

**NOMINATIONS OF LAWRENCE J. BRADY, DAVID R.
MACDONALD, PAMELA NEEDHAM BAILEY, ROBERT J.
RUBIN, AND RICHARD KUSSEROW**

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

NOMINATIONS OF

**LAWRENCE J. BRADY TO BE ASSISTANT SECRETARY OF
COMMERCE**

**DAVID R. MACDONALD TO BE DEPUTY UNITED STATES TRADE
REPRESENTATIVE**

**PAMELA NEEDHAM BAILEY TO BE ASSISTANT SECRETARY OF
HEALTH AND HUMAN SERVICES**

**ROBERT J. RUBIN TO BE ASSISTANT SECRETARY OF HEALTH
AND HUMAN SERVICES**

**RICHARD KUSSEROW TO BE INSPECTOR GENERAL, DEPART-
MENT OF HEALTH AND HUMAN SERVICES**

MAY 22, 1981

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NOMINATIONS OF LAWRENCE J. BRADY, TO BE ASSISTANT SECRETARY OF COMMERCE; DAVID R. MACDONALD, TO BE DEPUTY U.S. TRADE REPRESENTATIVE; PAMELA NEEDHAM BAILEY, TO BE ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES; ROBERT J. RUBIN, TO BE ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES; AND RICHARD KUSSEROW, TO BE INSPECTOR GENERAL, DEPARTMENT OF HEALTH AND HUMAN SERVICES

FRIDAY, MAY 22, 1981

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee met, pursuant to notice, at 9:30 a.m., in room 2221, Dirksen Senate Office Building, Senator Dole (chairman), presiding.

Present: Senators Dole, Danforth, Heinz, Matsunaga, and Bradley.

[The press release announcing this hearing follows:]

[Press Release No. 81-135]

FINANCE COMMITTEE SCHEDULES HEARINGS ON NOMINATIONS OF LAWRENCE J. BRADY, TO BE ASSISTANT SECRETARY OF COMMERCE; PAMELA NEEDHAM BAILEY, TO BE ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES; RICHARD P. KUSSEROW, TO BE INSPECTOR GENERAL, DEPARTMENT OF HEALTH AND HUMAN SERVICES; DAVID R. MACDONALD, TO BE DEPUTY U.S. TRADE REPRESENTATIVE; AND ROBERT J. RUBIN, TO BE ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES

Robert J. Dole, chairman of the Committee on Finance, announced today that the committee has scheduled hearings on the nominations of Lawrence J. Brady to be Assistant Secretary of Commerce, Pamela Needham Bailey to be Assistant Secretary of Health and Human Services, Richard P. Kusserow, to be Inspector General, Department of Health and Human Services, David R. Macdonald to be Deputy United States Trade Representative, and Robert J. Rubin, to be Assistant Secretary of Health and Human Services.

The hearings are scheduled for May 22, 1981, beginning at 9:30 a.m. They will be held in Room 2221, Dirksen Senate Office Building.

Immediately following the hearings, the committee will meet in executive session to consider the nominations for Mr. Brady, Ms. Bailey, Mr. Kusserow, Mr. Macdonald, and Mr. Rubin.

Written Testimony—The committee will be pleased to receive written testimony from those persons or organizations who wish to submit statements on the nominations for the record. Statements submitted for inclusion in the record should be

typewritten, not more than 25 double-spaced pages in length and mailed with five (5) copies to be received by May 22, 1981, to Robert E. Lighthizer, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510.

The CHAIRMAN [presiding]. The hearing will come to order.

It is a pleasure to welcome Lawrence J. Brady, nominated to be Assistant Secretary of Commerce, Pamela Needham Bailey, nominated to be Assistant Secretary of Health and Human Services, and Richard Kusserow, nominated to be Inspector General, Department of Health and Human Services, and David R. Macdonald, nominated to be Deputy U.S. Trade Representative and Robert J. Rubin, who has been nominated to be Assistant Secretary of Health and Human Services.

I would say for the record, we have reviewed the financial disclosure forms that each filed and the material that they have filed with the Office of Government Ethics.

I am satisfied there are no problems in this area. I have also been informed by the Director of Government Ethics, the Director of Government Ethics will soon send letters approving each nominee's compliance with the Ethics in Government Act.

Those letters will be made a part of the record.

[The letters referred to follow:]

U.S. OFFICE OF GOVERNMENT ETHICS,
OFFICE OF PERSONNEL MANAGEMENT,
Washington, D.C., May 5, 1981.

HON. ROBERT DOLE,
Chairman, Committee on Finance
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Robert J. Rubin. President Reagan has nominated Dr. Rubin for the position of Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services.

We have reviewed the report and have obtained advice from the Department of Health and Human Services concerning any possible conflict in light of the agency's functions and the nominee's proposed duties. As noted on the financial disclosure report, the Department intends to grant Dr. Rubin a waiver under 18 U.S.C. § 208(b) with regard to his continuing relationship (i.e., leave of absence) with Tufts University. In addition, Dr. Rubin has agreed to resign from his positions in Renal Care Associates and End Stage Renal Disease Network #28, and will divest of his interest in Renal Care Associates. Based thereon, we believe that Dr. Rubin is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

J. JACKSON WALTER, Director.

U.S. OFFICE OF GOVERNMENT ETHICS,
OFFICE OF PERSONNEL MANAGEMENT,
Washington, D.C., May 5, 1981.

HON. ROBERT DOLE,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Pamela G. Bailey, whose nomination for the position of Assistant Secretary for Public Affairs for the Department of Health and Human Services has been sent to you by President Reagan.

We have reviewed the report and have also obtained advice from the Department of Health and Human Services concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Based thereon, we be-

lieve that Ms. Bailey is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

J. JACKSON WALTER, *Director.*

U.S. OFFICE OF GOVERNMENT ETHICS,
OFFICE OF PERSONNEL MANAGEMENT,
Washington, D.C., May 5, 1981.

Hon. ROBERT DOLE,
*Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by David R. Macdonald, whose nomination for the position of Deputy United States Trade Representative has been sent to you by President Reagan.

We have reviewed the report and have also obtained advice from the Office of the U.S. Trade Representative concerning any possible conflict in light of the Office's functions and the nominee's proposed duties. We understand that Mr. Macdonald has agreed to recuse himself in matters in which his former clients or the Chicago City Bank and Trust Company may be directly involved. Based thereon, we believe that he will be in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

J. JACKSON WALTER, *Director.*

U.S. OFFICE OF GOVERNMENT ETHICS,
OFFICE OF PERSONNEL MANAGEMENT,
Washington, D.C., May 5, 1981.

Hon. ROBERT DOLE,
*Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Richard P. Kusserow whom President Reagan has nominated for the position of Inspector General of the Department of Health and Human Services.

We have reviewed the report and have also obtained advice from the Department of Health and Human Services concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Based thereon, we believe that Mr. Kusserow is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

J. JACKSON WALTER, *Director.*

U.S. OFFICE OF GOVERNMENT ETHICS,
OFFICE OF PERSONNEL MANAGEMENT,
Washington, D.C., May 5, 1981.

Hon. ROBERT DOLE,
*Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Lawrence J. Brady, whose nomination for the position of Assistant Secretary for Trade Administration of the Department of Commerce has been sent to you by President Reagan.

We have reviewed the report and have also obtained advice from the Department of Commerce concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Based thereon, we believe that Mr. Brady is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

J. JACKSON WALTER, *Director.*

Mr. Brady, we will proceed with you first. I note that our colleague, Senator Humphrey, from New Hampshire, is here. Senator Humphrey, I would like to hear from you.

**STATEMENT OF HON. GORDON J. HUMPHREY, U.S. SENATOR
FROM THE STATE OF NEW HAMPSHIRE**

Senator HUMPHREY. Thank you, Mr. Chairman, and Senator Danforth. I want to thank you and the committee for granting me the honor of introducing a resident of my State, Larry Brady, who, as you know has been nominated by the President to the post of Assistant Secretary for Trade Administration, at the U.S. Department of Commerce.

In his new position, Larry Brady will be responsible for developing and implementing policy with respect to U. S. export controls for strategic foreign policy or short supply reasons as mandated by the Export Administration Act, and also for enforcement of the Act's antiboycott provisions.

In addition, he will be responsible for Commerce Department investigations of antidumping and countervailing duty complaints, implementation of the steel trigger price mechanism and administration of the statutory import of foreign trade zones and industrial mobilization programs.

From 1971 to 1974, Larry Brady was senior staff member of the White House Council of International Economic policy and special advisor for Congressional Relations.

From March 1970 to April 1971, he was senior international economist in the Office of International Trade at the Department of State, and more recently, from 1974 to 1980, very importantly, with respect to the position to which he has been nominated, he was acting director and Deputy Director of the Commerce Department's Office of Export Administration.

In earlier days, Larry Brady worked in various positions with the U. S. Senate, from 1967 to 1970. At that time he was legislative aide to the late Senator Everett M. Dirksen, and simultaneously, minority counsel to the Senate Judiciary Committee, on Separation of Powers.

From 1963 to 1967, he was legislative aide to the Secretary of the Minority, U.S. Senate. From 1958 to 1963, he was a staff assistant to Senator Norris Cotton.

Mr. Brady is from Berlin, N.H. That is pronounced Berlin and not Berlin, as Senator Dole knows, I am sure.

He is from a long-established family in that community.

Mr. Chairman, I want to say on a more personal level that Larry Brady and I are acquaintances. I have known him for several years. He is highly courageous, a very courageous man. During a previous administration, he was responsible for pointing out to the public and the press that certain regulations governing the export of technology which had the potential of being useful to our adversaries, were being laxly applied or perhaps even misapplied and not applied at all, for which he took a great deal of heat in his position.

He is a very courageous man, a man of great integrity and a man of very great ability.

I am sure that if the Senate chooses to confirm him in this position that he is going to serve the President and our country very, very well indeed.

Again, I want to thank you for letting me introduce Larry to the committee this morning. It is a great privilege.

THE CHAIRMAN. Thank you, Senator Humphrey.
Mr. Brady, do you have any statement you would like to make?
Mr. BRADY. I have a short statement, Mr. Chairman.

**TESTIMONY OF LAWRENCE J. BRADY, NOMINATED TO BE
 ASSISTANT SECRETARY OF COMMERCE**

Mr. BRADY. First, Senator, I deeply appreciate your being here, and I thank you.

Mr. Chairman, it is an honor for me to appear here today before the Finance Committee as President Reagan's nominee for the position of Assistant Secretary for Trade Administration.

As the Senator indicated, my professional experience since the early 1970's has been in the international trade area, initially with the White House Council on International Economic Policy and more recently in Export Control Administration.

I am familiar with the Import Administration area and fully appreciate the importance of the Trade Agreements Act of 1979, to the U.S. objective of maintaining a fair and open competitive market internationally, and assuring that U.S. domestic producers are not disadvantaged by dumping or subsidized exports in the United States.

I am committed to the strict enforcement of the antidumping and countervailing duty laws in the spirit in which you wrote those laws.

I only reiterate what Secretary Baldrige has said and that is, "The days of looking the other way, when other Nations violate the laws of fair trade, are over."

I will strive to bring to the import administration function predictability, clarity, and service to the business community.

I am also committed to vigorous enforcement of the steel trigger price mechanism.

Having served many years on Capitol Hill, I understand that to develop and implement public policy effectively requires close cooperation between the executive branch and the Congress.

I pledge that my office will work closely with this committee, with the Senate and the House to achieve the objectives which we all share.

I expect and solicit your ideas and suggestions, as well as criticisms of my operation. I look forward to constructive working relationships over the next few years.

Mr. Chairman, it is an honor and privilege to be nominated to serve in the Reagan administration. I ask your favorable assent to my nomination.

[The prepared statement of Mr. Lawrence J. Brady follows:]

**STATEMENT FOR LAWRENCE J. BRADY BEFORE SENATE FINANCE COMMITTEE,
 MAY 22, 1981**

It is an honor for me to appear before the Senate Finance Committee today as President Reagan's nominee for the position of Assistant Secretary of Commerce for Trade Administration.

My professional experience since the early 1970's has been in the international trade area initially as a Senior Staff Member on the Council of International Economic Policy, and more recently in export control administration. I am familiar with the import administration area, and fully appreciate the importance of the Trade Agreements Act of 1979 to the U.S. objective of maintaining a fair and open competitive market internationally and assuring that U.S. domestic producers are not disadvantaged by dumping or subsidized exports in the U.S. I am committed to

the strict enforcement of the antidumping and countervailing duty laws in the spirit in which you wrote those laws. I only reiterate what Secretary Baldrige has said and that is, "The days of looking the other way when other nations violate the laws of fair trade are over." I will strive to bring to the import administration function predictability, clarity and service to the business community. I am also committed to vigorous enforcement of the steel trigger price mechanism.

Having served many years on Capitol Hill, I understand that to develop and implement public policy effectively requires close cooperation between the Executive Branch and the Congress. I pledge that my office will work closely with this committee, the Senate and the House to achieve the objectives which we all share. I expect and solicit your ideas and suggestions, as well as criticisms of my operation. I look forward to a constructive working relationship over the next few years.

Mr. Chairman, it is an honor and privilege to be nominated to serve in the Reagan Administration, and I ask for your favorable assent to that nomination.

The Chairman. We have both Senator Danforth and Senator Heinz, who are very active on the Trade Subcommittee; Senator Danforth is the chairman.

Let me yield to Senator Danforth. I know that he may have questions.

Senator DANFORTH. Mr. Chairman, thank you very much.

Mr. Brady, 2 years ago, when we passed the Trade Agreements Act implementing the Tokyo Round, we spent a lot of effort in trying to improve enforcement of antidumping/countervailing duty laws.

We found that while dumping and the sale of subsidized products has been a violation of the law for literally decades, the enforcement procedure was so cumbersome and contained so many delays, that at times literally nothing would happen.

So, our effort was to make the enforcement mechanism work by setting up a series of timed deadlines for enforcement.

Now, I would like to ask you two questions. The first is, Do you agree with the theory behind what we tried to do? More precisely, if we are to attempt to have a policy of free trade, that means fair trade. It means that the law is going to be enforced, and that it should be enforced in a reasonable and expeditious manner.

The second question I would ask you is, Did the exercise that we went through 2 years ago work out well?

I am led to understand that maybe we created a mechanism that is so fast that there are problems in its actual implementation, not only within Government but also with the Trade Bar.

Mr. BRADY. Senator, I would say that what you did was quite positive and quite desirable, from my understanding of the situation. That doesn't mean that the office which I am going to take over is in fact performing up to the standard which you legislated. We still have some problems. We still have some delays in the collection of duties, but we are making progress in clearing up that backlog.

The deadlines are met pretty much, except for perhaps in a few cases there is a slide of a couple of days, but not to any significant extent.

I think we are making tremendous progress from the situation where we were a couple of years ago. We hope by the end of this year we will have cleaned up the collection of duties left over from a period of years, as a matter of fact.

The application of new criteria entails redoing the regulations. We are embarked on that or will be embarked on that. There has been some work done, but there is a lot more to be done.

What I am saying is that you legislated some standards and some time frames which I think were good. Some progress has been made to meet those. We have a ways to go, but I think we can do it.

Senator DANFORTH. You do agree with the philosophy of what we were trying to do?

Mr. BRADY. Absolutely, Senator.

Senator DANFORTH. I would very much appreciate it if you would work with us as closely as possible, to try to make sure that the procedures that were established are in fact workable.

