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STUDY BY THE STAFF OF THE U.S.

General Accounting Office

Government Programs And Organization Affecting Exports

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PREFACE

During the past 10 years, the U.S. balance of trade has steadily deteriorated, with deficits on an f.a.s. 1/ basis reaching $26.5 billion in 1977 and $28.5 billion in 1978. In light of these trade deficits, we reviewed Government organization, policies, and programs which effect the U.S. ability to export.

In April 1978, the President created an interagency task force chaired by the Secretary of Commerce to study and recommend measures to increase U.S. exports. Largely on the recommendations of this task force, the President announced the creation of a new national export policy which included direct assistance to exporters, reduction of domestic barriers, and reduction of import barriers and export subsidies of other countries. The new policy, however, was more a statement of concern than an overall policy with specific objectives and performance criteria.

Presently, Government export assistance is available through the programs of various agencies. Assistance to the industrial sector is available through the Departments of Commerce and State, the Export-Import Bank and the Small Business Administration. Commerce administers export stimulation, and export counseling and information programs. Jointly, Commerce and the State Department economic and commercial officers operate consumer identification and contact programs and overseas sales promotion programs to bring U.S. suppliers in contact with foreign buyers. Commerce directs its programs primarily toward small to medium-sized firms. The Export-Import Bank, which directs its assistance primarily toward large firms with high value exports, is the primary source for export financing and insurance for firms in the industrial sector. Financial assistance is available from the Small Business Administration, which also provides export counseling.

The Department of Agriculture is the focal point for export assistance to the agricultural sector. Agriculture operates export promotion programs similar to those administered by Commerce and State and can provide export financing and insurance through the Commodity Credit Corporation and, to a lesser extent, the Public Law 480 export credit program.

1/Free alongside ship: value of goods includes all costs incurred prior to loading for transportation between countries.

Also, since its trade promotion programs are designed to meet high-priority domestic objectives of maintaining farm incomes and stabilizing food costs, Agriculture can subsidize the activities of marketing associations, or cooperators, which work to create foreign demand for U.S. agricultural products on an industry basis, as well as the foreign market development activities of certain agricultural firms. In contrast to the industrial sector, Agriculture directs both its promotion and financing programs toward the objective of exporting commodities, regardless of the size of the organization involved.

Business spokesmen have argued, however, that the export assistance provided to the private sector is, at least in part, negated by a series of policies which taken together have an adverse affect on trade. Such policies include export licensing, human rights, anti-boycott legislation, foreign corrupt practices law, anti-trust regulations, and certain tax policies, especially concerning the Domestic and International Sales Corporation and Section 911 provisions of the Internal Revenue Code. Business representatives allege that the uncertainty surrounding the administration of these policies makes it extremely difficult for them to make the decisions necessary to enter or remain in the export market. The Government, they argue, needs to strategically coordinate the various policies and programs which, in effect, create the environment in which exporting takes place.

According to both public and private sector spokesmen, the Government needs to insure that trade programs and policies are administered to (1) promote the efficiency of Government efforts to increase exports and (2) minimize the adverse effects of non-trade policies on U.S. exporting ability. Over the past 10 years, various administrations have created groups within the Executive Office of the President to coordinate economic policy. These groups were composed of the heads of Government agencies involved in administering international trade programs, and other top economic officials. Such membership, however, is rarely able to transcend the particular interests of the concerned agencies. In the absence of the delegation of clear decision-making authority to one member, such groups rarely become more than a new forum for discussing policy differences.

The Congress and the administration have recently put forward various plans to reorganize the Government's trade policymaking structure. These plans include proposals to

--create a new cabinet-level department which would be composed of various trade-related agencies and activities presently dispersed throughout the Federal Government;

--strengthen the existing Department of Commerce by transferring to it various Federal trade agencies and activities; and

--consolidate trade policymaking, administration of trade regulations and laws, and coordination of industrial and agricultural trade activities under the Special Representative for Trade Negotiations.

These proposals all seek to give trade a higher priority in the policymaking process and to improve Government coordination in assisting the U.S. private sector compete in the international market.

In making this study, we interviewed officials of the Departments of Commerce, Agriculture and State; the Export-Import Bank; and the Small Business Administration. We talked with officials of the Department of Justice, Overseas Private Investment Corporation, Office of Management and Budget, Federal Trade Commission, and Office of the Special Representative for Trade Negotiations about the effect of their programs and functions on exporting. In addition, we obtained information from publications of these agencies, the Congressional Research Service, and a number of private sector organizations. As exporting is primarily a function of the private sector, we held extensive interviews with company and trade association representatives.

J. K. Fasick

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Contents

ABBREVIATIONS

CIEP	Council on International Economic Policy
CCC	Commodity Credit Corporation
DISC	Domestic International Sales Corporation
EAA	Export Administration Act
EPB	Economic Policy Board
EPG	Economic Policy Group

FAS	Foreign Agricultural Service
FTC	Federal Trade Commission
ITA	Industry and Trade Administration
OGSM	Office of the General Sales Manager
OPIC	Overseas Private Investment Corporation
PEC	President's Export Council
PICEE	President's Interagency Committee on Export Expansion
SBA	Small Business Administration
SEC	Securities and Exchange Commission
STR	Special Representative for Trade Negotiations
TORS	Trade Opportunities Referral Service

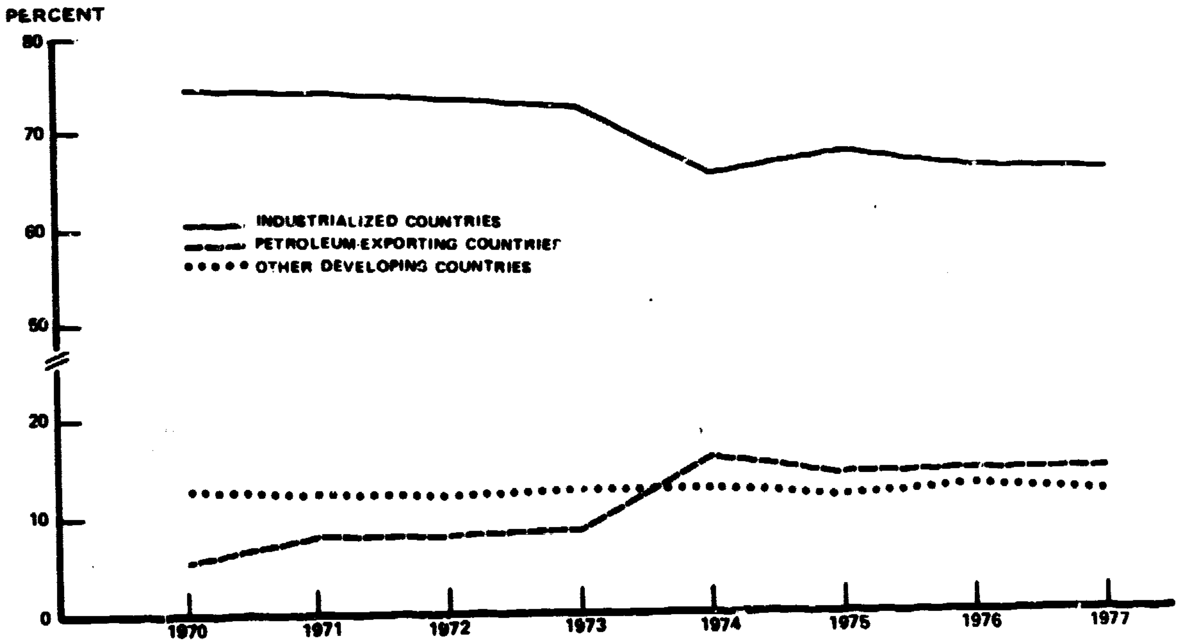
CHAPTER 1

EXPORTING AS A NATIONAL PRIORITY

Over the past 9 years, the pattern of world trade has changed significantly. In 1978 world trade rose to a record $1.28 trillion, a 24.2 percent increase over the 1977 level of $1.03 trillion and a 352.6 percent increase over the 1970 level of $282.8 billion. Not all countries benefited equally from this increase. In 1970, the industrialized countries accounted for 74.1 percent of world exports and petroleum-exporting and other developing countries accounted for 6.6 percent and 12.9 percent, respectively. By 1977 the petroleum-exporting countries had more than doubled their share to 14.1 percent. In contrast, the industrialized countries' share had decreased to 65.8 percent. Other developing countries had slightly increased their share to 13.4 percent.

