	
		4.3		18.0
1969	218.6		16.4	
		−3.2		17.7
1970	211.7		19.3	
		11.2		20.2
1971	235.5		23.2	
		6.8		11.6
1972	251.6		25.9	
Average annual growth rate		4.8		16.9

ESTIMATES BASED ON AVERAGE ANNUAL GROWTH RATES FOR 1968-72

Year	U.S. market	Imports	Imports as percent of market
1973	263.7	30.3	11.5
1974	276.3	35.4	12.8
1975	289.6	41.4	14.3
1976	303.5	48.4	15.9
1977	318.1	56.5	17.8
1978	333.3	66.1	19.8
1979	349.3	77.3	22.1
1980	366.1	90.3	24.7
1981	383.7	105.6	27.5
1982	402.1	123.4	30.7
1983	421.4	144.3	34.2
1984	441.6	168.7	38.2
1985	462.8	197.2	42.6
1986	485.0	230.5	47.5
1987	508.3	269.5	53.0

TABLE 9.—PROJECTION OF FUTURE U.S. REPLACEMENT MARKET BASED ON AVERAGE ANNUAL GROWTH RATE FOR 1963-72, AUTO, TRUCK, AND BUS TIRES

Year	Domestic replacement market (millions)	Percent change year-to-year	Imports (millions)	Percent change year-to-year
1963	90.1		0.6	
1964	101.2	12.3	1.4	133.3
1965	108.5	7.2	1.5	7.1
1966	116.9	7.7	2.3	53.3
1967	124.3	6.3	3.2	39.1
1968	142.5	14.6	5.2	62.5
1969	152.9	7.3	6.4	23.1
1970	155.0	1.4	8.7	35.9
1971	162.9	5.1	9.5	9.2
1972	174.1	6.9	12.3	29.5
Average annual growth rate		7.6		43.6

ESTIMATES BASED ON AVERAGE ANNUAL GROWTH RATES FOR 1963-72

Year	Domestic market (millions)	Imports (millions)	Imports as percent of market
1973	187.3	17.7	9.5
1974	201.6	25.4	12.6
1975	216.9	36.4	16.8
1976	233.4	52.3	22.4
1977	251.1	75.1	29.9
1978	270.2	107.9	39.9
1979	290.7	154.9	53.3

TABLE 10.—PROJECTION OF FUTURE U.S. REPLACEMENT MARKET BASED ON AVERAGE ANNUAL GROWTH RATE FOR 1968-72, AUTO, TRUCK, AND BUS TIRES

Year	Domestic replacement market (millions)	Percent change year to year	Imports (millions)	Percent change year to year
1968	142.5		5.2	
		7.3		23.1
1969	152.9		6.4	
		1.4		35.9
1970	155.0		8.7	
		5.1		9.2
1971	162.9		9.5	
		6.9		29.5
1972	174.1		12.3	
Average annual growth rate		5.2		24.4

ESTIMATES BASED ON AVERAGE ANNUAL GROWTH RATES FOR 1968-72

Year	Domestic market (millions)	Imports (millions)	Imports as percent of market
1973	183.2	15.3	8.4
1974	192.7	19.0	9.9
1975	202.7	23.7	11.7
1976	213.2	29.5	13.8
1977	224.3	36.6	16.3
1978	236.0	45.6	19.3
1979	248.3	56.7	22.8
1980	261.2	70.5	27.0
1981	274.8	87.8	32.0
1982	289.0	109.2	37.8
1983	304.0	135.8	44.7
1984	319.8	168.9	52.8

TABLE 11.—U.S. IMPORTS—AUTOMOTIVE REPLACEMENT TIRES, TOTAL IMPORTS VERSUS IMPORTS FROM FOREIGN SUBSIDIARIES, 1970-71

Year	Total imports	Imports from foreign subsidiaries	Percent
1970	8,707,297	2,806,000	32.2
1971	9,489,970	1,022,161	10.8

Sources: Akron Beacon Journal article, citing U.S. Department of Commerce figures for 1970 (July 7, 1971). "The Role of Multinational Corporations in the American Tire Manufacturing Industry," Rubber Manufacturers Association, December 1972.

TABLE 12.—RUBBER-SOLED CANVAS FOOTWEAR, U.S. IMPORTS, 1968-72

[Pairs]

Country	1968	1969	1970	1971	1972	1968-1972 percent change
Korea	2,455,810	1,697,794	3,307,003	13,596,684	19,786,000	+705.7
Hong Kong	4,499,826	4,751,644	4,640,370	2,560,074	2,872,737	−36.2
Taiwan	9,269,224	6,940,498	9,450,157	12,942,602	15,744,466	+69.9
Japan	32,585,779	27,503,819	29,636,495	28,937,611	15,562,818	−52.2
Others	1,800,841	2,666,930	3,763,225	4,142,469	4,501,824	+150.0
Total	50,611,480	43,560,685	50,797,250	62,179,440	58,467,845	+15.5

Source: FT135, "Imports—Commodity by Country," U.S. Department of Commerce.

TABLE 12A.—RUBBER-SOLED CANVAS FOOTWEAR (CODE 8510275) U.S. IMPORTS, JANUARY TO SEPTEMBER 1972 VERSUS JANUARY TO SEPTEMBER, 1973

[Pairs]

Country	1972	1973	Percent change
Korea	14,332,450	21,003,418	+46.5
Hong Kong	2,274,117	1,577,674	−30.6
Taiwan	12,172,714	16,053,208	+31.9
Japan	12,793,362	8,492,953	−33.6
Others	3,136,357	4,377,793	+39.6
Total	44,709,000	51,505,046	+15.2

Source: "FT135 Imports Commodit, by Country", September 1972 and September 1973.

TABLE 13.—PROTECTIVE FOOTWEAR, U.S. IMPORTS, 1968–72

[Pairs]

Country	1968	1969	1970	1971	1972	1968–1972 percent change
Korea	5,388,166	4,572,070	6,361,265	5,233,424	6,890,438	+27.9
Hong Kong	867,438	1,184,340	706,207	727,054	719,480	−17.1
Taiwan	1,526,886	2,517,149	3,680,257	4,155,868	3,831,604	+150.9
Japan	3,988,833	2,971,705	1,930,851	1,031,716	619,908	−84.5
Other	1,315,838	1,270,976	1,835,042	1,250,061	1,091,161	−17.1
Total	13,087,161	12,516,240	14,513,622	12,398,123	13,152,591	+.5

Source: FT135, "Imports-Commodity by Country," Commodity Codes: 8510105, 8510115, and 8510125, U.S. Department of Commerce.

TABLE 13A.—PROTECTIVE FOOTWEAR, U.S. IMPORTS, JANUARY TO SEPTEMBER 1972 VERSUS JANUARY TO SEPTEMBER 1973

[Pairs]

Country	1972	1973	Percent change
Korea	5,566,844	3,920,335	−29.6
Hong Kong	530,456	90,523	−82.9
Taiwan	2,957,823	2,090,083	−29.3
Japan	544,837	180,083	−66.9
Other	856,803	645,254	−24.7
Total	10,456,763	6,926,278	−33.8

Source: "FT135 Imports Commodity by Country," September 1972 and September 1973.

TABLE 14.—RUBBER-SOLED CANVAS FOOTWEAR SHIPMENTS, EXPORTS AND IMPORTS, 1968–72

[Pairs]

Year	Domestic shipments	Imports	U.S. market	Exports	Percent imports of U.S. market
1968	152,257,000	50,511,480	202,868,480	239	24.9
1969	140,575,000	43,560,685	184,135,685	195	23.7
1970	145,865,000	50,797,250	196,662,250	129	25.8
1971	156,489,000	62,179,440	218,668,440	112	28.4
1972	159,399,000	58,467,845	217,866,845	105	26.8

Sources: RMA, issued Apr. 19, 1973, FT135, "Imports-Commodity by Country," U.S. Department of Commerce.

TABLE 15.—APPLICATIONS BY FOOTWEAR EMPLOYEES, ADJUSTMENT ASSISTANCE 1970-73

	Divided	Ineligible	Eligibe
1. Kayser Roth Shoes, New York, N.Y.		1	
2. Johnson Shoes, Inc., Manchester, N.H.			1
3. Shapira Bro. Shoes, Auburn, Maine		1	
4. Consolidated Nat. Shoe, Norwood, Mass	1		
5. Bates Shoe, a Division of Wolverine Worldwide, Rockford, Mich		1	
6. Hammond Shoe, Worcester, Mass		1	
7. Andal Shoes, Haverhill, Mass		1	
8. Rose Bro. Shoe Co., Boston, Mass	1		
9. Dainty Maid Footwear, Gettysburg, Pa		1	
10. Wise Shoe Co., Exeter, N.H.			1
11. Bernie Shoe Co., Haverhill, Mass	1		
12. Genesco, Inc., Carrolton, Ga		1	
13. Genesco, Inc., Harrisburg, Pa		1	
14. Welpro, Inc., Seabrook, N.H.			1
15. Elkland Leather, Inc., Elkland, Pa.[1]		1	
16. Wilson Shoe, Shamokin, Pa	1		
17. Frank H Pfeiffer Co., Worcester, Mass			1
18. United States Shoe Corp., Cincinnati, Ohio		1	
19. Wilson Shoe Corp., Shamokin, Pa			1
20. Duchess Footwear, Salem, Mass			1
21. Ohio Leather Co., Girard, Ohio[1]		1	
22. Pittsfield Shoe Co., Pittsfield, N.H.		1	
23. Brown Shoe Co., Vincennes, Ind		1	
24. Queensville Shoe Co., Queensville, Mo		1	
25. Grenet Footwear, Miami, Fla		1	
26. Vulcan Corp., Portsmouth, Ohio[1]		1	
27. Seymour Shoes, Haverhill, Mass		1	
28. Dave Aronoff Shoes, Los Angeles, Calif		1	
29. P. M. Footwear, Lajas, Puerto Rico		1	
30. Moca Shoes, Moca, Puerto Rico		1	
31. Yabucoa Shoe Corp., Yabucoa, Puerto Rico		1	
32. Las Piedras Shoe, Las Piedras, Puerto Rico		1	
33. B. E. Cole Co., Norway, Maine		1	
34. Francine Shoe Co., Norway, Maine		1	
35. Sun Manufacturing, Mayaguez, Puerto Rico[1]		1	
36. Wisconsin Shoe Co., Milwaukee, Wis		1	
37. French Shriner & Umer Manufacturing Co.		1	
38. Bangor Shoe Manufacturing, Bangor, Maine		1	
39. Stacy-Adams Co., Brockton, Mass		1	
40. Johnson, Stephens & Shinkle Shoe, St. Louis, Mo		1	
41. Copley Shoe Co., Wakefield, Mass		1	
42. Papagallo, Inc., New York, N.Y.		1	
43. Seymour Shoes, Haverhill, Mass		1	
44. Pla-Moc, Lynn, Mass		1	
45. D'Antonio Shoe, New York, N.Y.		1	
46. Knapp King Size, Brockton, Mass		1	
47. Bernardo Sandals, New York, N.Y.		1	
48. Commonwealth Shoe & Leather, Whitman, Mass		1	
49. Town-Salvage Shoe, Auburn, Maine		1	
50. Bernice Shoe Co., Haverhill, Mass		1	
51. Louis Shoe Co., Amesbury, Mass	1		
52. Ganins, Inc., Wilkes-Barre, Pa		1	
53. Andrew Geller, Inc., Brooklyn, N.Y.		1	
54. International Shoe, Jefferson City, Mo		1	
55. Ornstien Shoe, Haverhill, Mass	1		
56. Kiwen Shoe Sales, North Brookfield, Mass	1		
57. Sinclair Shoes, Haverhill, Mass	1		
58. Smith Shoe Corp., New Market, N.H.		1	
59. Kalmon Shoe Manufacturers, St. Louis, Mo		1	
60. Deb Shoe Co., Washington, Mo		1	
61. Rolla Shoe Manufacturers, Rolla, Mo		1	
62. Wolpf Shoe Manufacturers, St. Louis, Mo		1	
63. Reliable Footwear, New York, N.Y.		1	
64. Bella Mia Footwear, Brooklyn, N.Y.	1		
65. Johnson, Stephens & Shimkle, Vandalia, Ill	1		
66. Caswell Shoes, Lynn, Mass		1	
67. Dori Shoe Co., Lynn, Mass		1	
68. Wolsam Ltd., New York, N.Y.		1	
69. L. E. Beaudim, Hanover, Pa		1	
70. Selwyn Shoe, Boonville, Mo		1	
71. Alby Shoe, Inc., Everett, Mass		1	
72. Adlib, Inc., Hialeah, Fla		1	
73. Stylecrest Footwear, Brooklyn, N.Y.		1	
74. Kickerinos, Newport, Ark		1	
75. Jodi Shoe, Derry, N.H.	1		
76. Maine Shoe Corp., Brunswick, Maine	1		
77. Foot Flairs, Manchester, N.H.	1		
78. Goldberg Bros., Haverhill, Mass	1		
79. National Ballet Makers, Medford, Mass	1		
80. Stage Door, Inc., Raymond, N.H.	1		
81. Kramer Shoe Co., Haverhill, Mass	1		
82. Evangeline Shoe, Inc., Manchester, N.H.	1		

TABLE 15.—APPLICATIONS BY FOOTWEAR EMPLOYEES, ADJUSTMENT ASSISTANCE 1970-73—Continued

	Divided	Ineligible	Eligible
83. Caressa, Miami, Fla			1
84. Uniroyal, Mishawaka, Ind			1
85. B. F. Goodrich, Watertown, Mass			1
86. Servis Rubber, Rock Island, Ill			1
87. Benson Shoe, Lynn, Mass	1		
88. Dartmouth Shoe, Brockton, Mass	1		
89. Hartman Shoe, Inc., Haverhill, Mass	1		
90. Lemar Shoes, Inc., Haverhill, Mass	1		
91. Uniroyal, Woonsocket, R.I			1

[1] Component parts for shoes—manufacturers.

STATEMENT BY HANS J. MORGENTHAU, LEONARD DAVIS DISTINGUISHED PROFESSOR OF POLITICAL SCIENCE, CITY COLLEGE OF THE CITY UNIVERSITY OF NEW YORK, CHAIRMAN, ACADEMIC COMMITTEE ON SOVIET JEWRY

A rational consideration of trade between the United States and the Soviet Union must start from the premise that from the very beginning of its history the Soviet Union has regarded foreign trade as being inseparable from foreign policy. It has regarded foreign trade as a weapon of Soviet foreign policy. As Lenin put it in 1921:

> The capitalists of the entire world, and their governments, in the rush of conquering Soviet markets, will close their eyes to the above mentioned realities, and will thus become blind deaf mutes. They will open credits which will serve as a support for the Communist Party in their countries and will provide us with essential materials and technology thus restoring our military industries, essential for our future victorious attacks on our suppliers. Speaking otherwise, they will be working to prepare their own suicides.

In 1952, Stalin voiced his confidence in the profit motive of Western businessmen as an instrument through which the Soviet Union would be made strong enough for its final triumph. Khrushchev was equally explicit in 1957. What I said in my testimony before the Senate Foreign Relations Committee in February, 1965, applies today:

> The leaders of the Soviet Union have consistently laid the greatest stress upon the expansion of foreign trade. They have not tried to emphasize what foreign trade can do for private profits and international peace. They have consistently shown a particular interest in whole industrial plants rather than manufactured goods. But the Russian leaders are not Manchester liberals. They have wanted foreign trade not for the commercial purposes our businessmen want it for, but in order to gain the political strength necessary to achieve the universal triumph of Communism. . . . I am not arguing here against Western trade with Communist nations per se. I am only arguing in favor of the proposition that foreign trade has a different meaning for Communist nations than it has for us. Trade with Communist nations is a political act which has political consequences. It is folly to trade, or for that matter to refuse to trade, with Communist nations without concern for these political consequences.

There is, therefore, nothing extraordinary in making benefits in foreign trade dependent upon political concessions on the part of nations whose foreign trade policies serve political processes altogether. Such a linkage is dictated by common sense unless we want to make sure that Lenin's, Stalin's, and Khrushchev's expectations come true. The only legitimate question to be asked concerns the expediency of the political conditions proposed in the so-called Jackson amendment.

The expediency of the Jackson Amendment has been attacked before this committee on three major grounds; that it increases the risk of nuclear war, that it may cause the complete cessation of Jewish emigration from the Soviet Union, and that it tries to interfere with the domestic affairs of the Soviet Union. These arguments are astonishing both in themselves and in view of their eminent source.

It can be taken as common knowledge that nuclear war between the two superpowers has been avoided not by virtue of what a particular diplomatic maneuver accomplished or avoided but because of the nuclear balance of power between the United States and the Soviet Union and because of the remarkable self-restraint with which both superpowers have managed conflicts between them.