If there is need for modification or adjustment, that you would work very closely with us to do whatever needs to be done.

Mr. BRADY. Very definitely, Senator.

Senator DANFORTH. Thank you.

The CHAIRMAN. Senator Heinz.

Senator HEINZ. Thank you, Mr. Chairman.

Mr. Brady, one of the items you will have responsibility would be the trigger price mechanism on steel. Do you anticipate you will continue to administer that adequately? I have heard that the people administering the mechanism did not get all the staffing they asked for.

Is there going to be adequate staffing?

Mr. BRADY. Senator, yes, there will be. We anticipate, the administration anticipates administering the steel trigger price mechanism in a strong way.

At the time the recent budget was put together for the next fiscal year, I made a point of alerting the Secretary and the Under Secretary to the fact that if problems developed in our administration of the trigger price mechanism, to the effect that we would need more staff or whatever it is, I would go in and fight for that.

At this point, now that we are over the hiring freeze, we can go ahead and get the people that were slated to go into the exercise, that we can do a pretty good job in enforcing the TPM in the manner in which we have indicated we would.

If we need more, I will fight for them.

Senator HEINZ. I take it you do believe that as far as steel is concerned, the trigger pricing mechanism is an effective and necessary means of enforcing the antidumping law?

Mr. BRADY. Senator, it is a monitoring device which I think is the best we can get, certainly at this point in time, very definitely. It is basically a substitution for the filing of what would be a vast number of antidumping and now countervailing duty petitions.

So, yes, we do support it very strongly.

Senator HEINZ. Now on specialty steel, we have a surge mechanism in place. Are you equally committed to its enforcement?

Mr. BRADY. Yes, sir, we are.

Senator HEINZ. I am glad to hear that.

One of the things Senator Danforth I think was touching on in his questions was the fact that our trade laws were written in very close consultation with the previous administration. We tried to work out something to satisfy all the various points of view in the trade area to be fair to everybody. I am not just talking about fair trade, either.

One of the other issues that relates to this though, is consultation with this committee, and our counterpart over in the House, as to how the various codes may be implemented.

One of the continuing issues will be how the less-developed countries are brought in under the subsidies code. There are better and worse ways of doing it, at least in my judgment.

We hope that when you are in the process of developing the guidelines under which India or Pakistan or some other country will or will not qualify, come in under the code, you will consult with us.

Do you expect to do that?

Mr. BRADY. Very definitely, Senator.

Senator HEINZ. The Trade Act of 1974—section 777 of the Trade Act required the Department of Commerce to have a subsidies library. I understand it is a pretty empty library now.

Can you tell the committee what you intend to do about that state of affairs?

Mr. BRADY. It is my understanding there has been some difficulty in putting together the library. I think Senator, coming from where we have been in the last year and a half or so, taking functions from Commerce, Customs, in trying to meld them together in a cohesive operation, you know, there has been some starts and some areas have not gone as quickly as others might have. This is one that has not gone all that quickly.

Senator HEINZ. Do you see any insurmountable difficulty?

Mr. BRADY. No. No. I don't. What we are going to do is to work with the State Department and getting our overseas posts to try to get us the information and working with the business community here, to try to give us the information which will truly make an effective library.

Senator HEINZ. One of the things written into the Trade Agreements Act of 2 years ago was the provision that the administering authority, in this case, you and Commerce, could self-initiate cases.

The background of that was the Treasury Department had been in charge of the administration of this law. We became so disgusted with the Treasury Department doing absolutely nothing with any of these cases, even the ones filed by injured parties on the outside, that we made the Commerce Department the doorkeeper on this.

We also gave Commerce the power not only to allow other people to come through the door, but to open it and walk through it yourself.

Have you any idea how many times that has been used, that provision has been used since 1980, since it became effective?

I will give you a hint; it is a round number. [Laughter.]

Mr. BRADY. Yes, I know.

The Commerce Department has not initiated, self-initiated, any case.

Let me amplify on that just for one moment. I think it is a legitimate issue as to where self-initiation really fits in.

I think there are areas where the Commerce Department should undertake self-initiation.

There are other areas, for instance, where a domestic firm does not make a representation, even informally, with the Department,

and there is a question as to whether injury exists. I doubt if self-initiation is really warranted.

To a certain extent it is moot, because when a company or a businessman comes in and says that he is being affected adversely, we work with him and basically counsel him; he files a petition, et cetera, so in fact we have a means of self-initiation.

It may be that self-initiation will apply, for instance in the steel area if sales occur below the trigger price. If after a review of that we feel an action is required, then that may be an area where self-initiation is appropriate.

I think there are areas.

Senator HEINZ. One of the reasons that the self-initiation provision was put in is that there are many companies, unlike large steel companies, that really can't afford to hire the high-priced talent to initiate, do all the things you have to do to be successful in this area.

You may not have been downtown when United States Steel delivered its antidumping complaints. I understand they had a whole truck, literally a truck, full of documents, they drove on down there.

Clearly, that kind of a thing is beyond the capacity of a medium sized, let alone a small firm.

Therefore, it seems to me you might be well-served to develop some internal guidelines as to when you will self-initiate.

Is that something you are prepared to do?

Mr. BRADY. Very definitely, Senator. I indicated in my statement that I think one of the points we want to focus on is service to the business community, particularly small businesses. And you are right, they don't have the talent, they don't have the money, sometimes, to pay Washington attorneys the price that they need. That is a function we should perform.

Senator HEINZ. As you would develop those guidelines, would you be willing to consult with us before you lock them into bronze?

Mr. BRADY. Absolutely, Senator.

Senator HEINZ. How long do you think it will take you to get them developed?

Mr. BRADY. I would ask you for 5 or 6 months to get into the job.

Senator HEINZ. You have it as long as you don't go beyond it. The world will now note that 5 or 6 months is the standard, Christmastime, or Thanksgiving. I have one last question, Mr. Chairman. I am sorry to take so long.

You have responsibility, I believe, for handling the problems of subsidies with nonmarket economies and there is an excellent bill that has been introduced in this area by at least one Senator from Pennsylvania. We hope you will take a hard look at it and endorse it.

Do you plan to? [Laughter.]

Mr. BRADY. Senator, we are taking a very hard look at that bill. Let me say that I fully understand the objective and the problems which that bill addresses, because in the discussions I have had with the staff, there is a very real problem in the application of the dumping area and the countervailing duty area, on petitions dealing with nonmarket economies.

There is no question about it. I think we need some guidance. I think we need some clarification. What we are doing is taking a really in-depth look at your bill. There are some questions that have come up. I hope we can get back to you and work that out and impress on you the concerns we might have on particular provisions.

Senator HEINZ. Let me ask you this question based on the general principle of legislation. The basic principle is that if you can't get the accurate costs, for whatever reason, from the nonmarket economy, whether it is Poland, on golf carts or China on whatever, that you then compare the prices that are being used by those nonmarket economies to the least efficient capitalist or market economies.

The theory there is that is a fair standard of comparison for the most efficient capitalist country.

Do you have any problem with that basic theory?

Mr. BRADY. Senator, I personally have no problems with that basic theory. I think, in discussions with my staff, one question they had was whether or not that was the least efficient producer in the United States, or whether it applied to any market economy.

I gather from what you just say, it would apply worldwide. These are some of the questions that we were beginning to develop.

Senator HEINZ. Well, without trying to pin you down on that one, I am leaving a lot of room for flexibility.

Mr. BRADY. Yes.

Senator HEINZ. The intent of our bill is not strictly to confine that to the United States. If you can find, and I hope you can, a more efficient economy than the United States in a particular sector, for God's sake, please find one, that is what we would want you to do.

But, if you are in basic agreement with that concept, I think we will be able to work something out.

Mr. Chairman, thank you very much.

The CHAIRMAN. Thank you, Senator Heinz.

I have a question I wish to submit. You may respond in writing, from Senator Mitchell. He is concerned about Canadian imports and various subsidies the Canadian Government provides their farmers in competing with ours.

I have a couple of questions that I will submit. We don't want to load you up with questions. It has taken long enough to get you up here. We don't want to delay it any further.

[Questions submitted to Mr. Brady follow:]

SENATOR MITCHELL'S QUESTIONS TO MR. BRADY

Question. Maine potato farmers are facing serious economic problems as a result of substantial increases in Canadian potato imports. One reason for the growth in Canadian imports is the extent of subsidies offered by the Canadian Government. These subsidies include:

1. Low interest crop production loans;
2. Equipment storage production grants;
3. Real estate purchase grants;
4. Marketing activity grants and direct marketing assistance;
5. Transportation subsidies;
6. Financing for crop insurance programs; and
7. Stabilization payments

Are you aware of any information or analysis of the magnitude of these subsidies and their impact on the level of potato imports?

If not, would your Department be willing to undertake such studies.

If Maine potato farmers sought relief through the International Trade Commission, what steps would they have to take?

If this process would require the farmers to undertake significant expenses, is there any special assistance available? This is important, as the potato industry is not well-organized and cannot easily acquire a substantial amount of funds for this purpose.

Answer. Important Administration has recently been contacted by the U.S. Department of Agriculture (USDA) in order to explore ways in which Maine potato farmers might obtain relief from Canadian potato imports under the countervailing duty law. At the time of those discussions, USDA did not have specific information regarding the type and possible amounts of subsidies from which Canadian potatoes may benefit. We have suggested that USDA work with Import Administration to develop this information. In this exercise, Import Administration would make available to the farmers any public information in its files on Canadian programs developed in previous countervailing duty investigations. Import Administration will also make available to USDA and the farmers its expertise in identification of countervailable subsidies. Although we have not yet been contacted directly by the Maine farmers, we are willing to work with them at any time, directly or through USDA, to ensure that appropriate relief is provided.

Of course, the growers would also have to provide information with respect to alleged injury caused by subsidized Canadian potatoes. The question of injury is one which is addressed by the International Trade Commission (ITC) rather than the Commerce Department. While we are willing to discuss injury questions with the growers, more comprehensive advice would probably be obtained from the ITC itself. I understand that certain exploratory meetings between the growers and the ITC staff occurred in April of this year to discuss subsidies as well as the ITC standards for initiating an "escape clause" action under section 201 of the Tariff Act of 1930.

The preparation, filing and pursuing of a countervailing duty investigation under the new rules of the Trade Agreements Act of 1979 can indeed be very costly. Within the limits of our resources, Import Administration is committed to providing support which can significantly reduce these costs whenever possible.

SENATOR HEINZ'S QUESTIONS TO MR. BRADY

Question. Countervailing duty cases frequently require information on foreign government programs. Is your office able to get reliable information from foreign governments?

Answer. Our confidence in the reliability of information received has increased with the passage of the Trade Agreements Act because the Act requires verification of information submitted by foreign governments. We use best available evidence in the absence of verification. However, problems remain. Sometimes it is difficult to insist on what we would consider adequate verification. A number of foreign governments have been reluctant to permit verification, stating that such actions were the equivalent of doubting the inherent truthfulness of their submissions.

Question. Do the provisions for suspension or termination of antidumping cases give your office enough scope for settling those cases without prejudice to the statutory rights of U.S. industry or foreign respondents?

Answer. Yes. The goal of the antidumping and countervailing duty laws is to eliminate the injurious impact of imports entering the United States as a result of unfair trade practices. This can be achieved by either (1) the elimination of the unfair practices themselves or (2) the elimination of the injury that the practices are causing. At the same time antidumping and countervailing duty actions should not serve as a deterrent to open competition from imports which do not so benefit.

The present suspension agreement provisions in both the antidumping and countervailing duty area require the agreement of a very high percentage of the exporters. This level of participation assures the virtual complete elimination of the dumping or subsidy and meets the goal of eliminating the injurious practices. The present law provides for the right of consultation with the petitioner prior to a suspension agreement. Further, any interested party may request the ITC to review the suspension agreement to determine whether the injurious effects of the imports are eliminated.

SENATOR DANFORTH'S QUESTIONS TO MR. BRADY

Question. Can a small business afford to bring a case under the antidumping and countervailing duty laws?

Answer. The 1979 Trade Agreements Act changed the antidumping and countervailing duty laws both substantively and procedurally. Many of the changes were made in order to expedite completion of investigations while at the same time opening up investigations to more public scrutiny.

The result is a law which is significantly more complex than previously and as a result the costs of bringing petitions and seeing a case through to conclusion has grown enormously. Import Administration recognizes that the costs could limit access to relief under these laws for small firms, particularly in developing foreign subsidy or pricing information.

Import Administration is aware of these burdens and has taken a number of steps to aid petitioners in preparing complaints. Standardized petition formats have been developed which help a potential petitioner identify with precision the type of information which Import Administration requires to begin a case. Import Administration staff are prepared to meet with potential petitioners, both in Washington and in the field, to provide further assistance in guiding the petitioner to useful data sources for subsidy and pricing information. Through these efforts, we believe that we can significantly reduce the cost of initiating and processing a case.

Question. What provision is made for training Import Administration Staff to understand the intricacies of International Trade?

Answer. We have established an extensive, ongoing in-house training program, taking full advantage of the diverse backgrounds of present staff. Courses are presently offered on interpretation of the AD/CVD statutes and regulations, usage of computers in the analysis of case submissions, and international business structures and strategies. We are currently compiling a cost accounting course to deal with investigative verifications.

In addition, we have developed a skills inventory of present staff and encourage staff to supplement their education and training in areas such as accounting, finance, economics, and language.

Question. Is the confidentiality of information furnished in antidumping and countervailing duty cases protected?

Answer. Yes. We only release this information under protective order to counsel for firms that are parties to our proceedings. We believe that the sanctions under our protective orders are adequate to protect confidentiality. In one instance, we granted limited access to in-house counsel but again under a protective order with appropriate sanctions. In that case, and to our knowledge all other cases in which protective orders have been granted, the terms have been strictly adhered to. In any event, no information would be released over the objections of the submitting firm. The firm requesting confidential treatment retains the right to withdraw any information it does not wish released.

But, this committee has devoted—it is not your fault. Don't misunderstand me. The process seems to be less than rapid.

But, at least you will be confirmed during the President's first term. [Laughter.]

The **CHAIRMAN.** This committee has devoted a lot of time and effort to seek to insure that the foreign policy pressures do not influence decisions under the antidumping and countervailing duty laws which protect our industry from unfair trade practices.

That is a matter of great concern to many of us. We find sometimes fuzzy foreign policy considerations thwarting the intent of the Congress and this committee, and I assume sometimes your area.

I don't want you to comment on that, but I would like to know if you have any plans to see that the congressional intent is followed.

Mr. BRADY. Mr. Chairman, absolutely. In my view, and I know that this may sound simplistic, but in my view, the law is the law.

As my professional background shows, I worked for Senator Dirksen and Senator Ervin, jointly, and they were both fairly strict constructionists.

I believe the law must be administered as Congress intended.

In this particular area, to the extent that we are able to impress other agencies of the U.S. Government, as well as foreign countries, that the law is narrow, that it requires certain actions to be

taken and the discretion is narrow, then I believe we make a major step and are able to then implement it more effectively.

That is very definitely my goal. I think we have already started that process, frankly.

So, there are no quick fixes. That is the manner in which I will administer it.

The CHAIRMAN. Someone can always conjure up some foreign policy reason we shouldn't do anything. There are a lot of people down there do that full time. We don't want it done at all.

So, we hope that—State Department has been running the country long enough. We would like to see some of the other agencies have a role to play.

Do you have any—Senator Bradley, do you have any questions?

Senator BRADLEY. Yes, Mr. Chairman.