INDUSTRIALIZED, PETROLEUM-EXPORTING AND OTHER DEVELOPING COUNTRIES' SHARE OF WORLD EXPORTS (1971-77)

(Free on Board Basis) (note a)

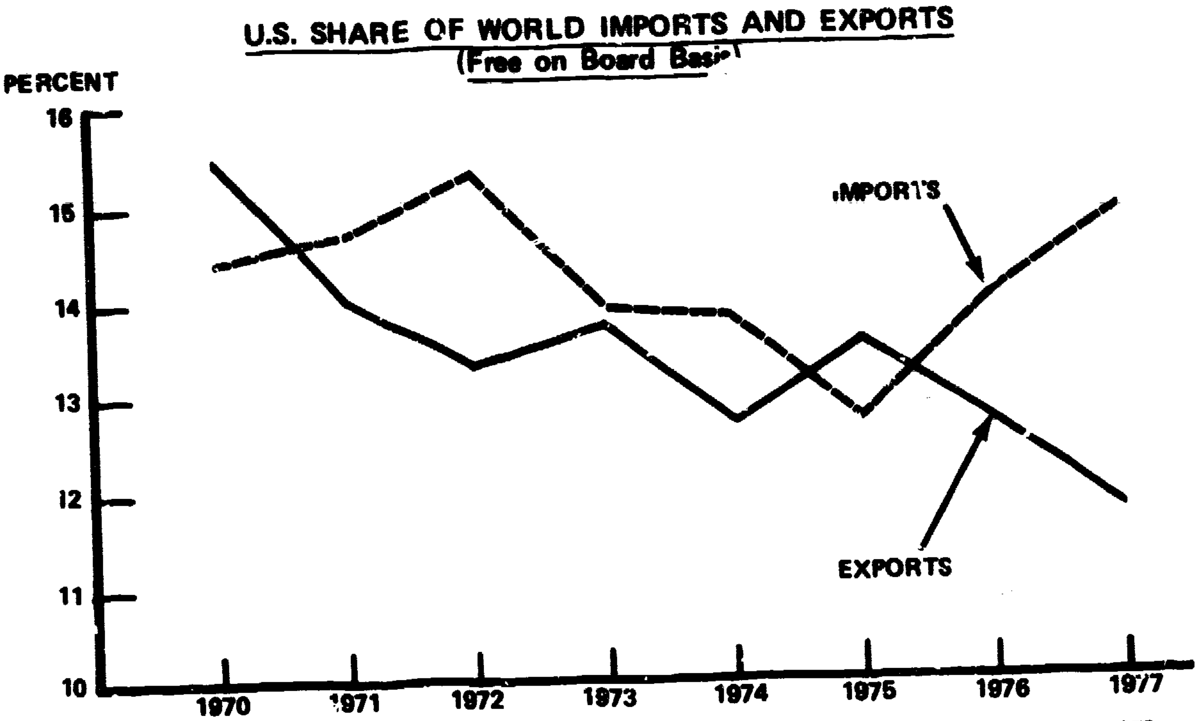


a/ VALUE OF GOODS EQUALS THEIR MARKET VALUE IN THE EXPORTING COUNTRY.

SOURCE: INTERNATIONAL MONETARY FUND, "INTERNATIONAL FINANCIAL STATISTICS", MAY 1975 AND DECEMBER 1978

THE U.S. TRADE POSITION

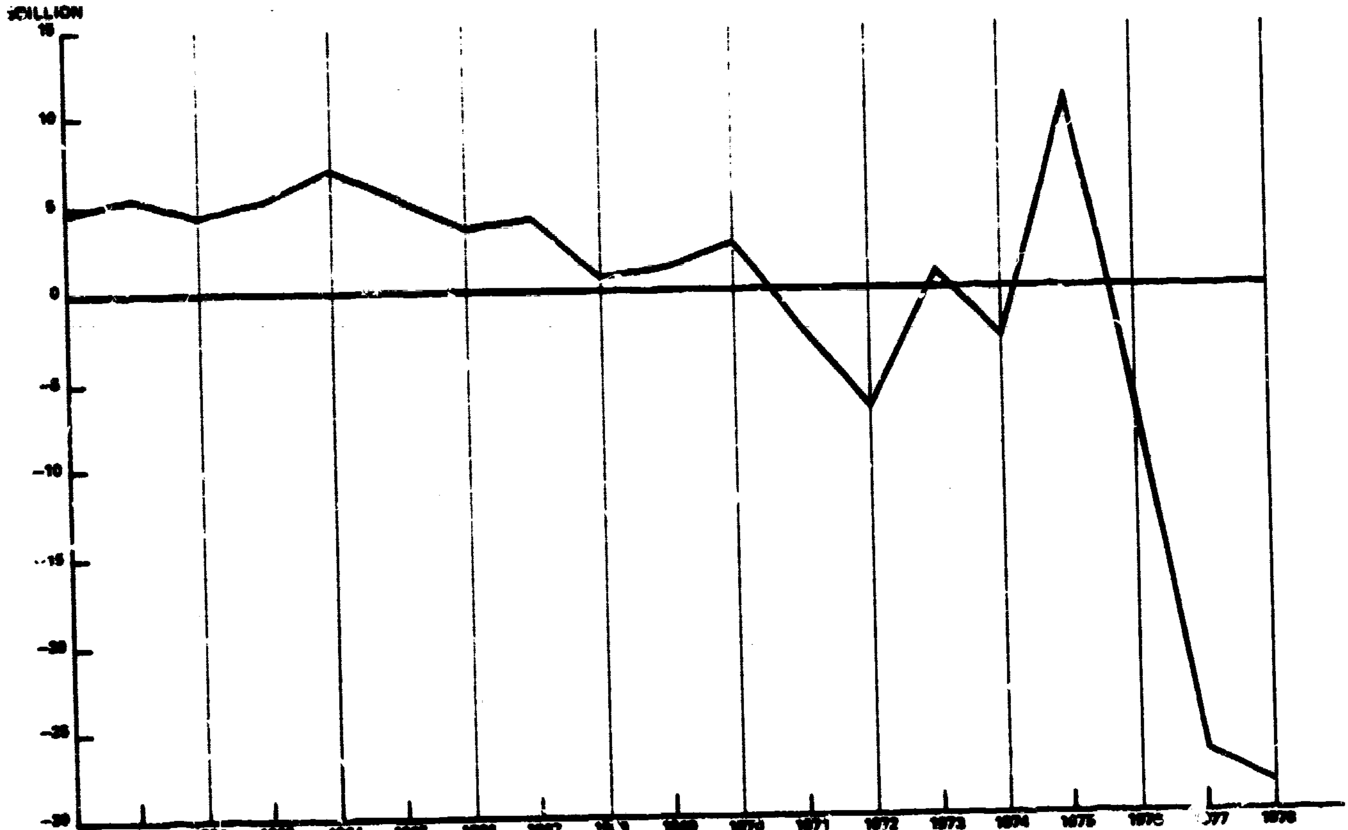
For a number of reasons--both internal and external--the U.S. trade balance has significantly deteriorated. While the U.S. share of world exports decreased from 15.4 to 11.8 percent since 1970, its share of world imports increased from 14.4 to 14.9 percent.



SOURCE: INTERNATIONAL MONETARY FUND, "INTERNATIONAL FINANCIAL STATISTICS," MAY 1975 AND DECEMBER 1978

After enjoying continual surpluses during the 1960's, the U.S. balance of trade began to deteriorate during the 1970s. In 1977 and 1978, the United States experienced deficits on an f.a.s. basis of $26.5 billion and $28.5 billion, respectively. These large deficits have weakened the value of the dollar, intensified inflationary pressure on the economy, and added to instability in the world economy.

U.S. BALANCE OF TRADE (1960-78)
(Free Alongside Ship Basis)



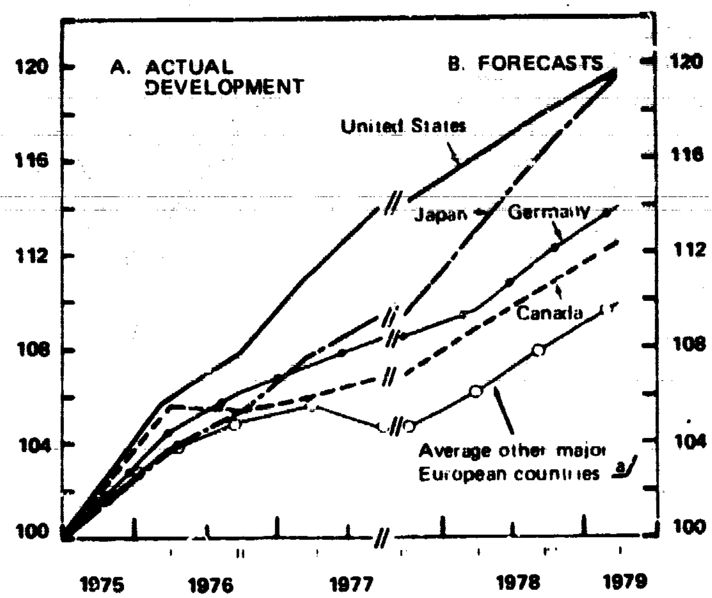
SOURCE: DEPARTMENT OF COMMERCE, "INTERNATIONAL ECONOMIC INDICATORS," SEPTEMBER 1978, AND THE "INTERNATIONAL ECONOMIC REPORT OF THE PRESIDENT," JANUARY 1979.

A complex array of factors have caused the deterioration in the U.S. balance of trade. The most important are (1) the increased cost of petroleum imports, (2) the faster rate of recovery of the United States from the 1974-75 recession than by its major trading partners, and (3) the weakened position of U.S. manufactured goods in world trade.

Since 1972 the U.S. petroleum importing bill has increased 750 percent. In 1972 the United States imported 1,654 million barrels of petroleum at a cost of $4.6 billion. After the 1973 oil embargo and significant price increases, the U.S. petroleum importing bill in 1974 was $26.1 billion for 2,174 million barrels and in 1978 was $39.1 billion for 2,815 million barrels. Indicative of the drain on foreign exchange, oil imports required 9.3 percent of U.S. export earnings in 1972 as compared with 27.2 percent in 1978.

Another often-cited reason for the deterioration of the U.S. trade position is that the United States recovered from the 1974-75 recession more rapidly than did its major trading partners, increasing its attractiveness as a market for non-petroleum commodities.

GROWTH OF FINAL DOMESTIC DEMAND
CONSTANT PRICE INDICES, 1975 = 100



a/ ITALY, FRANCE AND THE UNITED KINGDOM

SOURCE: ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT, "OECD ECONOMIC SURVEYS: UNITED STATES," JULY 1978

Conversely the slower rate of recovery from the recession by U.S. trading partners decreased the potential of those markets for U.S. goods. Whereas the export volume of the other major industrial countries increased a combined 25.3 percent from 1973 to 1977, U.S. exports increased only 10.9 percent.