The second argument assumes that the emigration policy of the Soviet Union is a mere reflection of United States foreign policy. There is no evidence for such an assumption. It is of course true that the Soviet government is most sensitive to foreign and particularly American, opinion and that it will therefore try to avoid antagonizing that opinion unless it feels it must heed overriding interests to the contrary. Based upon that argument, a case could indeed be made in support of the Jackson Amendment, whose message of disapproval is unmistakable. However, determining the Soviet emigration policy are of course considerations of domestic policy, the most important of which is that the Soviet Union does not mind getting rid of certain categories of troublemakers and unreliable elements and supposely unreliable elements regardless of what the United States does or does not do.

The Jackson Amendment does not seek a change in the domestic regime of the Soviet Union. It does not try to introduce, for instance, parliamentary democracy or freedom of speech into the Soviet system. Rather it attempts to give the Soviet Union an incentive to comply with certain fundamental requirements recognized by the Soviet Union itself as legally binding and which have become one of the tests of civilized government.

International peace and order are a function of the balance of power—that is, of an approximately equal distribution of power among several nations or a combination of nations, preventing any one of them from gaining the upper hand over the others. It is this approximate, tenuous equilibrium that provides whatever peace and order exists in the world of nation-states.

But, the equilibrium does not operate mechanically as the "balance" metaphor would seem to indicate. Rather it requires a consensus among the nations involved in favor of the maintenance—or if it should be disturbed of the restoration—of the balance of power. In other words the dynamics of the arrangement are embedded in a moral framework without which in the long run it cannot operate. The participants must give their moral approval in theory and more importantly in practice, to the principles of the balance of power itself in order to make it work.

What makes certain domestic policies of the Soviet government a matter of vital concern to the outside world is its refusal to become part of a moral consensus that is the lifeblood for the balance of power, and which would make genuine détente not only possible but well-nigh inevitable. Were the Soviet Union part of such a system, one would indeed not need to care on political grounds about how autocratic and despotic its government might be. But as long as the Soviet Union remains outside such a system, at best indifferent and at worst hostile to it, the rest of the world has a vital interest in certain of its domestic policies. If the Kremlin abated its present totalitarian practices by allowing its people a modicum of freedom of movement, it would be taking the first step toward joining and in a sense re-creating a system that would itself be a manifestation of détente and provide the moral framework for the balance of power.

Thus our interest in the totalitarian excesses of the Soviet government is not unwarranted meddling in the affairs of another sovereign nation in a misguided spirit of liberal reform. or does it solely express a humanitarian concern or serve to placate public opinion at home. Foremost, it is at the service of that basic interest which the United States and the Soviet Union have in common: survival in the nuclear age through a viable balance of power and genuine détente.

STATEMENT OF LOUIS B. KNECHT, EXECUTIVE VICE PRESIDENT, COMMUNICATIONS WORKERS OF AMERICA

My name is Louis B. Knecht. As Executive Vice President of the Communications Workers of America representing over 575,000 working people throughout this country, I appreciate the opportunity to express our views on this important legislation presented to the Senate.

"CWA favors a foreign trade policy which will achieve a balance between the diverse and often conflicting interests concerned with international commerce. Above all we seek to avoid the development of a trade policy which is simply an over-reaction to emotionally charged issues which may dominate trade conditions at a particular point in time."

This was the introduction in the statement of CWA to the House Ways and Means Committee on this Bill, presented on behalf of our President, Joseph A. Beirne ten months ago. In view of the intervening developments since that time, we feel this is an even more justifiable position now than it was then.

At that time, we said that: "Many nations do have restrictive trade policies directed against the goods of other nations. Restrictive trade policies are directed against a number of products exported by the United States, particularly in the agricultural sector." Now, it is beginning to appear that we should not have exported certain things we did export.

"Meanwhile," we said, "the United States has experienced a considerable influx of imports in recent years. And, many of our largest corporations are investing overseas on the basis of certain tax breaks." Now, it appears that we wish we had more of some imports we do not have.

All of this reemphasizes our basic position, taken ten months ago that it is imperative that our nation adopts a trade program which addresses itself in a comprehensive fashion to all of the serious problems of worker displacement, market disruption, foreign investment, sick industries, dumping, and all other effects of imports and exports. We are of the belief that to effectively deal with these problems, a comprehensive program for international trade should include the following guidelines:

One, changes in the tax laws effecting foreign trade should be undertaken in the direction of equalizing tax treatment. CWA adopted the Burke-Hartke Bill's position on elimination of the foreign tax credit and subsidies to overseas investment.

Two, tariff policies should be coordinated with industrial adjustment, worker retraining, and relocation problems affected by import and export operations.

Three, consumer interests should be integrated into policy considerations affecting imports and exports.

Four, industries consistently threatened by the effects of increased imports or decreased exports should be subjected to a long-term program directed toward relative stability in production and employment.

These guidelines and priorities have been spelled out in the foreign trade position paper of the Communications Workers of America.

With your permission, Mr. Chairman, we would like to again submit this position paper into the record.

The CWA proposals center on the creation of a Foreign Trade Board which would have the responsibility, on the basis of legislatively established guidelines, for undertaking the development of policy to stabilize the more serious economic fluctuations resulting from foreign trade.

At present, some labor groups are understandably concerned about unemployment resulting from imports. But restrictive trade policies designed to increase employment, in a sector of the U.S. economy involving just slightly more than five percent of our Gross National Product, are not an effective substitute for the development of a cohesive national policy for full employment. Meanwhile, it now is clear other labor groups (the oil workers and the auto workers) are grieviously affected by a lack of imports.

The livelihood of large numbers of people is affected by our foreign trade. We think their interests have to be considered.

What has been clear for sometime is that the interests of many of these people are in conflict. What benefits import interests does not necessarily benefit export interests. What benefits consumers does not always benefit certain labor and/or industrial groups. Generally and in theory however, all can benefit from expanded trade.

While we must make every effort to balance the adverse effects which will accrue to both sides, it is obvious that we can never have a plan which will satisfy all parties completely. Due in large part to human nature, this simply cannot be avoided. What can be avoided are rapid transitions which disadvantage some groups suddenly and which make adjustments to those changes extremely difficult. When this happens, there is pressure for swift policy changes which may work to the detriment of all concerned.

CWA has some membership that is affected by competition from imports. But one of our primary concerns is that our membership, as consumers, will have to pay higher prices if imports are curtailed.

The phenomenon of trade takes place because it is more expensive for a country to produce some goods domestically than it is to buy them elsewhere. Such imports provide higher real incomes to consumers, provide the ability to foreign countries to purchase our exports, and thereby, generally expand the employment opportunities of workers in this country.

If this were not the case, trade would not even be a factor in our economy. And, until coffee can be grown in Minnesota as efficiently as it can be grown in Brazil, this will continue to be the case.

We believe that many of the provisions of the House approved Trade Reform Act, deal with basic substantive issues. Many of the provisions could move our trade policy in directions recommended in the CWA proposal for foreign trade policy.

Unfortunately, I use the word "could" advisedly, inasmuch as the substance of many of the provisions of the proposed Trade Reform Act are replete with such vague and discretionary language as to allow any kind of action whatsoever. For the sake of clarity, we have outlined our major concerns in the following six points:

One, we do feel that the President should have the authority to enter into new trade agreements and be able to adjust tariffs accordingly.

Two, we do feel that there should be relief available for disruption to domestic operations from inordinate increases in imports. However, we do not feel that the determination to take whatever action is necessary should be consigned to Presidential discretion alone.

Three, we agree that there should be a fairer and less stringent test for labor to qualify for temporary import relief than now is available, and we feel the House revisions have made a contribution to this section of the bill. The provision in Section 222, for example, qualifying groups of workers for adjustment assistance upon a finding that imports contributed "importantly" to termination of jobs, rather than "substantially" is a definite improvement.

Four, we agree that retaliatory action should be undertaken whenever foreign countries impose unnecessary restrictions on U.S. trade but that determination should be made by a Foreign Trade Board subject to statutory limitations and not left to the discretion of the President.

Five, while we agree that a persistent balance of payments deficit or surplus can be a source of concern, we do not believe that this should result in quota or tariff adjustments at the discretion of the President.

It is far preferable that adjustment to such conditions be undertaken through currency reevaluations studied by an impartial committee.

Six, while we can agree that many import barriers can be suspended in a period of inflation, we cannot agree with a blanket application of such a policy against inflation any more than we would agree to restrictive trade policies as a response to unemployment.

Reduction of barriers on imports will no more solve the problem of serious inflation than the raising of such barriers will solve the problem of serious unemployment. And, again, we deny that such complete authority should be delegated to the President.

While, in our trade proposal, approved by our Executive Board in January of this year, CWA favored many of the provisions later suggested by the Trade Reform Act, it also proposed that such controls be given to a Foreign Trade Board.

This Board would be charged with the development of a balanced foreign trade policy which would consider export and import industries on a case by case basis, including their importance to the economy, their place in the economy, and their effect upon other sectors of the economy.

Imports of shoes, for example, could be allowed at a rate corresponding to attrition in the shoe manufacturing industry. Imports of beef, following the current crisis, could be regulated with consideration to the interests of consumers as well as those of the ranchers.

We propose that such a Board be representative of consumer and labor interests as well as those of business and the government. We propose that the Board's controls be just as broad as the controls proposed here, but that the proposed controls are to be authorized only after the Board's determination of the existence of specified facts.

Its authority to vary tariffs would be conditional on meeting statutory limitations.

We propose a system of flexible tariffs subject to bounds established by the Congress. Its goal would always be to secure a stable transition from, and adjustment to, trade fluctuations and to avoid actions which would destabilize domestic operations.

While the President has authority to take remedial action in many circumstances, it is on the basis of his determination of the circumstances. He is restrained only in cases where it is required that he seek the advice of the Tariff Commission, and there is no provision that such action should be part of a carefully developed long-run economic program.

The Tariff Commission's finding of disruption of industry from imports enables the Secretary of Labor to grant displaced workers supplemental unemployment compensation and other monetary benefits.

We can subscribe to the desirability of this type of adjustment. But, at the same time, under the authority granted him by the Act, the President can enter into a trade agreement permitting an increase of that same import. In other words, the President would possess virtually unlimited authority to alter the terms of trade as he alone saw fit.

We do not see how a comprehensive trade policy can emerge from such arrangements. We can only see the continuance of the lobbying of one industry or another for special considerations. Labor and/or consumer interests appear to be an afterthought in the bill. Industry would remain the primary consultant as it always has.

Tariff increases can also decrease imports, but would clearly have a lesser effect than the imposition of quotas. In extreme cases, even this authority can be contemplated reasonably if the important economic interests involved are considered. Hearings, however, are not enough. The combined interests of consumers and labor must be represented on the policy determining bodies. All too often history has seen Congress create a control commission only to have the Executive staff if it with the very people it was designed to regulate.

In summary, while many of the proposed controls contained in the Foreign Trade Bill coincide with proposals we have made, we feel that the mechanism designed to employ these controls is such, that they might easily be misdirected or ineptly applied. In spite of the improvements in the Bill, and the House authorization of an office for the Special Representative on Trade Negotiations, there remains the absence of an on-going Study-Commission which would continuously address itself to be shifting balance of interests and concerns connected with problems of International Trade.

Because foreign trade involves special considerations and constitutes only a small part of our economy, we favor a policy that would treat those problems singularly. In the past, whenever the economy has experienced any substantial unemployment, a hue and cry has been raised for restrictions on imports, as if such efforts would excuse the absence of effective fiscal policy. There are no inherent provisions to help insure the stability of international commerce in this particular piece of foreign trade legislation.

While the control of trade is properly within the legislative purview, the Foreign Trade Bill would virtually consign the conduct of this entire area of economic activity to the Executive branch of the government. While we recognize that the House revision of the Bill has imposed additional limitations on the Executive's authority, we do not believe this is quite enough.

The varied economic interests involved require that the complicated matters of foreign trade be the special province of a technically competent, economically representative group responsible to the legislature.

Interestingly, enough, while the events of the last 10 months have shown how changes in the conditions of trade can make previous directions of legislation absolete, these same events have brought, of necessity, some of the kind of planning in Foreign Trade we feel is necessary. The present reformulation of objectives in trade being undertaken, at whatever levels, in conjunction with the energy crisis and related developments is just the kind of operation we would envision among others for such a Foreign Trade Board.

In the final analysis we are concerned that additional unrestrained power will be placed in the hands of the Executive. But, our greatest concern is that too many aspects of Foreign Trade are dealt with through disjoined, unrelated actions in response to the concerns of the moment.

In summary, we think the time has come when trade policy must be the result of long-term planning looking to the problems of long-term growth and development of this country, rather than the result of the immediate economic interests of the present. We think labor can stand this and the oil companies can, too.

Thank you, Mr. Chairman.

TOWARD A NEW U. S. FOREIGN TRADE POLICY:

A More Definite Proposal
by the Communications Workers of America
for Resolving Our Trade Problems
(with Comments on the Burke-Hartke Bill)

EXECUTIVE BOARD
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Joseph A. Beirne
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Secretary-Treasurer

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Summary

CWA agrees with the intent of the Burke-Hartke Bill to remove the tax breaks of the multi-international corporations and to curb the exportation of capital. The proposed quota system of the Burke-Hartke Bill is an uneconomic type of control because it will result in limitations on consumer choice, increased prices, declines in employment in U.S. export industries and a reversal of attempts to achieve economic harmony.

The approach of the Burke-Hartke Bill can be said to be one-sided and several areas are lacking, as follows:

1) No coordinated comprehensive program.
2) No consumer representation on policy matters.
3) No provision to fund manpower retraining and industry accommodation to real changes in market conditions.
4) No program for preventing excess profits in tariff protected industries, and long-run stability in import and export industries.

Therefore, CWA recommends the following:

1) Set up Foreign Trade Board composed of representatives from Labor, business, government and consumer groups to develop and coordinate a comprehensive program to deal with worker unemployment and unused industrial capacity due to increases of imports or decreases in exports; manpower retraining and industrial relocation in import-export affected industries; and, administer a system of flexible tariffs related to industry levels of unemployment to avoid the dislocations of sharp changes in imports or exports.
2) Parties adversely affected by competition from foreign goods will be required to file with the Board for relief.
3) Protected firms will be required to pay a graduated tax on profits which exceed a rate of return deemed appropriate by the Board. Export profits in excess of

norms determined to be appropriate also should be subject to additional taxation.

4) These monies should go directly into a fund to be established to finance and develop a program for relocation and retraining of workers and re-tooling of industry when the Board determines that an industry cannot survive without tariffs, or, that an export trade is reaching a level that will provide eventual problems.
5) It shall be national policy to minimize workers economic losses due to increases in imports and decreases in exports.
6) The U.S. should undertake to secure agreements with foreign countries establishing more reasonable exchange rates and securing limits on devaluations of currencies in order to promote exports and reduce foreign investment.

Action against International Corp.

Burke-Hartke Bill	*CWA Trade Position*
(1) Full share foreign earnings American Corp. holdings in foreign firms of 10% ownership or more will be reported and taxed in year accrued.	(1) Same but need some clarification on definition of tax base.
(2) Discontinuance of foreign income tax credit against U.S. income taxes.	(2) Same as Burke-Hartke Bill.
(3) (a) More realistic depreciation allowances on capital goods used abroad; (b) Repeal of tax exemption of incomes of U.S. personnel abroad.	(3) Same as Burke-Hartke Bill.
(4) Discontinuance of tax-free treatment of U.S. firms foreign incomes from (a) licensing and (b) transfer of U.S. patents to foreign corporations.	(4) Same as Burke-Hartke Bill.

Policy on Imports-Exports

Burke-Hartke Bill

(1) Establish import quotas, of, for first year, average level of goods imported for period 1965-69; thereafter, level proportionate to domestic production based on 1965-69 ratio of import to domestic production.

(2) Strengthen anti dumping legislation by consolidating administration in one agency and requiring disposition of any complaint on selling of foreign imports below cost within 4 months.

(3) No specific proposals on exports.

(4) Establishment of a Trade Commission to administer quotas, and related trade legislation.

(5) Encouragement of administration to undertake all efforts to increase exports.

CWA Trade Position

(1) Establish a Foreign Trade Board composed of representatives of government, consumers, labor and business to administer a comprehensive program involving adjustment of Tariffs (within given limits), levels of imports, and exports, levels of production in import and export industries, levels of employment in these industries and funding of manpower retraining and relocation dictated by required adjustments in these industries.

(2) Tariffs would be established in industries grievously affected by imports as to maintain the level of domestic production deemed desirable in terms of various criteria, including unemployment, level of skills, extent of automation and average age of work forces involved.

(3) Resulting profits in excess of some appropriate rate of return would be subjected to tax for a special reserve fund.

(4) Proceeds from the export-import reserve fund would be used for manpower retraining, manpower relocation, plant relocation and relocation of businesses into other industry, wherever and to the extent dictated by changes in export-import trading.

(5) Inordinate profits in exports should also be subjected to tax for the reserve fund.

(6) The Trade Board should have authority to dictate changes in business practice that would reduce the need for Tariffs or limitations on exports.

(7) To the extent that foreign investment aggravates the balance of payments, a special foreign investment tax on foreign income in excess of some standard should be levied into the reserve fund.