The CHAIRMAN. Let me ask first, if you have any friends or family members you would like to introduce who are with you today, other than Senator Humphrey?

Mr. BRADY. I don't, Mr. Chairman.

The CHAIRMAN. Senator Bradley.

Senator BRADLEY. Is Senator Humphrey a family member?

The CHAIRMAN. He is a friend.

Senator HUMPHREY. Mr. Brady is older than I, but not that much older. [Laughter.]

Senator BRADLEY. I would like to ask a few questions, Mr. Brady.

Do you think it was a wise thing for the President to have done to remove the grain embargo without getting any concessions from—

The CHAIRMAN. Yes.

Senator BRADLEY [continuing]. The Soviets?

Mr. BRADY. Senator, at the time the grain embargo was imposed, I was out of town and I was called by the White House, as a matter of fact, and they read the thing to me. I was asked, because I was still Deputy Director of the Office of Export Administration at the time. I was asked my opinion. I told them that I thought if that was all we had as far as in our arsenal, to counteract the invasion of a foreign country, then we were in a pretty weak position.

I think that as a tool for what it was intended, it was probably inappropriate. It appears to have been ineffective to the extent that other suppliers filled in where we cut off.

In other words, what I am saying is that it didn't have the intended effect.

The President had made a promise during the course of the campaign that he would lift it. He kept his promise.

So, to that extent, yes, I believe it was proper for him to lift it without so-called concessions in return.

Senator BRADLEY. What kind of a message do you think it sent to our allies that we yielded on a point of national interest to pressure from one constituent group?

What would the United States say to the Germans if they decided to decrease their military expenditures and increase their subsidies to farmers?

What kind of a message would that send to the Soviets?

Mr. BRADY. Senator, if that action had been taken in isolation, I think that perhaps the message would not have been one that we wanted to send.

However, I don't believe that was the case. We are working with our allies, and as a matter of fact, the entire area of East-West trade policy is under review, very fundamental review in this administration.

The Cabinet Council on Trade and Commerce has met a number of times and considered the subject of East-West economic relations.

Determinations have been made, for instance, with regard to export control, that the machinery—the Commerce-led machinery to decide those issues—is going to be reinvigorated.

There are a number of interagency groups underway that are examining the fundamental policy choices. We will soon be getting together with our allies to discuss the question of East-West economic relations.

So, I think the action was not taken in isolation. I think our allies appreciate where we are coming from and where we are probably going to go in terms of East-West trade and economic policy.

Senator BRADLEY. Do you support Poland's entry into the IMF?

Mr. BRADY. Senator, to be honest with you, that is not an issue that falls under my jurisdiction. I would be out of my element in volunteering an answer to that.

Senator BRADLEY. You mean you only deal with the trade. You do not deal with how the trade is financed?

Mr. BRADY. Senator, to the extent that the credit issue, the debt which is owed by the Eastern Bloc and the Soviet Union to the West, is an element of East-West trade policy, then certainly I deal with it.

But, specifically as to the decision of whether or not Poland joins the IMF, that is not something that I deal with.

Senator BRADLEY. That is what?

Mr. BRADY. That is not something that I deal with.

Senator BRADLEY. But, what is your personal opinion? I mean, you know what the IMF is and you know what Poland's credit position is.

What is your personal view?

Mr. BRADY. Senator, I really don't have one. It would be off the top of my head, and I have not looked at the pro's and con's of whether or not Poland should go into the IMF.

I realize that Poland is on the brink of a financial collapse. I know what the issues are, but yet I simply have not, in my own mind, made a judgment.

Frankly, I tend to want to refrain from taking a position which might not be an intelligent one.

Senator BRADLEY. Mr. Chairman, I have a number of other questions. I will wait for my next round.

The Chairman. Go ahead.

Senator BRADLEY. Since you won't have an opinion on the specific question as to whether Poland should join the IMF, what in your view would be the strategic advantages and disadvantages to having Poland become a member of the IMF?

The Chairman. Stay within your own jurisdiction would be my advice.

Mr. BRADY. Senator, to the extent that joining the IMF would be a cover for the Polish debt or it might help the Poles step back from the brink of financial collapse, then that is a foreign policy decision for this Nation to make.

It is not one, as I said, that I participated in or that I am even knowledgeable in the pro's and con's. It entails coming to grips with the decision of whether or not we want to "bail" the Poles out.

That is a decision that is basically between the Treasury Department and the Department of State.

Senator BRADLEY. U.S. trade with Poland creates pressure for financing that trade, which in turn has piled up a large Polish debt. The IMF makes a loan to correct temporary payments imbalances, helping countries to cope with large debt problems. But before the IMF makes a loan to a country, it sets stringent conditions as to what that country must do with its interest rate, with its budget.

In other words, doesn't it exert some control over the internal economic policies of the country?

Mr. BRADY. As an economist, I would have to answer very definitely, yes.

Senator BRADLEY. Then, what might that imply if Poland became a member of the IMF?

Mr. BRADY. It would imply that Poland would have to put its house in order.

Senator BRADLEY. Who would be calling the shots for that?

Mr. BRADY. Presumably, Senator, the IMF.

Senator BRADLEY. Right.

What would that mean then for Polish independence and Poland's relationship with the Soviet Union?

Mr. BRADY. I think that is where I would raise a very large question mark, because I am not sure.

Senator BRADLEY. Well, wouldn't it be——

Mr. BRADY. I don't think any of us, Senator, really know what the full extent of the Polish relationship with the Soviet Union or its neighbors really is. I think that is an area that is a very large question mark as to precisely how far any of these parties are willing to go. That is an unknown.

Senator BRADLEY. Well, would you accept that if the IMF did set conditions that Poland followed, that the Western economic views, as generally reflected in the IMF, would certainly have more influence over the Polish situation than we have had in the past decade?

Mr. BRADY. Senator, to the extent that I accept all of your assumptions, and to the extent that this is a theoretical discussion, then I would have to answer, yes, of course.

But, I hesitate in answering your questions because I could leave this hearing room and find I have been quoted in a manner that a Reagan administration spokesman has said such and such, when this is a matter outside my jurisdiction, one in which I am really not knowledgeable, fully knowledgeable.

Senator BRADLEY. Very well. Let us just move to the trade question.

Mr. BRADY. Fine.

Senator BRADLEY. And off of the IMF. Do you think the United States, the West is vulnerable to increased trade with the East politically or strategically?

Do you think it makes us more or less vulnerable if we increase trade with the East?

Mr. BRADY. Senator, that is a question that has to be broken down into parts.

One, you have to deal with the Soviet Union. You have to deal with the PRC, and then you have to deal with Eastern Europe and even within Eastern Europe, certain specific countries.

You then have to take a look at the Western countries involved and come to grips with the relationship of France, West Germany, to the Soviet Union, and the relationship of the United States with the Soviet Union.

Currently, the relationship between Western Europe and the Soviet Union is probably of concern from the standpoint of the interdependence that has developed, and whether that interdependence leads to Finlandization which has been always an objective of the Soviet Union with regard to, certainly West Germany.

For instance, the fact that over 20 percent of West German steel production goes to the Soviet Union, implies a certain dependency which is difficult to break off on both sides.

So, yes, there is a strategic concern with East-West trade, very definitely.

There is a concern with the debt and what the debt implies. We do not know how much leverage exists on the part of the Soviet Union and Eastern Europe vis-a-vis the West, or which specific banks are involved.

These are all very legitimate questions. They are questions we are trying to address in the fundamental review of East-West economic relations which is underway.

Senator BRADLEY. Is it your personal belief that the United States should sell oil drilling equipment to the Soviet Union?

Mr. BRADY. Senator, I mentioned that the administration has underway a number of reviews. One of them concerns or attempts to answer the question: Is it in the national security interest of the United States to help the Soviets develop their oil and gas production manufacturing.

That is a question that has not been answered yet. I do not know the answer to that. Frankly, I don't know where we are going to come out on the answer.

There are very significant pro's and con's.

Senator BRADLEY. Is it in the interest of the United States to increase the sale of grain to the Soviet Union?

Mr. BRADY. I suspect it probably is.

Senator BRADLEY. Is that also under review by the East-West Trade Panel? Or if that judgment has already been made, how could that be made before the decision on oil rigs, if both are subject to the review?

Mr. BRADY. Senator, when you deal with East-West trade you are dealing with questions of degree and you are dealing with judgment calls.

I believe that grain is substantially different strategically than for instance, the ability or the United States giving the Soviets the technology or conceivably the equipment to help develop an oil industry when we know that oil exports from the Soviet Union account for over half of the foreign exchange they earn to be able to buy goods in the West.

Now, at a time when the Soviets are apparently militarily superior to the United States in some areas, I think a very legitimate question can be raised as to whether or not we want to help them develop their foreign exchange capability.

Or, do we want to use the economic tool which we have as an instrument of foreign policy.

Senator BRADLEY. So, you would draw the difference between the two on the foreign exchange ground?

Mr. BRADY. To a certain extent, yes.

Plus, the strategic implication of oil and gas, the infrastructure that is created, the dependency, for instance, that is created in certain areas of the world is of concern.

The other side of the coin is the argument that if you help the Soviets then you relieve pressure on the Middle East and other areas.

Senator BRADLEY. Does the recent CIA revision of Soviet oil production capability affect your judgment at all on whether we should assist them?

Mr. BRADY. I think, Senator, it will have to affect the final conclusions of the review that is being done, yes.

Senator BRADLEY. So that you would think it would be less likely that we would sell them the equipment now that the CIA has said that they won't be in an oil shortage?

Mr. BRADY. No; I don't think it is less likely or more likely. All I am saying is it is a piece of information which is different information than we had 3 weeks ago, and therefore, had to be inputted into the review and may, when all the other factors are considered, may bring us to a different conclusion.

I am not sure. All I am saying is it is a different piece of information, definitely.

Senator BRADLEY. Do you see any pressing national need to increase our exports of coal to Western Europe?

Mr. BRADY. Very definitely, Senator.

Senator BRADLEY. Well, what specifically do you think can be done to increase those exports?

Mr. BRADY. Well, I know there is a high unemployment situation in the domestic coal industry in the United States. To the extent that we are able to export coal, we also may help the Europeans in an area, again, that is strategic to us, and that is the dependency on the Soviet Union for gas which is a concern.

Basically, increasing export of coal creates American jobs. I think that is a good, desirable objective and one that we should work toward.

I know there are some problems of port facilities, but all these problems can be addressed, I believe.

Senator BRADLEY. What specifically, in your view, do we need to do? We are on a relatively short time horizon now. The Germans are now making a choice. They can buy natural gas from the Soviet Union. They can buy natural gas from Algeria, and Norway, or they can buy coal from the United States.

They are going to be making a decision. It is astounding to me, to talk to Germans who say that the reason they will go with the Soviets for natural gas supplies is they feel the Soviets are more reliable suppliers.

What are we going to do to push the export of coal?

Mr. BRADY. Senator, we have under way in the Department, and the administration will have under way, a policy aimed at increasing the export of coal. That entails taking various actions.

Again, this is not an area that is under my jurisdiction. I am aware that it is in process. I think it is something that is strongly desirable. Again, it is a matter where we are conveying to our European allies our willingness to export.

I have, for my part, as the administrator of short supply controls that might eventually be used on coal exports, indicated to the people within Commerce that I believe we should be exceedingly reluctant to impose controls on the future export of coal. We can thereby respond to criticism that we get from our allies that the United States is not a predictable supplier.

Senator BRADLEY. So assured supply with no controls is one thing.

Mr. BRADY. Very definitely.

Senator BRADLEY. Do you think there is anything else needed?

Mr. BRADY. It is my understanding, Senator, that yes, there are some other things needed. The policy is being put together.

Senator BRADLEY. As Assistant Secretary what is the criteria that you will use and apply on the question of exports to the Soviet Union?

Mr. BRADY. Senator, I think, if I had an answer to that question, that I would get a scoop today. I don't know that yet. That is being developed.

Senator BRADLEY. That is in your area though, isn't it?

Mr. BRADY. Yes, absolutely, absolutely. The interagency group that I mentioned, which is developing an East-West economic relations policy is now meeting. The review was initiated in the Cabinet Council on Commerce and Trade. It has been discussed a couple of times subsequently. It will go back through the Council for the President. The President will make the decision of how we are to address the Soviets in terms of our economic relations.

That decision will be conveyed to our allies.

So that we are addressing policy in a coherent, structured manner. The policy we get will be Reagan administration policy.

Senator BRADLEY. Could you give the committee any guidance at all about your personal feelings about what technologies clearly will not be available for export to the Soviets?

You mentioned earlier specific oil technology. What else?

Mr. BRADY. Senator, I could not at this point, because I think there is a question of getting the broad policy guidance from the President which may end up focusing more on technology than

specific products, for instance, chess games that may have a micro-processor in them.

We may want to focus more on process know-how, the ability, the knowledge that teaches the Soviets to manufacture something.

In other words, that may be what we want to devote the Government's resources to, making sure critical technologies are not exported to the Soviets. This is an exercise that has been going on for a couple of years within the Government. It floundered a bit. I think we can take it and make it a crisp policy, an efficient policy that our allies understand, that the business community understands, and one that is effective in dealing with the Soviet Union.

But, my previous statements with regard to East-West trade are not very private. I am positioned very strongly on the issue. I still believe that over the last 10 years, we have exported to the Soviet Union in a manner which has helped them directly with their military.

I believe most of the intelligence agencies agree with that assessment and so does the Defense Department.

What we have to do is to come to grips with the question of how do you prevent that in the future.

Senator BRADLEY. Could you list the items that we exported which you think were directly helpful to the Soviet military and state for the record whether you intend to prevent those kinds of items from being exported in the future?

Mr. BRADY. Senator, there is a whole range of what I would call process know-how, in the transportation industry which we exported to the U.S.S.R. and helped them develop one of the modern, very modern industries in the world.

Senator BRADLEY. Do you think the Kama truck deal was a mistake?

Mr. BRADY. Well, Senator, if Kama trucks roll into Poland, they are not going to be the buses that had to roll into Czechoslovakia, in 1968.

In 1968, the Soviet military had to take buses off the street of Moscow to get their troops in. They are not going to have to do this. They didn't have to do it in Afghanistan and they are not going to have to do it if they go into Poland.

Senator BRADLEY. So you think we shouldn't help them build trucks; what else?

Mr. BRADY. I think there is a whole range of technologies. Some of it is classified. Certainly the whole ball bearing question is a very legitimate question.

There is a question of computers being diverted, specific pieces of equipment being diverted. There is a question of air traffic control technology both being sold as well as being acquired illegally.

There are any number of examples, Senator, where technology has helped them directly.

Senator BRADLEY. If a businessman came to you and said "Look, I don't want to violate any of the prohibitions or criteria that you are going to establish. What could I export to the Soviet Union?"

What would you tell him?

Mr. BRADY. Right now, Senator, I would tell him we are still basically functioning under the Carter guidelines.

Within a month and a half—

Senator BRADLEY. Except in grain.

Mr. BRADY. Yes, but that was, you know, a Carter guideline lasting a year. It applied to the Soviet Union only.

When we talk about East-West trade, I think we talk about the PRC and Eastern Europe, also.

So, basically, we would have to go according to the criteria that we have today.

That will not necessarily be the case within a couple of months. I think we may have new criteria by which to guide the business community.

I know the business community is concerned about this area because they feel it is vague, it lacks predictability, it lacks conciseness. They don't know what to do from one day to the next.

