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Report to the Chairman, Subcommittee
on Oversight and Investigations,
Committee on Energy and Commerce,
House of Representatives

March 1990

EXPORT
PROMOTION

Personnel Management
Issues in the U.S. and
Foreign Commercial
Service



Re: The
GAO's
approval
Report

justify the
findings



United States
General Accounting Office
Washington, D.C. 20548

National Security and
International Affairs Division

B-208993

March 16, 1990

The Honorable John D. Dingell
Chairman, Subcommittee on Oversight
and Investigations
Committee on Energy and Commerce
House of Representatives

Dear Mr. Chairman:

This report responds to your request that we (1) update our 1987 review of personnel management issues in the U.S. and Foreign Commercial Service¹ (US&FCS), the export arm of the International Trade Administration; and (2) identify any new personnel management issues affecting the provision of service to the U. S. business community.

Results in Brief

Since our 1987 review, the US&FCS has taken several steps to improve the administration of its personnel system. Assignment, selection, and appraisal policies have been clarified or revised, and more documentation is now being required to support personnel decisions. We did not find evidence of widespread morale problems as was the case in our 1987 review. In addition, senior officials we interviewed were optimistic about the prospects for further improvements in the management of the personnel system under the current Director General, who assumed her position in June 1989.

However, some assignment and selection practices are questionable and continue to diminish the credibility of the US&FCS' personnel management system. In addition, the commercial staff levels in Taiwan are not in compliance with the requirements of the Omnibus Trade and Competitiveness Act of 1988.

Improvements made to the US&FCS' time-in-class and commissioning and tenure policy, and efforts to improve its performance appraisal process are addressed in appendix I.

Background

The Foreign Commercial Service was created in April 1980 to revitalize the U.S. trade promotion program in order to help U.S. firms meet

¹ Personnel Management Issues in the Foreign Commercial Service (GAO/T-NSIAD-87-12 Mar 11 1987).

increasing competition in world markets. In 1982, the Foreign Commercial Service was combined with Commerce Department district offices to form the US&FCS. The foreign operation, the subject of this report, has about 150 commercial officers in 123 foreign posts in 65 countries. Officers are typically assigned to 3- or 4-year tours of duty at foreign posts. The officer corps is augmented by about 460 foreign service nationals.

The US&FCS is headed by an Assistant Secretary level Director General. The foreign service component of the US&FCS, along with the foreign services of seven other executive agencies and departments, is governed by the Foreign Service Act of 1980, as amended. The US&FCS is a career service, similar to the Department of State's Foreign Service and, under specific conditions, non-career limited appointments can be made to certain positions.

In 1987, we found that

- agency practices were not always followed in choosing people for overseas assignments;
- selection decisions involving the use of limited appointees were not adequately documented;
- irregularities in the performance appraisal process occurred; and
- potential problems in the management of the "up or out" or so-called time-in-class system existed.

We concluded that, in aggregate, these problems had given the impression of a breakdown in the management of the personnel system, lowered the morale of the officer corps, and diverted energy and attention away from the goal of assisting U.S. businesses to expand exports.

We further concluded that the problems stemmed, in large measure, from the concentration of authority in the office of the Director General, rather than in a personnel system with real checks and balances, and from the lack of departmental oversight.

In response to our findings, the Under Secretary for International Trade in an October 9, 1987, letter, provided a list of actions that had been taken to make US&FCS personnel policies more transparent, consistent, and effective. In this report, we assess the impact of these changes on the US&FCS' personnel management practices.

Some Questionable Assignment Practices Found

During our 1987 review we received many complaints and allegations regarding abusive assignment practices at the US&FCS. In examining these complaints and allegations, we identified questionable practices, such as accepting bids from officers for new assignments scheduled to begin before their current tours were completed, routinely assigning officers to posts above and below their personal rank, and filling vacancies without advertising them. We also found evidence that some assignments may have been punitive in nature and were made outside of the formal paneling process. We concluded that changes in the assignments process were needed to improve officer morale and add credibility to this process.

In response to our criticisms, the US&FCS issued a detailed assignments policy in December 1987 to help all officers better understand the overseas assignment process. The US&FCS also established a system for appealing assignments. These steps were aimed at making the assignment process more systematic and transparent.

However, these actions did not address one of the specific assignment practices that we had previously questioned—the acceptance of bids from officers for assignments scheduled to begin before their current tours were completed. This practice has resulted in tour curtailments and, coupled with the practice of granting tour extensions, continues to diminish the credibility of the assignment process. Some US&FCS officers told us that these two practices are used to manipulate the assignment process.