(8) Finally, general appropriations should be made as required to the reserve fund to accomplish its objectives.

(9) In addition, the U.S. should continue efforts to secure, through international agreement, more reasonable exchange rates to improve exports and reduce foreign investment.

Historical Development of U. S. Foreign Trade Position

Following World War II, U.S. foreign trade, which has never been a major proportion of our economic operations in recent times, (it was 4½ percent of Gross National Product in 1953 and 1960) was of critical importance for a number of countries. Developed countries were concerned in connection with reconstruction and economic recovery. Underdeveloped countries were concerned with development and economic expansion. U.S. trade policy was a major concern to many foreign countries.

This situation is generally no longer the case. From this point of view it then is possible to say that the U.S. is in a better position than it ever has been to set its trade policy with a single-minded concern for its own best interests.

At the same time, of course, the factors that have led to this situation also mean that foreign countries are relatively more free than they have ever been in developing their own response to whatever policy may be developed by the U.S.

Following World War II, the economic condition of the U.S. was so superior to that of the rest of the World that there was a general relaxation of all types of restrictions upon imports. General continuance of economic operations approaching full employment even encouraged considerable expansion of American foreign operations.

As these various policies have run their course, and with their help, many of the western and industrialized countries of the world not only have achieved recovery, but have attained new heights of economic development. Particularly, the more socialized countries of both western and eastern Europe have secured economic stability and a considerable measure of well-being.

It is in this context that it is increasingly possible to say that U.S. decisions concerning foreign trade, although having

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an impact upon some countries and forcing some adjustment, are likely to be less and less critical to world prosperity as time goes on. Close neighbors, like Canada, will be some notable exceptions. On the other hand, some, like Cuba, have escaped our in[illegible] in trade by other means. Special consideration can be continued for less developed countries in the form of direct aid programs.

Therefore, we are relatively free to develop what policy we wish. And, we may do this also in the full knowledge that, one way or the other, we are not likely to do enormous harm to ourselves when the sum and substance of either our total exports or imports does not exceed five to six percent of our total Gross National Product. Since this is the case, there seems to be little point to continuing the practice of manipulating our foreign trade as an adjunct of full employment fiscal policy. There is relatively little to be gained, one way or the other.

However, in a trading world otherwise, our imports and exports are increasingly tied together.

Other countries pay for their imports from us (our exports) with their exports to us (our imports). And, if the means of payment is reduced they trade with someone else. This is the real meaning of the recent efforts of our trade policy of the last eight months. Moreover, it should be noted that even our relatively small level of imports has a beneficial competitive effect in the domestic economy. Four price levels in a number of monopolistic industries would surely be higher without the competitive threat provided by imports.

In the course of Phase I of controls in the domestic economy, we imposed an across the board import surcharge. We devalued the dollar to increase our exports. And, we concluded some bilateral agreements for reduction of some imports from some countries (some of which, Italy for example, acquiesced with remarkable alacrity).

The first indications of the modern results of this policy now are beginning to trickle in. We are told that the balance of payments for the first quarter of 1972 is the *worst* that it has been in six years; 10 new countries have come into the Common Market, rather than the previously projected six; and it now is estimated this is very likely to cost us $1 billion annually in exports. As previously indicated, this probably will not break us, but it does suggest we ought to begin to look at our trade policy rather carefully in terms of just what it is that we want to do with it. If we continue to reduce imports, or pass the Burke-Hartke Bill, we can expect a continued decline in exports, too.

The Burke-Hartke Bill

Our most apparent problem appears to be that some imports are keeping some of our people out of work. On the other hand, a decline in exports also puts people out of work. The quota on Italian shoes probably kept some shoe workers at work in the U.S. We don't know what Italy might have bought that they are not now buying—from us. But, whatever it was, we lost an export and other jobs.

In addition, it is suggested that American firms' investment of capital overseas (imports of IOU's, bonds, stocks, etc.) is providing income to these firms (which provides us with claims on foreigners just like exports do) without those firms' having to employ American workers. No one seems to want to understand that if GM could not assemble parts in Japan with "cheap labor" GM might not have as big a domestic operation at home and not employ as many workers here rather than more, because the increase in GM's costs would merely raise prices. This, itself, would induce further imports.

To alleviate these problems, the Burke-Hartke Bill would establish quotas for all imports, and tax foreign investment more heavily.

This may be the first time a trade bill has attempted to deal with the problem of corporate America's investment in foreign countries, with the objective of reducing that investment as a means of supporting employment at home. Such an effort is all the more tragic because this type of attempt to control it is based upon a false premise. The premise, very simply, is that, if American corporations could not invest some given amount elsewhere, they would invest that same amount here and employ the necessary resources and labor which would otherwise be unemployed. Alas, the capital is traveling abroad in the first place because the return is better. It is receiving an income—which improves our balance of payments—and, if we cut off the export of capital, nothing currently is happening to our economy which would induce its investment here. Furthermore, if U.S. firms did not so invest abroad, they generally would lose part of their export markets to foreign firms.

Quotas will reduce imports and we can all pay higher prices for shoes and keep a few more shoe workers earning their close to minimum wages. (After all, it is true, a minimum wage is better than none!) But, this offers no protection to workers in undetermined industries where the market has declined because, for some inexplicable reason, exports have been reduced. The question can be said to be: should we accept a system that shifts a portion of unemployment from one group of industries to another? And if so, can we simply ignore the effects upon export industries just because the problem appears to be less identifiable?

Our real problem at the present time is unemployment throughout the economy. Shutting off imports will hardly solve the problem alone, especially if exports suffer an equal decline due to predictable retaliation from abroad. With exports increasingly tied to imports, it would seem to make more sense for us to deal with both in line with a coherent policy directing itself to all of the issues involved in our international trade.

A system of flexible tariffs appears to be a better answer for import and export problems than a rigid set of percentage quotas on imports. These considerations suggest some modification of the hard Burke-Hartke line which could lead to a more beneficial trade policy.

Taxation of Foreign Investment

Much of the current tax policy on foreign investment has been in the direction of encouraging and subsidizing such investment. We no longer have need for this policy except in the cases of some truly under-developed countries, where the problem can be more advantageously handled through some kind of direct aid. Therefore, there is no particular reason we cannot at least consolidate our tax policies and give equal tax treatment to both foreign and domestic investment.

It appears that some of the substantive tax proposals in the Bill provide a desirable method by which multi-national firms can be significantly controlled and the flow of U.S. capital and technology can be significantly decreased. Support can be given to the repeal of the tax credit against U.S. *taxes* which currently is given to U.S. firms for payment of foreign taxes. The present reasoning whereby tax credit *is not* allowed on U.S. taxes for payment of individual state taxes while such tax credit is allowed for payment of foreign income taxes, is subject to question. The obvious intent of such reasoning is to encourage U.S. investment abroad and to promote the exporting of U.S. technology. While such an intent can be supported in underdeveloped countries in connection with our foreign aid program it really serves no purpose in more industrialized nations. Such foreign tax credits for multi-national firms appear to us to be blatantly inconsistent with the desirable objectives of equal tax treatment and maintenance of high employment levels domestically. The proposed repeal of this tax credit will be an instrument in reducing both U.S. foreign investment and the transfer of technology that is presently moving to highly industrialized nations. For firms which currently are overseas with the expectation of these credits, a grace period should be allowed, within which the full impact of the tax would be returned slowly.

Support can also be given the intent of the Burke-Hartke measure that all earnings and profits be reported *and* properly taxed in the year in which they accrue. There is no allowable rationale for the present tax deferments on foreign earnings and profits. Preferred tax deferments for multi-national giants should be ended immediately.

Where some doubt may be raised as to the intent of the Burke-Hartke Bill lies in the difference between equalizing tax treatment between foreign and domestic operations, and the outright penalizing of foreign investment on the presumption that it would otherwise be undertaken here.

Equalization of taxation requires the current taxation of income from foreign investment that is realized or paid out in dividends or realized capital gains. The Burke-Hartke Bill would appear to extend taxation of an American corporation's foreign income to the whole share of income or capital gains earned for a given year—both realized and unrealized income. While the distinction is not recognized in the Bill, taxation of unrealized income could conceivably cut off foreign investment, thereby eventually reducing one of the biggest credit items in our balance of payments—income from foreign investments which becomes a current claim against the currencies of others.

Nevertheless, the principle of equality in taxation would indicate that *realized* income from foreign investment should be subject to corporate income taxation, and that this should be the case regardless of whether such cash dividends or capital gains remain in the country of origin or are paid in this country.

To allow paid income to escape taxation through the complete artifice that it is received elsewhere simply is another corporate income tax loophole and unnecessary subsidy to foreign investment.

In this same context, support should also be given to the Sections of Title I of the Burke-Hartke Bill which provide much needed reform in the areas of: a) more conservation and realistic depreciation rules in estimating tax write-offs for foreign operations; b) disallowing tax-free treatment for U.S. firms' incomes from licensing and transferring patents to foreign corporations; and c) the repeal of special tax exemptions governing corporate personnel who spend 17 out of 18 months overseas working for a foreign branch or other foreign subsidiary of a U.S. firm. The closing of tax loopholes which conveniently serve the vested interests of multi-national giants is long overdue. The Burke-Hartke Bill makes sound provision for this needed improvement.

Import Trade

The inflexible import quotas which are outlined in the Bill constitute a much less desirable control instrument. Specifically, the proposal is . . . that all products currently imported into the United States be subjected to numerical quotas based on the annual average quantity imported from a specific country during the years 1965-69. In addition, quotas are to be adjusted so as to keep the relationship between imported goods and domestic production for a particular commodity or category of goods constant over time. These quotas would be determined and administered by a commission comprised of three members appointed by the President for six years each.

The type of quota system outlined in the Burke-Hartke Bill would prove more detrimental to the American *consumer* than it would prove helpful to the American economy. A recent Department of Commerce study has projected that the Burke-Hartke quotas would reduce imports by about $12 billion a year, or more than 25% from last year's level. It is also estimated that declines would be as much as 36% for Japanese products and 27% for products from the Common Market. Specifically, the study cites that color television imports would fall by 64% from 1971 levels and that automobile imports would decrease 52%.

Under such a severe quota system, the detrimental effects to the American *consumer* appear only too obvious. The consumer's available market basket of goods would be severely altered. Moreover, the effect of such a change would lead to additional inflationary pressures. We would find that importers, reacting to a market situation in which a strong demand exists for a reduced supply, would undoubtedly boost their prices. Furthermore, this tendency to higher prices would persist in the absence of any renewed foreign competition. In addition, the American economy would have to prepare itself for retaliation from our trading partners. Looking at the international ramifications realistically, political and economic pressures abroad would make retaliatory measures inevitable.

In sum, it appears that the Burke-Hartke Bill is asking the consumer to relinquish free economic choice—one of the core values of American economic life—to solve an economic problem which might be better solved through other means. We are told that the intent of the Burke-Hartke quota system is to protect American jobs and reduce unemployment. In light of this, the provisions of the Bill raise two questions: 1) "Will import quotas increase jobs of American workers," and 2) "Are quotas the most effective and least costly solution to the foreign import problem?"

Some jobs will, of course, be protected by the proposed import quotas. However, in an interdependent trading world, imports and exports are inextricably woven together. Other countries pay for their imports from us with their exports to us. And, if the means of payment is reduced, they will retaliate against U.S. exports. Therefore, it seems obvious that the proposed Burke-Hartke quotas would result in serious dislocations in the U.S. export sector, and that higher rates of unemployment in this sector would inevitably follow. If the projected expansion of the Common Market is considered with its estimated effect of reducing U.S. exports by $1 billion annually, some idea may be had of how severe the employment problem in the export sector can become. One can therefore question the sensibility of a system which would ask one segment of our working population to accept more unemployment so that other workers within the system can remain employed. This type of senseless employment "trade-off" is once again placing the brunt of inept economic policy directly on the worker.

In response to the second question posed above, it may be said that import quotas are not the least costly nor the most effective adjustment to import problems. It is not being suggested as some might imagine, that the U.S. should adopt a free trade policy. To proclaim the virtues of the international division of labor and free trade does ignore certain short-run economic problems and political realities. Our foreign competitors have not uniformly adopted policies approaching free trade. A free trade policy in one country, the U.S.A., will not result in an international division of labor and the consequent economic benefits to be reaped from free trade to the extent that other countries do not cooperate. Furthermore, there is always some danger foreign competition could eliminate certain industries that are considered necessary for reasons of national security and independence (e.g., basic steel, certain electronics equipment, and others). On the other hand, there are no economic or political reasons why color T.V.'s radios and the like should not be produced overseas, especially if they can be produced more economically.

The proposed quotas would be costly in the sense that the suggested formula for quotas takes no particular account of market conditions. Because our domestic production had increased, with a percentage quota, the import allowance for one item would be increased—when, perhaps, we needed none of it. If domestic production of another item was off, the important allowance would be cut and we might be left with less of the product than we wanted. Moreover, there would be no allowance for adjustments related to technological and other new developments which would change the real terms of trade.

Quotas are hardly the most effective adjustment to import problems because they provide only a temporary respite for problems that require some long run adjustment of the underlying production conditions.

A system of tariffs, of course, can accomplish as much, or as little, as quotas. Tariffs in the past, it is true, have been used as capriciously and arbitrarily as quotas, for control over imports. The mechanism of tariffs, however, is a more useful adjunct to a more unified policy toward all aspects of our foreign trade. Tariffs provide revenues, for whatever purpose they might be turned to, as well as providing a control over imports. In the past, tariffs have been relatively rigid and have been relaxed on the basis of negotiated exemptions.

The proposed quota system is relatively rigid. The proportions that imports of specific goods could be, as related to total domestic production, would be fixed. Once the level of imports reached that level in any given year, that would be the end of them. No provision is to be made for any economic dislocations this may create, and nothing further is to be done.

By contrast, we would favor legislatively established minimums and maximums for tariffs, reviewable from year to year. Administrative discretion could then operate a system of flexible tariffs, within those established limits, which would take into consideration the other relevant issues related to our foreign trade. Tariff levels then could be established in relation to current levels of unemployment and rates of attrition in import affected industries, as well as with respect to other considerations related to foreign trade.

A Proposed Trade Policy

Congress should adopt a Trade Program which addresses itself in a comprehensive fashion to all of the serious problems of worker displacement, market disruption, foreign investment, sick industries, dumping and all other effects of imports and exports.

A comprehensive program should include the following guidelines:

1) Changes in the tax laws affecting foreign trade should be undertaken in the direction of equalizing tax treatment.
2) Tariff policies should be coordinated with industrial adjustment, worker retraining and relocation problems affected by import and export operations.
3) Consumer interests should be integrated into policy considerations affecting imports and exports.
4) Industries consistently threatened by the effects of increased imports or decreased exports should be subjected to a long-term program directed toward relative stability in production and employment.

Toward these ends, CWA proposes that:

1) A Foreign Trade Board should be established composed of representatives of government, consumers' groups, labor and business to administer a comprehensive program. This Board should have the capacity to deal with adjustment of tariffs, within legislatively prescribed limits, and therefore, levels of imports and exports, and levels of employment in affected industries. It also should deal with funding and financing of manpower retraining and relocation dictated by these adjustments in the affected industries.
2) Such an authority would make it possible to determine the industries likely to be most grievously affected by imports. Tariffs for such goods could be so adjusted as to permit prices domestically which would maintain

some given level of production in the industry. A desirable level of production could be determined with criteria related to defense needs, effects on domestic industry, effects on consumers and on employment. There is no reason tariff levels cannot be adjusted to give consideration to levels of unemployment in industry, degree of labor intensity in production; level of skill and average age of employees, rather than just to the level of profits in the industry.

3) Firms protected by a tariff would be required to deposit a portion of profits in excess of some appropriate rate of return for some base period in an import-export reserve fund. Such profits can be subjected to a graduated sur-tax, the proceeds of which would be placed in the fund. This fund should be directed extensively towards a program of manpower retraining and relocation for workers in industries affected by imports where the Board has determined that such an industry was not deserving of protection under the criteria it develops.
4) The Board could also allocate monies to the management of such industries, in the form of short-term subsidies designed to facilitate disinvestment without loss. (This is the effect of many of the current policies administered by the ICC in the Railroad industry.)
5) Where, and whenever, the Board determines that export industries similarly are affected as a result of our import trade policies, similar allocations of money from the fund should be allocated on a program basis to workers and managements in these industries.
6) In the cases of export industries, too, where the proportion of production destined for such export markets receives profits in excess of the profits in such markets over some base period, this excess also can be subjected to a graduated tax to be levied into the reserve fund.
7) Where industries are adversely affected by heavy imports, or a sudden influx of imports, they should be able to apply for upward adjustment of tariffs sufficient to deter violent movement in the industry. The Board should be empowered, however, to make recommendations for change in the industry where it may be determined such changes might make subsidization unnecessary. (An obvious case is the situation of the steel industry where conversion to oxidization would

put the U.S. steel industry on a more reasonable competitive basis. Japanese steel is produced almost exclusively under oxidization.)