I believe the Carter policy was characterized by ad-hocism and by shooting from the hip.

What we hope to be able to give the business community and our allies is a degree of consistency, so that they don't spend \$200,000 trying to develop a market and then come in to my department and we will tell them, "Sorry, Bud, you can't export it."

Senator BRADLEY. I think that is very commendable.

When do you think you will have those developed?

Mr. BRADY. Senator, we hope to have the general guidelines from the President within 1 month, maybe it might go over to 2 months.

At that point, then it is up to my department to take those broad guidelines and to implement them with regard to specific cases and issues and problems.

We have already begun that in trying to eliminate the backlog we inherited.

I hope that by the end of the year we will have made significant progress in giving to our allies and the business community this predictability we hope to achieve.

Senator BRADLEY. Just two other areas of questions.

Mr. BRADY. Yes.

Senator BRADLEY. Did you feel—

Senator HUMPHREY. Pardon me, Senator Bradley, if you will.

Mr. Chairman, I have to excuse myself. I have to catch an airplane. I am attending a meeting of the IMF on the Polish question.

[Laughter.]

The CHAIRMAN. Good luck. Senator Humphrey. It is very enlightening, by the way. Thank you very much.

Senator BRADLEY. Do you think that it is possible for the United States to follow one policy with regard to exports to the Soviet Union, a more stringent policy, a tougher policy, and Western Germany to follow a less stringent, less tough policy?

Can we two-track this?

Mr. BRADY. No, we cannot. One of the fundamentals of the Reagan administration policy, I believe, is going to be its multilateral applicability.

I am not conceding Senator, that we in fact do follow a more stringent policy than our allies. There is some legitimate differences in interpretation of the embargo list that we maintain with our NATO allies and Japan.

The business community says that we in fact are applying the law more stringently than do the West Europeans. You know, that may be the case in certain specific cases; but no, to be effective, for national security reasons, if we have an embargo list, it must be multilateral because it is not effective for the United States to maintain a system of controls on particular commodities or technology that is available either from Japan or Western Europe.

So, to that extent, it must be multilateral and we intend to elevate that with our major allies and to make that a focal point.

Senator BRADLEY. So that U.S. export controls will be in accord with multilateral controls?

Mr. BRADY. Very definitely, Senator.

Senator BRADLEY. Would you also say that the levels of trade with the Soviet bloc in general would be different among the Allied countries?

In other words, can you see a rationale for the West Germans trading much more directly and in much greater volume with the East than does the United States?

Mr. BRADY. Yes, but that doesn't necessarily mean that it is in strategic commodities, either. There is a proximity, a geographical proximity and a historical relationship that exists not only between West Germany and the Soviet Union, but between Western Europe and Eastern Europe.

This special relationship doesn't necessarily exist between the United States and those countries involved—

Senator BRADLEY. So your point is that multilateral export controls should not be inconsistent with historical patterns of trade in terms of GNP in the country; in other words, a higher level for Western Germany than in the United States?

Mr. BRADY. Not necessarily, Senator, as long as we are not talking about strategic commodities.

Senator BRADLEY. One last area.

Do you feel that the amount of Soviet bloc debt that is outstanding to the West, say roughly \$80 billion is a strategic vulnerability?

Mr. BRADY. Senator—

Senator BRADLEY. \$80 billion in Western loans extended to Eastern Europe; some \$30 billion to the Soviets; some \$27 billion to the Poles.

Mr. BRADY. Senator, for over a year, I have indicated publicly that I thought it was a legitimate area of concern for the United States and for the West.

Precisely what kind of a vulnerability, I am not sure we really know. I think that is one of my concerns. I believe it is something we must look at.

I notice the Wall Street Journal article of a couple of days ago, which indicated that some banks in the West are now getting—well, I will use the word "concerned" again—about some of the loans because of the Polish situation and because of the apparent unwillingness of the Soviets to step in.

So, yes, it is very definitely something we must look at. It is an element that must be factored into the public policy of this Nation in dealing with the Soviet Union and Eastern Europe.

Senator BRADLEY. You said you are not certain what kind of vulnerability it is?

Mr. BRADY. I am not sure how extensive a vulnerability it is, or how extensive the leverage is to; put it a different way.

Senator BRADLEY. Let's say that the trucks which we helped build now run into Poland. Clearly the West has made a series of plans for what they are going to do, one of which must be, as I understand it, to cut off of all trade: That's correct, isn't it?

Mr. BRADY. Senator, I would refrain from answering that question.

Senator BRADLEY. Why would you refrain?

Mr. BRADY. I don't think that the administration has indicated publicly what its contingency planning was with regard to an invasion of Poland.

Senator BRADLEY. Let's assume then that there is an embargo of some sort. If that occurred and the Soviets made the calculation that indeed, this is the end, and they clearly would have made this calculation before they moved into Poland, why shouldn't the Soviets simply default?

Mr. BRADY. Yes.

Senator BRADLEY. If so, what would happen to the banking system of the West?

Mr. BRADY. The latter part of your question is the unknown. I am not sure exactly how that debt is distributed in the West. That is what makes a difference.

Whether or not they default is, I think, a really debatable question.

There is no doubt that the Soviet Union needs Western technology if it is going to make the kind of progress that it wants to make in its own industrial base.

To that extent, then we have leverage on them. But, it is a series of judgmental decisions when you try to estimate the leverage that both countries have on each other.

So, but, with regard to your fundamental question, I don't think there is any doubt in my own mind that the debt is a legitimate concern for the West and one which must be addressed, one which we are addressing by the way, with our allies.

Senator BRADLEY. Let me get it a little clearer. It is a fundamental concern, but you don't think that the Soviets would default.

Mr. BRADY. I didn't say—

Senator BRADLEY. What is the concern?

Mr. BRADY. I didn't say that, Senator. There is also an East European debt which is significant.

Senator BRADLEY. But, if the Soviets moved into Poland, their debt would suddenly go up from \$30 billion to \$60 billion, because they would have the Polish debt, too.

Mr. BRADY. I don't think they would agree. They would be just a police force.

Senator BRADLEY. The question is, What is your concern then? Try to be specific.

Mr. BRADY. The concern is the concern you expressed, Senator. Under those circumstances, the Soviet Union might default.

Senator BRADLEY. That is your concern. When you say you have a concern about the size of the debt, your concern is that the Soviets would default and that would possibly pose a threat to the banking system?

Mr. BRADY. What I am saying is, yes, basically. The only issue between us is at what point, under what circumstances would the Soviets default.

It is conceivable that if the friction developed between the United States, between the West and the Soviets to such an extent where it was in their interest to default, then they probably would.

But, what is impossible for us to assess here is at what point does that occur.

Senator BRADLEY. Who in the administration is thinking through a response to that possible scenario?

Mr. BRADY. Senator, it is being addressed in terms of the East-West economic relations review that is underway.

Senator BRADLEY. Who is charged with that?

Mr. BRADY. The State Department is chairing each one of these interagency groups that I mentioned. There is input—

Senator BRADLEY. Is a representative from your office a member of that?

Mr. BRADY. Very definitely.

Senator BRADLEY. Will you be a member of that?

Mr. BRADY. Very definitely, Senator.

Senator BRADLEY. Will you be the person responsible in Commerce for the debt question?

Mr. BRADY. I share that responsibility with the Bureau of East-West Trade.

Senator BRADLEY. Who is that?

Mr. BRADY. It is a policy bureau.

Senator BRADLEY. Who is the person in charge there?

Mr. BRADY. The person is Bill Morris who is the Assistant Secretary for Trade Development.

Senator BRADLEY. Right.

Thank you, Mr. Chairman.

The CHAIRMAN. You don't have any jurisdiction over IMF?

Mr. BRADY. I don't, Senator Dole.

The CHAIRMAN. I am pleased to hear that.

Then I would just with reference to the statement on the grain embargo, I think our allies were upset. They were taking over our market. The Argentines are very upset that we terminated the embargo. They had just about taken over a customer.

But, that is another issue that I don't think you deal with directly. I think some of us feel embargoes are fine, as long as they are across the board, and don't single out any one segment of our economy.

I am pleased to know that we no longer need to defend the failed policies of the Carter administration. There is a departure in this administration, as you well expressed.

Mr. BRADY. Thank you, Mr. Chairman.

The CHAIRMAN. Our next nominee is David R. Macdonald, to be Deputy U.S. Trade Representative.

Senator Mattingly has been waiting patiently. I think he wants to say a kind word about you. Is that all right?

Mr. MACDONALD. That is certainly all right with me, Mr. Chairman.

The CHAIRMAN. Fine.

STATEMENT OF HON. MACK MATTINGLY, U.S. SENATOR, STATE OF GEORGIA

Senator MATTINGLY. Mr. Macdonald, I think it might have been easier, I suppose, to send a printed document here in support of you. But, as you and I are very close friends, I felt the bureaucratse would be best served if I came in person today.

I think your service to this country as a former Assistant Secretary of Treasury, as Under Secretary of the Navy and being in the private practice of law, and that law practice being one that is international in scope, fits you well and outfits you very, very well, to become the Deputy U.S. Trade Representative.

I feel deeply also, that—I think it is unique today that you and I are here before the Finance Committee. It is the only way you and I could get here. Senator Dole wouldn't take me on, when I first came to the Senate, but you and I—

The CHAIRMAN. We have a rather rigid test.

Senator MATTINGLY. Right.

Mr. Macdonald was cochairman with me of the tax policy committee for the Republican National Committee, who is a strong advocate of 10-5-3, which you may have heard of before.

But, really, I feel like when the President went out and tried to search out people that had ability and character and wanted quality people to serve in the administration, he could have picked no finer person than yourself to serve.

I am glad the Chairman, Senator Dole, has let me come here to speak on your behalf.

As a friend, and knowing your background, I welcome you aboard. I am sorry it has taken so long to get you here.

Mr. MACDONALD. Thank you very much, Senator. I hope I can count on that one vote at least when it gets down to the floor of the Senate.

The CHAIRMAN. I can vouch for him. I think he will vote for you.

We appreciate that very much, Senator Mattingly. If the nominee should run into difficulty, we'll be in touch with you immediately. [Laughter.]

Mr. MACDONALD. On the tax policy also. [Laughter.]

The CHAIRMAN. Do you have a statement to make?

Mr. MACDONALD. I have a one-page statement, Mr. Chairman. [The prepared statement of David R. Macdonald follows:]

PREPARED STATEMENT OF DAVID R. MACDONALD

David R. Macdonald was born November 1, 1930, in Chicago, Illinois. He received his B.S. degree from Cornell University in 1952 and his J.D. degree from the University of Michigan Law School in 1955. He was Assistant Editor of the Michigan Law Review and was elected to the Order of the Coif.

In 1964, Mr. Macdonald was named one of Chicago's Ten Outstanding Young Men. He is a member of the American, Illinois, and Chicago Bar Associations; the Economic and Legal Clubs of Chicago; the Board of Directors of the Chicago Crime Commission, Chicago Association of Commerce and Industry and the Chicago City Bank and Trust Company. He has been a contributor to various professional journals and a speaker at numerous legal institutes. Mr. Macdonald also is a history buff and a collector of political pamphlets and ephemera.

In May 1974, Mr. Macdonald was appointed Assistant Secretary of the Treasury for Enforcement, Operations, and Tariff Affairs, where he was awarded the Treasury Department's Exceptional Service Award. In that position he supervised the administration of the Countervailing Duty Law, the Anti-Dumping Act, and other international trade statutes, as well as supervising the Secret Service, the Customs

Service, the Bureau of Alcohol, Tobacco and Firearms, the Mint and the Bureau of Engraving and Printing.

In September 1976, he was nominated by President Ford to be Under Secretary of the Navy, and served in the position until February 1977. In that position he was awarded the Defense Department's Medal for Distinguished Public Service.

He is married to the former Joy Odell of Evanston, Illinois. They have five children, Martha (2-15-63), Emily (4-15-64), David (7-14-65), Rachel (1-3-68), and Rebecca (9-17-72).

In 1977-78, Mr. Macdonald served as National Chairman of the Michigan Law School Fund. Also in 1977, he was appointed to the Tax Subcommittee of the Republican National Committee's Economic Affairs Council. In 1979, he took over the co-chairmanship of that Subcommittee.

STATEMENT OF DAVID R. MACDONALD, TO BE DEPUTY U.S. TRADE REPRESENTATIVE

Mr. MACDONALD. I am delighted to have the opportunity to appear before you today. It is an honor to be nominated as Deputy U.S. Trade Representative and to appear before you for confirmation.

I would like to assure you that I am fully aware of the special responsibilities for international trade vested in Congress by virtue of the Constitution and the resulting close relationship between the Office of the U.S. Trade Representative and the Congress.

I intend to work to strengthen that relationship and to respond to the needs of this committee, the House Ways and Means Committee and the Congress as a whole.

Our priorities in trade policy have one aim, advancing U.S. interests. We can achieve this most effectively by expanding world trade on a mutually profitable and reciprocal basis.

To do this we need to begin at home by removing self-imposed export disincentives such as the present laws dealing with elicited payments and the current unwieldy and burdensome system of taxation of Americans abroad.

At the same time, we will be working toward the removal of foreign obstacles and disincentives to our exports both through effective enforcement of the multilateral codes and through bilateral efforts.

This is particularly important with respect to our agricultural exports to which numerous foreign obstacles exist.

Agricultural products, as you particularly know, Mr. Chairman, contributed a favorable sectoral balance to the United States of about \$24 billion, in 1980.

Now, they are presently running at an annualized rate of about \$31 billion, favorably.

So, once again, I appreciate the opportunity to appear before the committee, and would be happy to address any questions that the committee may have, sir.

The CHAIRMAN. Thank you very much.

I might say I appreciate your comments with reference to agriculture and trade and the contribution it makes. I think sometimes, since there are not as many farmers as there once were, it is overlooked as an important segment of our economy and what would we do without it as far as our balance of payments is concerned.

I would yield first to Senator Danforth who may have questions as chairman of our Subcommittee on Trade.

Senator DANFORTH. Thank you very much, Mr. Chairman.

Mr. Macdonald, I think you said in your remarks that the U.S. Trade Representative, will advance the interests of the United States. I think one of the most memorable comments I have heard by a Presidential nominee was when Ambassador Brock came before this committee in his confirmation hearing and said in his opening statement, "The purpose of the U.S. Trade Representative is to serve the commercial interests of the United States."

I think that means that your job is to drive a bargain; make a deal. To make a deal with the economic and commercial interests of the United States in mind.

Your job is not to create a kind of academic, philosophical position which you pursue regardless of its ramifications.

Is that what you are saying?

Mr. MACDONALD. I would say so, Senator Danforth. Our job is to make a deal or not make a deal, as commercial interests of the United States may appear.

Senator DANFORTH. There are people who are very interested in the subject of trade, but they are extremely ideological. They say they believe in free trade which I think they define as being United States market absolutely free for anyone—

Without regard to reciprocity, without regard to our access to the markets of other exporting countries.

My hope would be that U.S. Trade Representative would have a more practical function and you would not be practicing some ideological version of the trade picture.

Mr. MACDONALD. You certainly heard me correctly. Advocacy of free trade for the United States has to have as its adjunct the possibility of retaliatory action or demands for compensation in the event that our trading partners adopt policies that are less than free trade.

It is similar to unilateral disarmament. Free trade is good as long as both sides are mutually and in a balanced way reducing their obstacles to free trade.