Questionable Tour Curtailments

The US&FCS operations manual explicitly states that tour curtailments are not conducive to efficient management. In addition, in its written comments to the House Government Operations Committee concerning our 1987 review, Commerce stated that curtailments are rarely given, and when they are, the reasons are required to be fully documented in the assignment panel minutes. US&FCS officials also told us that curtailments are mostly given to officers for medical or compassionate reasons, or for language training in advance of their arrival at new assignments.

We found that tours had been curtailed in 25 of the 193 assignments that took place between April 1987 and July 1989, the period covered by our review. Eleven of the curtailments were made for documented medical or language training reasons and 10, as a US&FCS official explained, although undocumented, were made for the “needs of the service.”

However, 4 of these 25 curtailments did not appear to meet the stated requirements because they were neither (1) granted for medical or compassionate reasons, nor (2) justified in the assignment panel minutes or the official record for these decisions. In addition, other officers of equivalent rank were available to fill the new positions.

Two of the four curtailed assignments were made in 1988 and involved the highly visible curtailments of 1 year for Senior Foreign Service officers in New Delhi, India, and Seoul, Korea, to enable them to assume senior commercial officer positions in Paris, France, and Ottawa, Canada, respectively. The records indicated that the officer in New Delhi submitted his bid for a new post within weeks of his arrival in New Delhi for a 3-year assignment.

The other two cases involved 1-year curtailments of an FO-1 (GS-15 equivalent) and an FO-2 (GS-14 equivalent) officer assigned to Stockholm, Sweden, and Montreal, Canada, respectively, to fill positions in Moscow, U.S.S.R., and Rome, Italy, respectively.

Although there was no justification for these curtailments in the assignment panel minutes, in subsequent discussions with US&FCS officials we were told that three of the four curtailments were made because of the officers' unique language skills. We were offered no explanation for the reassignment of the commercial officer from New Delhi to Paris. Although these curtailments could be a consequence of the small size of the service and the critical role played by language qualifications, the use of unjustified curtailments raises questions among other career officers about their possible misuse.

In response to employee complaints about assignment practices, the current Director General sent a memo on August 1, 1989, to members of the assignment panel stating that she was disturbed to hear reports that some assignments had already been "promised" to certain individuals prior to their consideration and decision by the assignment panel. She reminded assignment panel members to avoid any appearance that some assignments are predetermined.

Questionable Tour Extension

A lack of consistency in implementing the assignment process can be demonstrated by the decision to extend the tour of the Senior Commercial Officer in Bonn to 9 years. At the time of this extension (October 1988), US&FCS policy on tour lengths stated that the maximum tours at

overseas posts would be 5 years, except in "rare" cases. While the regulations recognize that on occasion tours may need to be extended, the granting of a fixed 4-year extension was unprecedented. Some officers told us that this extension was an example of how the assignments process is sometimes manipulated.

Based on our review of pertinent documentation concerning the Bonn assignment, we question the reasons cited in granting this extension. The minutes of the assignment panel meeting justifying this decision stated that the officer was given a 4-year extension because of the need to provide continuity in an important market prior to European Community integration in 1992. However, the records also showed that three other qualified Senior Foreign Service officers were available to fill the position—including one proficient in German and assigned to another European Community post.

We found nothing in the files to indicate the assignment panel analyzed the possible implications of this decision and its future impact on the assignment process. Our analysis also indicated that the US&FCS did not announce that special consideration would be given to officers stationed in Europe.

In response to the widespread criticism regarding the extension of the Bonn Senior Commercial Officer's tour to 9 years, which occurred prior to her tenure, the Director General approved a new policy on tour length in October 1989. The new policy allows extensions of tours of duty that go beyond 5 years only in unusual circumstances and only in 1-year increments. Because this new policy does not allow for multiyear extensions, the current Director General believes the assignment process is now more predictable. We agree that this revised policy is an improvement over the prior policy.

Selection Process Needs Improvements

Some selection decisions continue to be made through procedures that raise questions about the credibility and transparency of the overall selection process. Our review showed that (1) established guidelines concerning the appointment of non-Foreign Service officers to certain positions were not always followed, (2) no guidelines have been established for an exchange program with other International Trade Administration units, and (3) a questionable selection process was used by a prior Director General in his last days in office.