VOLUME OF EXPORTS, 1973 AND 1977
(1967 = 100)

	United States		France		West Germany		Italy		Netherlands		United Kingdom		Japan		Canada	
Year	Volume	Change	Volume	Change	Volume	Change	Volume	Change	Volume	Change	Volume	Change	Volume	Change	Volume	Change
1973	166.2		203.9		182.6		173.2		218.0		158.3		229.0		175.9	
1977	184.3	10.9%	249.0	22.1%	219.6	20.3%	230.1	32.9%	240.0	10.1%	193.0	21.9%	359.9	57.2%	189.9	8.0%

Source: Department of Commerce, "International Economic Indicators," December 1978.

Since 1974 the weakening position of U.S. manufactured goods in world trade has been the major contributing factor in the slow rate of export growth. In 1974 the U.S. growth rate for manufactured exports was 42 percent. By 1977 that had slipped to 4 percent. Meanwhile, from 1975 to 1977 manufactured imports grew about four times as fast as manufactured exports.

Growth of U.S. Exports of Manufactured Goods (1970-77)
(Free Alongside Ship Basis)

Year	Amount (billions)	Percent increase
1970	$29.3	-
1971	30.4	3.8
1972	33.7	10.9
1973	44.7	32.6
1974	63.5	42.1
1975	71.0	11.8
1976	77.2	8.7
1977	80.2	3.9

Source: Department of Commerce, "International Economic Indicators," September 1978.

The reduced growth level has been attributed also to increased competition from the more advanced developing countries, other than petroleum exporters, in the export of manfactured goods.

IMPROVED EXPORT PERFORMANCE NEEDED

Compared with other industrialized countries, the United States has not been strongly oriented to international trade. Blessed with an abundance of natural resources and having the largest single domestic market in the world, the United States has not had to rely on international trade to maintain a viable economy. Over the past decade, the United States has been confronted with an increasing awareness that its self-sufficiency in natural resources is diminishing, and it has become increasingly dependent on imports, especially in the area of energy. In 1970 imports represented 4.1 percent of the Gross National Product. 1/ In 1977 this percentage

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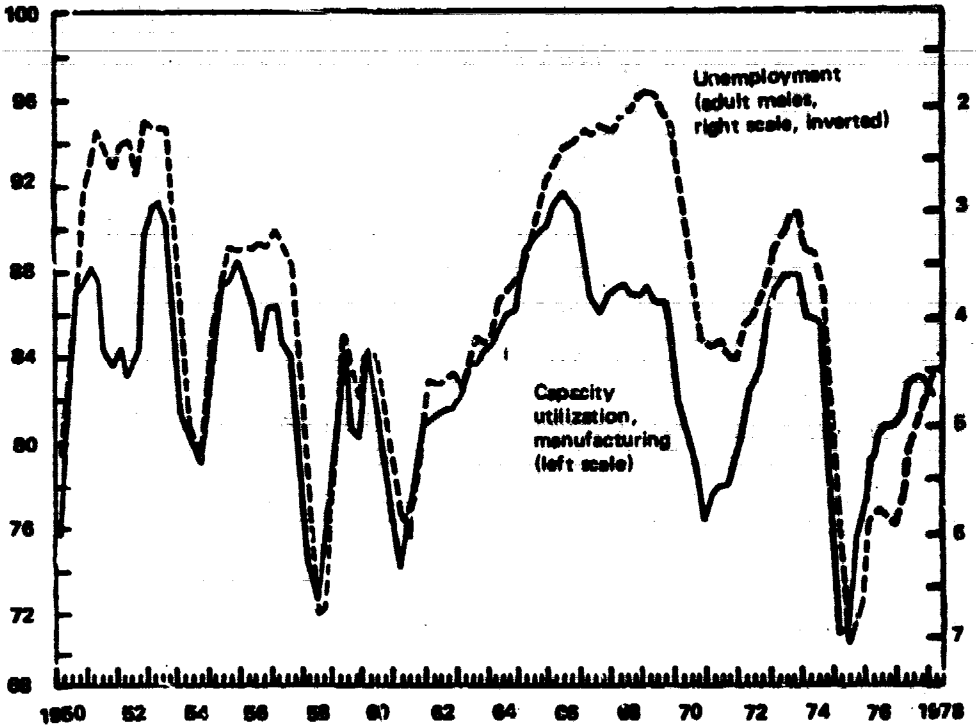
1/The value of all goods and services produced in a single year.

had increased to 7.8 percent, creating the need for growth in exports.

Additionally the need to export is evidenced by the need to create employment and to put into use presently unused production capacity. According to the Department of Commerce, about 17 percent of manufacturing capacity is unused, while the U.S. unemployment rate for 1978 was 6 percent.

CAPACITY UTILIZATION AND UNEMPLOYMENT IN THE UNITED STATES



SOURCE: ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, "OECD ECONOMIC SURVEYS: UNITED STATES," JULY 1978

The correlation between unused production capacity and unemployment is obvious from the above chart. The increased usage of idle capacity for export production would create an estimated 40,000 to 70,000 new jobs for each additional billion dollars in exports.

Traditional attitudes toward exporting

Exports represent a smaller proportion of the U.S. economy than they do of other industrialized countries, as can be seen in the following table.

Exports as a Percentage of Gross National Product, 1977

United States	6.3
Canada	21.0
Japan	11.8
West Germany	22.9
United Kingdom	23.6
France	17.1

Other nations have developed their economies with recognition of the need to export in order to import necessary materials and commodities. A commitment to exporting is essential to their economic well being, and perhaps their survival. Fiscal, monetary, industrial, and other policies are formulated in full recognition of their impact on the prospects for export growth and are usually developed to aid exporting and seldom, if ever, are permitted to retard export.

The international trade environment of the United States has not been shaped systematically, but has developed as a consequence of domestic and international political considerations. The establishment and administration of the policies affecting the trade environment is fragmented among many executive branch agencies, each with its own view of what is best for its program and constituency. There is no means of integrating individual objectives within a framework of a national export policy. As a result, the Government has not devised a comprehensive export policy.

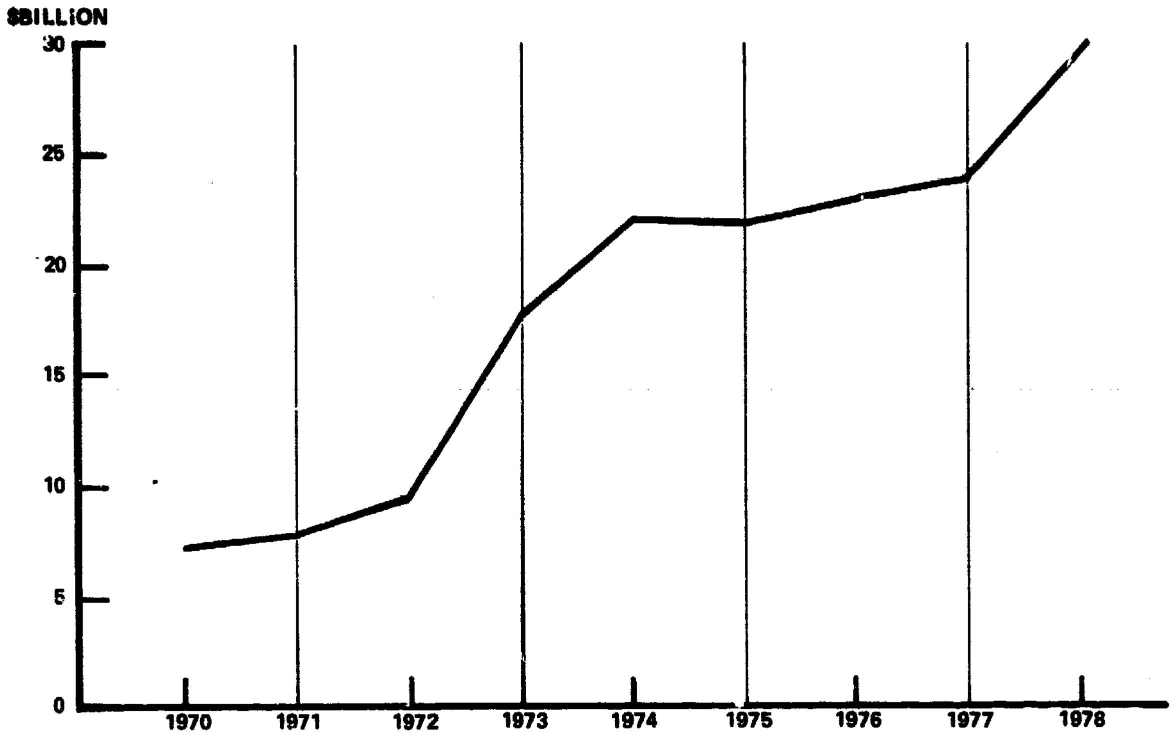
Business firms in other nations appear also to be more export oriented than do U.S. firms. Many U.S. firms capable of exporting are not, and many others, while already exporting, are selling much less abroad than they could. The foreign market appears largely impenetrable, and exporting is considered to have more disadvantages than advantages. Having the world's largest single domestic market, U.S. businesses are often reluctant to invest the time and resources necessary to expand into foreign markets.

Agricultural sector is an exception

In contrast to the industrial sector, the agricultural sector depends on export markets. Expanding overseas markets has been an important element of U.S. agricultural policy. Agricultural exports in 1978 were $29.4 billion, a 24.6 percent increase over the 1977 figure of $23.6 billion and a 308 percent increase over the 1970 amount of $7.2 billion.

U.S. EXPORT OF AGRICULTURAL PRODUCTS

(Free Alongside Ship Basis)



SOURCE: "INTERNATIONAL ECONOMIC REPORT OF THE PRESIDENT," JANUARY 1977, DEPARTMENT OF COMMERCE, "UNITED STATES FOREIGN TRADE ANNUAL," 1971-77, (OBR 78-21); AND "HIGHLIGHTS OF U.S. INTERNATIONAL TRADE," DECEMBER 1978.