Senator DANFORTH. We went through this exercise in the case of automobile imports from Japan. There were those who tried to make the point, I was one of them, that our relations with Japan are really not relations based on free trade. That a host of barriers have been erected by Japan against imports from the United States.

Therefore, in considering any part of a trade relationship with another country, we should consider a whole range of trade relationships.

Do you agree with that?

Mr. MACDONALD. I believe you are referring to what some have called "the Brock Doctrine." I agree with it. It has to be accompanied by a statement that the Japanese have come a long way in the last 10 or 15 years. There are certain Japanese markets that certain high technology U.S. companies are penetrating very effectively.

Nevertheless, there are some very subtle Government policies that are pursued by the Japanese, some even innocently. I am not even sure that the Japanese realize their real effect.

Their customs inspection policy, for example, I am sure they think that is a normal procedure, but it has a detrimental effect on our exporting.

While I admire the Japanese for the degree to which they have attempted in the context of their own cultural background to open up their markets, I think that this administration had better spend its entire 4 years or 8 years, working on the further dismantling of these very subtle obstacles to trade.

Incidentally, the most obvious obstacles that are much less subtle are in the agricultural field with quotas on citrus and citrus products, beef, and forest products. In forest products they have asked us to restrain ourselves and certain other U.S. agricultural exports.

Senator DANFORTH. Thank you very much.

The CHAIRMAN. Senator Heinz.

Senator HEINZ. Thank you, Mr. Chairman.

Mr. Macdonald, the MFA arrangement provides for orderly trade in textiles and apparel between low wage countries and the developed countries.

Do you believe the MFA she would be significantly strengthened in this year's renewal?

Mr. MACDONALD. Strengthened in terms of restricting the imports?

Senator HEINZ. Well, the purpose of the multifiber agreement is to try to avoid the disruption of markets through disorderly increases in volume among the various trading countries that receive the volume in the form of imports.

Mr. MACDONALD. Correct.

Senator HEINZ. So strengthening means avoiding more disorder.

Mr. MACDONALD. This is what we made clear to our trading partners at the MFA negotiations under the GATT on May 7 and 8, that we were concerned about this particular problem of market disruption; that is, the whole question of rising imports during a period of very sluggish demand which we have gone through here recently, but, we hope we are coming out of now.

Senator HEINZ. Should the MFA be strengthened so that there is less of a surge in imports during a period of sagging demands domestically?

Mr. MACDONALD. Let me put it this way. I believe it should prevent sudden and large import surges that result in dislocation and unemployment.

Senator HEINZ. But you are for necessary surprises?

Mr. MACDONALD. Surprises are not necessary in this field.

Senator HEINZ. Well, I don't know what you mean.

What do you mean?

I don't understand your policy. You are either for a stronger, the same, or a weaker agreement. Now which are you for?

Mr. MACDONALD. I am a little troubled by the term "stronger."

Senator HEINZ. One that will do a better job of preventing market disruptions.

Mr. MACDONALD. That we are absolutely for, yes.

Senator HEINZ. You are committed to strengthening the MFA to do that?

Mr. MACDONALD. Correct.

Senator HEINZ. How?

Mr. MACDONALD. We haven't finalized an approach in this area yet, since we are at the beginning of the negotiating process.

Senator HEINZ. Do you have an approach of any kind?

Mr. MACDONALD. Yes. I am in general charge of this, among other policies. We have a textile negotiator who is actively working in this area and we also have our Geneva deputy who is taking an active lead in the MFA negotiations.

As a result, I have concentrated my efforts elsewhere.

Senator HEINZ. Let me be a little more specific then.

One of our big problems is the fact that though we made bilateral textile agreements with our major suppliers, our Government in the past has been lax in enforcing those agreements.

Now, are we going to have those kinds of agreements in the future and are they going to be enforced?

Mr. MACDONALD. If they are not being enforced, Senator, I will make a commitment to check into that and get back to you and make sure they are.

Senator HEINZ. If they are not being enforced, you will check and tell us whether or not they are being enforced?

Mr. MACDONALD. Yes.

Senator HEINZ. That is nice, but we already know they are not being enforced. None of us need anybody to tell us that they are not being enforced.

Mr. MACDONALD. I don't believe I said that.

Senator HEINZ. What would you do?

Mr. MACDONALD. If they are not being enforced, I will make sure that they are enforced.

Senator HEINZ. Very well.

You seem a little hesitant about enforcing our fair trade laws.

Mr. Macdonald. I have no hesitation at all to enforce our fair trade laws.

Senator HEINZ. Do you agree that with respect to the MFA that our negotiating goals should be to relate import growth from all sources to domestic market growth?

Mr. MACDONALD. Boy, you really are asking me questions that I—

Senator HEINZ. I won't be the last.

Mr. MACDONALD. I can see that.

Senator HEINZ. If I don't do it, someone else will.

Mr. MACDONALD. The specifics of how MFA will be strengthened have not yet been determined. It is actively being worked on by Peter Murphy, our chief textile negotiator, and Mike Smith, our Deputy in Geneva, who as a team supervise that area.

I have not heard any complaint regarding their conduct of it.

As a result, I have not addressed myself to the specific day-to-day developments under the MFA. We have a big plate and very few people in our shop, as I am sure you know, Senator.

Senator HEINZ. Let me put a slightly softer question to you, then. Do you see any problem with having an MFA that does a better job than the last one did, in relating import growth from all sources, to our domestic market growth.

Do you have any problems with that statement of principle?

Mr. MACDONALD. None whatsoever.

Senator HEINZ. Good.

President Reagan should be glad to hear that because in a letter to Senator Thurmond, during the campaign, he said, "When the MFA expires at the end of 1981, it needs to be strengthened by relating import growth from all sources to domestic market growth."

I am glad I finally got you to agree with the President even though you seemed a little reluctant.

Well, one last question. This is as regards the Subsidies Code. In order to negotiate a Subsidies Code that was acceptable to all parties, the administration had to give—the last administration had to give—some explicit assurances as to the minimum level of obligation that would be expected of any LDC seeking designation by the United States as a country under the agreement.

Mr. MACDONALD. That is correct.

Senator HEINZ. These were specifically laid out by administration spokesmen and they included four things.

One, an obligation not to extend existing export subsidies to any wider range of products.

Two, an obligation not to raise the amounts of existing export subsidies.

Three, an obligation not to introduce new export subsidies.

Four, and most important, a commitment to phase out existing subsidies and to eliminate subsidies immediately for those products for which the subsidizing country already is competitive.

Now, in the last 18 months, and this is in good measure the problem of the last, not this administration, those expectations which are considered minimum expectations didn't seem to be pursued terribly seriously in the cases of Pakistan and Korea.

In some cases, they were really openly flaunted by some countries such as Uruguay.

You tend to hold the line on these kinds of minimum assurances?

Mr. MACDONALD. Senator, the problem is a deeper one than you, I fear, suspect.

In presenting the Subsidies Code, to Congress, there is no question that the representations you described were indeed made. In particular, the fourth commitment that went to the subsidies was in fact not required of Pakistan. This resulted in a similar claim being made by India when it signed the Subsidies Code almost a year ago.

India has taken the United States, now, to the GATT for our insistence to require India to eliminate their subsidies.

Senator HEINZ. Who has taken us to the GATT?

Mr. MACDONALD. India.

Senator HEINZ. For our refusal to—

Mr. MACDONALD. Yes.

Senator HEINZ [continuing]. Insist on their eliminating their subsidy?

Mr. MACDONALD. Exactly.

Senator HEINZ. I see.

I think you didn't mean what you said. They didn't take us to the GATT because we didn't pursue our right.

Mr. MACDONALD. No, sir. After Pakistan was allowed to enter the Subsidy code without eliminating their subsidies, India claimed

that our refusal to allow India to do the same thing violated the GATT.

Senator HEINZ. That's correct; yes.

Mr. MACDONALD. That case is now pending. The Subsidies code itself is an extremely loosely drawn document, particularly in this area. Article 14 of the code only requires less developed countries to make a commitment appropriate to their state of development to reduce or eliminate their export subsidies.

In fact, it doesn't even require them to reduce the subsidies, but to endeavor to reduce or eliminate them.

I think that there is a very real question as to whether any administration can live up to the commitment that was unquestionably made by the Carter administration in the light of the fact that the code negotiated by the last administration, as well as the GATT, may not justifiably allow us to do that.

We are headed for a collision course here.

Senator HEINZ. Why wouldn't—why would the Reagan administration be unable to live up to the representation to Congress and others?

Mr. MACDONALD. Well, from a strictly domestic standpoint, we can. But, I question whether we have entered into an agreement internationally that is consistent with that.

Senator HEINZ. You mean with Pakistan?

Mr. MACDONALD. Excuse me.

Senator HEINZ. You mean the agreement with Pakistan.

Mr. MACDONALD. The agreement with Pakistan as it impacts under the GATT, whether we can, on a most-favored-nation basis, discriminate between Pakistan and India is the issue.

Senator HEINZ. I understand that. But, is that why we are unable, because of that treatment of Pakistan, why we are unable to follow through.

You are saying you are unable to follow through?

Mr. MACDONALD. No. We are certainly able to do whatever the Congress wants in this area, because we can flaunt the GATT. As a practical matter, nobody is going to come in and enforce that.

Senator HEINZ. Are you saying that these representations that were made are inconsistent with the GATT?

Mr. MACDONALD. I am saying the allegation has been made, and it is not an inconsequential one considering the Subsidies Code. That is, what the last administration has done.

Senator HEINZ. Very well.

So, what you are saying is because we are stuck with Pakistan, we have to give up everything else.

Mr. MACDONALD. No, I am not saying that.

Senator HEINZ. Well, what are you saying? Put it in English so I can understand it.

Mr. MACDONALD. I am saying that a commitment which was made by the last administration, to obtain a commitment to eliminate subsidies by less developed countries over time, is presenting a serious problem.

That commitment having been breached once, is going to cause great trouble because of expectations of commitments by other countries, and not only great political troubles, but also great legal

trouble under international trade agreements, particularly the GATT.

Senator HEINZ. Well, that is what I thought you said.

Mr. MACDONALD. We are now in the position of trying to decide what we are going to do and get back to Congress, and I have had several meetings with the staff of the Senate Finance Committee on this very matter, pointing out this problem.

Senator HEINZ. There are really basically two solutions. One is to junk the agreement made with Congress and others, and the other is to junk the agreement with Pakistan. Make the agreement with Pakistan consistent with what the administration once said in fact it was going to do.

Mr. MACDONALD. I am not sure we can junk the agreement with Pakistan. It has already been performed in the sense that they are now a party to the Subsidies Code.

Senator HEINZ. We never abrogated an agreement? We have never withdrawn a treaty with another country? We never cancelled our relationship with Taiwan and things like that?

Mr. MACDONALD. Once they are a part of the Subsidies Code, I am not sure we can get them back out of the Subsidies Code unilaterally. That is where the problem arises.

Senator HEINZ. That's an interesting point. I don't know whether you are correct or not.

Mr. MACDONALD. I am saying, this is a very serious problem.

Senator HEINZ. Yes.

Mr. MACDONALD. It is a problem we have inherited.

Senator HEINZ. It is a serious problem. It strikes me that it would be a very grave mistake for this administration to be forced for whatever reason to back down on the commitments that were made to us. I think you might touch off a serious protectionist wave in the Congress were you to do that.

The country has been through a very long period of our existing fair trade laws being flaunted by previous administrations.

As a result, many problems were never addressed and many domestic industries have been very seriously injured. The consequence of all of that was the 1979 Trade Agreements Act. It went through the Congress very smoothly, based in large part on a variety of very solemn commitments made.

The easiest way for quotas on automobiles, quotas on textiles, quotas on shoes being legislated by the Congress, is for this administration to say, "Well, I am sorry. These commitments aren't worth the paper they are written on or the tape they were recorded on."

I hope it does not come to that, because you run a very grave risk of getting the House and Senate to do things that probably, in the long run, are not good for the country.

Mr. MACDONALD. Senator, I couldn't agree with you more. When I left the Ford administration over 4 years ago, I would say we were on the 50-yard line when it came to the countervailing duty law and our posture, vis-a-vis the rest of the world, in eliminating subsidies.

Now, when I am coming back to Government service, I find we are on our own 10-yard line, in my opinion.

Senator HEINZ. We wish you had never left town.

Mr. MACDONALD. I must say the structure and the theory is different from that which I had as a Government official inputting into this area. Believe me, when I administered these laws, no one ever suggested that responsibility for their administration leave the Treasury Department.

The Treasury Department, at the time I was in a position to enforce these laws, was not considered to be recalcitrant in its trust with the Congress.

Senator HEINZ. You can say that again.

Mr. MACDONALD. We left at that time in the posture that we would give an injury test, or we would adopt an injury test, which we were not required to do since it was grandfathered in GATT, in exchange for an entire removal of export subsidies by the rest of the world.

That was the strategy. Now I find that strategy or the results of that effort in disarray.

We are going to try to recover it, with your help, Senator. I am sure you will give us substantial help, I can tell from your questions. We are going to bring it back to the point where we at least get some to work, if not most, or perhaps all.

Senator HEINZ. Well, no one accused the Japanese of dumping or subsidizing their autos.

Senator Danforth did such a good job with his legislation, had there not been a voluntary agreement, there is just no doubt in my mind the Congress would have enacted a limitation on imports on a commodity where no one ever alleged subsidies or dumping.

Now, if there are countries that are being allowed to do this and are affecting our domestic employment which in some way the blind eye is turned to for whatever reason, there is just no doubt in my mind that a legislative solution which is, generally speaking, the least preferred kind of solution to these things, will be forthcoming from some quarter.

I think that message ought to be understood by the people you are trying to negotiate with.

Let me ask you one last question. I am taking too much of my colleagues' time.

A number of us, Senator Moynihan and myself, have been working on a better system of graduating countries from the GSP program.

Have you had a chance to look at that?

Mr. MACDONALD. I know its general outline.

Senator HEINZ. I beg your pardon.

Mr. MACDONALD. I do know its general outline. It is a more automatic system.

Senator HEINZ. Do you believe it would be generally good policy to allow more less developed and smaller countries, those that have smaller volumes, in under GSP and at a certain point, earlier than we do now, graduate the bigger, more successful exporters, such as Taiwan and Korea?

Mr. MACDONALD. That has to be the purpose of GSP and the graduation policy itself. Anything that includes that objective would be welcome.

Senator HEINZ. The general attitude of my constituents is that Taiwan seems to be doing better than the United States.

Mr. MACDONALD. The GSP utilization situation, as I am sure you know, Senator, is that the vast majority of imports under GSP come from about four or five countries that are our most effective competitors.

Senator HEINZ. I am glad to hear you say that.

What has really happened, of course, is that some of the so-called less developed countries have been developing quite successfully and extensively. Their wage rates are much lower than ours, of course. But they really do lead the industrialized countries. Our present laws, it seems to me, do not take that into account fully.

Thank you very much.

Senator DANFORTH. It is my understanding that the USTR has circulated proposed criteria for making recommendations to the President subsequent to International Trade Commission findings on section 337 cases.

The possibility of such criteria has caused jitters in the minds of a number of people. It would be possible, through the use of the criteria, to diminish the usefulness of section 337.

I think it is fair to say the Senate Finance Committee would like to be a part of any process of developing this criteria.

Mr. MACDONALD. I understand that, Senator. There have not been any criteria formally circulated or anything like that.

I will make a commitment to consult with this committee and interested members of this committee before any formal criteria are adopted.

Senator DANFORTH. Thank you very much. Now, I would like to move to another subject.