Use of Limited Appointments Does Not Always Comply With Guidelines

In certain situations, individuals who are not career Foreign Service officers may be appointed to fill a specific position for a limited period of time. These are called non-career limited appointments. The US&FCS authorizing legislation restricts the use of non-career limited appointments to fill Senior Foreign Service positions to situations where no career officer with the necessary qualifications is available and the applicant is uniquely qualified for the position. In addition, Commerce Department guidelines require that career officers and career candidates be given preference over these appointees in filling vacancies. In our 1987 review we found that non-career limited appointees were selected to fill four of the seven Senior Foreign Service positions for which both career and non-career appointees had competed. In most cases, there was no documentation explaining why limited non-career individuals were selected in lieu of career officers.

In addition, there was one assignment of a non-career appointee to a Senior Foreign Service position for which only his name and no others were submitted to the assignment panel for consideration. Career officers told us that these practices illustrate how the personnel system was manipulated to fill positions with preselected candidates.

In response to our findings, the US&FCS introduced a new documentation requirement, a "Certificate of Need," to support the need for and qualifications of each limited appointee.

Since our last review, US&FCS has substantially reduced its use of non-career limited appointment to fill overseas positions. During our last review, 40 non-career limited appointees were serving overseas. As of September 1989, that number had been reduced to nine.

Although most of these non-career appointments and extensions we examined were made in accordance with existing agency procedures, three appointments and two tour extensions were not. In one appointment, US&FCS records indicated that other career officers or career candidates were available to fill the positions without the curtailment of prior assignments. In a second case, no certificate of need was completed to document the reasons for hiring the limited appointee. In the third case, the appointee did not meet the minimum language requirement for the position.

In addition, we also noted that two non-career limited appointees were extended even though the records indicated that qualified career

officers at equivalent rank were available and had bid to fill the positions.

Guidelines Needed for Program Used to Hire Limited Appointees From Other ITA Units

The primary source of limited appointees for US&FCS positions is the International Trade Administration-US&FCS Exchange Program. Fourteen of the 33 US&FCS non-career limited appointees employed during the time frame covered by our review were selected from the exchange program between US&FCS and domestic ITA units. According to US&FCS officials, this program was designed to allow civil service employees of ITA domestic offices to work in US&FCS overseas assignments and to allow US&FCS Foreign Service officers to work in assignments within the United States. However, no policy or guidelines have been developed to define the purpose, scope, or eligibility requirements for the ITA-US&FCS Exchange Program, even though it is used as a major avenue of entry of limited appointments into the Foreign Commercial Service.

We believe the lack of guidelines for the exchange program has contributed to questions being raised among other career officers about the validity of the selection process. We believe a written policy would enhance the credibility of this program.

Questionable Selection Process

The circumstances surrounding the selection of two individuals serving limited appointments that were about to expire raises questions about the transparency and credibility of the selection process.

On his last day in office, August 29, 1988, a previous Director General converted two limited appointees to career candidate status at the FP-1 level (GS-15 equivalent) using unusual procedures. In mid-1988, the US&FCS issued an announcement for applicants for an unspecified number of FP-1 level jobs. Through a scoring process, seven candidates were considered qualified for the positions. The two candidates hired were ranked third and sixth among the seven candidates competing for the positions. The rankings are based on a comprehensive assessment of applicant qualifications given by the US&FCS testing center. Selections are usually based on rank order.

On April 4, 1988, before hiring the two candidates, the Director of the US&FCS' personnel office sent a letter to all qualified candidates competing for the positions. The letter encouraged them to compete for lower FP-2 (GS-14 equivalent) positions, and said that budget constraints made it "unlikely that US&FCS would hire career candidates at the FP-1

level in the foreseeable future." The letter further stated that "it can be guaranteed that even the highest-ranking FP-1 level candidates would receive an offer of appointment."

Four candidates accepted this advice and agreed to eliminate themselves from competition at the higher level. After these four ranked candidates removed themselves from competition, FP-1 jobs were offered to the lower-ranked candidates who were serving limited appointments. The two candidates accepted offers at the FP-1 level. Another candidate who was also offered a position at this level declined the offer.

In response to our inquiries about these selection procedures, US&FCS officials involved in the selection process told us that there was no significant change in the US&FCS' staffing situation during the entire process—from applicant assessment to final selection—that could justify the need to use these procedures. They also said that, to their knowledge, this was the first time that these procedures had been used in the selection process.

Level of Commercial Staff in Taiwan Does Not Comply With Requirements of Law

The Omnibus Trade and Competitiveness Act of 1988 directs the American Institute of Taiwan (AIT), the unofficial organization that promotes U.S. interests in Taiwan, to employ a number of commercial personnel commensurate with the number of US&FCS personnel permanently assigned to the U.S. diplomatic mission in South Korea. AIT has only three full-time professionals performing commercial duties. The U.S. Embassy in South Korea, by comparison, has six.