Agricultural exports account for about 20 percent of total U.S. exports, and U.S. agricultural producers receive more than 20 percent of their agricultural income from foreign markets. Exports also account for the output from 1 of every 3 acres that U.S. producers harvest.

The Department of Agriculture attributes the growth of U.S. agricultural exports to four primary factors.

--The private sector has been both aggressive and creative in the international market.

--Strong research and development programs in both the public and private sectors help to give U.S. agriculture a competitive advantage in international markets.

--Certain legislation has facilitated and stimulated agricultural exports.

--The market development activities of the Department of Agriculture, in cooperation with the private sector, help create foreign demand for U.S. agricultural products.

Other factors, such as foreign government agricultural policies or poor harvests abroad, have also contributed to the growth in U.S. agricultural exports.

The impetus for increasing agricultural exports grew from the large surplus in the early 1950s. Since then the Government's domestic agricultural commodity programs have become predicated on strong support of export markets. Without the export market, the agricultural sector would face serious problems, caused by surpluses. For these reasons, the private and public agricultural sectors are committed to the need for a strong export position.

EXECUTIVE CONCERN FOR INCREASING EXPORTS

In a message to all U.S. ambassadors dated January 19, 1978, the President voiced his interest in increasing U.S. exports. He stated:

> "Trade expansion is particularly important at the present time. Sales abroad are needed to reduce unemployment, restrain protectionism at home, and to improve the nation's balance of payments. I ask that you, as my representative, ensure that a high priority is placed on trade expansion and other commercial programs in operation at your embassy."

In April 1978 the President created an interagency task force chaired by the Secretary of Commerce to study and recommend measures to increase U.S. exports.

Largely on the basis of the recommendations of this task force, the President announced a new national export policy. Although this announcement was more a statement of concern than a comprehensive policy outlining strategies to attain stated and quantifiable objectives, it did include a series of measures for direct assistance to exporters, reduction of domestic barriers, and reduction of import barriers and export subsidies of other countries.

Direct assistance to U.S. exporters

The following are actions taken or proposed to promote U.S. exports.

1. Export-Import Bank (Eximbank).

   --Increased loan authorization of $500 million for fiscal year 1980.

   --Increased flexibility in areas of interest rates, length of loans, and proportion of a transaction they can finance.

   --Simplified fee schedules and programs which are more accessible to smaller exporters and to agricultural exporters.

2. Small Business Administration (SBA).

   --Channel up to $100 million of its current authorization for loan guarantees to small business exporters to ease cash flow problems involving overseas sales or initial marketing expenses.

3. Export Development Program.

   --Allocate an additional $20 million in annual resources for programs of the Departments of Commerce and State to assist firms, particularly small and medium-sized firms, in marketing abroad through (a) a computerized information system, (b) assisting associations and small companies in meeting initial export marketing costs, and (c) assisting firms with export campaigns in promising markets.

4. Agricultural exports.

   --Increase the level of short-term export credits by almost $1 billion from fiscal year 1977 to fiscal year 1978, and support legislation for intermediate-term export credit.

   --Increase the level of funding support for cooperation with commodity associations by 20 percent for market development.

--Link the treatment of agricultural and non-agricultural products in the Multilateral Trade Negotiations.

--Open trade offices in key importing nations.

--Pursue an international wheat agreement.

5. Tax measures

--Provide relief for Americans employed abroad.

--Phase out Domestic International Sales Corporation (DISC) program or make it simpler, less costly, and more effective.

Reduction of domestic barriers

The President proposed the following actions regarding Government incentives and barriers which unnecessarily inhibit U.S. firms from selling abroad.

1. Export consequences of regulations.

--Inject a greater awareness throughout the Government of the effects on exports of administration and regulatory actions.

2. Export controls.

--Direct the Departments of Agriculture, Commerce, Defense, and State to take export consequences fully into account when considering the use of export controls for foreign policy purposes.

3. Foreign Corrupt Practices Act.

--Direct the Department of Justice to provide guidance to businesses concerning enforcement priorities under this Act.

4. Antitrust laws.

--Instruct the Department of Justice, in conjunction with the Department of Commerce, to clarify and explain the scope of the antitrust laws in the area of export.

5. Environmental reviews.

--Sign an executive order eliminating the uncertainties concerning the type of environmental review applicable and Federal actions relating to exports that will be affected.

Reduction in barriers and subsidies

The President also outlined the efforts through the Multilateral Trade Negotiations to eliminate or reduce tariff and especially nontariff barriers imposed by other countries and export subsidies given by other countries.

OBSERVATIONS

The United States finds itself in a changed economic environment. The trade deficits of the past decade, reaching the level of $28.5 billion in 1978, evidence the need to address exporting as a national priority. Although the President's announcement addressed specific issues involved in improving U.S. export performance, it did not establish an overall policy with specific objectives and performance criteria.

A spokesman for the Asia-Pacific Council of American Chambers of Commerce on May 1, 1978, before the Senate Governmental Affairs Committee, put the need in perspective. He said that persons in international trade had defined the major defects in U.S. Government organization as:

> "First, different from our trading partners, we lack in the U. S. a coordinating mechanism to focus the entire resources of our government on international trade problems. Uncoordinated, independent initiatives from a multitude of agencies, each with some interest in international commerce, result in confused programs with limited effectiveness. Vested and conflicts of interest preclude consistent policy and aggressive leadership toward committed national trade and investment goals.
>
> "Second, there is no policy formulating mechanism with authority in the government to establish international economic objectives and to evaluate the impact of existing and proposed legislation on these objectives."

Commerce recognizes that export demand policies alone cannot generate enough exports to cover our trade imbalance and that we must stimulate export supply by increasing the willingness and ability of companies to export and maintain or increase the competitiveness of U.S. exports.

CHAPTER 2

ASSISTANCE TO EXPORTERS

Many governments have export expansion programs. However, the degree of government involvement differs significantly from country to country.

Government Spending for Export Promotion, Major Industrial Countries

	Total value, 1976 exports (millions)	Government promotion spending 1976	Relative promotional intensity (spending per $1,000 of exports)
United Kingdom	$ 46,042	$95.7	$2.08
Italy	36,170	59.8	1.65
France	56,607	80.7	1.43
Japan	67,710	60.7	.90
UNITED STATES	114,887	64.4	.56
Netherlands	40,592	18.7	.46
Canada	39,028	14.5	.37
West Germany	103,560	15.5	.15
Switzerland	14,938	1.8	.12

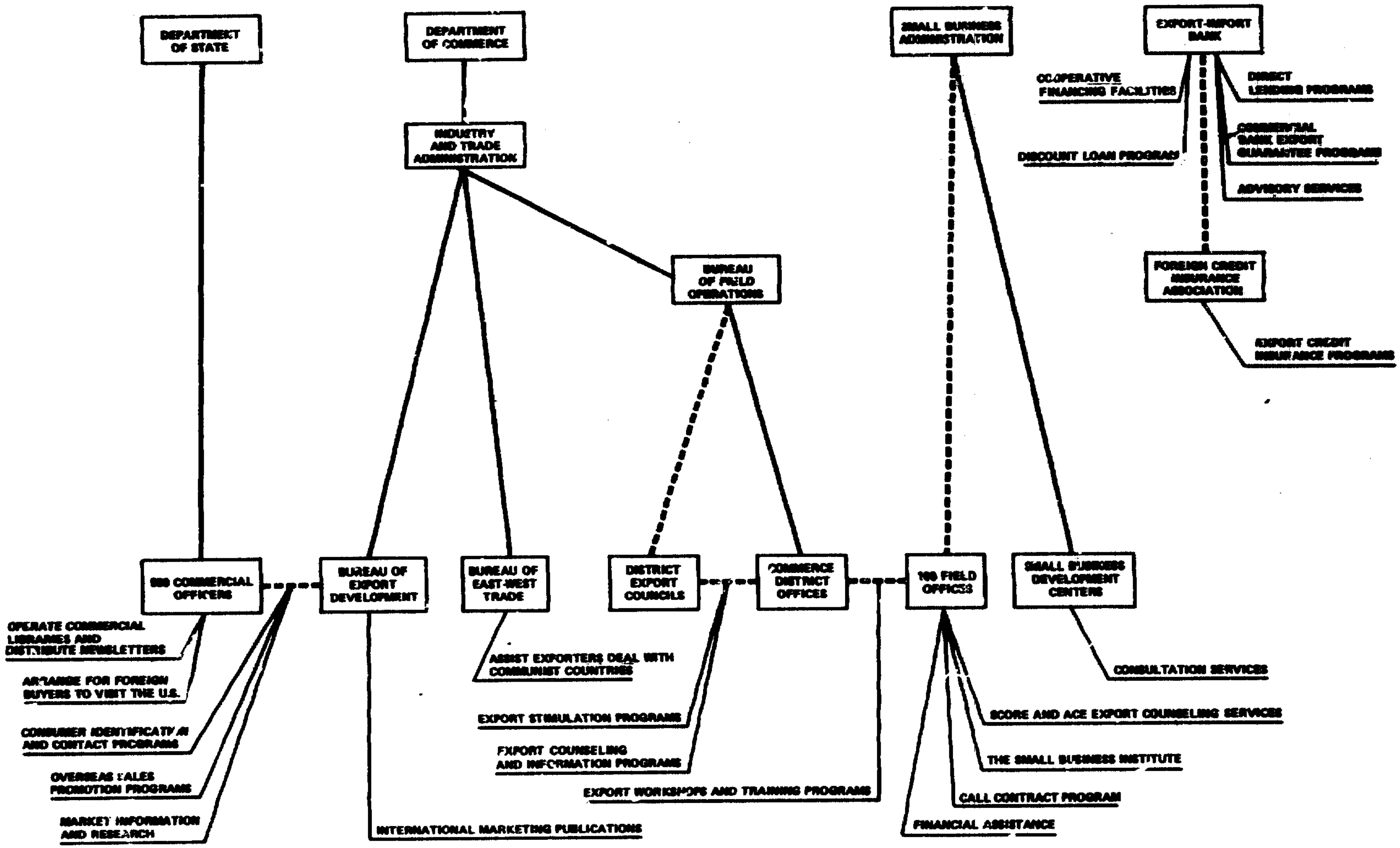
Source: Congressional Research Service, "Export Stimulation Programs in the Major Industrial Countries: The United States and Eight Major Competitors," Oct. 6, 1978.