During the months of debate over the auto industry situation, I grew concerned that our Government was not speaking with one voice on such a grave matter of policy. We had an awfully large number of groups around. We had USTR's, the State Department's and that of the Commerce Department. We had the Trade Policy Committee. We had a separate committee chaired by Secretary Baldrige. We had a separate task force, chaired by Secretary Lewis. And we had a great number of Japanese delegations, each comprising a dozen or more people, coming to the United States on almost a weekly basis.

They would make the rounds from one Cabinet officer to the next. Then they would come to the Congress and make the rounds.

It seemed to me, instead of speaking with one voice, we were speaking with numerous voices. Instead of having one policy, we had a great ambivalence in our own minds as to exactly what we should be doing in the automobile situation.

That is just one example. My concern is that it is an example of a larger problem. Now, there are some people, including Senator Roth, who believe that there should be another restructuring of the trade function within the executive branch.

I don't know if that is necessary or not. It might make sense. But it seems to me, that at least we should have a way of formulating a clear policy on international trade in this administration, where the function of the USTR should be as the spokesman and the implementing agent of that policy.

The chaos which I perceive is a matter of great concern. I think under these circumstances it is difficult for the United States to maintain a strong and convincing trade policy or trade posture.

Mr. MACDONALD. Senator, the statute certainly reads as you say it reads. That is to say the Trade Policy Committee and the U.S. Trade Representative is the principal spokesman on trade policy.

The administration unquestionably went through what I would call a "shake out period," there being a new administration. It ended up with Senator Brock taking charge of the situation and acting on behalf of the administration without too much background noise, so to speak.

Senator DANFORTH. I think you did a commendable job under the circumstances. It is very hard to imagine more difficult circumstances.

Mr. MACDONALD. I appreciate your saying that. I know that he thinks that your efforts to solve the problem were instrumental in its solution.

Senator DANFORTH. Well, my own view is that there are probably an infinite number of ways of setting up something structurally. I am not sure that one way is necessarily any better than any other way. The point is to try to make sure that somehow the Government, and of course Congress has the prime responsibility constitutionally, we devised a way of saying, "Well, this is our trade policy."

The key is that whoever is doing the negotiating is actually working out the deals, is implementing a policy which has been clearly determined and that the deal ends up being something that is reasonably related to that policy.

Mr. MACDONALD. We are working very hard, as I think you may know, Senator, on such a policy statement and have consulted with your staff extensively and they have made substantial contributions to it.

Senator DANFORTH. Would you view this as the primary function of the executive branch?

Mr. MACDONALD. To set the policy? It seems to me as though it is a joint responsibility. The Congress has the power to regulate interstate and foreign commerce. That is the starting point. They have done two things, passed a series of laws regulating interstate commerce, the Trade Act of 1974, the Trade Act Agreements of 1979, as well as a procedural structural statute that creates the Trade Policy Committee.

Within that framework it would seem to me that the President would be able to develop a policy then which is consonant with those laws and also consonant with the desires of Congress.

It is an area in which neither party can move very far without the other.

Senator DANFORTH. Thank you very much.

The CHAIRMAN. Thank you, Senator Danforth.

Then, I have a couple of questions. I wanted to make certain the record reflects. I understand the USTR may be consulting with Brazil concerning the increased duties on ethanol. I would just point out that the Committee on Finance, on this legislation, clearly regarded this decision to increase this tariff is directly related to the national security interests of the United States.

We would hope that before we are already getting indications from the same people in the State Department who were there in the last administration, they don't like that particular policy.

I suggest, if there is any different view than we have on the Committee on Finance, and in the Congress, or the USTR, that we have that notice in advance, because we are not going to accept any change in that policy unless the Congress changes the policy.

That is in question form, along with a couple of other questions we would like to have answered for the record.

[Questions submitted to Mr. Macdonald follows:]

QUESTION FOR DAVID MACDONALD FROM SENATOR DOLE

The Office of the USTR has circulated among members of the private trade bar a proposal for establishing criteria for use in reviewing decisions of the USITC in cases under section 337 of the Tariff Act of 1930. As you know, section 337 is one of the most active areas of unfair trade practice law and is relied on by the members of the business community to protect their legitimate business interests.

Any proposals to change the existing review practices must be carefully considered. Will you consult with Committee staff before formulating such proposals in order that both the Committee's interests and your concerns may be taken into account?

BACKGROUND

The Office of the United States Trade Representative has circulated among members of the trade bar for discussion purposes a set of proposed criteria for review of United States International Trade Commission decisions in section 337 cases. Section 337 provides for relief from unfair imports (most frequently goods made in foreign countries in violation of U.S. patents). The relief may take the form of exclusion order barring entry of the goods into the United States or a case and desist order. While the ITC may order relief, the President on advice from the USTR may veto the relief order for "policy reasons".

USTR has proposed a set of criteria to be used in fashioning its advice to the President which is so broad that if implemented, it could severely reduce the use and effectiveness of the statute. The Committee staff has not been consulted about these proposals.

QUESTIONS FOR DAVID MACDONALD FROM SENATOR DANFORTH

Where does the U.S. stand in the negotiations for renewal of the multi-fiber arrangement concerning trade in textiles and wearing apparel?

STATUS OF THE MULTIFIBER ARRANGEMENT

The Multifiber Arrangement (MFA) must be renegotiated by December 31, 1981. The forty-two signatories have met this year in the GATT Textiles Committee to consider MFA renewal but progress has been slow to date. At the most recent meeting on May 7 and 8 most countries put forward preliminary positions.

At the May meeting the United States indicated strong support for an internationally acceptable successor to the current MFA. The United States also expressed concern over the impact of the ever-broadening base of imports, especially during periods of sluggish domestic growth.

While endorsing continued expansion of developing country access to the world's textile markets, especially for new and small supplier countries, the United States indicated its concern with the new, more complex aspects of market disruption related to the growth in large quotas from our major suppliers.

The impact of this growth necessitates tighter agreements with our major bilateral partners to prevent disruption of the U.S. market. The United States indicated its interest in exploring whether this can be addressed within the framework of the existing MFA, including the 1977 protocol of extension.

The next GATT Textiles Committee meeting, starting July 14 will consider the extension, modification or discontinuance of the 1977 protocol. This meeting is intended to be a substantive one during which countries will make specific proposals and begin to negotiate the differences.

Other importing countries, including the EC, Canada and Nordic countries, are expected to pursue a much more restrictive approach than that of the United States.

The developing countries have indicated their desire to eliminate the 1977 protocol which permitted "reasonable departures" and return to the stricter discipline of the initial 1974 agreement.

Any satisfactory arrangement will have to strike a balance of importer and exporter country interests, suggesting an agreement giving further latitude of approach to address particular importing country concerns while providing discipline and certainty in order to accommodate exporting country concerns.

BACKGROUND

It is important to create as much momentum as possible in the negotiations in order to apply pressure to the EC to speed up their internal decision-making process and minimize the likelihood that the meeting will deteriorate into North/South rhetoric. The United States has taken to date a moderate and leading role and will continue to do so. Of major concern is the slowness of the EC Commission in obtaining a negotiating mandate and pressures within the Community for restrictive approaches including rollbacks in trade. The EC needs to be convinced to move in the direction of a moderate position in order to reach an internationally negotiable agreement. EC participation is essential for any international arrangement in textiles to be workable. The developing countries must also be shown the wisdom of advocating moderate positions and are looking to the United States to soften the more restrictive approach of the EC.

Some Senators may question whether the USG intends to honor President Reagan's campaign commitment to strengthen the MFA by relating import growth from all sources to domestic market growth. Some may also question the wisdom of an initial negotiating position that seeks the renewal of the existing arrangement. In this regard the USG, in its statement at the May meeting, did not rule out other approaches when suggesting that the current arrangement be looked at to see if its provisions are flexible enough to address the signatories' current problems in textile trade. We specifically did not rule out any approach that would address U.S. concerns of an ever-broadening base of imports, which is particularly disruptive during a period of slow domestic growth. It is essential that the United States take a leading as well as moderate role in order to bring the positions of the developing countries and other importing countries together into a satisfactory agreement. The consequences of failure to reach an internationally negotiable arrangement are unacceptable to the future of the international trading system.

QUESTIONS FOR DAVID MACDONALD FROM SENATOR MITCHELL

On May 1, 1981 I wrote to President Reagan and Special Trade Representative Brock requesting their assistance in dealing with the problems of Maine potato farmers. I would like to repeat that request today.

Canadian potato exports to the U.S. have risen from 25,547 metric tons in the 1975-76 season to 85,031 tons in the 1979-1980 season, for an annual growth rate of 35%. This surge in imports is creating serious hardships in the Maine potato industry.

I am requesting your assistance in obtaining information on U.S. and Canadian policies and in designing possible remedies. In my letter to the Special Trade Representative, I asked for answers to the following questions:

First, is there any provision of U.S. law under which U.S. potato production may be subsidized for export?

Second, does U.S. law require inspection of samples of incoming potatoes to insure that the potatoes are in compliance with the grade and condition standards written on the containers and/or accompanying papers? If so, what inspections are currently conducted?

Third, is there a mechanism to insure that imported Canadian potatoes do not carry or contain pesticides and chemicals which U.S. potato growers may not use, or may use only in limited amounts, or may use only under certain specified circumstances? If so, how is it implemented?

Fourth, is there any information or analysis of the magnitude of the Canadian subsidies for potato production and their impact on the level of Canadian exports? Do these subsidies violate any international agreements?

If answers to these questions are available, I would appreciate them for the record.

Again, I would like to stress the importance of this issue to Maine. I would like to meet with you and Ambassador Brock as soon as possible to discuss this situation and possible remedies.

HON. GEORGE J. MITCHELL,
U.S. Senate,
Washington, D.C.

DEAR GEORGE: This is in response to your letter of May 1 concerning imports of Canadian potatoes. In your letter, you requested my assistance in obtaining answers to questions dealing with the authority for subsidies on U.S. potato exports, the inspection of potato imports, Canadian subsidy practices for potato production, and the legality of the Canadian subsidy practices under international law.

With respect to your first question concerning the authority for export subsidies, Section 32 (7 U.S.C. Section 612c.) authorizes the use of payments to encourage the exportation and/or domestic consumption of agricultural commodities, including potatoes. The law established a fund for this purpose. Under the exportation plan, payments can be made from the fund either in connection with the exportation or losses incurred because of exportation of the product. Under the domestic production plan, the commodities can be diverted or consumption can be subsidized. The law is administered by the Department of Agriculture.

As a matter of policy and practice, Section 32 has not been used to subsidize exports in recent years for three reasons. First, successive Administrations have been unwilling to increase the budget deficit during a period of high inflation in order to finance the subsidized export of agricultural products. Secondly, such subsidies constitute a nontariff barrier which the U.S. Government has been trying to discourage the use of worldwide. Finally, under international trade law, we are obligated to " * * * seek to avoid the use of subsidies on the export of * * * " agricultural products.

The domestic provisions of Section 32 have been more frequently used. In fact, this law was recently used to divert surplus potatoes for use as livestock feed, in the manufacture of starch, in charitable institutions, and in domestic feeding programs.

You also asked whether U.S. law requires the inspection of incoming potatoes to insure that they comply with the grade and condition standards written on the containers and/or accompanying papers. As you probably know, the grade and condition standards to which you referred are required by Section 8e of the Agricultural Marketing Agreement Act of 1937. This Section requires that imports of certain commodities (including Irish potatoes) comply with the same grade, size, quality, and maturity standards as are set forth in domestic marketing orders. Hence, regulations have been promulgated to require the inspection of all imported potatoes. Both U.S. and Canadian inspectors are authorized by the regulations to do the inspections.

The Customs Service informs us that as a matter of practice potatoes have already been inspected by Canadian officials when they arrive at the U.S. border. Shipments of tablestock potatoes arrive with a document signed by an official of the Canadian Agricultural Production and Marketing Branch certifying that the potatoes meet the requirements of Section 8e. Customs officials have been instructed to look for the documents to insure that all tablestock potatoes coming into the United States have been inspected by the Canadian officials. Seed potatoes arrive in containers marked with the foreign government's official certified seed potato tags which verify their identity. Each truckload of seed potatoes is examined by Customs to insure that the potatoes are properly tagged. Customs informs us that in the past spot checks have shown no evidence of fraud on the part of Canadian officials.

You asked whether there is a mechanism to ensure that imported Canadian potatoes do not carry or contain pesticides and chemicals which U.S. potato growers may not use, or may use only in limited amounts under certain specified circumstances. As you may be aware, potatoes, whether imported or grown in the United States, must comply with the requirements of the Federal Food, Drug, and Cosmetics Act, administered by the Food and Drug Administration (FDA). Among other things, food shipped in interstate commerce or imported must comply with pesticide residue tolerances established by the Environmental Protection Agency. Any shipment of food found to contain pesticide residues in excess of a prescribed tolerance or for which no tolerance has been established would be considered "adulterated" and subject to removal from the marketplace by FDA.

FDA is aware of questions raised by the National Potato Council concerning the use of pesticides not permitted for use in this country on Canadian potatoes. However, to date the Agency has not received any factual information supporting these claims. Nevertheless, the Agency's field offices have been alerted to these allegations and encouraged to sample Canadian potatoes more frequently to determine if

illegal pesticide residues are in fact occurring. If illegal residues are found in Canadian potatoes, FDA officials assure us that the Agency will refuse entry to those potatoes.

Finally, you asked about the magnitude of Canadian subsidies for potato production and their impact on Canadian exports. You also asked whether these subsidies violate any international agreements. We are now in the process of collecting information on the Canadian subsidies and, hence, are not in the position at this time to evaluate their impact on exports or their consistency with international law.

As you may be aware, USDA has established a study group to examine the issues identified by the National Potato Council concerning the Canadian potato import situation. The study group is presently obtaining more information on the chemicals contained in potatoes imported from Canada and on Canada's domestic subsidy practices. FDA and this office have been working with this group to provide any technical assistance which may be needed. We would be glad to furnish additional information to you when it becomes available.

Very truly yours,

WILLIAM E. BROCK.

U.S. POTATO IMPORTS FROM CANADA

Issue

Financial difficulties facing the Maine potato industry have become particularly acute in the last two years. Since the industry believes that its problems are caused by imports, it has identified several means for restricting shipments of Canadian potatoes. The Maine delegation has requested the Administration's assistance in restricting imports.

Background

Despite the industry's belief that imports are the cause of its financial difficulties, we are not convinced that this is the case. We need a method for managing the political pressure to impose restrictions.

The industry has identified three actions which it feels would reduce imports. First, the industry believes that Canadian producers are subsidized and hence have an unfair advantage in the U.S. market. Maine potato farmers may have a case under the U.S. countervailing duty law. They are presently considering whether to file a petition.

Secondly, the industry is considering various means to ensure that potatoes entering the United States under the tariff-rate seed quota are used only for seed. Since the industry believes that a large portion of the potatoes coming in under the quota are used for human consumption, it is convinced that stricter enforcement of the quota would restrict imports.

Such enforcement would require the passage of special legislation. Presently, the tariff schedule requires only that the potatoes coming in under the seed quota be certified for seed use. This does not prohibit the consumption of imported seed potatoes.

Thirdly, the industry has under consideration a proposal for the renegotiation of the tariff concession on potatoes made in the MTN. The tariff was reduced as part of a larger package designed to harmonize duties between the United States and Canada, an objective that was specifically supported by Congress. Any renegotiation of this concession would undermine the MTN agreement with Canada.