Because of this staffing shortfall, AIT reported that it is unable to adequately service the large number of requests for assistance it receives from the U.S. business community and to monitor important trade developments in Taiwan, the United State's fifth largest trading partner.

Commercial staff levels in Taiwan are not funded nor determined by the US&FCS but by AIT, which receives a separate appropriation from Congress to fund its operations. US&FCS commercial officers are separated from the service before filling AIT positions. An official from the AIT told us that the Institute does not presently have the resources to hire any additional commercial staff and that Congress or the Department of Commerce needs to give more money to the Institute for this purpose.

Conclusion

To safeguard the integrity of the Foreign Commercial Service and maintain a highly motivated officer corps, the US&FCS needs more consistency in its personnel management system. Substantial progress has been made since our last review. However, exceptions to stated policies and the lack of clear policies in some areas continue to detract from the personnel management system. The US&FCS can take additional steps to make the assignment and selection processes more transparent and predictable. In addition, the staffing shortfall at AIT has not been adequately addressed.

Recommendations

To improve the administration of the US&FCS personnel management system, we recommend that the Secretary of Commerce direct the Under Secretary of the International Trade Administration to:

- revise US&FCS assignment policies on curtailments to require a written justification that explains why it is in the best interests of the service to curtail an officer's assignment when other career officers are available to fill the position, and
- develop guidelines outlining the purpose, scope, and selection requirements for the ITA Exchange Program.

In addition, the Executive Director of the American Institute of Taiwan needs to:

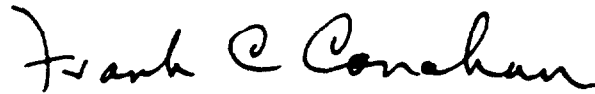
- either seek through appropriate channels additional resources from Congress to ensure that commercial staff levels at the American Institute of Taiwan are equal with those in South Korea, as required by the Omnibus Trade and Competitiveness Act of 1988, or seek legislative relief from this requirement.

As requested, we did not obtain formal agency comments on this report; however, we discussed our findings with appropriate Commerce Department and American Institute of Taiwan officials and incorporated their comments where appropriate.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date it is issued. At that time, we will send copies to the Secretary of Commerce and appropriate congressional committees and make copies available to other interested parties upon request.

This report was prepared under the direction of Allan I. Mendelowitz, Director, International Trade and Finance Issues, (202) 275-4812. The principal GAO staff members responsible for this review were Benjamin Nelson, Assistant Director, Stephen Lord, Evaluator-in-Charge, and Barbara Wooten, Evaluator.

Sincerely yours,

A handwritten signature in black ink that reads "Frank C. Conahan". The signature is written in a cursive, slightly slanted style.

Frank C. Conahan
Assistant Comptroller General

Changes Made in Time-In-Class Policy

One of the unique features that distinguishes the Foreign Service from its Civil Service counterpart is the "up or out" principle. Its objective is to ensure continued high quality staffing in U.S. missions overseas. Locally, an officer must be promoted through merit selection in a certain length of time or else be involuntarily separated from the Foreign Service, or as commonly referred to, "TICed out," with TIC representing "time-in-class."

In our last review, we said the US&FCS could lose a large number of experienced officers over a short period of time under its existing time-in-class policy, which is the most stringent of the Foreign Service agencies. We concluded that the number of people hired at the upper level had limited the promotion opportunities for officers who began their career in entry- or mid-level positions, and the impact of such hiring practices would be most acute at the FS-2 level. We also noted that we could find no justification for the US&FCS' TIC policy, and that US&FCS management should thoroughly review this policy. Such a review, in response to changing needs, is envisioned in the Foreign Service Act, which allows for changes in time-in-class limits. US&FCS officials agree to review the policy and make changes, if needed. Reviews of the US&F time-in-class policy were completed in June 1988 and October 1989.

The June 1988 review noted that several of the most senior and experienced Senior Foreign Service officers may be TICed out before reaching mandatory retirement age. All officers at the Minister-Counselor level were promoted to this level after serving only three of the eight years allowed in the Counselor position (the rank just below Minister-Counselor). When promoted, they in effect "lost" 5 years of TIC that they would have had if they had remained at the Counselor level. Thus, these officers' TICs will expire before they gain the minimum years of service needed to earn immediate retirement benefits.