8) To the extent that new foreign investment overseas griveously aggravates international balances, the Board might well have authority to restrain such transactions. This could be done through licensing restrictions. Alternatively, the Board might have authority, when its other operations have aggravated the balance of payments, to impose a foreign investment tax on income from such investment equal to any share of realized return in excess of a rate of return on investment more than, for example, 1% higher than that corporation's return on equivalent domestic investment. These monies also should be levied into the reserve fund.
9) It would not be the intention of these proposals that policy by the Board be undertaken for the purpose of maintaining some balance in the reserve fund. Rather, the fund should be maintained for a desired import-export policy. Therefore, to the extent necessary, general appropriations annually should be made in order to maintain the reserve fund for the purpose of this legislation.

This type of program would permit imports to be increased or decreased, and exports to be increased or decreased independently.

To the objection that such a program would be either expensive or constitute a gross change in the philosophy or management of business in foreign trade, we would only say again that it amounts, one way or the other, to no more than 6% of the annual GNP. This would seem to be small price to pay for stability in imports, exports, the related production, and employment affected by foreign trade.

10) Finally, apart from legislation, and in the direction of improving our export position, the United States must renew its efforts to secure more realistic exchange rates through agreements with foreign countries. Such agreements should secure reasonable limits to currency devaluations more in line with purchasing power exchange rates. The U. S. has little to lose in this direction, since such efforts should result in further devaluation of the U. S. dollar and improve our general export position. A large part of our support of the dollar has been in support of American investment in foreign countries. Further support no longer is needed

in many cases and such action will alleviate some of this particular aggravation to the balance of payments problem.

11) In addition, the Foreign Trade Board should be authorized to appoint and staff special "product committees," where they find it desirable to do so, for the purpose of negotiation of bilateral agreements between countries seeking reduction of non-tariff barriers to international trade.

The following Statement dealing with freedom of emigration was adopted by the Executive Board of the Communications Workers of America in February, 1973.

Head Tax on Soviet Jews

STATEMENT BY EXECUTIVE BOARD OF COMMUNICATIONS WORKERS OF AMERICA

The Soviet Union, since August 3, 1972, has been imposing a head tax on Russian Jews who seek to emigrate to Israel.

The amount of the tax ranges from $5,000 to $37,000, depending on the amount of education completed, on each Jew granted a visa to leave the country. The schedule of fees is carefully calculated with $5,000 per visa for those who have not finished high school, $6,600 for those with a high school diploma, and ranging up to $37,000 for holders of the equivalent of an American Ph. D. It would take most Soviet citizens at least 10 years to save the the necessary funds for even the lower head taxes, based on an average Russian worker's income of 140 rubles a month.

There is no doubt that this oppressive new Communist edict is specifically directed against Soviet Jews and particularly against educated ones. Jews make up the largest and most vocal minority group who have expressed a desire to leave Communist Russia. In addition, they are the most highly educated of the ethnic minorities in the USSR. Eighty-five percent of the adult Jews in the USSR have received at least a high school education. Current official figures show also that only 3.15 percent of the Jewish population are university students, when it is well known that Jewish cultural emphasis is on higher education.

Ironically, the head tax levied on the Russian Jewish community violates the Soviet Constitution, which specifically grants Russian citizens the right of emigration.

Also, this tax is in conflict with the Universal Declaration of Human Rights passed in December, 1948 by the U. N. General Assembly with the affirmative vote of the USSR. The Declaration expresses in Article 13 the right of everyone "to leave any country including his own, and to return to his country." The Declaration also expresses in Article 14 the right of everyone "to seek and enjoy in other countries asylum from persecution." Article 15 affirms the universal right to change one's nationality.

The Soviet government's bigotry strikes out at Jews in jobs, housing, education and activities of every kind. Synagogues have been arbitrarily closed down in community after community for the past 30 years. Fifteen years ago, in 1957, there were 450 synagogues; in April of 1963, almost 10 years ago, 100; and today the figure has dwindled to less than 60 synagogues which remain to serve a population of 3 million. This total compares with 120 synagogues in Chicago, which serve a Jewish apopulation of only 200,000. Moreover, those who do attend synagogues in the Soviet Union are intimidated by agents of the KGB, the dreaded communist secret police.

The study of Hebrew is systematically and forcefully discouraged in the USSR. Although the 3 million Soviet Jews represent one of the two largest Jewish communities in the world, the last Hebrew-language book published in the Soviet Union was published in 1928. Recently, Moscow's only Hebrew teacher was imprisoned on vague charges of "hooliganism."

Judaism is not even permitted any central or coordinated structure, unlike the other 10 recognized religions in the USSR. The publication of religious literature and the manufacture of religious articles for Jews are prohibited.

It is indeed a tragic irony that the Soviet government will not let its Jewish citizens live in peace, as productive citizens in their country, yet at the same time refuses to permit them to find peace in other countries which have indicated a willingness to accept them as emigrants.

The United States itself is a nation founded and populated by the refugees of an earlier era. We or our forefathers were all emigrants from somewhere. Our commitment to the cause of aiding those who flee repression and persecution is inscribed on the base of the Statue of Liberty.

The Communications Workers of America has always held that it is unconscionable to place price tags on human freedom. We condemn this reprehensible form of extortion practiced by the Russian government.

We urge the Soviet Union to allow all members of its Jewish community and other members of minority groups and all other citizens who desire to leave to emigrate to the land of their choice, in accordance with national and international law.

TESTIMONY BY CHARLES R. FRANK, JR., ON MARCH 22, 1974

The AFL/CIO claimed that the rising tide of imports over the period 1966 to 1969 was responsible for a net loss of half a million jobs due to foreign trade and that by 1971, this figure had risen to a total of 900,000.

The purpose of this paper is to assess whether these estimates are realistic.

The analysis in this paper is based on a subset of five-digit industries (Standard Industrial Classification or SIC as described in Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual 1967*) for which imports are either an important fraction of total output or are important in absolute terms. In particular, we selected all those industries for which, at least one year between 1963 and 1969, imports were greater than three percent of domestic output and greater than $10 million. In addition, we selected some industries which did not meet the $10 million rule but for which imports were still a significant fraction of output and other industries for which imports did not meet the three percent rule but were large in absolute value. In this manner, 207 five-digit industries were selected out of approximately 1000 eligible five-digit industries. These industries, however, represented about 46 percent of total manufacturing output and 40 percent of total manufacturing employment in 1971.

Within these industries output grew quite rapidly between 1963 and 1971, but employment was stagnant. Total employees increased slightly, production workers grew hardly at all, and production man-hours declined slightly.

The lack of growth in employment can be attributed partly to the growth in imports. Clearly, other factors are involved, however. In order to analyze the impact of trade on employment, we broke down the change in employment into four components:

1. increases in employment potential due to expansion of domestic demand:
2. increases in employment potential due to export expansion;
3. the decline in employment potential due to increased imports; and
4. the decline in employment potential due to increased labor productivity.

The growth of employment can be decomposed into the above four factors using a simple formula which can be derived easily. The formula is:

$$r_e = r_d d/O + r_e \cdot x/O - r_m \cdot m/O - r_p$$

Where r_e is the rate of growth of employment, r_d of domestic demand, r_m of imports and r_p of labor productivity. The ratios d/O, x/O, and m/O are the ratios of domestic demand, exports and imports to output, respectively.

The first term on the right hand side of this equation can be interpreted as the contribution of growth in domestic demand to the growth of employment, the second term as the contribution of exports, the third as the (negative) contribution of the growth of imports and the final term the (negative) contribution of increased productivity.

The contributions for the five digit industries were calculated using this equation as a basis. Since the data covers discrete time periods rather than continuous time, it is impossible to calculate the instantaneous rates of change expressed in the equation. Rather, rates of change were calculated on an annual percentage basis and were weighted by the average of the beginning and terminal year, domestic demand, exports, and imports as a percentage of output. The contribution of productivity growth was calculated as a residual.

The contributions thus calculated can be interpreted as casual factors only in the sense that if all other factors were held constant and only the factor in question was considered, the change in employment in the import-competing industry would be equal to the contribution of that factor. For example, the contribution of imports is the decline in employment that would result if output, exports, and productivity remained constant. It should be kept in mind that one might want to attribute changes in employment to more basic causes. For example, domestic demands and exports fluctuate because of changing prices, changes in taste, and government monetary, fiscal, and exchange rate policies. Changes in employment might be attributed to these more basic causes rather than simply to changes in domestic demand or exports. The contributions calculated using equation (5) as a basis also do not take into account indirect effects of changes in domestic demand for products of one industry may affect the demand for products of another industry that supplies the industry whose domestic demand has changed. These effects are not taken into account; our domestic demand concept includes both final demands and indirect demands.

The results of this decomposition analysis are shown in Tables 1 and 2. The numbers in these tables indicate that by far the most important factors affecting employment growth in the import-competing industries are changes in domestic demand and labor productivity. Increases in labor productivity had roughly five times the negative impact on employment as had the growth of imports and ten times the negative impact of net foreign imports (imports less exports) in the import-competing industries between 1963 and 1971.

Table 1 indicates that, except for textiles and paper products, the effect of imports in percentage terms varied little across industries. The effect of imports on textiles was relatively mild, largely because of the slow growth of cotton textile imports which were inhibited by the quota system for cotton textiles. Although imports had relatively little impact on employment in textiles, increased productivity has made an enornmous impact. Productivity in textiles has increased at a rate of nearly 10 percent, much more rapidly than in any other industry except instruments (where, because of the heterogeneity of output, the concept of productivity must be accepted with a great deal of caution). Another negative factor in the case of textiles has been a rather sluggish growth of domestic demand.

TABLE 1.—SOURCES OF GROWTH OF EMPLOYMENT IN 5-DIGIT, IMPORT-COMPETING INDUSTRIES AGGREGATED TO THE 2-DIGIT LEVEL; 1963–71

[Annual percentage changes]

Industry	Growth rate of total employment	Growth rate of production man-hours	Contribution of productivity per employee	Contribution of productivity per man-hour	Contribution of domestic demand	Contribution of exports	Contribution of imports	Contribution of trade (imports-exports)
20. Processed foods	0.5	0.2	−5.3	−5.7	6.4	0.2	−.7	−.9
22. Textiles	−7.5	−7.6	−9.8	−9.9	2.4	.1	−.2	−.5
23. Apparel	−3.6	−4.8	−8.4	−9.6	5.7	.0	−.9	−.1
24. Wood products	.9	.7	−4.5	−4.7	6.2	.3	−1.1	−.8
25. Furniture	3.7	3.1	−3.5	−4.1	7.8	.0	−.6	−.5
26. Paper products	.3	−.1	−5.1	−5.5	9.8	1.7	−6.2	−4.4
27. Printing and publishing	3.1	3.1	−2.6	−2.6	7.5	.1	−1.9	−1.8
28. Chemicals	2.0	1.5	−3.7	−4.3	5.7	.7	−.7	0
29. Petroleum and coal products	10.4	9.5	2.9	2.1	9.2	.1	−1.8	−1.7
30. Rubber and plastic products	4.2	3.8	−2.3	−2.7	8.2	−.6	−1.2	−1.8
31. Leather products	−2.3	−2.7	−4.8	−5.1	4.5	.3	−2.1	−2.0
32. Stone, clay, and glass products	1.2	.6	−4.6	−5.3	6.2	.5	−.9	−.4
33. Primary metal products	2.7	1.6	−.9	−2.1	5.4	.1	−1.8	−1.7
34. Fabricated metal products	−.4	−.9	−6.6	−7.1	6.4	.8	−1.0	−.2
35. Machinery, except electrical	2.4	.2	−4.5	−6.7	6.8	1.3	−1.2	.1
36. Electrical equipment and supplies	2.8	−3.4	−4.0	−10.2	8.0	.8	−2.0	−1.3
37. Transportation equipment	2.4	1.8	−3.5	−4.1	5.9	1.2	−1.3	0
38. Instruments	.9	−1.4	−10.6	−12.8	11.5	1.1	−1.1	0
39. Miscellaneous manufactures	.8	−.1	−4.2	−5.1	6.1	.5	−1.6	−1.1
Total	.6	−.8	−5.1	−6.6	6.3	.5	−1.1	−.6

TABLE 2.—COMPONENTS OF GROWTH IN EMPLOYMENT IN U.S. IMPORT-COMPETING INDUSTRIES

[Percent per annum]

Period	Growth rate of total employment	Contribution of growth of domestic demand	Contribution of increases in imports	Contribution of increased exports
1963-67	2.6	7.3	-0.9	0.3
1967-70	-1.6	5.3	-1.4	.8
1970-71	0	5.5	-.7	.2
1963-71	.7	6.3	-1.1	.5

Period	Contribution of increased productivity	Net contribution of trade
1963-67	-4.1	-0.5
1967-70	-6.5	-.5
1970-71	-5.0	-.5
1963-71	-5.1	-.6

The United States has become increasingly dependent on foreign sources of paper and paper products and hence the impact of imports has been particularly severe on employment. Productivity growth has been substantial but despite the large negative effect of imports and productivity, total employment did not decline. The reason was a very rapid increase in domestic demand.

The sectors which showed the greatest percentage loss in job potential due to imports were paper printing and publishing, petroleum and coal, leather products (mainly shoes), primary metal products (mainly steel), and electrical equipment and supplies (mainly radio and television receivers). Yet, of these, only the leather products sector suffered a decline in employment. The other sectors benefitted either from rapid increases in domestic demand or very modest increases in productivity so that employment growth was substantial despite the impact of imports.

From Table 2, we see that the impact of imports was greatest over the period 1967 to 1970. Periods of increased imports, however, were correlated with periods of increased exports so that the net contribution of trade remained constant over time.

Tables 1 and 2 give the contributions of various factors to changes in employment in annual percentage terms. Table 3 gives the results in terms of absolute numbers of jobs. The net change in jobs varies considerably from year to year and industry to industry. Between 1963 and 1967, the net loss of jobs due to trade was about 142,600 or about 36,000 jobs a year. From 1967 to 1970 the net loss was about 144,300 or roughly 48,000 per year. Between 1970 and 1971, the loss was 88,900. Particularly volatile industries were primary metals (mostly steel) and transportation equipment (mostly autos). The net loss of jobs in primary metals ranged from about 16,000 per year from 1963 to 1967, a net gain of about 6,000 per year between 1967 and 1970 and a net loss of almost 72,000 jobs between 1970 and 1971. In transportation equipment the net loss was about 6,000 per year from 1963 to 1967, 14,000 a year between 1967 and 1970 and a net gain of 68,000 between 1970 and 1971. The total net loss of jobs between 1963 and 1971 was about 376,000 or roughly 47,000 jobs per year.

Since our analysis focuses on import-competing industries, we do not take into account job gains in export industries. Thus it should be kept in mind that while we cite figures on job change for net foreign trade, if export industries were also taken into the analysis, the job gains in these industries due to increased exports would substantially offset the jobs lost in import competing industries.

TABLE 3.—JOB IMPLICATIONS OF FOREIGN TRADE IN IMPORT-COMPETING INDUSTRIES

[Thousands of jobs]

Industry	1963/67 Imports	1963/67 Exports	1963/67 Net	1967/70 Imports	1967/70 Exports	1967/70 Net	1970/71 Imports	1970/71 Exports	1970/71 Net
20 Processed foods	−8.4	2.2	−6.2	−11.5	2.0	−9.5	−1.9	1.2	−0.7
22 Textiles	.7	.3	1.0	−3.5	2.2	−1.3	−3.0	.4	−2.6
23 Apparel	−5.9	.8	−5.1	−33.8	.2	−33.6	−17.7	1.2	−15.5
24 Wood products	−4.4	3.0	−1.4	−11.2	5.0	−6.2	−14.9	−.4	−15.3
25 Furniture	−4.2	.8	−3.4	−7.5	.1	−7.4	−3.2	.0	−3.2
26 Paper products	−6.9	1.3	−5.6	−3.7	5.7	2.0	−6.8	−1.9	−8.7
27 Printing and publishing	−.2	.0	−.0	−1.0	.0	−1.0	−.1	.0	−.1
28 Chemicals	−7.2	10.9	3.7	−8.1	13.7	5.6	−7.3	−1.4	−8.7
29 Petroleum and coal products	−2.9	.4	−2.5	−7.0	1.1	−5.9	−2.5	−0.3	−2.8
30 Rubber and plastic products	−3.7	−10.9	−14.6	−14.5	2.3	−12.2	−3.0	1.4	−1.6
31 Leather products	−13.3	.6	−12.7	−19.2	−.2	−19.4	−4.3	.3	−4.0
32 Stone, clay, and glass products	−4.3	2.5	−1.8	−5.3	2.7	−2.6	.4	.0	.4
33 Primary metal products	−51.8	−3.8	−55.6	−29.0	48.2	19.2	−54.7	−17.2	−71.9
34 Fabricated metal products	−8.2	7.4	−.8	−7.4	5.4	−2.0	−1.3	1.0	−.3
35 Machinery except electrical	−31.6	30.7	−1.6	−23.3	49.0	25.7	−6.7	−3.2	−9.9
36 Electrical equipment and supplies	−28.1	18.8	−9.3	−61.9	23.2	−38.7	−12.7	0.7	−12.0
37 Transportation equipment	−71.2	47.3	−23.9	−93.0	50.1	−42.9	39.5	28.6	68.1
38 Instruments	−7.5	8.8	1.3	−4.6	3.6	−1.0	−1.2	1.0	−.2
39 Miscellaneous manufactures	−7.9	2.9	−5.0	−15.2	1.9	−12.3	−2.3	3.2	.9
Total	−266.8	124.2	−142.6	−360.5	216.2	−144.3	−103.6	14.7	−88.9

One should keep in mind that the estimates of job loss due to trade that are described in this paper do not provide a basis for estimating the number of workers that might be eligible to receive adjustment assistance. A job lost due to trade as estimated here can be in an industry with expanding employment. In such an industry the loss of a job due to trade means that employment in that industry would have increased more rapidly had there not been an increase in imports. Even in an industry with declining employment, retirements and voluntary quits relative to new hires may be such that no particular individual loses his job to trade; there simply are fewer new hires. In order to estimate numbers eligible for adjustment assistance programs, we must estimate actual losses of job by individuals in industries adversely affected by foreign trade.