Mr. MACDONALD. Should I respond to that in writing or I—

The CHAIRMAN. You can respond to that in writing.

Is there anybody else that you would like to introduce? Any of your family, friends, whatever?

Mr. MACDONALD. No; I am here alone, Mr. Chairman.

The CHAIRMAN. I appreciate your appearing and responding to some of the difficult questions. I think it is fair to say that this committee feels a very close relationship to the USTR. I think we will try to insist, in a proper way, that we maintain that close relationship and continue a candid exchange of views from time to time.

I think we can be helpful to the USTR.

Mr. MACDONALD. Thank you, Mr. Chairman. I know Senator Brock feels the same way, as do I. I would like to just say that at

the time I leave office, I hope you as chairman feel the relationship is if anything closer than it is today.

The CHAIRMAN. I know I speak for other members, Senator Long, in particular, and Senator Bentsen, and others, on the other side, we intend to meet from time-to-time informally, with Ambassador Brock, yourself, and others.

Thank you very much.

Mr. MACDONALD. Thank you, sir.

The CHAIRMAN. We now have Pamela Bailey. I apologize for having everyone wait so long, but we had a series of questions that took more time than necessary.

Ms. Bailey has been nominated to be Assistant Secretary of Health and Human Services.

As I have indicated in the opening statement, we have reviewed the financial disclosure forms and are satisfied there are no problems.

The CHAIRMAN. Do you wish to make any kind of a statement?

TESTIMONY OF PAMELA NEEDHAM BAILEY, NOMINATED TO BE ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES

Ms. BAILEY. I do not, Mr. Chairman, at this time, other than to say that it is an honor for me to have been nominated by the President. I look forward to working in the administration with Secretary Schweiker and with the committee.

The CHAIRMAN. Well, we are very pleased to have you here. We will do the best we can to speed up the nominating process from this end. I don't think it will take us as long to get you out of here as it did to get you up here.

We hope to have confirmation of all these nominations as soon as Congress is back, the week of June 1.

I have no questions.

Any questions the staff wants to submit?

[No response.]

The CHAIRMAN. You are one of the lucky ones. You may have come prepared to answer all kinds of questions, and that doesn't mean there may not be questions later, as you assume your responsibilities. We work very closely with HHS. We have a number of very difficult decisions to make concerning HHS, spending programs, and a lot of programs that impact on people.

We would hope that the process of reducing spending in accordance with the mandates of the American people, maybe not a mandate, but some indication of concern in the President. We can call upon you for help and assistance to make certain the cuts we make do not impact unfairly on any one segment of people in this country.

Ms. BAILEY. You can be assured you have my commitment on that.

The CHAIRMAN. Do you have any members of your family present? I see a couple of youngsters back there.

Ms. BAILEY. As a matter of fact, I do. My husband, William, and my three children, Suzanne, Rob, and Nancy.

The CHAIRMAN. We are very happy to have them here this morning. The reporter will have the children's names in the record. We will send a copy of the minutes to them and let them know their mother did very well.

I appreciate again, your waiting. Thank you very much.

Ms. BAILEY. Thank you.

The CHAIRMAN. Robert J. Rubin, to be Assistant Secretary of Health and Human Services is next.

Do you have a statement that you would like to make?

TESTIMONY OF ROBERT J. RUBIN, NOMINATED TO BE ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES

Dr. RUBIN. No; I don't. I would just like to say it is an honor to be here before the committee and to have been nominated by the President for the position of Assistant Secretary for Planning and Evaluation.

The CHAIRMAN. I have a number of questions. Have you been working in the Department, unofficially, for some time, waiting your process to be completed.

Dr. RUBIN. Yes, sir.

The CHAIRMAN. Do you have any priorities in health planning that you will give immediate attention by your office when you complete the confirmation process?

Dr. RUBIN. Yes, sir, we do. -I have been asked by Secretary Schweiker to be the chairperson of the procompetitive health care plan we plan to propose to the Congress before the end of the year. We will begin work on that next week.

We intend to work with the committee on that and to develop the proposals in concert with the committee.

The CHAIRMAN. That will be of great interest to Senator Durenberger, in particular, and others, who have had that view for some time. We appreciate that.

You don't have to get involved in social security, do you?

Dr. RUBIN. Not directly, sir, no.

The CHAIRMAN. That is another question I guess to save for the Secretary.

But I do have three questions I would appreciate your responses to.

If in fact there are questions, any other questions, they will be submitted. The record will be kept open for that purpose.

Thank you very much.

Dr. RUBIN. Thank you very much.

[Questions to Dr. Robert J. Rubin follow:]

QUESTIONS FOR DR. ROBERT J. RUBIN

1. What priority issues in health planning do you believe will be given immediate attention in your office?

Answer. There are five major areas of concern in health policy that I will be directing my office to address immediately.

Competition.—One of our highest priorities will be to develop a strategy for promoting competition in the health sector. We can no longer afford the rapidly escalating cost of health care and I believe that increased competition offers a superior means of controlling costs than through increased regulation. We will be analyzing a variety of options and intend to introduce legislation incorporating the most promising ideas by the end of the year.

Health financing programs.—We will continue to look for way to control costs without denying needed access to care in Medicare and Medicaid. The Federal health financing programs will also be considered in the context of the competition initiative.

Biomedical research.—I am strongly committed to supporting and stimulating biomedical research because it augments the knowledge base for medical care. We will be working on stabilizing grants at the National Institutes of Health in order to provide a more orderly atmosphere for the conduct of critical research.

Health promotion.—Another priority will be health promotion and disease prevention. As you are aware, the Secretary is committed to preventive health strategies. We want to build on the successes we have realized in biomedical research by finding effective means of increasing public awareness about living healthier lives. We will be looking at different ways to promote health and prevent disease.

Block grants.—We will continue to facilitate implementation of policies which increase State flexibility in providing health services.

2. What do you see as the critical role for the Office of Planning and Evaluation in this Administration?

Answer. In my view the Office of Planning and Evaluation should provide the Secretary of Health and Human Services with advice and recommendations on all policy issues affecting the Department. It should be primarily responsible for the development of legislation, implementation of research and evaluation activities, and with other key staff offices, the formulation of the budget. In addition, the office should play a leadership role in the development of major policy initiatives, including block grants to States, health competition, long-term care, and a variety of income security issues.

3. There are many persuasive arguments to support the need for comprehensive long-range planning within HHS and particularly within the Social Security administration. However, the Social Security Administration continues to devote most of its resources to short range projects and operations. Furthermore, GAO reports continue to emphasize the need for comprehensive long range planning at the Social Security Administration and have shown how the lack of such planning has negatively affected the automatic data processing systems operations. What do you believe can be done to assist the Social Security Administration to more efficiently provide for its future needs?

Answer. Staff shortages, saturated hardware, and new demands on available resources brought about by legislation have necessitated a reallocation of resources to short-term requirements. In the short-term, I shall be alert to the administrative and technical requirements of new legislative proposals. I shall maintain this perspective with respect to long-term structural reform. I know that Commissioner Svahn is concerned about SSA's future needs and is in the process of formulating a long-range plan. My office will do all that it can to assist in that plan.

The CHAIRMAN. Richard Kusserow to be Inspector General, Department of Health and Human Services.

Again, the record will indicate that we reviewed your financial disclosure form and are satisfied there are no problems.

I would also indicate that the biographical data for each of the nominees should be made a part of the record.

[The biographical data of the nominees follows:]

STATEMENT BY RICHARD P. KUSSEROW
SENATE FINANCE COMMITTEE
May 22, 1981

Mr. Chairman and Members of the Committee.

I would like to take this opportunity to thank you for the privilege of appearing before you this morning. President Reagan, as you know, has nominated me to be the Inspector General of the Department of Health and Human Services. I am submitting this background statement which you may find useful in assessing my qualifications for this honorable position.

I joined the Federal Bureau of Investigation in 1969 as a Special Agent specializing in White Collar Crime and Government fraud investigations. After spending a brief time in Pittsburgh, I moved to Chicago where over the next four years, I specialized in bank fraud, fraud against the government investigations, bribery and public corruption cases.

As a result of our early work in these areas, I was selected to head a number of governmental fraud task force investigations. These types of investigations developed into a permanent ongoing program in the Chicago Division.

In addition, during the past three years, I have been the coordinating supervisor of the Chicago Organized Crime Program with responsibility for eight squads of agents. Part

of my responsibility has been the development and management of the Labor Racketeering and Public Corruption Programs.

I have participated in various training programs for FBI agents and frequently lecture at the FBI's National Academy on these topics. I have assisted in the formation of White Collar Crime programs in eight FBI field divisions.

Before joining the FBI, I served in the Marine Corps, was discharged as a Captain in 1968. I served with the Central Intelligence Agency for two years.

I hold a Master of Arts degree in Government from California State University at Los Angeles and a Bachelor of Arts degree from the University of California at Los Angeles. I have also two years of law studies at Southern Methodist University and John Marshall University (Chicago). I have taught government at California State University at Los Angeles.

I would like to emphasize that I view the Inspector General's role as a challenging and vital one to which I am prepared to devote my best efforts.

Thank you Mr. Chairman. I am ready to respond to any questions you or the Committee may have.

RESUME

PAMELA NEEDHAM BAILEY

Home Address:
7821 Wendy Ridge Lane
Annandale, VA 22033
(703) 573-3697

Office Address:
American Hospital Supply Corporation
1090 Vermont Avenue, N.W.
Suite 210
Washington, D.C. 20005

EXPERIENCE1. Industry:American Hospital Supply Corporation

- o Director, Government Relations 2/79 - Present
- o Manager, Government and Consumer Affairs 8/75 - 1979

Responsible for the direction of international, federal, state and local government relations for a \$2.3 billion international manufacturer and distributor of health care products and services. Top corporate manager in Washington office. Duties involve analyzing and communicating throughout the corporation those government actions and attitudes of significant impact upon the company's markets and operations. Recommend corporate policy positions. Develop and implement goals and strategies to communicate corporate positions on public policy issues to government decision makers, customers, press, and securities analysts. Corporate liaison to government officials and to trade associations. Staff to the public issues committee of the Board. Speaker on health policy issues at meetings and conferences of hospital administrators.

2. Government:The White House

1970 - 1975

- o Assistant Director, Domestic Council 1/75 - 7/75

White House staff member responsible for the analysis, development, and implementation of the President's health, welfare, and social security policies. Worked with Cabinet-level officials in the identification and recommendation of policy options for Presidential decision-making in those areas. Served as liaison with special interest groups and the press. Responsible for Presidential briefings, decision papers, meetings, correspondence and statements on health, welfare, and social security issues. Projects included review of Administration policies on national health insurance and medical malpractice insurance; determination of welfare reform options; analysis of social security financing alternatives.

- Staff Assistant, Domestic Council

2/74 - 1975

Under the direction of the Deputy Director of the Domestic Council, reviewed and coordinated the implementation of the President's policies in the areas of health, welfare, social security, the aging, consumers, volunteerism and poverty.

- Staff Assistant to the President, Director of Research 1/73 - 1974

Directed the President's research office. Responsible for all research and factual verification of the President's speeches, statements, proposed legislation, policy messages to Congress and correspondence. Worked closely with OMB, Cabinet and White House Staffs in all policy areas.

- Research Assistant to the President

1971 - 1973

Researcher on Presidential writing and research staff.

- Research Assistant to the Vice President

9/70 - 1971

Established the Vice President's research office.

- White House Intern

Summer 1969

One of 25 college students selected to participate in the first White House Summer Intern Program. Served as researcher on Presidential writing and research staff.

3. Political:

- Assistant Director, Office of Personnel, Office of the President-Elect

11/80 - 1/81

- Member, Reagan-Bush Campaign Advisory Task Force on Welfare Reform

1980

- Republican Platform

1980

Staff, Republican National Convention - platform subcommittee on human concerns.

Testimony, January 1980 hearings, Washington, D.C. Recommendations on party health policy.

- Republican National Committee Advisory Council on Human Concerns
Member, health subcommittee 1977 - 1980
- Chair, Western Massachusetts College Students for Nixon-Agnew 1958
- Staff, Pennsylvania Nixon for President Committee, Philadelphia Summer, 1968

EDUCATION

Wyncissing, Pennsylvania Public Schools

Mount Holyoke College

Degree: A.B., 1970

Major Subject: Political Science

1966 - 1970

BIRTHPLACE AND DATE

May 24, 1948 - Reading, Pennsylvania

FAMILY

- Married to William W. Bailey, Senior Director, Congressional Relations, Merck & Co.
- Three children

CIVIC AND PROFESSIONAL ACTIVITIES

- Health Industry Manufactures Association,
Legislative Affairs Section
Chairman, 1980
Chair, Policy Division, 1981
- U.S. Chamber of Commerce Special Committee on
The Nation's Health Care Needs
Member, 1977 - 1979
- Pharmaceutical Industry Washington Advisory Committee
Member, 1980 -
- Health on Wednesday
Member, 1980 -
- National Health Council Committee on Consumer Concerns
Member, 1976 - 1979
- Family Focus, Chicago
Board Member, 1980
- Link Inc., Chicago
Volunteer, 1975 - 1977
- Mount Holyoke College
Class agent, 1976 - 1980
Chair, 10th reunion fundraising, 1980
Member, Alumnae Development Committee, 1978 - 1981

PROFESSIONAL ACCOMPLISHMENTSIndustry:

- o Planned and established American's first government relations program/office in 1975 and in 1980 proposed and succeeded in relocating program/office to Washington, D.C.
- o Established and directed American's Congressional Fellowship program. Only program of its kind. Each year it brings four Congressional staff members to American to learn about business for one month.
- o Designed and implemented a government relations plan to identify the corporation to its customers as a company expert in health policy issues and able to assist in their advocacy in Washington.
- o Speaker on health care public policy issues to more than 60 different groups of hospital administrators and purchasing agents, 1978-1980.
- o Developed and directed the first full scale legislative program of the Health Industry Manufacturers Association, 1980.
- o Established corporation as an advocate of competitive alternatives to hospital cost containment and national health insurance. Wrote CEO's testimony for Senate Finance and Ways and Means Committees' hearings on proposals.
- o Established a congressional communications program for corporate managers in 140 congressional districts and 40 states.
- o Initiated state government relations program in 8 states.
- o Established a process for the corporation to formally review and to take positions on major public policy issues.
- o Developed a training program for sales personnel on the role of government in health care delivery and its impact on their markets.

Government:

- o Wrote comprehensive White House domestic policy press plan. Objective was to increase public awareness of extensive policy reviews that were underway; also, to generate positive daily news from the White House on domestic policy issues. (1974)
- o Chaired an interagency welfare task force that studied welfare reform proposals and made recommendations to the President. (1974)
- o Developed consumer policy options for the President that were presented to and approved by the Cabinet. Directed the implementation and publicizing of the new consumer initiatives. (1974)
- o Served as staff for a review by Cabinet Members of national health insurance proposals. (1974)

BEST COPY AVAILABLE

CURRICULUM VITAE

Robert J. Rubin, M.D.