The October 1989 review also noted that in the years 1994 through 1996, the US&FCS will lose 27 officers due to the expiration of their time in class. Of these, 22—or approximately one-third of the entire class—are projected to be from the FS-2 level. Also, substantial additional losses are likely to occur in succeeding years. The review concluded that these losses will be of significant concern to management because a large percentage of experienced, relatively senior US&FCS officers will be lost within a period of a few years, and many of these officers will not be eligible for retirement when they are TICed out.

The policy was revised in January 1990 to correct the weaknesses identified in the studies. Table I.1 shows the new time-in-class guidelines used by the US&FCS.

Table I.1: Maximum Time-In-Class Limits

Personal Rank	Maximum Length of Service Under	
	Former Policy	New Policy
Career Minister	4	4
Minister-Counselor	5	13 years' combined experience at Minister-Counselor and Counselor level with no more than 8 in Counselor level
Counselor	8	
FS-1 and FS-2	15 years with no more than 8 years at the FS-2 level	20 years' experience in FS-1 through FS-4 levels, with no more than 15 years in any class
FS-3	5	
FS-4	5	

Changes Made in Commissioning and Tenure Policy

US&FCS career candidates serve an apprenticeship period in the Foreign Service to demonstrate their suitability for career status as commissioned Foreign Service Officers. The US&FCS Commissioning and Tenure Board determines whether these officers have performed at a satisfactory level and demonstrated the required level of competence and growth potential.

Under the former policy, which was changed in October 1989 in response to concerns we expressed to US&FCS management, the key criterion for favorable judgment by the Board was the demonstrated potential to perform effectively as a Foreign Service Officer in a normal range of assignments up through the FS-1 level. There was, however, a conflict with this criterion: Board members were also directed not to disadvantage applicants for commission and tenure who served in "nontraditional" positions and thus were not able to demonstrate a full range of traditional duties in overseas posts. The conflicting guidance thus potentially allowed candidates with little or no export promotion experience to be commissioned and tenured as a Foreign Service Officer before demonstrating the potential to perform effectively in a normal range of US&FCS assignments. We note that the Foreign Commercial Service was created in 1980 because Congress was not satisfied with the State Department's overseas trade promotion efforts. Specifically, a 1977 investigation by the House Committee on Government Operations stated that the State Department had failed to recruit employees with strong commercial backgrounds to perform commercial functions.

In October 1989, the US&FCS' commissioning and tenure policy was revised. Under the new policy, the Board may determine that a candidate has demonstrated the required potential while serving in a nontraditional position. Thus, the candidate is not assured that serving in a "nontraditional" position is sufficient for tenure review, as was the case under the previous policy. Furthermore, the Director General stated that US&FCS management is now notifying tenure candidates in nontraditional positions that they should seek opportunities to demonstrate export promotion capabilities in traditional positions before facing tenure determinations.

Changes Made in the Performance Appraisal Process

In our earlier review, we found irregularities in the performance appraisal process and noted that the US&FCS' instructions in this area were inadequate in that they did not spell out the duties and responsibilities of rating and reviewing officials and the procedures to be followed. Accordingly, we suggested that the US&FCS adopt new appraisal procedures. US&FCS officials agreed with our assessment. They have developed new appraisal guidelines for members of Commerce's Foreign Service to better clarify and identify individual accountability in the rating process. This policy guidance was issued on April 1989.

Objectives, Scope, and Methodology

Our observations on the US&FCS' overseas assignment process are based on our review and analysis of the results of the 33 US&FCS assignment panels held between April 1987 and July 1989. Over this time period, the panel made about 180 assignments. Assignment panel membership generally includes: (1) the Director General as Chair, (2) the Assistant Secretary for Trade Development, (3) the Assistant Secretary for International Economic Policy, (4) the Deputy Assistant Secretary, Office of Foreign Operations, and (5) the Assignments Officer, Office of Foreign Service Personnel. We also examined Office of Foreign Service Personnel records, reports, and memoranda. Most of the personnel actions we analyzed for this review predate the tenure of the current Director General.

In addition, to obtain information and perspective about how the US&FCS' personnel management system operates, we interviewed various US&FCS officials, including senior career officers and staff in the Office of Foreign Service Personnel and the Office of Foreign Operations. We also interviewed officials from the International Trade Administration's office of Trade Development and International Economic Policy and officials from the American Institute in Taiwan, the U.S.' representational office in Taiwan.

ITA's possible overobligation of fiscal year 1987 funds, which you also requested GAO to examine, is being reviewed by our General Counsel and will be addressed in a separate report if significant deficiencies are found.

Our review was conducted in accordance with generally accepted government auditing standards from May 1989 to October 1989.

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