Statement of Richard S. Reese, President, Scio Pottery Co.

Mr. Chairman and members of the Committee, my name is Richard S. Reese and I am President of the Scio Pottery Co., of Scio, Ohio, a company founded by my uncle in 1933, and in which I have worked in one capacity or the other for 25 years. The company employs 1,000 people, is the major source of employment in Scio, a town of 1,500, and manufactures earthen dinnerware and all accessory dinnerware pieces.

The American Dinnerware Emergency Committee (ADEC) was formed in 1970 by a number of U.S. potteries (current membership list is attached) in order to try to combat the highly injurious imports of popular-priced earthen and china dinnerware, primarily from Japan, that were flooding the country and threatening the very existence of the U.S. earthen dinnerware industry, having captured some 60% of the domestic market. The members of ADEC account for about 80% of the earthen dinnerware produced in the United States.

I was elected chairman of ADEC and it is in that capacity that I appear before you today. We welcome this opportunity, for we believe we can contribute to your deliberations from our direct experience under the Trade Expansion Act (TEA) by suggesting certain changes in the Trade Reform Act (H.R. 10710) which we feel are required to ensure a healthy U.S. pottery industry.

ESCAPE CLAUSE EXPERIENCE

I would first like to discuss the tariff adjustment relief we received under the present escape clause. On June 1, 1971, ADEC filed a petition under Section 301 (b)(1) of the TEA with the Tariff Commission aimed primarily at Japanese imports of low-end or popular-priced ceramic dinnerware (both earthenware and chinaware). Following eight days of hearings in November and December and the filing of briefs, the Commission filed its report on February 22, 1972. By a vote of 4–2 the Commission found injury to our industry from increased imports, due to tariff concessions, of earthen dinnerware and some chinaware, but not from imports of china *dinnerware* (chinaware in sets) from which we were also experiencing extreme injury. Although the Commission found existing injury from china dinnerware, the majority were blocked from finding that it was due to tariff concessions by the "in major part" requirement of the TEA. On April 22, 1972, the President implemented the Tariff Commission recommendation by increasing the rates on earthen dinnerware and certain chinaware to pre-Kennedy Round levels.

ESCAPE CLAUSE RECOMMENDATIONS

It is clear that we had an extremely good case before the Tariff Commission. Despite the over-restrictive requirements of the TEA escape clause, we were the only petitioners in the history of the TEA up to that time to receive four affirmative votes. Furthermore, both of the dissenting Commissioners found injury from increased imports. However, they were unable to link them with tariff concessions. One of the dissenting Commissioners, Commissioner Leonard, even stated: "I have no trouble in finding increased imports of important categories of ceramic table and kitchen articles like or drectly competitive with the products of the domestic earthenware industry, nor in finding that industry seriously injured, nor even in finding the increased imports to be the major factor causing the serious injury to the industry. . . ."

"However", the same Commissioner went on to say, "I am unable to determine that the industry is eligible for relief under the TEA because I cannot find the second element of the law satisfied—that the increased imports are a result in major part of trade-agreement concessions. This Achilles heel of the statute once more prevents me from finding in behalf of a U.S. industry sorely beset with import-inspired problems." [1]

The same legal ingredient prevented the Commission majority from giving us relief in the key china dinnerware area. We therefore support the new standard contained in Section 201(b)(1) of H.R. 10710 which does not condition relief on trade concessions, but asks merely: "Whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article."

However, our more immediate concern is to make certain that the relief which we have spent considerable time and effort to obtain under the TEA is not prematurely terminated or diminished under the proposed changes to the escape clause. H.R. 10710 is unclear as to how our present escape clause relief will fare when the new law is enacted.

The TEA had specific provision for full carryover of the provisions of the prior escape clause, Section 7 of the Trade Agreements Extension Act of 1951, as it applied to cases receiving relief under Section 7, but the proposed legislation seems vague at best on this point. Accordingly, we strongly urge that the language of the bill be clarified so that successful recipients of relief under the TEA will be entitled to at least as favorable terms of relief as under the TEA.

Our concern about the changeover is heightened by the fact that the proposed changes to the escape clause relief provisions are more unfair to the recipient of relief than the present law. In our situation under the TEA, we can petition the Tariff Commission for a hearing on the probable economic effect of terminating the relief nine months before our tariff adjustment is scheduled to expire (unless renewed) in 1976. But under the new proposal, there is no four-year relief period during which, unless changed by the President after a hearing followed by Tariff Commission finding, the relief is unimpaired. Instead, there is a five-year maximum period during which a phaseout of the protection must occur by the end of the third year (Section 203 (i)(1) and (2)). One can assume that the draftsmen of this patently unfair provision would have the President remove one third of

[1] Views of Commissioner Leonard, Report to the President on Investigation No. TEA-I-22, T.C. Publication 466, February 1972, p. 22.

the escape clause protection after the third year, one third after the fourth, and the final third at the end of the fifth. Yet under this new proposal, the industry concerned cannot petition for a hearing from the Tariff Commission the probable adverse economic effects of the phaseout until nine months before the final termination date. It must, contrary to present law, allow the first two phaseouts to occur without any right to object (Sections 203 (j)(3) and 203 (j)(4)). And even if an industry were to prevail in asking for an extension of relief, the level of such relief is limited by Section 203 (i)(3) of the bill to that in effect immediately before such extension, and cannot be extended for more than two years. By that time, damage from reducing the tariff relief may have already occurred. Apart from our own interest, we believe this whole approach must be corrected.

Furthermore, there should be no *statutory* phaseout (Section 203(i)(2)). Let the President decide, as now, when and how (*after* a minimum period such as four years) he wants to time any phaseout. Such timing will, among other things, depend upon the condition of the national economy and the particular industry involved during the import relief period. It is impossible to predict when relief is initiated what may be the economic status of the affected industry at any certain date in the future. Thus, the President should be able to take advantage of a flexible timetable.

At the very least, the renewal provisions should certainly not be *less* liberal than the TEA, as in the current proposal. We should not forget that it is a hundred times easier to preserve a job than create one—and that is a fact important *not* to forget in these days of nagging unemployment. This has even greater relevance for industries with little or no chance to benefit from exports, such as ours.

This Committee should substitute the phaseout and extension provisions of the TEA for the more restrictive language of the present bill.

Finally, we note with alarm that the proposed legislation denies to Congress the authority to override a Presidential decision *not* to impose import relief when recommended by the Tariff Commission. The present law (Section 351(a)(2)(B) of the TEA) provides for such action, and we believe its omission from H.R. 10710 is a serious oversight that should be corrected.

The TEA, and Section 7 of the Trade Agreements Extension Act of 1951 which preceded it, have worked reasonably well in providing relief from imports where aggrieved industries have been able to meet the statutory criteria of injury. One key to successful relief is a system of "checks and balances" such as the present law provides: the Tariff Commission recommends which relief it deems appropriate (and certainly, having conducted a thorough investigation, it is in the best position to do so), the President then acts on that recommendation, or is held accountable to Congress if he does not, in which case Congress can override his decision. If the proposed legislation is not changed to provide for a Congressional override, we believe some consideration should be given to make the Tariff Commission recommendation binding on the President.

INDUSTRY EXPERIENCE IN THE ONE YEAR SINCE THE TARIFF INCREASE

The first annual report of the Tariff Commission on the effects of increasing duties on some ceramic tableware clearly shows, we believe, that not enough relief was granted to the industry by the mere rollback on some products to 1967 traiff levels: the tariffs on imports of earthen dinnerware were not increased to a high enough level and tariffs on imports of low-value dinnerware were not increased at all.

As evidence of this, the Tariff Commission's May 1973 report states that although domestic shipments of certain earthen table and kitchen articles on which the duty was increased on May 1, 1972, were 8 percent greater in 1972 than 1971, imports were 18 percent greater!

In addition, what relief has been given has been eroded by inflation and changes in currency exchange rates, particularly revaluation of the Japanese yen. This is because the dinnerware tariff schedules are divided into value brackets, and the escape clause relief affected only the middle value brackets ($12 to $22 per 77-piece norm). When inflation in this country causes the price of an article protected by the increased tariff to rise, and at the same time the competitive foreign article increases in value due to revaluation, and so moves out of the middle value bracket, the tariff relief is no longer effective.

The seriousness of the above phenomenom in our case can readily be seen by the fact that over the past two years prices of U.S. earthen dinnerware have risen 10 to 20 percent, while the value of Japanese ware has also increased by virtue of a 25 percent increase in the dollar value of the yen.

With the recent increases in prices of energy the high energy requirement together with increased labor and other costs for production of dinnerware will cause substantial further price rises. The top of the value bracket for imports of earthen dinnerware competitive with U.S. earthenware given tariff relief was $22 per 77-piece norm. If prices rose 25 percent the value of such ware would be $27.50 and a large part of domestic dinnerware would have "graduated" into a value range unprotected by the relief given by the escape clause.

Therefore, this Committee should give careful consideration to authorizing the Tariff Commission to modify the relief granted by periodic adjustment upward of appropriate value brackets to preserve protection in the face of inflation and revaluation.

AN IMPORTANT REMEDY: ORDERLY MARKETING AGREEMENT

These problems could have been avoided—and fully adequate relief provided—if the Administration had negotiated an orderly marketing agreement with Japan, as we had asked. Such an agreement could have been negotiated concurrently with a tariff increase, then the latter could have been withdrawn when a satisfactory agreement was reached. This was not done because the TEA put the two remedies on an either/or basis.[2]

The proposed legislation permits such a combination of increased tariffs and orderly marketing agreement, but we are distressed to see that it considers an orderly marketing agreement as the least preferred relief available to the President. Furthermore, H.R. 10710 restricts the effectiveness of an orderly marketing agreement in two other ways: (1) Section 203 (d) (2) of the bill provides that an agreement cannot reduce the level of imports below that of a recent representative period; (2) Section 204 provides that either house of Congress may veto an orderly marketing agreement after it has been entered into.

We do not believe that orderly marketing agreements should necessarily be considered less preferable than increased tariffs, or any other form of relief. Each remedy should be considered on its own merits as applied to a particular case, and should not be arbitrarily ranked according to preference. It is our opinion that an orderly marketing agreement would afford the protection that tariff increases have not been able to, yet by making it more difficult for a President to employ such an agreement, the proposed legislation prejudices our position.

In addition, by "down-grading" both quantitative restrictions and orderly marketing agreements as possible remedies for injurious imports, the proposed legislation diminishes their effectiveness as negotiating tools: the "threat" to our trading partners of the possibility of using either remedy is not as great if they are restricted in the manner proposed by H.R. 10710. The President must have authority to impose and the Tariff Commission the duty to recommend *whatever* relief may be required: tariff imposition or increases and/or tariff rate quotas and/or quantitative restrictions and/or orderly marketing agreements necessary to accomplish the purpose of the legislation.

We still need an orderly marketing agreement and we have exhausted all administrative recourses to that end. In this regard, we are attaching the letter we filed with the Trade Information Committee on July 21, 1972 in another vain attempt to close the import loopholes that are endangering our industry. It was to no avail. We asked the Administration to withdraw tariff concessions previously given on imports from Japan of earthenware and low-value chinaware. Such action is provided for in Article 28 of the General Agreement on Tariffs and Trade (GATT). We hoped that this might lead to an orderly marketing agreement. The Administration denied our request. The Congress, as in the past, is our main hope for assistance in our continuing endeavors.

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[2] The Commission majority recognized the appropriateness of an orderly marketing agreement in our case by pointing to the authority for it in a footnte to its recommended relief. See p. 12, Report to the President on Investigation No. TEA-I-22, T.C. Publication 466, February 1972.

TARIFF-CUTTING AUTHORITY

Just as we are concerned about the restraints against adequate protection for our industry, we have an equal concern for the tariff-cutting authority proposed for the President in H.R. 10710. We know this Committee will go over this part of the legislation most carefully. But we would like to say in passing that the old "peril point" provision in effect prior to the TEA should again be examined, to strengthen the advice of the Tariff Commission with regard to coming negotiations.

ADJUSTMENT ASSISTANCE TO FIRMS COMMENTS

We strongly support the provisions of H.R. 10710 as they relate to adjustment assistance. The present adjustment assistance provisions, when availed of, achieved excellent results, as for example in the sheet glass industry. Again, these measures are calculated to help *preserve* jobs in areas where modernization and technological improvements will make plants more competitive. However, adjustment assistance should be viewed as only a supplement to import relief in the form of quotas and increased tariffs.

At the time of our successful escape clause action, by regulation a firm had to apply for adjustment assistance within a year after the Presidential Proclamation providing for a request for certification to the Secretary of Commerce. This is not long enough, and should be increased to at least two years. Our members chose not to apply for firm certification until it became clearer just how much the escape clause tariff protection would mean to them—whether the umbrella—though leaky—would keep out the rain long enough to make a facilities overhaul and technological improvement program profitable. At least one of our firms now feels that such a certification might indeed have helped it, but the one year period had already run.

GRANTING OF MOST-FAVORED-NATION TREATMENT AND EXTENSION OF PREFERENCES

We in ADEC are most concerned about the continual foreign threat to our industry. We are aware that this threat has not completely materialized because much of it will come from countries such as Communist China not presently enjoying "MFN" treatment. If and when they do, we may well be inundated again. In fact MFN treatment may not even be necessary, in view of the low cost of production in countries like China, to encourage injurious imports. In any event, extension of MFN to low-wage countries should be carefully examined.

But the extension of general preferences to developing nations is even more dangerous to our industry. For the manufacture of ceramic dinnerware is a natural for any developing country—the industry being labor-intensive, the skills not too difficult to learn, and the capital investment required to get started being small. We therefore strongly support the provision in H.R. 10710 that no preference can be given where the article is or becomes subject to import relief under this act or under 351 of the TEA.

Although the existing escape clause relief protects some of our products from the effects of these preferences, we are not protected from imports of low-value china dinnerware and to these we are completely vulnerable.

CONCLUSION

ADEC's relief under the present escape clause must not be allowed to be eroded by the proposed legislation. In fact, the proposed changes are not favorable to industry in certain respects as present law.

The escape clause should be strengthened immediately. Orderly marketing agreements should be given new importance, and value brackets in the tariff schedules should be made more flexible to cope with changes in exchange rates and inflation.

Adjustment assistance should be continued and strengthened.

The legislation as a whole should be rewritten so that the thrust is away from the blank-check approach to reducing tariffs and instead given direction and purpose with adequate guidelines based upon Congressional judgment of future probabilities and past experience.

STATEMENT OF THE NATIONAL COUNCIL OF JEWISH WOMEN, INC., SUBMITTED BY ELEANOR MARVIN, NATIONAL PRESIDENT

The National Council of Jewish Women, an organization founded in 1893, with a membership of over 100,000 located in communities throughout the United States, has had international trade as its concern since 1938. At our Biennial Convention held in Miami Beach, Fla., in March of 1973, the elegates to the convention reaffirmed the folowing resolution:

IX Foreign Policy

The National Council of Jewish Women believes that United States Foreign Policy should be directed toward developing the conditions for world peace wherein human beings live their lives in dignity with the greatest measure of economic social and political freedom. We believe that the United States in cooperation with all nations should pursue every possible alternative to military action as a means of resolving international disputes. It therefore resolves to urge the United States:

. . . 4. To support economic development and expansion of economic opportunity throughout the world . . .

(d) by continuing to develop trade agreements on a reciprocal basis and by supporting international agreements for the reduction of tariffs and other bariers to the free flow of trade.

We agree with the statement President Nixon made in his Trade Message to Congress on April 10, 1973, in which he pointed out that:

"The world is embarked today on a profound and historic movement away from confrontation and toward negotiation in resolving international differences. Increasingly in recent years, countries have come to see that the best way of advancing their own interests is by expanding peaceful contacts with other peoples. We have thus begun to erect a durable structure of peace in the world from which all nations can benefit and in which all nations have a stake.