The United Kingdom, Italy, and France have intensive Government-supported export promotion programs. In Japan export promotion is a closely coordinated function of both the public and private sectors. West Germany, the Netherlands, and Canada have modest programs relying mainly on the private sector. West German law requires exporters to financially support overseas chambers of commerce. Switzerland supports exports through a small semiofficial public/private organization. Most of these nations have close coordination between the various governmental agencies and between the public and private sectors in developing and administering their export promotion programs. In the United States, assistance to exporters is available under many programs and activities of the U.S. Government, State and local governments, and the private sector.

ASSISTANCE TO EXPORTERS IN THE INDUSTRIAL SECTOR

The primary U.S. Government programs to directly assist exporters in the industrial sector are administered by the Departments of Commerce and State, the Export-Import Bank, and SBA.

GOVERNMENTAL ASSISTANCE TO EXPORTERS IN THE INDUSTRIAL SECTOR: ORGANIZATION AND PROGRAMS



NOTES:
VERTICAL DASHED LINES SIGNIFY INDIRECT CONTROL
HORIZONTAL DASHED LINES SIGNIFY JOINT IMPLEMENTATION OF PROGRAMS

Department of Commerce

The focus for U.S. Government export assistance to the industrial sector is the Department's Industry and Trade Administration (ITA). This agency administers a wide variety of programs to help U.S. business begin or expand exporting.

ITA is changing its program emphasis. In the past ITA has concentrated on stimulating foreign demand through trade centers, trade fairs, and other forms of overseas trade promotion. On the basis of analysis and studies, the Assistant Secretary of Commerce for Industry and Trade is shifting ITA's promotional efforts to emphasize export stimulation of domestic industry by fostering a stronger export consciousness among manufacturers. Through providing better and more specific export information and more personalized service, ITA hopes to help firms overcome impediments to exporting, solve marketing problems, develop effective export strategies, steer them into the best markets for their products, and properly establish them in those markets.

For fiscal year 1979, Commerce has budgeted about $28.2 million to carry out ITA export promotion programs. The Department recovers certain direct costs associated with these programs through fees to the participants. Some of the major programs are discusssed in the following sections.

Export stimulation programs

Commerce, in cooperation with the American business press and private sector groups and firms, attempts to encourage firms to export by promoting the image of exporting as beneficial to participating firms as well as the Nation.

Export counseling and information programs

Commerce assists the private sector to export by providing (1) orientation-type information to companies interested in exporting and in need of advice on how to proceed and (2) information on export potential for specific U.S. products in key markets, including how best to develop and take advantage of commercial opportunities in individual countries.

Consumer identification and contact programs

Through a computer-based notification system, Commerce gives U.S. exporters names of foreign buyers and representatives and specific trade leads abroad. Commerce also publishes and disseminates abroad information on U.S. firms having newly developed or manufactured products available for export and maintains lists at Foreign Service posts of U.S. individual suppliers, including firm and product descriptions.

Overseas sales promotion programs

Through overseas trade centers, trade and industry exhibits, catalog shows, in-store promotions, and trade missions, Commerce gives U.S. firms the opportunity to demonstrate their products to foreign buyers and the general public. Commerce also provides visiting U.S. firms with on-the-spot counseling and assistance in contacting foreign buyers and representatives.

Various ITA bureaus and offices carry out ITA programs. Overseas promotional activities and international marketing publications are the responsibility of the Bureau of Export Development. Matters of trade promotion with Communist countries are the responsibility of the Bureau of East-West Trade. The domestic operations of the programs outside Washington, D.C., are carried out by 43 district offices in U.S. cities and San Juan, Puerto Rico. These offices are under the direction of the Bureau of Field Operations.

Department of State

In conjunction with the Department of Commerce, the Department of State, through the operation of more than 200 diplomatic and consular missions of the Foreign Service, carries out export assistance abroad. For fiscal year 1979, State has estimated that it will spend $22 million for five broad categories of functions:

--Providing about 900 economic-commercial Foreign Service Officers, 300 of whom are engaged fully or principally in commercial work.

--Giving overseas posts guidance and assistance in managing their export promotion programs. Thirty-seven embassies in major commercial markets abroad operate under country commercial programs--annual plans prepared jointly by Commerce and State which set forth goals to be achieved in those countries.

--Coordinating with other U.S. Government agencies in providing promotion assistance to U.S. business. Information collected at Foreign Service posts is distributed by Commerce.

--Helping U.S. businessmen overseas establish trade contacts and resolve commercial problems.

--Attempting to assure, through interagency coordination, that all activities undertaken through commercial programs are consistent with overall U.S. foreign policy objectives.

Foreign Service posts provide U.S. businesses a number of services. Through Commerce they give U.S. firms reports on economic trends and market development; market research; trade opportunities; major economic development projects; and background financial and commercial information on prospective agents, distributors, and purchasers of U.S. products. In addition, posts help organize and promote U.S. trade and industrial exhibitions abroad. They arrange also for foreign buyers to visit the United States for trade shows and contacts with domestic businesses. The posts abroad also operate commercial libraries and publish and distribute commercial newsletters to provide business and government buyers, agents, and endusers with information on U.S. products, services, and technology.

Eximbank

This independent Government agency gives U.S. exporters financial services they cannot obtain in the private capital market. Eximbank seeks to bridge the gap between U.S. private financing and the terms either needed to finance major capital projects or required to offset the loan and guarantee support provided by foreign governments to their exporters. Eximbank is a self-sustaining institution, not supported through Government budgetary outlays. The interest rate and fee structures of Eximbank direct loan, guarantee, and insurance programs are expected to provide sufficient protection against possible losses.

Direct lending programs

These provide long-term financing for large industrial projects or multimillion-dollar product sales. The total loan authorization is estimated at $3.6 billion for fiscal year 1979. Loans are provided for 5 to 10 years. Eximbank requires a cash payment of not less than 15 percent of U.S. content of the export from the foreign buyer.

Export credit insurance programs

These insure exporters against losses caused by specific commercial and political risks. Eximbank administers these programs in cooperation with the Foreign Credit Insurance Association, an association of 50 private insurance companies. A number of insurance policies are offered to cover nearly all political and commercial risk. The policies can be held by individual exporters, commercial banks, trading companies, and commercial credit agencies. The total insurance available in fiscal year 1979 is $5.4 billion.

Eximbank and the Foreign Credit Insurance Association also offer a new short-term insurance policy to meet the needs of small business exporters new to the programs of Eximbank. This introductory special program covers 100 percent of political risk and 95 percent of commercial risk only for firms which have not previously used Eximbank or FCIA programs. It is offered for a 2 year period.

Commercial bank export guarantee program

This covers direct sale of capital and quasi-capital goods to foreign buyers. This program is administered directly through U.S. commercial banks and is, in many respects, similar to the medium-term insurance policy. Eximbank also offers to eligible small businesses coverage up to 100 percent of political risk and 95 percent of commercial risk under a special bank guarantee program. Eximbank expects to provide $771 million in guarantees during fiscal year 1979.

Cooperative financing facilities

These make credit available to small and medium-sized foreign buyers of U.S. goods and services through banks in their own countries. Eximbank provides financing for 42.5 percent of the purchase (or 50 percent of the financed amount after a 15 percent required cash payment). Total financing for fiscal year 1979 is budgeted at $150 million.

Discount loan program

Eximbank will issue advance commitments to make loans to buy notes from eligible U.S. commercial banks when they will not finance export sales without Eximbank discount loans. The commitment covers 100 percent of the financed portion of an eligible foreign debt obligation financed by a U.S. bank. This program is expected to provide $500 million of discount loans in fiscal year 1979.

Other services

All Eximbank programs are available to any U.S. exporter regardless of size. To encourage small businesses to export, Eximbank provides advice on how they can use its programs in selling their goods abroad. Eximbank participates in and conducts seminars around the United States to inform businessmen about financing assistance for export sales and has an inhouse training program on Eximbank financing.

Eximbank maintains a credit information file on foreign buyers and financial institutions. It also supports feasibility studies under some of its programs.

SBA

To assist small businesses to enter or expand in international trade, SBA offers various programs and services through its 100 field offices.

Export counseling services

These are available from members of the Service Corps of Retired Executives and the Active Corps of Executives who have had experience in international trade. Senior and graduate-level students of international business are available through the Small Business Institute program and the Small Business Development Centers within certain colleges and universities. Under SBA's Call Contract Program, professional management and technical consultants are available. SBA also publishes a booklet entitled "Export Marketing for Smaller Firms."

Export workshops

Workshops are conducted periodically in cities across the country under the co-sponsorship of SBA, Commerce, other agencies and institutions concerned with international trade development.

Financial assistance

While SBA does not have a specific program for export-oriented lending, such assistance is available primarily under its guarantee loan authority. For fiscal year 1979, SBA reordered its lending priorities to provide up to $100 million under the program for use of business in export activities. Under the program SBA can provide a guarantee of up to 90 percent of a loan or $500,000, whichever is less.