28 Partridge Road
 Lexington, MA 02173
 (617) 861-8785

Date of birth: February 7, 1946

Place of birth: Brooklyn, New York

Social Status: Married, two children

Degrees: A.B., 1966 Williams College
 M.D., 1970, Cornell University Medical College

Post-graduate Education: New England Medical Center Hospitals, Boston, MA
 Intern, 1970-1971
 New England Medical Center Hospitals, Boston, MA
 Junior Assistant Resident, 1971-1972
 New England Medical Center Hospitals, Boston, MA
 Fellow in Medicine (Nephrology), 1974-1976

Certification: American Board of Internal Medicine, June 1975
 American Board of Internal Medicine, Nephrology,
 June 1978

Honor Societies: Phi Beta Kappa

Positions: Trainee, United States Public Health Service
 Harvard Tissue Immunology Laboratory
 Peter Bent Brigham Hospital, Boston, MA
 Summer, 1968
 Epidemic Intelligence Officer
 Respiratory Disease and Special Pathogens
 Viral Diseases Division, Center for Disease
 Control 1972-1974
 Assistant-in-Medicine, New England Medical Center
 1976-1978

Assistant Professor of Medicine, Tufts University
School of Medicine, 1976-1981

Associate Professor of Medicine, Tufts University
School of Medicine, 1981

Assistant to the Dean for Government Affairs
Tufts University School of Medicine
1976-1978

Assistant Dean for Government Affairs
Tufts University School of Medicine
1979-

Acting Chief-Renal Division
Lemuel Shattuck Hospital
1978-1979

Chief Renal Division
Lemuel Shattuck Hospital
1979-1981

Consultant-United States Senate Human Resources
Committee
1979-1981

Consultant in Nephrology-Faulkner Hospital
July 1979-1981

Consultant in Nephrology-Boston VA Medical Center
January 1979-1981

Consultant in Nephrology-Lakeville Hospital
Rehabilitation Center
September 1978-1981

Memberships:

American Society of Nephrology

International Society of Nephrology

American College of Physicians

American Federation for Clinical Research

American Medical Association

Massachusetts Medical Society -
Member Council on Legislation 1980

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Honors:

Finalist and Recipient-Robert Wood Johnson
Health Policy Fellowship 1977

Ten Outstanding Young Men in America Award -
United States Jaycees - 1978

RESUME

RICHARD P. KUSSEROW

Education

M.A. - Government (politics, government and public administration), California State University, 1964

B.A. - Political Science, University of California at Los Angeles, 1963

Post Graduate Work at:

Southern Methodist University, School of Law, 1965

John Marshall Law School, 1972

Loyola University (Chicago) School of Urban Studies, 1975

Employment

1970 to

Present - Special Agent, Chicago Division
Federal Bureau of Investigation

- Specialized in white collar crime, embezzlement, bribery and public corruption
- Coordinated many task force investigations, including Department of Housing and Urban Development real estate broker fraud; Department of Health, Education, and Welfare fraud; Veteran's Administration school fraud; Department of Housing and Urban Development single family frauds
- Managed and supervised the night operations of Chicago office
- Formed and managed Governmental fraud, labor racketeering and public corruption programs
- Served as Coordinating Supervisor, Chicago Organized Crime Program, managing seven squads of 83 agents

1969-1970 - Special Agent, Pittsburgh Division
Federal Bureau of Investigation

- Work divided between Pittsburgh and West Virginia with an emphasis on criminal matters

1967-1968 - Intelligence Officer
Central Intelligence Agency

1965-1967 - Captain
United States Marine Corps

- Company Commander, Armored Artillery Company

Professional Activities/Training

- Published a number of in-house monographs on Government fraud and corruption
- Authored a manual for managers on investigating Governmental fraud and corruption (FBI)
- Police Instructor (FBI)
- Lecturer on management techniques to detect Governmental fraud and corruption and white collar crime
- Represented FBI in numerous radio and television programs as well as video taped presentations
- Explosives expert/weapons expert
- Graduate of CIA Audit Operations Management School
- FBI Management Training Program
- CIA and FBI Photography School

Personal Data

Married, one child



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D. C. 20230

BIOGRAPHY

Lawrence J. Brady

Assistant Secretary for
Trade Administration-Designate
U.S. Department of Commerce

Lawrence J. Brady was nominated March 3 by President Reagan to be Assistant Secretary of Commerce for Trade Administration.

In his new position, Brady will be responsible for developing and implementing policy with respect to U.S. export controls for strategic, foreign policy or short supply reasons as mandated by the Export Administration Act and also for enforcement of the Act's antiboycott provisions.

In addition, he will be responsible for Commerce Department investigations of antidumping and countervailing duty complaints; implementation of the steel trigger price mechanism (TPM), and administration of the statutory import, foreign trade zones and industrial mobilization programs.

Brady, who sought the Republican nomination for the U.S. Senate from New Hampshire in the last election, was acting director and deputy director of the Commerce Department's office of export administration from 1974 to 1980.

From 1971 to 1974, he was a senior staff member of the White House Council of International Economic Policy and special advisor for congressional relations. From March 1970 to April 1971, he was senior international economist in the office of international trade, Department of State.



Earlier, he worked in various positions with the U.S. Senate. From 1967 to 1970, he was legislative aide to the late Senator Everett M. Dirksen and simultaneously minority counsel of the Senate Judiciary Subcommittee on Separation of Powers.

From 1963 to 1967, he was a legislative aide to the Secretary of the Minority, U.S. Senate, and from 1958 to 1963 he was staff assistant to Senator Norris Cotton, (R.N.H.).

Brady was born in Berlin, New Hampshire, on April 22, 1939. He received his B.A. in politics and economics from Catholic University, Washington, D.C., in 1962, and has completed all requirements, except the dissertation for his Ph.D. degree, in the fields of international law and relations and international economics .

He lives in Bedford, New Hampshire with his wife Carolyn and three children.

The CHAIRMAN. Mr. Kusserow, do you have a statement that you would like to make at this time?

TESTIMONY OF RICHARD P. KUSSEROW, NOMINATED TO BE INSPECTOR GENERAL OF HEALTH AND HUMAN SERVICES

Mr. KUSSEROW. No, sir, not other than my prepared biographical statement and to express the honor I feel by appearing before this committee, as the nominee of the President, for the position of Inspector General for the Department of Health and Human Services.

I am prepared to answer any questions that you may have at this time.

The CHAIRMAN. Again, I have a number of questions.

I would like to ask one for the record and then submit the others. I guess the question of whether or not the Office of Inspector General in HHS can maintain a high level of independence and objectivity when it relies on the Department for the first approval of its budget.

Do you see that as any problem?

Mr. KUSSEROW. No, sir, not at all.

The CHAIRMAN. You do not think it is necessary to improve your degree of independence and objectivity or know any way that might be done?

Mr. KUSSEROW. I think that should be a constant problem to be worked out to insure an independent viewpoint and independent and objective investigative and audit capability.

The CHAIRMAN. There appears at the present to be some overlap and duplication of the responsibility and functions within the Office of the Inspector General and other audit and investigative groups within HHS.

For example, the Health Care Finance Administration, and the National Institute of Health, Social Security Administration all have groups performing reviews, audits and investigations.

Do you have any plans to try to avoid this duplication and overlap. We have enough of it now in Government. I am certain enough of it in HHS, the massive bureaucracy. Can we count on some improvement in that area?

Mr. KUSSEROW. I think most definitely there is room for improvement in that area. One of the top priorities of this Inspector General will be to work with both the Health Care Finance Administration, with social security and other entities to insure that the meager resources available to take on rather large problems, are not going to be squandered by duplicative effort.

The CHAIRMAN. There have also been some reluctance by the Department of Justice to prosecute 24 percent of the cases in HHS and HEW, in 1978. By the end of 1979, Justice declined 58 percent of the cases.

In March, the Inspector General reported declined cases of 66 percent, as of December 1980.

Can we do anything to reverse this trend? Does it do any good to do all the preparatory work and then have the Department of Justice decline prosecuting them.

Mr. KUSSEROW. I think a major obligation of the Office of the Inspector General will be to insure that various prosecutors throughout the country are provided a quality product for prosecution that is competitive with all the other agencies submitting their similar product.

In that vein, I think it is very important that the Inspector General set forth very specific priorities and goals within the Office of Investigation and within the audit agency of the Inspector General's Office to insure that good, solid cases are prepared that have a significant impact on the community and that are looked upon with favor by Department of Justice prosecutors.

So, I think a lot of it is in target selection and in how you employ the resources to insure that when you bring a product to the prosecutor, they are interested in prosecuting.

The CHAIRMAN. Well, I would hope that we would have cooperation between the two departments. That would be helpful.

Mr. KUSSEROW. Yes, sir.

The CHAIRMAN. That is one area we will be keeping a close eye on.

I have additional questions which I have indicated I will submit. I will appreciate having your response to those questions.

[Questions submitted to Mr. Kusserow follow:]

QUESTIONS FOR RICHARD P. KUSSEROW

Question 1. The Annual Report of the Inspector General for 1979 and 1980 highlights audit and investigations activities performed during those periods but contains little discussion of future planned activities. My discussion of future plans is limited to very short-range management objectives. Additionally, these reports suggest that resource needs are established by first determining workload and then projecting resource needs based on that established workload. Given the fact that staff resources are limited and need to be used efficiently, how do you intend to project and prioritize workload based on available resources? Is there a need to develop and implement long-range plans (covering five years or more) to ensure adequate audit coverage, better resource utilization, and continuity of audit and investigations?

Answer. I agree that it is unrealistic to believe that an organization will ever have sufficient resources to cover 100 percent of its workload. This is the reason that setting priorities is a major task of the Inspector General. However, I do

believe it is very useful to calculate or estimate workload as a tool to assist in setting priorities.

I intend to take a personal, active part in the development of a comprehensive OIG work plan—one that integrates what in the past have been separate plans for each element to OIG—and I intend to set priorities and allocate resources to the priority areas. In my view, a multi-year plan is essential and I intend to move rapidly to develop such a plan. It will take into consideration the size of the program administered by the Department and the attendant vulnerabilities in deciding how to allocate the IG resources.

Question 2. The HHS IG Office of Investigations does not currently have an automated system for tracking ongoing investigations, including those investigations involving fraud. Do you consider such a system necessary? If so, what would need to be done to implement such a system?

Answer. Due to the increase in workload (724 active cases in fiscal year 1979 to 1200 active cases projected for fiscal year 1982) it is becoming increasingly more difficult to manage and track OIG cases manually. In order to control the workload and respond to the myriad of requests for information that OIG receives, it is essential that the caseload be automated. Several steps have already been taken to obtain a fully automated system. A state-of-the-art survey has been conducted and basic information is known concerning the type of system needed to manage the growing caseload. The OIG fiscal year 1982 budget requests additional funds for an automated system. Currently, GSA's National Archives and Records Service is conducting a requirements assessment that will enable OIG to explore contractually, software capabilities to meet its needs.

Since I have experience in this area, I plan to take a personal interest in the development of the system.

Question 3. The Department has continued to have an unreasonably high backlog of audit reports that are unresolved in a timely manner (i.e., within the six-month period that OMB has determined should be a government-wide standard). In 1978 there were 920 unresolved reports involving \$143 million in claimed costs and in 1979 there were over 3,000 unresolved reports with audit exceptions valued at \$206.5 million (almost 40 percent of those reports were over 6 months old). These unresolved reports and their associated costs cause a loss of interest income to the U.S. Government daily. How do you propose to improve this situation?

Answer. I know that the Secretary has a keen interest in this matter and intends that the OIG give priority attention to it. In furthermore of this, it will be one of my personal priorities. I intend not only to press the various elements within the Department in resolution of monetary disallowances but also those findings which reflect weaknesses within the system that fostered the problem in the first place. Instrumental in this effort will be the full use of the Audit Resolution Council chaired by the Undersecretary to give top level impetus to resolving the backlog.

In addition, I plan to review immediately earlier recommendations made for reducing the financial losses to the Federal Government. One example which I am presently studying is found in the Inspector General Annual Report for calendar year 1978. The OIG recommended that the Department charge appropriate interest on all Federal funds found to have been misspent by grantees; such interest to be charged from the date a grantee filed a claim for reimbursement of Federal funds which were later found to be misspent. While interest on misspent Federal funds is now being charged, it does not begin to accrue until 30 days subsequent to final audit resolution action.

If this and other OIG recommendations are worthy of reconsideration and will result in savings to the Federal Government and this Department, you can be assured that I will not hesitate to bring them to your attention.

Question 4. As of December 31, 1978 Justice had declined to prosecute 24 percent of the cases HHS (then HEW) referred for prosecution. By the end of 1979, Justice had declined 58 percent of the cases. In March the Inspector General reported that the rate of declined fraud cases had increased to 66 percent as of December 1980. What do you feel can be done to reverse this trend?

Answer. To remedy of this problem, it is essential that increased effort be expended to develop those cases which have sufficient impact on the community and jury appeal to warrant Department of Justice prosecutive effort. Towards this end, the mechanism for initial evaluation of allegations as to appropriate sanctions must be strengthened. In this way, a determination can be made as to whether the investigative effort should be looking towards possible criminal prosecutive, civil prosecutive or administrative action. This would prevent misallocation of resources by the Office of Investigations and would enable prosecutors to concentrate on significant criminal cases.

In addition, closer cooperation with the Federal Bureau of Investigation will assist in a more coordinated effort in bringing the best investigative products within our program jurisdiction to the Department of Justice.

The CHAIRMAN. Senator Matsunaga, a distinguished member of this committee has arrived.

Do you have any questions, Senator Matsunaga?

Senator MATSUNAGA. Thank you, Mr. Chairman.

I just came to help you and to give my vote for these fine nominations.

The CHAIRMAN. I appreciate that.

Mr. Kusserow, we are pleased to have you here. We look forward to your success. It is a very difficult role, I might add. We understand yours is one of the more difficult responsibilities. We appreciate your willingness to assume that responsibility.

As far as I know, you will find this committee totally cooperative, up to a point. We do have responsibilities to the taxpayers and others. There is a great feeling in this country that we have to get a handle on the size of Government, and where we can, eliminate excessive costs, whether it be waste, fraud, whatever, use of programs, overlapping, duplication.

I know that is a challenge, particularly in your area of responsibility.

Thank you very much.

Mr. KUSSEROW. Thank you, Mr. Chairman. Just let me say that with your assistance, I am sure we can make a measurable impact and improvement in this area.

The CHAIRMAN. Thank you.

We are meeting in executive session now to consider Lawrence J. Brady to be Assistant Secretary of Commerce, Pamela Needham Bailey, to be Assistant Secretary of Health and Human Services, Richard D. Kusserow to be Inspector General of the Department of HHS, David R. Macdonald, to be Deputy U. S. Trade Representative and Robert J. Rubin, to be Assistant Secretary of Health and Human Services.

I would say at this point, for Senator Matsunaga's benefit, we have had all these people before us today. They have been asked a number of questions, with one or two exceptions.

Senator Bradley was here for a portion of the hearing.

We will place in the record the reports from the Office of Government Ethics for each of these nominees, reviews by the FBI and our own committee counsel disclose no problems in those areas.

The nominees appear to be eminently qualified.

I therefore move that the committee favorably report these nominations.

Senator MATSUNAGA. I second the motion, Mr. Chairman.

The CHAIRMAN. The motion has been made and seconded.

We will poll the committee and hopefully be able to take action on the Senate floor some time the first week in June.

Thank you, Senator Matsunaga.

Senator MATSUNAGA. I must apologize, Mr. Chairman, for not being present. I was in attendance at a subcommittee hearing.

The CHAIRMAN. I might indicate that for the record, there were other hearings going on.

Senator MATSUNAGA. Wherein two of my bills were being considered.

The CHAIRMAN. That took priority.

Thank you very much.

[Whereupon, the hearing and executive session adjourned at 11:30 a.m., subject to the call of the Chair.]