"This structure of peace cannot be strong, however, unless it encompasses international economic affairs. Our progress toward world peace and stability can be significantly undermined by economic conflicts which breed political tensions and weaken security ties. It is imperative, therefore, that we promptly turn our negotiating efforts to the task of resolving problems in the economic arena."

The National Council of Jewish Women is also an organization of consumers who feel that every consumer in the United States has a major stake in international trade: that this is an issue which directly affects their economic well-being as well as their freedom of choice in the market place: that protectionism is against their interest and that it therefore behooves the American consumers to become vigorous advocates of a freer U.S. trade policy.

The National Council of Jewish Women favors strongly the passage of dependable and effective trade legislation and recognizes the importance of such legislation to meaningful GATT negotiations, but we are deeply concerned with a number of aspects of the proposed Administration bill.

1. Most favored nation treatment to nations with non-market economies

We are greatly concerned that Title V of the Administration bill contains no safeguards against the violation of human rights, namely freedom of emigration. The edict promulgated by the Soviet Union:

"Citizens of the USSR leaving for permanent residence abroad to other than socialist countries are under obligation to compensate the state for their education received from higher institutions of learning for graduate work, medical internship, graduate military study and for receiving respective degrees."

is directed primarily against Jews, very large numbers of whom are applying for permission to emigrate. Some of these fees often reach astronomical proportions and very few Soviet Jews are able to meet this requirement. These fees are only one manifestation of the denial of human rights. Other means of persecution are evident in the Soviet Union. The incarceration of innocent people for long periods of time, harassment of those who apply for exit permits to emigrate and other manifestations of persecution directed mainly against Jews. We, therefore, strongly supported the amendment proposed by Senator Jackson which, if enacted, will prohibit most-favored-nation treatment with respect to any non-market economy country, which denies to its citizens the right to emigrate or which imposes more than nominal fees upon its citizens as a condition to emigrate. Even though from time to time the Soviet Union has relaxed its edict and permitted emigration of some Jews without collecting a fee, we feel that no trade privileges should be accorded to the Soviet Union until the edict is repealed and there is a commitment to allow emigration of anyone who wishes to migrate.

2. Expanded authority

We do not quarrel with the liberalized new negotiations authorities requested by the Administration in Title I. Indeed, we feel that flexibility to negotiate non-tariff barriers and customs duties is necessary in the context of international negotiations and agreements, particularly when representatives of other nations are equipped with comparable broad negotiating powers. Such powers for our own negotiators would seem long overdue.

We are concerned, however, when such broad authority is delegated in situations not within the framework of international rules. We have noted five specific instances when the executive branch is given full discretion to impose, increase, reduce or eliminate, temporarily or otherwise, quotas or other forms of trade restrictions. They are:

1. To provide import relief to industry in fair trade practices under the escape clause provisions, and through orderly marketing agreements.
2. To retaliate against foreign barriers to our exports.
3. To protect ourselves against disruptive exports from countries enjoying MFN treatment.
4. To deal with Balance of Payments imbalances.
5. In cases of national security.

Although much of this authority, though in some cases to a lesser degree, was present in the original Trade Expansion Act, the pressures of protectionists were not as great in 1962 as they are now. Such sweeping delegation of power, therefore, would seem to be an open invitation to present advocates of trade restrictions to pressure for demands contrary to the goals expressed by the Administration. The laudible aim of "a more open and equitable world trading system" might be reached more effectively through a limitation of power.

3. The welfare of the consumer

We are deeply concerned that in only one of the five instances previously mentioned, in the case of import relief to injured industries, is it written into the proposed legislation, that the President shall take into consideration consumer interests prior to making a determination. And it is, even in that case, only one of seven other considerations in addition to those not specified, which the President may deem relevant to his decision.

Considering that the Amercan consumer is the one most likely to be adversely affected by trade barriers, and from the potential trade wars which barriers are prone to generate, this would seem to us to be assigning the consumer a very low priority. We were gratified to note that the bill passed by the House of Representatives included authorization for consumer representatives on the Advisory Committee on Trade Negotiations which will work directly with the STR. We urge the Senate to accept this proposal and enlarge consumer representation to other entities involved in the formulation of trade polciy. We would also urge that consumer welfare be given equal priority with that of labor, industry and agriculture.

4. Import relief and adjustment assistance for workers

There are several points in Title II, the provisions for relief from disruption caused by fair competition, which we would like to see improved.

We cannot ignore the fact that domestic industries can suffer injuries, with serious and perhaps far-reaching ramifications. But these injuries may occur because of imports, yet not be caused by imports. Temporary quotas or tariffs on specific products, though they may bring immediate relief, are a simplistic method of alleviating a deep-seated and long-lasting ailment which, in fact, can be cured only by a vigorous and forward looking domestic economic policy. Such a policy should be designated to encourage and support the competitive ability of United States' industries, and to allow them to profit from foreign input, be it in the form of competent parts or of outright products. Emergency relief is valid only as part of a long range program which should offer a much more permanent and effective form of protection than temporary barriers and not affect our progress toward expanded international trade.

5. A comprehensive plan

During this last year, we, as consumers, have been watching with mounting despair, quotas come and go in response to domestic needs. We are protecting meat producers, cheese producers, textile manufacturers one day. Then, as inflation becomes intolerable, restrictions are lifted on certain products the next. The quixotic aspects of such a trade policy are not very comforting to either the American producer, the importing country or the consumer. What assurances do we have that import relief to the industry will reach the consumer in the market place? Is a rehabilitated industry obligated to offer the consumer the prices which existed in a competitive market?

There is no policy articulated in the proposed bill, or anywhere else, which puts forward a comprehensive program of assistance which will encompass the industry, the worker and the consumer. Instead the consumer is given but slight consideration before import reliefs are put into effect, and none after they have taken effect, until rising prices force the temporary removal of a trade barrier.

We emphatically deplore such lack of concern and urge the inclusion in our trade policy of an overall "grand design," planned to benefit all relevant parties in an equal manner. Such a policy should consider preventive assistance and long-term support which would, hopefully, eliminate the need of erecting trade barriers for the purpose of short-term relief. We leave the details of such a policy to the experts.

In connection with adjustment assistance for workers, we are concerned with and sympathetic to the plight of the worker displaced and temporarily unemployed because of import related causes. We favor, therefore, the liberalized criteria and increased assistance proposed in the bill. We would like to see this relief extended to the workers adversely affected by import restrictions; workers employed in export-related jobs. We are equally concerned about them.

CONCLUSION

In order to serve the best interests of all American citizens, and indeed the best interests of our trading partners, the United States must develop a more specific, more cohesive trade policy; one with explicit short and long-term goals; a policy which would take into consideration the needs of industry, the worker and the consumer; thus affirming the fact that these needs are not contradictory to each other. Such a policy, clearly defined, would convince all concerned that the United States is determined and ready to take the steps necessary to assure a "fair and open trading world".

In his message to Congress which accompanied the Trade Reform Act of 1973, the President stated:

"A wide variety of barriers to trade still distort the world's economic relations, harming our own interests and those of other countries. . . . These barriers to trade, in other countries and in ours, presently cost the United States several billion dollars a year in the form of higher consumer prices and the inefficient use of our resources. Even an economy as strong as ours can ill afford such losses."

We fervently hope that these words were not intended as mere rhetoric, but to demonstrate a commitment on the part of the United States to develop and implement a new and progressive system of international trade from which all Americans may benefit and which will strengthen our ties with other nations.

We hope that the Senate Committee on Finance will recognize the need for taking prompt action towards the passage of trade legislation in this session of Congress, not only because of the importance of the successful continuation of the current trade negotiations, but also to reaffirm to our trading partners that the United States is not wavering in its commitment towards liberal trade policies. In addition we would strongly urge the adoption of the MFN conditions contained in the Jackson amendment and fervently hope that the threat of a presidential veto will not deter this Committee from demonstrating its concern for the preservation of human rights everywhere in the world.

MINNESOTA WORLD TRADE ASSOCIATION,
Minneapolis, Minn., April 26, 1974.

Hon. RUSSELL B. LONG,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LONG: The Minnesota World Trade Association supports prompt passage of H.R. 10710, The Trade Reform Act. We believe developments over the past several months affecting world trade relationships make it imperative that the President be given the auhority to negotiate with our trading partners, as set forth in the legislation you are now considering.

The Minnesota World Trade Association is comprised of approximately 300 individual members who are associated by employment or otherwise with approximately 200 firms in Minnesota, most of which are directly engaged in world trade, or in providing services in support of world trade activities.

Sincerely yours,

MICHAEL PRITCHARD.

EAST TRADE—BUSINESS NEWS FROM EASTERN EUROPE—PUBLISHED BY O. E. BOLINE

INDUSTRIAL CO-OPERATION BETWEEN WESTERN AND EASTERN ENTERPRISES

The Senate Finance Committee has received excellent and informative papers from a number of manufacturers and producers associations, and from organized labor, on the disastrous effects upon their members, as well as the economy of the United States, resulting from our government's trade policies during the past decade.

Some of these papers have expressed reservations about expanded trade with the non-market economy countries of Eastern Europe, but lacking is a clear cut analysis of what can be expected from the trade development now in its embryo stage in the Soviet bloc.

Therefore, I am submitting this paper with the hope that it will clarify for the Committee the general rules which will govern the foreign trade developments of Yugoslavia and the Soviet bloc during the next several years, and perhaps for the remainder of this century.

For the past 24 years I have specialized in the Communist bloc's trade and economy. More than half of each of those years was spent within the Soviet Union and Eastern Europe preparing market feasibility studies for West European and American business firms and gathering information for my newsletter on trade. I attended many of the Party conference and Comecon meetings. I have spoken with members of the state planning commissions, heads of industries, Party officials and others who had a say so in their country's and the bloc's economic development. Thus I have seen their plans for industrial development through Western participation in co-operative ventures, unfold from what seemed in the mid 1950's to be merely unrealistic concepts to become realities sought by many of this country's most powerful industrial firms and have the approval of the Administration.

The Party made it clear during the discussions and early implementation of the current 1971–75 Plans and the long term Plans for the remainder of this century, that, the era of purchasing industrial plants in the West through credits to be repaid by hard currency outlays must draw to an end. That every effort must be made at obtaining at no financial outlay, the equipment, know-how, technology, patents, management, etc. needed for improving domestic production facilities and products. This must be done by encouraging Western firms to enter into co-operative ventures, which might be jointly owned by domestic and Western enterprises. The Western partner should be required to contribute his technology, manufacturing rights, equipment, non-Communist markets, etc., while the Eastern firm would contribute the manufacturing space, cheap labor and raw materials as well as Eastern markets.

What the Party is actually doing is merely copying what the West Europeans and the Japanese did in the 1950's and 60's, the encouragement of American industry to establish manufacturing facilities on their soil or grant manufacturing rights to their plants. Thus both the West Europeans and the Japanese improved their own economies by producing the best of the American goods for their domestic and export markets.

In 1972, I was commissioned to make a study on the existing co-operative ventures between Eastern and Western enterprises. I concentrated my study on 600 ventures and categorized them into six distinctly different types of operations as follows:

1. Co-production and Commission work agreements. Number: 222

(a) A Western enterprise supplies an Eastern partner the machinery, know-how patents, supervisors, etc. to manufacture components for his product and repays its Eastern partner for these components by sending other parts to complete the assembly of the product for the domestic market and, perhaps, certain export markets.

Example: A leading cash register manufacturer has a co-production agreement involving its plants in Germany and Austria together with firms in Hungary and Czechoslovakia. Each of the four plants manufactures certain parts and retains as many parts as it needs for its markets and the rest of its production is delivered to the other three plants according to their market needs. The Hungarian and Czech partners may only supply their domestic markets. The Austrian plant supplies the Austrian and the remainder of the CMEA markets.

(b) A Western enterprise supplies an Eastern partner with all the machinery, drawings, management, technology etc., that it needs to produce an item. The Western enterprise pays a set fee for the contribution of its partner, and takes all or most of the production.

Example: There have been a number of deals between Western apparel manufacturers and Hungarian enterprises in which the Western partner supplies all the equipment, patterns, supervisory personnel, materials etc. Paid cash for the share which comprised of plant and labor, then gave the Hungarians an option to purchase 20 percent of the production for its domestic and CMEA markets at a set price.

2. Licensing agreements. Number: 168

A Western enterprise grants an Eastern enterprise a license to manufacture its products for certain markets, generally those of CMEA and developing countries where the base country has preferential trading agreements. As payment, the Western enterprise takes deliveries of products produced under its license, and sells these on its domestic and export markets.

Example: Fiat's deals with Yugoslavia, Poland and the Soviet Union.

Fiat's payment will be derived from the export of autos to Western markets particularly those of Latin America and the U.S.

3. Joint ventures

Number: 63.

As of September 1972, the only Socialist countries permitting the establishment of joint ownership ventures on their soil were Yugoslavia, Romania and Hungary. In such enterprises, the Eastern enterprise contributes the building, certain tools and equipment valued at 51 perecnt or more. The Western firm contributes the remainder of the capital in the form of capital goods, patents, rights, etc. Management remains in the hands of the Eastern enterprise.

Example: Braun, a German subsidiary of Gillette, is manufacturing its well known razor in Yugoslavia under such an agreement.

4. Joint construction and engineering ventures in third countries

Number: 27.

The Western firm furnishes the management, engineering skills, and specialized equipment. The Eastern firm supplies the cheap project labor and less sophisticated equipment, plus markets in developing countries where the Eastern country has better trade balances or wishes to make a development contribution.

Example: Power Gas has an agreement with Polimex of Warsaw. The Poles eager to make a good showing in the former British colonies have arrived at an agreement with Power Gas which assures their former colonials that they are getting British engineering skills at cheaper Polish prices. For Power Gas it has opened a market it would not otherwise have.

5. Plant delivery agreements

Number: 72.

The sale of an industrial plant to an Easetern enterprise generally includes an agreement by the supplier to assume the responsibility of providing a marketing outlet for the products of the plant for the length of time required to repay the cost of the equipment plus interest. This is designed to make it possible to repay the credit out of a new market established in the domicile of the supplier. Also it assures the purchaser of a foot hold in the supplier domestic market.

Example: The Kiev tableware factories supplied by Alliance Tool Co., of Rochester, required Export-Import Bank credits, which Raznoexport expects to repay by exporting 100 per cent of the production of these plants to the United States.

6. Sub-contracting agreements

Number: 48.

A Western firm sub-contracts an Eastern enterprise at an agreed upon fee, to produce certain parts and then assemble them as a part of a whole. This is commonly done in ship building and recently, a British plane builder has sub-contracted some of its work to a Romanian firm.

East-West trade and U.S. markets

In all probability the first inroads into the American domestic markets will be in the already hard hit apparel trade. Cheap labor and domestically produced textiles, coupled with artificially set carrying charges on Soviet bloc owned surface and air transport lines will undercut the c.i.f. pricse of even Singapore. Textiles will very likely follow.

Early, also, will be certain products of the chemical and plastics industries. In this respect, I might add that it has long been the plan of the Soviets to use their vast natural gas resources to capture the chemical markets of Western Europe and not squander them on satisfying energy needs as the Americans have done. However, certain barriers have been erected by the EEC that prohibit ready access to their markets for the more profitable chemical products. Therefore the Soviet bloc planners have turned to the U.S. market and those of Latin America for penetration.

More sophisticated manufactured goods will very likely take some years of concentrated development before they will be acceptable to the American market. However, the Party planners, pointing to Japan's spectacular rise as a reputable producer in the 1950's expect that the Soviet bloc will be well on its way toward overcoming present day market resistance to its products by the early 1980's.

Controls

In view of the trade practices and objectives of the non-market economy countries as well as their political aims, it is essential to incorporate in any trade bill provisions for the imposition of special and strict controls governing the flow of trade between the U.S. and these countries.

Many of the co-operative ventures which the Soviet bloc may offer, could be of mutual benefit to the U.S. and the Soviet bloc and therefore should not be stifled by blanket prohibitions. I have in mind certain mineral mining and refining facilities, i.e., nickle, copper, bauxite-alumina. However, the Committee should not overlook antidumping clauses prohibiting the Soviet bloc partners from using its share of the production to disrupt world mineral markets.

In the foreseeable future, however, it is to our national advantage to restrict participation by American enterprises in co-operative manufacturing ventures which would further endanger our trade balances, our balance of payments, the rights of our own domestic manufacturers and those of our labor.

Conditions should be incorporated in the trade bill which would discourage American firms, both domestic and foreign based, from establishing or contributing to the establishment in the Soviet bloc of facilities for the production of manufactured goods which could be exported to the U.S. and non-Soviet bloc export markets of the U.S.

1. MFN should not be granted.
2. The Export Import Bank should be prohibited from granting credits or guarantees which would contribute to the establishment of manufacturing facilities with these avowed aims.
3. Commercial banks and financial institutions should be restricted from using the funds of their depositors or investors in any way that might contribute to the establishment of such manufacturing facilities.