Funds may be used to purchase, for domestic use, machinery, equipment, facilities, supplies, or materials needed to manufacture or sell products overseas. Working capital loans may be used to defray the costs of developing or penetrating foreign markets, including foreign business travel.

Non-U.S.Government assistance

Export assistance is available in the United States and abroad from many sources other than the U.S. Government. These include public and quasi-public organizations at the State and local levels; private nonprofit institutions, such as chambers of commerce, trade associations, and professional societies; profitmaking enterprises, such as export management companies, banks, law firms, and market research firms; and foreign governments and specialized agencies of the United Nations and other international organizations.

Many of the sources, such as State agencies and chambers of commerce, promote exporting as part of their primary objective to promote local economies. Assistance from other sources, such as banks and export management companies, is offered to increase their business. As in the case of assistance from the U.S. Government, some assistance from the non-Federal Government sector is furnished at no cost while others are furnished at a cost, depending on the source and type of assistance.

Evaluation of assistance
to the industrial sector

Primarily on Census Bureau figures from the "1972 Census of Manufacturers," it was concluded that some 252,000 firms constitute the manufacturing sector (except for food and tobacco manufacturing). About 30,000 firms, or 12 percent, are believed to be exporting more or less regularly, and about 18,000 not now exporting are capable of exporting fairly regularly.

In March 1978 the Department of Commerce issued a report entitled "Export Promotion Strategy and Programs," which included an evaluation of industry needs in exporting. The study was based, in part, on a questionnaire sent to 5,000 firms at random. Some 26 percent, or 1,316 firms, responded. In addition, personal interviews were held with 191 individual

SOURCES OF EXPORT ASSISTANCE

	ENCOURAGEMENT	HOW TO EXPORT	FOREIGN MARKET INFORMATION	OVERSEAS REPRESENTATION	EXPORT SALES LEADS	COMMERCIAL REFERENCES/ DATA ON FIRMS	ADVERTISING ASSISTANCE ABROAD	EXHIBITING PRODUCTS ABROAD	FOREIGN MARKET RESEARCH	TRAVELING ABROAD	MEETING FOREIGN BUSINESSMEN IN THE U.S.
STATE AND LOCAL AGENCIES	x	x		x	x	x	x	x		x	x
CHAMBERS OF COMMERCE	x	x	x	x	x		x	x		x	x
BANKS AND INTERNATIONAL FINANCIAL INSTITUTIONS	x	x	x	x	x	x				x	
EXPORT MANAGEMENT COMPANIES	x				x		x	x		x	
WORLD TRADE ASSOCIATIONS		x	x							x	
EDUCATIONAL INSTITUTIONS		x							x		
INDUSTRY AND TRADE ASSOCIATIONS		x	x		x		x	x		x	x
TRANSPORTATION COMPANIES		x	x	x	x					x	
PORT AUTHORITIES AND WORLD TRADE CENTERS		x		x	x						x
MARKET RESEARCH AND MANAGEMENT CONSULTANTS		x	x						x		
FOREIGN GOVERNMENTS/EMBASSIES			x		x						
ACCOUNTING FIRMS			x								
ADVERTISING AGENCIES							x		x		
BUSINESS INFORMATION FIRMS			x			x			x	x	
PUBLISHERS			x				x		x		
INTERNATIONAL ORGANIZATIONS			x						x		
MERCANTILE AGENCIES					x						
TRAVEL AGENCIES										x	
INTERNATIONAL FINANCIAL INSTITUTIONS					x						
NONPROFIT CREDIT-SHARING ORGANIZATIONS						x					
FIRMS SPECIALIZING IN PRODUCING AND MANAGING DOMESTIC AND INTERNATIONAL TRADE SHOWS AND MISSIONS								x		x	x

SOURCE DEPARTMENT OF COMMERCE, "EXPORT PROMOTION STRATEGY AND PROGRAMS," MARCH 1978 firms and organizations. From this study Commerce determined the following approximate size distribution among manufacturing firms.

	Size (note a)			
	Very Small	Small	Medium	Large
	(percent)			
All manufacturing firms				
Share of total firms	56	37	6	1
Share of total sales	2	11	17	70
Share of workforce	3	13	19	65
Percentage of firms in each size class which export	3	18	48	74
Exporting firms:				
Share of total exporting firms	14	56	26	5
Share of value of U.S. exports	(b)	3	13	84

a/Commerce classified the firms as follows:
Very small--Fewer than 10 employees.
Small--10 to 99 employees.
Medium--100 to 999 employees.
Large--1,000 or more employees

b/Less than 1 percent

Percentages may not add to 100 due to rounding.

On the basis of its analysis and other studies and data, Commerce concluded:

--As the size of the firm increased, so did propensity to export.

--There was a strong relationship between firm size and the value of an industry's exports and the proportion of the firms in the industry that exported.

--However, there was little difference in proportion of production exported of firms in different size categories.

Industry needs in exporting

Based on the results of the questionnaire, Commerce reported in March 1978 an analysis of what manufacturers believed were the most important needs for export expansion, irrespective of size or degree of export involvement. The highest priorities were:

1. Specific sales or representation leads.
2. Specific information on market conditions, practices, and potentials.
3. Information about and lists of individual foreign buyers and/or representatives.
4. Opportunities to meet directly in the United States with individual foreign buyers and/or representatives.
5. Opportunities to publicize the company, products, and interests abroad.
6. Opportunities to display or otherwise expose products abroad.
7. Assistance in making successful bids for major overseas contracts.
8. General information on how and where to export.
9. Information on benefits of exporting.

An analysis of the replies and priorities based on size of firm and export experience showed little deviation from the overall rankings. Commerce concluded this suggested that smaller, less experienced firms wanted basically the same kinds of assistance as the larger, more experienced exporters. Commerce concluded also that the first five priorities indicated that the firms preferred services that met their needs in the least expensive, most convenient way, enabling them to react to opportunities rather than creating them and requiring little or no time away from their businesses.

However, travel and personal contacts by company executives and personnel abroad were the most frequently mentioned reasons for export success, except for the largest firms, which placed this reason a close third behind agent distribution network and product quality. Hard work, patience, and adaptability were also mentioned as important factors.

Responses to the questionnaire indicated that Commerce was performing the best in the least wanted programs and the worst in the most wanted programs. For example, information on the benefits of exporting ranked lowest in priority of need, but ranked highest in Commerce meeting the need. While trade leads ranked the highest in need, it ranked very low in terms of Commerce meeting the need.

<u>Impediments in the system</u>

In contrast to attributing successes almost entirely to their own efforts and organization, the firms responding to the questionnaire most frequently cited the U.S. Government as the major deterrent to export expansion. A significant number of firms cited the entire field of U.S. Government regulations, paperwork requirements, and procedures--particularly export control--as the greatest impediment. (See ch. 3).

Another broad category often mentioned included insufficient financing, Government credits, and incentives for export expansion; uncertainty of Domestic International Sales Corporation facilities; and lack of Eximbank and the Foreign Credit Insurance Association support and responsiveness. A wide range of firms identified current U.S. tax policy, with its lack of export incentive and its unfavorable impact on citizens residing overseas. (See ch. 3)

A considerable number of firms of all sizes consider a major obstacle to exporting to be the lack of a unified, coherent, and clearly enunciated U.S. Government policy supporting the export community and subscribed to by all agencies and branches of Government. (See ch. 1.)

In August 1977 the House Committee on Government Operations concluded 1/ that numerous private sector agencies provided many of the services presently provided in Commerce's export promotion programs and that the private sector programs consumed considerably less resources and were performed more effectively. The Committee concluded also that chronic conflicts and problems between Commerce

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1/"Effectiveness of the Export Promotion Policies and Programs of the Departments of Commerce and State," Committee on Government Operations, House of Representatives (House Rept. No. 95-576), August 5, 1977.

and State seriously undermined the effectiveness of export promotion programs. It stated that failures and delays in communications are common between the two Departments and common mistrust between the two Departments prevents effective resolution of their problems.

The Committee recommended that Commerce (1) analyze, survey, and catalog all existing or planned private sector export assistance programs and services and (2) encourage expansions of private services and restructure its programs to supplement rather than compete with and duplicate private sector programs. The Committee stated also that Commerce should restructure its export assistance programs so that they benefit principally small business firms without export experience.

Concerning the relationship between Commerce and State, the Committee recommended, in part, that:

--State devote adequate resources to service Commerce's programs abroad.

--A joint Commerce-State Committee be established and empowered to resolve disputes arising between Commerce and State as they pertain to foreign commercial activities and formulation and operations of export promotion programs and policies.

--Commerce be allowed to carry on the commercial functions at one reasonably active foreign service post with its own personnel on an experimental basis.

The hearings on which the Committee report was based concentrated largely on a February 1977 Commerce-State Joint Evaluation Report on the export promotion system. The report concluded:

--There was no generally agreed or widely understood U.S. policy on the extent of need for or the purposes of official export promotion.

--There were basic weaknesses in the system stemming from the lack of clear-cut policy guidance on program objectives and priorities, faulty communication within and between parts of the system, and compartmentalization of program responsibilities.

--There was a lack of effective coordination within Commerce and between top level management of Commerce and State.

The report recommended, in part, that Commerce and State:

--Work together to develop a refined and updated policy on the aims and purposes of official trade promotion.

--Develop a system for assuring more effective coordination, internal and interdepartmental, especially in areas of joint planning development and evaluation of commercial programs and services.

--Develop a new system for senior management coordination of programs, personnel, and other policy-level issues of mutual interest.

--Develop more extensive and effective communication between district offices and Foreign Service posts.