Tax Havens

One of the lures of Soviet bloc trade to which the Committee should pay particularly close attention is the offering of "full service" tax haven conveniences to American business firms.

Many sales price agreements with Soviet bloc enterprises contain provisions for a rebate in dollars to be credited to the purchaser's Soviet bloc bank account.

Moreover, if the deposit is held for a minimum period, generally a year, it will draw 15 percent interest, payable in dollars.

Before the tax convention, intended to avoid double taxation of Americans engaged in U.S.–Soviet trade, was signed in June of last year, Soviet traders were suggesting that under such a convention a system of high Soviet taxes would be coupled with an eventual 100 percent tax refund, thus the American businessman would have a distinct advantage in paying his U.S. taxes. This practice has been resorted to in other Soviet bloc countries.

The purpose of this paper being merely to point out as concisely as possible the general directions of Eastern European and Soviet trade, I have therefore avoided going into many practices common of this area such as dumping, double pricing, trans-shipping, etc., to which the Finance Committee might want to give special consideration at a later date.

West European reaction

The proponents of trade with the non-market economy countries insist that these countries must be treated by the Americans on an equal footing with its best customers, for if the Americans do not do so, markets will be lost to Western Europe. This argument is hardly true, for generally speaking, the EEC places greater obstacles in the way to Soviet bloc trade than what it does to imports from the U.S. bear in mind, also, that a reasonable proportion of the exports from Western Europe to the Soviet bloc represents the products of American owned multi-nationals residing in Western Europe.

Nothing could be further removed from the trade policies and objectives of the EEC than permitting any important move by their industries toward building up the industries of the Soviet bloc. Instead the EEC is seeking to build up a strong economy as a basis for a third force in world politics.

Detente, on the other hand is viewed by the EEC policy makers and a large sector of its public, as another phase in America's twenty-five year futile attempt at breaking-up the closed trading practices of the EEC. However the EEC has been highly successful in not only blunting, but also turning against the Americans, every weapon their adversary could conceive. The Dillon Round, the Trade Expansion Act and lastly the Kennedy Round, have all been so skillfully maneuvered by the Europeans that the once powerful dollar is impotent and the American economy is in shambles.

To many a West European, detente is a desperate gamble at trying to bring down European trade barriers. A gamble which can only bring a greater defeat for American hegemony. Instead of letting down its trade barriers, Europe is on the move to protect itself by expanding its trade bloc to include the oil producing countries of the Middle East and North Africa. They all have a mutual fear, the territorial aggrandizement of the Soviet Union coupled with the economic domination of the U.S.

Throughout much of Western Europe one hears reminders of Eurafrique and Troisieme Force.

[From the New York Times, Mar. 13, 1974]

SOVIET RADIO BEAMED TO ARABS BACKS THOSE FAVORING OIL BAN

WASHINGTON, March 12—Administration officials said today that Soviet broadcasts to the Middle East were taking the side of the radical Arab nations opposed to lifting the oil embargo against the United States.

The officials said, however, that this did not represent any Soviet shift, rather a repetition of a well-established position.

Most of the broadcasts of an anti-American nature are carried in the Arabic-language service of Radio Peace and Progress. For instance, on March 5, in a broadcast monitored by the United States Government, Radio Peace and Progress said:

"United States imperialism has hidden behind the mask of a friend of the Arabs in order to break up Arab unity, weaken the vigilance of the Arab peoples and carry out in the Arab countries those tasks which have faced the Israeli military clique in the recent past and which, it is well known they could not overcome."

"Today," the broadcast said, "attempts are being made to undermine the progressive Arab regimes from within, or to at least shift these regimes' domestic and foreign policies in the direction desired by the Imperialist West."

In domestic broadcasts, the Soviet Union's regular Moscow service has tended to be more straight forward in reporting Middle East developments.

BROADCAST BACKS EMBARGO

LONDON, March 12 (UPI)—The Soviet Union, in Arabic broadcasts, is urging nations to resist American pressure to lift the oil embargo.

A broadcast monitored here today spotlighted Moscow's displeasure with successes scored by Secretary of State Kissinger in the Middle East.

Recalling that the oil embargo was imposed on countries supporting Israel to secure Israeli withdrawal from occupied Arab lands, the broadcast said:

"If today some Arab leaders are ready to surrender in the face of American pressure and lift the ban on oil before those demands are fulfilled, they are taking a chance by challenging the whole Arab world and the progressive forces of the whole world, which insist on the continued use of the oil weapon."

[From the Washington Post, Mar. 2, 1974]

MOSCOW'S HAND ON THE PUMP

A sobering comment on Moscow's reliability as a supplier of natural gas and oil is contained in recent accounts of its dealings with two veteran customers in Western Europe. Finland, for one, found that the Russians raised their price last fall to the level of the world price set by the oil cartel. This added at least half a billion dollars to Finland's annual energy bill. But the price of the goods which the Finns sell to Russia remained the same. So great was the shock that the socialist premier of Finland was led to compare the additional burden, five per cent of GNP, to the postwar reparations which Moscow imposed on the Finns—about two per cent of GNP. By their particular political dependence on the Soviet Union, the Finns are locked into this one-sided arrangement, which illustrates all too well the economic aspect of "Finlandization."

In respect to West Germany, the Russians evidently realized during the oil panic last fall that they could get a higher price by exporting elsewhere. So they slowed and then stopped delivering crude oil, though a contract had been in force for more than 15 years. They had contracted to deliver 3.4 million tons of crude in 1973; actual deliveries were 2.86 million tons. Exploiting Germany's temporary duress, the Russians pushed their price to $18 a barrel. Veba, the German oil buying agency, then suspended its contract with the Russians. It was put back into effect, at new higher prices, only a few days ago.

Meanwhile, Moscow Radio has just felt compelled to deny an Iranian newspaper's report that the Soviet Union is buying natural gas cheap from Iran and selling it dear in the West. Even if the Kremlin wanted to perpetrate such an uncomradely deed, Moscow Radio says, it couldn't because there is no pipeline. But there *is* a pipeline—a fact which has to be set against Moscow Radio's denial.

The Soviet Union has made a good thing in the past about being a fair and reliable trading partner. This reputation has served it well, the Economist recently noted, in inducing West Europeans to deliver large quantities of steel pipe and other equipment, against promises to be paid in future oil or gas. Yet in the Finnish case, the Russians jacked their prices through the roof. With Germany, they simply stopped delivering for a while and then resumed the flow but, again, at much higher prices. In brief, neither on the supply front nor the price front have they treated their traditional customers well—customers with whom they have no outstanding political differences, moreover. If the Russians began to run short of energy themselves, as many foreign experts expect they will, would they fulfill their contracts for export sales? These are matters which must be taken into account in the United States' own deliberations on the advisability of making large long-range investments in Soviet gas and oil.

MOSCOW AND THE MIDEAST

The Mideast rightly is regarded as at once the most important and the most demanding political testing ground for Soviet-American detente, the place which the overlap of great-power rivalry and local tension has made the most dangerous in the world. But the Mideast is as well a region where both local sides, Arab and Israeli, look for a settlement primarily to the United States. American good faith is more or less generally accepted, despite American support of Israel. Soviet good faith is more or less generally accepted, despite American support of Israel. Soviet good faith is not widely accepted, perhaps in part because of subversive activities mounted by Moscow, especially in Egypt. The Kremlin's patronage is valued by its Arab friends far more in wartime than in peace. This has created a seemingly paradoxical situation. To improve relations and lessen tensions with the United States, the Russians must facilitate, or at least not block, diplomatic progress in the Mideast. But the more the Mideast moves toward stability, the less influence in the region the Soviets can expect to have. For them it is not an easy tradeoff.

Thus it is that Soviet policy in the Mideast remains essentially ambivalent, the more so after the Kissinger-Brezhnev talks in Moscow last week. The communique registered the formal Soviet support for a settlement. But the talks seem to have resulted in American agreement to consult the Kremlin more closely on the Mideast and, at some point, to move negotiations from direct American sponsorship under Henry Kissinger, to joint Soviet-American sponsorship in the context of the Geneva peace conference. The Russians have been expressing increasing displeasure at being shut out of Dr. Kissinger's shuttle diplomacy, and at being ignored by their erstwhile dependents (*military* dependents), the Egyptians. Presumably, the United States, in return for letting Moscow nudge its way back into the Mideast diplomatic act, got some assurance that the Russians would not simply play the spoiler—by egging the Arabs to take extreme positions, by feeding them excessive arms, by manipulating Arab governments in their own capitals, or whatever. If not, the United States got a bad deal. It will also be interesting, and indicative of overall Soviet intentions, to see if the Russians continue to tell the Arab oil states to maintain the embargo, to nationalize American oil properties, to keep oil prices high, to bar American investments and to take their money out of Western banks.

At any rate, it appears that the Soviet Union is not now conducting a diplomatic breaking-and-entering operation to get into the talks which are about to begin in Washington to negotiate a disengagement of forces on the still-hot cease-fire line between Syria and Israel. As with Egypt, Moscow is not in a position to offer Syria the element crucial to successful disengagement: Israeli consent. As with Israel's patron, the United States is in a position to offer Syria that element. A disengagement accord, however, will be very difficult. Having attacked Israel twice in seven years and having lost territory both times, meanwhile having disdained all efforts at a diplomatic solution, Syria still seems unaware of the change in its own attitude which will be required for a gradual accommodation. The Syrians are said to feel rather abandoned by Egypt, which not only made its own disengagement accord promptly with Israel but went on to help persuade the Arab producers to lift their embargo on oil shipments to the United States. But perhaps the Syrians will now be ready to follow Egypt's reasonable lead. If they are, it will be that much easier for the United States to persuade Israel, which needs little persuading on this immediate issue, to do what is necessary for an early disengagement.

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GENERAL MOTORS CORPORATION,
Detroit, Mich., June 25, 1974.

Mr. ROBERT A. BEST,
Chief Economist, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR MR. BEST: In response to your recent inquiry to Jim Johnston on behalf of Senator Hartke, we are pleased to comment on the April 10 testimony by representatives from the American Imported Automobile Dealers Association, who said that:

". . . General Motors can produce a Cadillac for only $300 more than it costs to build a full-size Chevrolet and yet it can sell a Cadillac for $3,000 more than it can sell a Chevrolet." Transcript, (p. 6).

We do not know the derivation of this erroneous comparision of pricing and costs. However, the statement, as used by AIADA, has been given considerable publicity recently, each time without any supporting rationale. Unfortunately, repetition may give this statement the appearance of fact and I welcome the opportunity to assure you that it is inaccurate. Although cost information is proprietary and highly confidential, we can demonstrate on the basis of publicly-available information, that the costs of producing a Cadillac obviously exceed those of producing a Chevrolet.

Before going into these details, I would like to say that while the allegation is demonstrably inaccurate, we would also question its relevance. Demand for a product is at least as important in determining its price as is the cost of its production. In a competitive, marketplace system, price is set at the level at which the product finds public acceptance. The price of a Cadillac is determined in the final analysis by the value placed on its performance and quality by its customers in the marketplace. If the price differential between the Cadillac and any other car gets out of line with the comparative value it offers to the customer, sales would obviously reflect that fact.

Nevertheless, there is sufficient data available in the public record which demonstrates clearly that the differential between the cost of producing a Cadillac and that of a Chevrolet is greater than $300. Perhaps the most obvious way to demonstrate this is to review the items included as standard equipment on a Cadillac Calais 4-door hardtop which are not included in Chevrolet's top-of-the-line Caprice Classic, but are available as optional extras.

If the Chevrolet Caprice were upgraded to include the level of equipment incorporated as standard in the Cadillac Calais, the price increase to the Chevrolet dealer for these additional items would be $1,095. The following equipment would be added:

	Dealer net price [1]
High energy ignition	[2] $42.56
Power windows	98.80
Whitewall tires (H78-15)	48.70
Power antenna	[2] 24.32
AM-FM radio	102.60
Air conditioning—automatic climate control	383.80
Power door locks	53.96
Lamp monitors	[3] 36.00
Tinted glass—all	41.80
Wheel covers, deluxe	48.64
454 CID, 4 bbl. engine	[4] 148.20
Custom luggage compartment	25.08
Bumper rub strips	18.24
Bumper guards	27.36
Total	1,095.06

In addition, the Cadillac Calais weighs about 19 percent more than the Chevrolet Caprice—a difference in weight of approximately 845 pounds. (Some of this weight differential, of course, is accounted for by the absence on the Chevrolet of the options listed above.) Also, the Cadillac is 8 inches longer than the Chevrolet. Weight and size result in additional costs of production.

I would like to emphasize again that the price of any product, in a competitive economy, is determined by the value placed on that product by the consumer. This is essential to the effective operation of the private enterprise system. In this regard there should be no doubt that the automobile industry is highly competitive.

The U.S. consumer currently has more than 425 domestic and foreign passenger car models and body styles to choose from. And, of course, the customer may also choose not to purchase a new automobile and spend his money for other things instead. For a detailed treatment of the competitiveness of the industry, I am enclosing a document filed by General Motors with the Senate Antitrust and Monopoly Subcommittee during hearings last April entitled "Competition and the Motor Vehicle Industry."[5]

Sincerely,

R. F. MAGILL.

REPUBLIC OF THE PHILIPPINES—PHILIPPINE TOBACCO ADMINISTRATION,
Quezon City, Philippines, August 31, 1974.

Hon. RUSSELL LONG,
Senator for Louisiana, and Chairman, Finance Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: I wish to thank you for the indication in your recent letter to me that the Position Paper dated April 1, 1974 which I have submitted as a concerned Filipino on the proposed Trade Reform Act (HR 10710) has been incorporated into the records of your Finance Committee.

As originally stated in paragraph No. 11 of my Position Paper, and as therein requested, I submit herewith to you the Position Paper of the Honorable Demetrio P. Tabije, Chairman-General Manager of the Philippine Tobacco Administration, the official Agency of the RP National Government entrusted with the sound and balanced development of the cigar leaf tobacco industry, with his permission.

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[1] Dealer net option prices.
[2] Oldsmobile dealer net price used because item not available on Chevrolet.
[3] Buick dealer net price used because item not available on Chevrolet.
[4] A 454-4 bbl. carburetor engine would be required to bring the Chevrolet closer to the level of the standard Cadillac, which incorporates a 472-4 bbl. carburetor engine as standard.
[5] This document was made a part of the official files of the committee.

Col. (Ret.) Tabije is the Head of the Tobacco Team, a component of the RP Mission to present the RP position on the proposed Trade Reform Act, now in your Committee. He is leaving for USA in a few days. His itinerary includes paying his respects to you and others in the Senate and in Congress.

A veteran, Manager Tabije is an exponent of continued and lasting Filipino-American understanding and friendship.

I trust that this Position Paper dated August 30, 1974 of our Chairman-General Manager and that of April 1, 1974 which I submitted previously will be of some reference value in your Committee and in your own sponsorship of the Trade Reform Act in the Senate Floor.

Best regards and wishing you more power and success.

Very sincerely,

ALFONSO B. TAGGUEG,
Special Consultant.

REPUBLIC OF THE PHILIPPINES—PHILIPPINE TOBACCO ADMINISTRATION,
Quezon City, Philippines, September 3, 1974.

Hon. RUSSELL D. LONG, (D.-Louisiana),
Senator and Head, Finance Committee, and Hon. Senators-Members of the Finance Committee, Senate of the United States, Washington, D.C.

HONORABLE SIRS: I respectfully request the indulgence of the Finance Committee, Senate of the United States, to permit the inclusion of this POSITION PAPER into the records on the hearings of said Committee on HR #10710—TRADE REFORM ACT.

In essence, we submit that the inclusion and eligibility of the RP-grown Cigar Filler Leaf Tobacco for the benefits provided in the proposed *Generalized System of Preferences* (GSP) serves the mutual and reciprocal interests of the Philippines and the United States.

Very respectfully,

DEMETRIO P. TABIJE,
Chairman-General Manager.

REPUBLIC OF THE PHILIPPINES—PHILIPPINE TOBACCO ADMINISTRATION,
Quezon City, Philippines.

POSITION PAPER ON PROPOSED "TRADE REFORM ACT" (H.R. 10710) FOR THE FINANCE COMMITTEE HEADED BY HON. RUSSELL LONG, SENATOR, (D. LOUISIANA) SENATE OF THE UNITED STATES OF AMERICA

In the following *Position Paper*, only certain special aspects are presented, considering that the Philippine Panel as a whole will be presenting the total stand on each and all Philippine exports to be considered for US GSP treatment. This paper, therefore, purports only to supplement and amplify the representations for the RP-grown cigar leaf (filler) tobacco.

Although H.R. 10710 as an enabling Act does not refer specifically to individual export products and their eligibilities, the present provisions of the proposed GSP of the United States pose certain limitations which may negatively affect RP-grown Cigar leaf (filler) tobacco, a traditional import of big Cigar Manufacturers like the Consolidated Cigar Corporation. It is, therefore, to the mutual interest of these U.S. cigar manufacturers as importers and our growers of this export commodity as exporters that RP Cigar leaf (filler) tobacco be eligible for prospective inclusion in the US GSP in the event of the Bill being enacted into Law.