Evaluation of what can be done

Export assistance is available from many sources within the U.S. Government and the private sector. Commerce believes that Government services should not duplicate or overlap those of the private sector, but that Government does have the responsibility to fill gaps where private services are unavailable. The Department believes there is no significant overlap and that its programs complement and reinforce the private market services. Commerce believes that where there does appear to be duplication, its services are warranted because (1) the cost of private services puts them out of the range of the average small firm, (2) the concentration of private services in major urban and port cities puts them out of the geographical range of many firms, and (3) private services related to the less developed and less familiar markets abroad are limited.

For smaller firms Commerce may represent the most feasible and accessible source of assistance. The needs of the larger, more experienced exporters are generally met through their own resources or those available elsewhere in the private sector.

Although Commerce recognizes that it must serve all firms, notwithstanding size, it believes that the highest priority should be to assist small and medium-sized firms.

Commerce believes that to effectively perform its mission it must

--do much more to raise the export consciousness of the business community,

--provide better and more specific export information and more personalized service,

--intensify promotional efforts in high potential markets,

--improve operations in domestic field offices, and

--restructure and improve Government support to U.S. companies bidding on major foreign projects and increase the amounts of financial assistance to small and medium-sized firms.

Commerce believes that to improve the quality and effectiveness of its services, it will require

--better coordination between Washington, the district offices, and overseas missions;

--greater use of high speed communications facilities; and

--more tailoring of services to the specific product interests of firms.

In testimony before the Subcommittee on International Finance of the Senate Committee on Banking, Housing, and Urban Affairs, the Senior Deputy Assistant Secretary of State for Economic and Business Affairs stated that State and Commerce had endeavored to be responsive to the recommendations of the House Government Operations Committee and the Commerce-State Task Force. He stated that they had implemented or were implementing many of the major recommendations. Regular meetings between senior members of both Departments had been initiated, and a new and more flexible approach to trade promotion was being developed to help U.S. firms merchandise their products at major international trade fairs.

He said State intended to explore with Commerce the possibility of adopting certain promotional techniques that competing nations had found successful, including

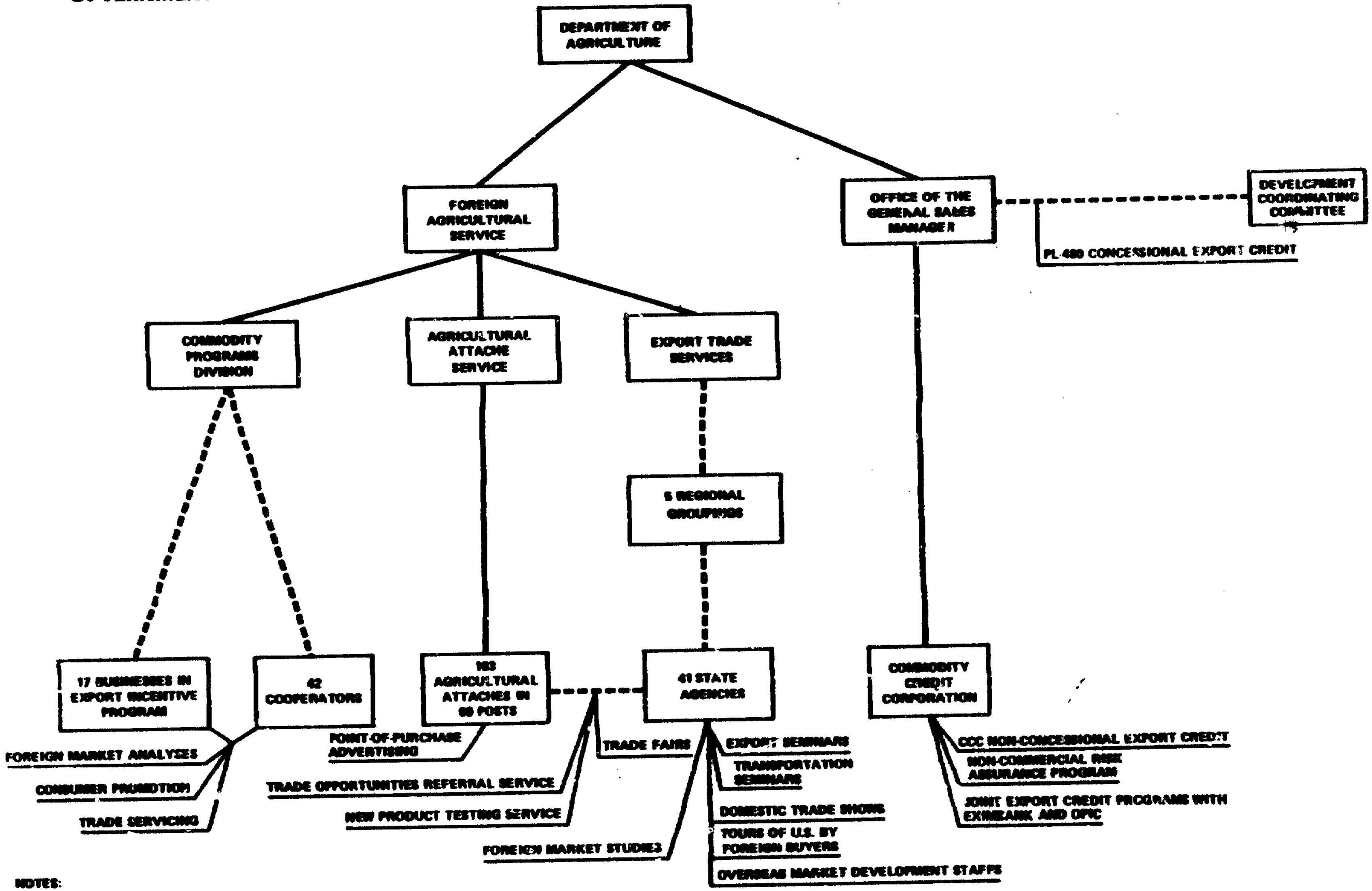
- --undertaking more extensive market research, either free of charge or by funding a significant share of the cost;
- --paying a greater share of a company's participation in Government-organized trade fairs, missions, or center shows abroad;
- --funding reverse trade missions and factory visits of carefully selected foreign buyers; and
- --obtaining assistance of larger firms well established in overseas markets in providing guidance and perhaps facilities for non-competing smaller firms.

ASSISTANCE TO EXPORTERS IN THE AGRICULTURAL SECTOR

In agriculture the Government has historically supported various programs designed to increase farm income and moderate price fluctuations. Promotion programs to increase foreign demand are an integral part of this special sector objective. The Department of Agriculture operates market assistance programs designed to bring the producers and sellers together in a grouping which can view the market as a whole.

The Department serves as the focus for governmental assistance to the agricultural sector in exporting its products. Within Agriculture the Foreign Agricultural Service (FAS) and the Office of the General Sales Manager (OGSM) have primary responsibility for planning and administering export promotion programs. Agriculture uses the services of State agencies, regional associations, and private sector industry organizations. These public and private sector agencies and organizations form an export promotion network designed to (1) encourage and assist firms in entering the export market, (2) help the private sector create and maintain foreign demand for U.S. agricultural products, and (3) enable foreign buyers to purchase U.S. agricultural products through providing export financing.

GOVERNMENTAL ASSISTANCE TO EXPORTERS IN THE AGRICULTURAL SECTOR: ORGANIZATION AND PROGRAMS



NOTES:

VERTICAL DASHED LINES SIGNIFY INDIRECT CONTROL

HORIZONTAL DASHED LINES SIGNIFY JOINT IMPLEMENTATION OF PROGRAMS

FAS

FAS was created in 1953 by the Secretary of Agriculture. FAS plans and administers the export promotion and foreign market development programs of the Department of Agriculture. For fiscal year 1979 FAS had budgeted $21.8 million for these efforts.

FAS is targeting particular countries which appear to be promising markets for U.S. agricultural products and is making long-range plans for developing these markets. The plans consider the various export promotion instruments available and are tailored to the country and commodities involved.

Agricultural attaches

The Agricultural Attache Service of FAS was created

> "for the purpose of encouraging and promoting the marketing of agricultural products of the United States and assisting American farmers, processors, distibutors and exporters to adjust their operations and practices to meet world conditions * * *."

In addition to serving as liaisons with foreign governments and business communities, the attaches help other FAS personnel manage overseas trade fairs. The attaches acquire the space, advertise the fairs to local business communities, and help participating firms get their products through customs. The attaches negotiate with foreign distributors to sponsor advertising programs. In addition, they assist U.S. firms' and State governments' representatives by providing lists of contacts and briefings on local customs and culture. The service includes about 100 attaches and 150 foreign national professionals stationed in 69 posts worldwide.

Commodity programs

FAS commodity programs involve market development for bulk commodities, livestock, dairy products and poultry, and fruits and vegetables. FAS works with 42 cooperators, which are agricultural marketing associations. The cooperators, assisted by the agricultural attaches, facilitate the export of U.S. agricultural products by undertaking foreign market analyses, trade servicing, and consumer promotions. Cooperator efforts are undertaken mostly on a generic basis; however, certain cooperators--especially those representing consumer-ready products--provide financial assistance to individual firms to promote the sale of their brand-name products in foreign markets.

Market development programs are ongoing in about 70 countries. They are financed by the cooperators, FAS, and third-party cooperators, which include foreign governments and private sector organizations, primarily processors and distributors of agricultural products. The FAS funding serves as an incentive for private-sector organizations to devote staff and money to foreign market development. Of the total fiscal years 1977-79 market development budget of $50.9 million, FAS contributed $14.8 million, or 29 percent. Generally FAS funding is provided for overseas market development programs, overseas staffing, and maintenance of offices abroad. With few exceptions, all domestic costs are borne by the cooperators.