We submit that:

1. The RP-grown Cigar leaf (filler) tobacco traditionally imported by the U.S.A. under the protective preferential treatment of the now terminated Laurel-Langley Agreement is at once a necessary and desirable blending component of the American manufactured American Cigars. Its importation for this specific purpose does not have adverse competitive effects on the American grown cigar leaf tobacco which goes into cigar manufacture. Rather, this blending component enhances customers' consumption and patronage by contributing its mildness, low nicotine content, and uniform and full combustibility, to smoking satisfaction.

2. Outside of the duty-free status in the prospective US GSP, the cost factor at full rate or MFN tariff rate, the price factor will militate against he continued availment by the US cigar and cigarette smokers USA of this blending component, as price-wise the RP cigar leaf will lose out to those tobaccos produced in other countries nearer the USA. The loss of the Philippine Tobacco blend in the American cigar will generate changes that customers may notice in the flavor and mildness of the finished product without the RP cigar leaf in the blend, which will, in turn, induce loss of patronage of the American cigars, decrease of manufacture and decline of specific taxes due to the government.

3. A *recent development* arising out of the unique "slow, uniform, and full combustibility" characteristic of the RP-grown Cigar leaf, not possessed by other Cigar leaf produced in other competing countries or other artificial tobacco substitutes, has triggered an expanded research in the Philippines into the manufacture of a "new and safer aromatic cigarette" containing the RP tobacco as a blend component. The rationale of the tremendous impact of this type of cigarette is related in the Report of the U.S. Surgeon General on the cancer-causative factors conduced by cigarette smoking. With the RP cigar leaf as a blend acting as a "kindler" to produce uniform and full combustibility however, complete oxidation is attained; thus minimizing if not eliminating carcinogenic hydrocarbons in the tar of the cigarette smoke.

The boundless capabilities of American genius, funds, and scientific facilities for research, may well explore this avenue of search for the "cigarette" that will make cigarette smoking less hazardous to health. If smoking is hard to stop, at least it should be made, by all means, safe. Here, then, is another reason for the importation of this RP product.

4. In the spirit of reciprocity, it is reasonably expected of the RP Government that the inclusion of the RP-grown cigar leaf in the US GSP will be matched by the scaling down of the duties now imposed on increasing import of 4 to 5 million kilos this year of American grown cigarette leaf tobacco, needed in the Philippines to support our domestic manufacture and domestic consumption of aromatic Virginia blend types of cigarettes including well known brands manufactured under special licenses, such as Salem, Marlboro, Philip Morris, Winston, Lucky Strike, and others.

5. Considered on the historical *backdrop* of Corregidor and Bataan, it is important to note that the preponderant majority of the 200,000 tobacco growers representing 2 million people producing the cigar filler leaf tobacco of the Philippines are veterans, their widows, sons, daughters, and grandchildren, or their descendants. Assuming a situation in which all considerations of the imperatives of trade are equal, this factor of friendship forged in the battlefields in defense of freedom and democracy, should tip the balance of decision in favor of this Philippine export.

Respectfully submitted:

DEMETRIO P. TABIJE,
Chairman-General Manager.

U.S. TARIFF COMMISSION,
Washington, D.C., April 8, 1974.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: During the course of your Committee's hearing on the proposed Trade Reform Act of 1973, Secretary of Commerce Frederick B. Dent and Secretary of Labor Peter J. Brennan both implied that the Tariff Commission has been responsible for delays in the adjustment assistance program as provided in the Trade Expansion Act of 1962 (TEA).[1] As you are aware, the Tariff Commission's role in the adjustment assistance program is widely misunderstood, and, in this regard, the following information may prove helpful.

The TEA provided a deadline—"60 days after the date on which the petition is filed"—for the Tariff Commission to conduct its investigation and make its

[1] See attachment.

determination in cases involving adjustment assistance for firms or workers. On the other hand, no statutory time limits were imposed on the Departments of Commerce and Labor within which adjustment assistance had to be delivered.

Criticism concerning the timing of relief can be better evaluated when one considers that the adjustment assistance process occurs in three discrete phases. In the onset and wareness phase, unemployment or injury begins but usually on a gradual basis. Potential petitioners may be immediately unaware that imports are responsible and that a relief procedure exists. (A point often overlooked is that the adjustment assistance program is not widely known). In the petitioning-determination phase, petitioners first file their petition, then the Tariff Commission conducts its investigation, makes its determination, and reports to the President. A review of Commission determinations will show that, although 60 days is the maximum the law provides, investigations are not treated as perfunctory and routine matters, but are carefully tailored to uncover the market factors at work on very specifically defined products. In the delivery phase, the Department of Labor makes its certifications—usually within about five weeks of an affirmative Commission determination. Certification in evenly split decisions may be delayed, since the tie must first be resolved by the President. Actual payments at the State level may not begin until some two to six weeks after certification. Certification and delivery of benefits for firms by the Department of Commerce is more complex.[3] On the average, nearly a year passes between the firm's certification and its receipt of assistance.

Set in this fashion, one sees that, while the Tariff Commission's role is critical to the outcome of the adjustment assistance process, the Commission can do little to either increase the awareness of potential petitioners, or to affect the timing of the actual delivery of benefits to individuals. In that phase where the Tariff Commission exercises some control over the timing of relief, however, it has made changes simplifying and expediting the procedure for workers, and it often aids firms in preparing their petitions. In December 1972, for example, the Commission greatly reduced the data required for the initiation of a worker investigation. The data now required (USTC Form 301–W attached) can be obtained from information that should be easily available to the petitioning workers. Although more detailed data is required for firms (USTC Form 301–F attached), most of the information can be generated from within the firm's own records, and the Commission's facilities are always available to assist potential petitioners with such items as import statistics, which may not be in the company's possession.

Few firm or worker petitions were filed through 1969—a situation for which there are a number of explanations, including the fact that no new tariff concessions were implemented until those negotiated during the Kennedy Round began to gradually become effective beginning on January 1, 1968. In 1970, however, the Commission decided 25 firm and worker cases. In 1971, 114 firm and worker cases were concluded—an average of over two per week. In 1972, 50 were concluded, and 64 cases were concluded last year. The sheer number of adjustment assistance cases decided over the past four years suggests an expeditious handling by the Tariff Commission.

In summary, the Commission does not believe that it has been the source of undue delay in the receipt of adjustment assistance. The transfer of the eligibility determination from the Tariff Commission to Executive Branch departments, as proposed in the Trade Reform Act of 1973, even with relaxed criteria, while still retaining the same 60-day time limit, will not, of itself, materially hasten the delivery of adjustment assistance.

The Tariff Commission stands ready to provide your Committee, and the entire Congress, with such information as you may need to assist in your deliberations on the proposed Trade Reform Act of 1973, or other matters, as appropriate.

Sincerely,

CATHERINE BEDELL, *Chairman.*

Enclosures.

Senator Roth: Mr. Dent, a little over a year ago, I sent a questionnaire to 26 firms which at that time had been certified as eligible for adjustment assistance. By far the overwhelming complaint that came back was that the Department of Commerce procedures were too slow and had too much red tape. . . .

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[3] For a description of this procedure, see U.S. Department of Commerce, Office of Trade Adjustment Assistance, *Trade Adjustment Assistance Program, Guidelines for Applicants,* Aug. 24, 1972.

I wonder if anything has been done to expedite these bureaucratic procedures, whether or not you feel that the legislative proposal in the House bill will expedite the decision-making for adjustments?

Secretary Dent: Yes, sir. The House bill addresses this by transferring the responsibility for finding or certifying firms as being eligible for adjustment assistance and placing it in the Commerce Department. At the present time, the certification has to be obtained through the Tariff Commission and then the matter is approved by the President and is referred to the Commerce Department for action. . . . (Hearing p. 423.)

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Secretary Brennan: . . . In the new bill, we feel the escape clause, the adjustment assistance, would be more helpful under the speedup system, as Secretary Dent just related to Senator Roth, because it would be directly through the Secretary, instead of going through the Tariff Commission. (Hearing p. 432.)

WORKERS' PETITION FOR ADJUSTMENT ASSISTANCE UNDER SEC. 301(a), TRADE EXPANSION ACT OF 1962

Form 301-W
(U.S. Tariff Commission)

<u>Definitions</u>

<u>Who may file a petition</u>.--A petition may be filed by a group (three or more) of workers in an individual firm or by their certified or recognized union or other duly authorized representative. The workers by whom or on whose behalf the petition is filed must be persons who are, or who have been, within one year prior to the date of the receipt by the Commission of the petition, employed regularly in the production of the named or described domestic article by the firm, or an appropriate subdivision thereof, whose workers are claimed to be unemployed, underemployed, or threatened with unemployment or underemployment, by reason of the increase in imports of the named or described foreign article, which increase is as a result in major part of concessions granted under trade agreements.

<u>Firm, establishment, and appropriate subdivision</u>.--See section 206.2 of the Tariff Commission's Rules of Practice and Procedure.

<u>General Instructions</u>

If this form does not provide sufficient space for indicated information, continuation sheets should be attached and the information set forth thereon.

SECTION A.--

1. <u>Identification of person filing.</u>

Name(s) and address(es) of person(s) filing this document. (If other than worker, state authority for representation.)

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2. Group of workers involved.

Name or description of the group of workers on whose behalf the petition is filed.

3. Firm and establishment where employed.

Name(s) and address(es) of the firm and of the establishment(s) at which workers are (were) employed.

4. Date of layoff.

The date(s) layoff(s) began or is (are) scheduled to begin.

SECTION B.--Domestic article.

Give a detailed description of the article(s) produced by the workers firm which is (are) allegedly being affected by increased imports due in major part to tariff concessions.

SECTION C.--
Like or directly competitive imports.

Give a detailed description of the article(s) that is (are) like or directly competitive with the article(s) produced by the firm (see section B above) and that is (are) being imported in increased quantities due in major part to trade agreement concessions.

SECTION D.--
Reasons for dislocation of workers.

Supply a statement of reasons for the unemployment or underemployment, or threatened unemployment or underemployment, of the workers. Include as an appendix any proof of the effect of increased imports on the workers.

SECTION E.--
Other data.

Include any other information you have, such as import data, which you feel may be of help to the Commission in its deliberations.

Give the name, address, and telephone number of the official of the firm who should be contacted by the Tariff Commission to obtain information.

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Attestation Clause

I (we), the undersigned person(s) filing this petition, hereby certify that the information included herein is correct to the best of my (our) information and belief.

Signed ______________________________

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Date: ______________________________

Form 301-F
U.S. Tariff Commission

FORM TO ACCOMPANY PETITION OF A FIRM UNDER SUBPART C OF PART 206
OF TARIFF COMMISSION RULES OF PRACTICE AND PROCEDURE

Definitions

For definitions of terms "firm" and "establishment," see section 206.2 of part 206 of Tariff Commission Rules of Practice and Procedure.

General Instructions

Report only for establishment(s) located in the District of Columbia, any State of the United States, and the Commonwealth of Puerto Rico. If the answer to any question is "None," so indicate, rather than leave the space blank. Where necessary, the answer to a section may be continued on a separate sheet attached to the page. Annual data are to be furnished for the calendar year except in section K (Net sales and net operating profit) where they are to be furnished for petitioning firm's accounting year.

Identification

Name and address of petitioning firm:

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Names and addresses of affiliated firms (i.e., firms controlled or substantially beneficially owned by the same persons as those who control or substantially beneficially own the petitioning firm.):

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Date submitted: ______________

(TC28194)

Section A.--IMPORTED ARTICLE: Insert tariff provision, name or precise description, and rate of duty of the imported article covered by petition.

Tariff provision	Name or description of article	Current rate of duty

Section B.--IMPORT DATA: Supply data for the last 5 full years on U.S. imports of the imported article named or described in section A. If the article is covered by more than one import statistical classification, identify and supply data for each.

Line No.	Description	Year____	Year____	Year____	Year____	Year____
		Quantity (specify unit ______)				
1						
2						
3						
4						
5	Total					
		Value				
6		$	$	$	$	$
7						
8						
9						
10	Total					

Section C.--DOMESTIC ARTICLE: Supply precise description of the domestic article produced by the petitioning firm which is like or directly competitive with the imported article named or described in section A.

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Section D.--ESTABLISHMENTS: List the establishments in which the petitioning firm produces the article named or described in section C.

Name or other identification	Location

Section E.--SALES DATA: Report for the last 5 full years, by meaningfully descriptive subgroups, the quantity and value of sales by the petitioning firm of the article described in section C, and the value only of sales by the petitioning firm of all other articles. Do not include interplant transfers, or articles purchased and resold without further manufacture. The quantities should be exclusive of returned goods; value of sales should be net sales value f.o.b. your point of shipment; i.e., gross sales value f.o.b. your point of shipment, less all trade discounts, returns, and allowances.

Line No.	Item	Year____	Year____	Year____	Year____	Year____
		Quantity (specify unit____________)				
	Article described in section C: Type (specify):					
1						
2						
3						
4						
5						
6	Total (lines 1 through 5)----------------					
		Value				
	Article described in section C: Type (specify):					
7		$	$	$	$	$
8						
9						
10						
11						
12	Total (lines 7 through 11)----------------					
13	Sales of all other articles produced by the petitioning firm----------------					
14	Total, all articles produced by petitioning firm (lines 12 and 13)----------------					

Section F.--PRODUCTION: Report for the last 5 full years the quantity of production by the petitioning firm of the article described in section C.

	Quantity (specify unit____________)				
	Year____	Year____	Year____	Year____	Year____
Production of article described in section C--------------					

Section G.--CAPACITY: Report for the last 5 full years total annual capacity of the petitioning firm for producing the article described in section C. In the spaces provided below, explain the basis for determining capacity and describe any productive facilities idled. The total annual capacity and the extent to which it is being utilized should be in terms of the firm's customary manner of operating (i.e., 1 shift, 2 shifts, or 3 shifts). State number of shifts worked:__________.

Quantity (specify unit:______________)

Line No.	Item	Year____	Year____	Year____	Year____	Year____
1	Annual capacity--------------------					
2	Ratio (percent) of actual operation to capacity--------------------					

Basis for determining capacity: ____

Description of any productive facilities idled: ____

Section H.--INVENTORIES: Report, as indicated below, the quantity of the article described in section C (produced by the petitioning firm) in the petitioning firm's inventory on December 31 for each of the last 5 years.

Quantity (specify unit:______________)

	Year____	Year____	Year____	Year____	Year____
Quantity in inventory--------------------					

Section I.--AVERAGE NUMBER OF EMPLOYEES: Report for the last 5 full years the average number of all persons, and the average number of "production and related workers," employed by the petitioning firm.

"Production and related workers" include working foremen and all nonsupervisory workers (including leadmen and trainees) engaged in production (fabricating, processing, assembling), inspection, receiving, storage, handling, packing, warehousing, shipping, maintenance, repair, janitorial and watchman services, product development, auxiliary production for establishments' own use (e.g., power plant), and record keeping and other services closely associated with the above production operations. "Production and related workers" does not include supervisory employees above the working foremen level or their clerical staff, salesmen, and general office workers. The average number of all persons employed in a given year is calculated by adding the number of employees, both full-time and part-time, for the pay periods ending closest to the 15th of each month and dividing that total by 12. The average number of "production and related workers" is similarly calculated, except that only those workers that are covered by the above definition for "production and related workers" should be included.

Line No.	Item	Year____	Year____	Year____	Year____	Year____
	Average number employed in the firm:					
1	All persons--------------------					
2	"Production and related workers"--					

Section J.--MAN-HOURS FOR "PRODUCTION AND RELATED WORKERS": Report for the last 5 full years, for all products produced by the petitioning firm and for the article described in section C, the total man-hours worked by "production and related workers" (as defined in section I). Man-hours reported should include hours paid for holidays, sick leave, and vacations taken. Do not convert overtime hours to straight-time hours.

If the firm's records do not show the hours worked by "production and related workers" on the article described in section C alone and it is necessary to arrive at the number of man-hours worked on that article by a method of allocation, carefully explain the method used.

Line No.	Item	Year____	Year____	Year____	Year____	Year____
	Man-hours worked by "production and related workers":					
1	Total for the firm----------------					
2	On the article described in section C----------------------					

Section K.--NET SALES AND NET OPERATING PROFIT: Report net sales and net operating profit of the petitioning firm for each of firm's last 5 accounting years.

Line No.	Item	Year____	Year____	Year____	Year____	Year____
1	Net sales----------------------------	$	$	$	$	$
2	Net operating profit----------------					

Section L.--AUDITORS' CERTIFIED REPORTS: With the completed form, submit copies of the complete auditors' certified reports for the petitioning firm (not merely abbreviated reports such as those customarily sent to stockholders) for the last 5 accounting years. If there are no such reports or statements made by certified public accountants, furnish copies of the complete profit-and-loss statements and balance sheets prepared by the petitioning firm's own accountants, together with copies of the firm's Federal income-tax returns for the last 5 accounting years.

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