Cooperators undertake market analyses to determine whether a country represents a potential market for a particular product. Often the best source of market information is the agricultural attache, who devotes 50 percent of his time to gathering market information.

Promotion activities are proposed in annual marketing plans, which are based on the above-mentioned market analyses, as well as on information gathered by FAS. These plans are submitted to FAS, which reviews them and, when necessary, requires adjustment to bring the plans within agency guidelines and policy. The attache makes certain that no activity is in opposition to policies of the activity country or the United States in that country.

The primary market promotion techniques used by the cooperators are trade servicing and consumer promotion. Trade servicing is aimed primarily at the foreign business communities and entails providing information on the availability, quality, and use of U.S. agricultural products; trade servicing also includes public relations efforts. Consumer promotion entails using in-store promotional techniques and standard media advertising to induce foreign consumers to purchase U.S. products.

Trade servicing is the mainstay of the foreign market development efforts of the cooperators. Trade servicing promotes the sale of fungible bulk commodities by encouraging the use of the products and continually helping the buyers improve their use of the products. Trade servicing of consumer-ready items is primarily to make foreign distributors aware of the items and to continually encourage them to promote sale of these items to their customers. Whether for fungible commodities or consumer-ready products, trade servicing aims to create a positive image of the United States as a reliable source of dependable quality products.

Cooperators use in-store promotional techniques and standard media advertising to inform local consumers of the quality, uses, and availability of U.S. agricultural products. As consumer promotion is significantly more expensive than trade servicing, many cooperators--especially those representing fungible commodities marketed in bulk--do not undertake consumer promotion. Instead, through trade servicing they attempt to encourage local processors to undertake their own consumer promotion. Virtually all cooperators representing consumer-ready products undertake consumer promotion.

Consumer promotion, as well as trade servicing, is done in conjunction with third-party cooperators. These are usually foreign governments, processors, or distributors which have an interest in the increased sale and use of the imports. Their contributions can be either financial or in kind (e.g., brochures, displays, and staff). The participation of third-party cooperators is especially important for the success of a consumer promotion effort.

Cooperators can also facilitate trade by representing the interests of their industries to foreign governments. Often the need for such representation arises because foreign governments institute regulations banning the use of a food additive in products the cooperators represent.

Export incentive program

Similar to the cooperator program is the Export Incentive Program. FAS contracts with individual firms or cooperatives--in one case a Florida State agency--to develop export markets for their products. FAS provides financial assistance on a reimbursement basis. Seventeen organizations are participating in this program.

Export trade services

Other FAS export promotion programs include operating a trade opportunities referral service (TORS) and a new-product-testing service and sponsoring transportation seminars. The foreign market development programs include sponsoring trade shows and exhibitions and undertaking point of purchase advertising of American products in foreign markets.

TORS is a computerized system for referring foreign sales leads to U.S. suppliers. Sales leads are funished by the agricultural attaches to FAS, which provides them to potential suppliers either individually or in the form of "Export Briefs"--a weekly compilation of sales leads. According to a recent Agriculture study, one of every five TORS sales leads results in a sale by a U.S. supplier. In 1976 FAS initiated a TORS in reverse program whereby U.S. firms mainly new to export can publicize their firms and products for export through an FAS release, disseminated monthly by the attaches.

Through the new-product-testing service, new-to-market foods are screened to determine their enterability and marketability in selected foreign markets. Companies may submit labels of products they wish to have considered for sale in specific markets to FAS Washington. After initial review by FAS, the labels are sent to the attaches for clearance with local authorities on local import and food regulations. Concurrently the attache reviews with local importers the items' probable market prospects. The U.S. firms are notified of the results of the evaluation and what modifications, if any, would be necesary for the products to enter the market.

The transportation seminar program advises shippers on new technology in the area and on economic and operational questions relative to shipping agricultural products and livestock. FAS has also published a guide on ocean liner cargo services.

FAS foreign trade shows and exhibitions are aimed at targeted foreign food industries. The exhibits are generally held in hotels where kitchen facilities are available to demonstrate the products to invited food tradesmen. Usually the exhibits run for 2 or 3 days, and participation is limited to exhibitors of those products deemed by previous market surveys to have high sales potential. FAS also sponsors livestock-feed demonstrations and menu promotions in foreign markets.

In-store promotion is used by FAS to draw consumer attention to U.S. food products featured in retail outlets. Generally the promotion consists of posters, leaflets, signs, and other material to draw the shoppers' attention to the item. Promotional activities may also include samples, taste testing, and media advertising.

In implementing these programs, FAS receives assistance from State departments of agriculture and trade promotion agencies. Five regional groupings, each with its own staff, were developed on a geographical basis to coordinate the efforts of the State agencies. The operations of the regional grouping are jointly funded by the State and Federal Governments.

State agencies

In the absence of domestic field offices, FAS relies on State departments of agriculture and trade promotion agencies to maintain contact with U.S. producers, processors, and exporters. The State agencies solicit firms to participate in the export programs for items produced in their States. The foreign market development programs undertaken by the State agencies include sponsoring tours of the United States by foreign buyers, holding trade shows and exhibitions in the United States, holding export seminars, and maintaining overseas staffs to create foreign demand. In addition, State agencies are sometimes requested by FAS to undertake foreign market studies. Forty-one States work with and receive financial assistance from FAS.

OGSM

OGSM administers Agriculture's export credit programs. These include the Commodity Credit Corporation (CCC) commercial export credit and Public Law 480 (PL 480) concessionary credit programs, as well as a newly instituted Non-Commercial Risk Assurance Program. In addition, OGSM administers a joint export credit program with Eximbank and the Overseas Private Investment Corporation (OPIC). These programs make funds available to enable foreign concerns to purchase U.S. agricultural commodities and to enable foreign countries to develop the means to accept, store, and market agricultural commodities.

For fiscal year 1979, $1.6 billion has been allocated for CCC export credit sales, $899 million for PL 480 concessional export credit, and about $100 million for noncommercial risk assurance.

The CCC Export Credit Sales Program is Agriculture's primary export-financing tool. A basic objective is to use CCC credit to maintain, expand, or establish new commercial markets for eligible U.S. agricultural commodities. Either the importer or U.S. exporters can request CCC credit for exports. Lines of credit are approved for individual countries. When approved, sales are financed for 6 months to 10 years at commercial rates of interest. The supplier must make the sale to the approved foreign buyer and register the sale with OGSM. CCC then purchases the U.S. exporter's account receivable arising from the sale. The credits are secured by letters of credit. Shipments financed under the CCC credit program are not subject to U.S. cargo preference legislation.

CCC's Non-Commercial Risk Assurance Program is designed to increase financing of U.S. agricultural exports by private commercial institutions. Through this program the Government can insure U.S. financial institutions extending credit to a foreign concern for the purchase of U.S. agricultural commodities against loss from political occurrences in the foreign country.

In contrast to the CCC Export Credit Sales Program, PL 480 export credit is a concessionary program. Title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701) as amended, or Public Law 480, provides for U.S. Government concessionary financing of sales of U.S. agricultural commodities to friendly nations. Sales are made by private businessmen, usually on a bid basis in response to tenders issued by the importing countries. The Food Aid Subcommittee of the Development Coordinating Committee, which includes representatives from the Departments of Agriculture, State and Treasury and the Office of Management and Budget, determines the overall country allocations for the Title I program. Agriculture determines what commodities are to be made available.

In addition, OGSM operates a joint export credit program with Eximbank and OPIC. These three financing facilities have different, but complementary, mandates. OGSM can provide credit to foreign buyers to purchase U.S. agricultural commodities. Eximbank, on the other hand, can finance the export of manufactured products as well as the undertaking of overseas projects, such as the development of facilities to process and store agricultural commodities. Consequently, Eximbank has the expertise to undertake project feasibility studies. Similarly OPIC can insure and, to a limited extent, finance the undertaking of developmental projects in underdeveloped countries. Whereas Eximbank can provide the financing to foreign concerns, OPIC financing is available only to U.S. concerns.

The joint financing program is designed to enable foreign countries to increase their capability to accept, store, and market large shipments of agricultural products. CCC supplements financing provided through Eximbank/OPIC with CCC credit, with the provision that the proceeds from the local sale of the commodities be used to finance an agreed-upon project. In essence, CCC provides what it can, given the value of the commodities sold to the foreign country, and Eximbank/OPIC, in conjunction with the private concerns or foreign government involved, provides the rest.

OBSERVATIONS

The U.S. Government provides various means of assistance to exporters and potential exporters.

In the industrial sector, promotion and operating capital programs are directed to firms, mostly small and medium-sized, that do not have the expertise or resources to obtain the services or operating capital elsewhere in the private sector or from within their own organizations. However, for reasons of competition with other countries, export financing appears to be directed primarily toward larger firms with high value exports.

In the agricultural sector both promotion and financing are directed toward the objective of exporting commodities regardless of the size of the organization. Most promotional and financing efforts relate to the sale and export of agricultural products which are fungible and are exported in bulk by international sales companies without producer identification. However, substantial promotional assistance is given to brand-name exports in the speciality product lines, such as fruits, vegetables, and meats.

While Agriculture affords a substantial subsidy to promotional efforts of private sector organizations, Commerce, except in limited cases, must attempt to recover some of its costs from program participants through fees. The philosophy of the Administration is that the Government has historically supported various programs designed to increase farm income and moderate price fluctuations, and efforts to increase foreign demand through promotion are an integral part of this special sector objective.

This objective grew out of the large agricultural surpluses of the early and mid-1950s and the need to dispose of the surpluses by exporting and creating market demand in other countries for increasing future exports. Surpluses do not appear in the industrial sector as they do in agriculture. Industrial sector surpluses appear in the form of unused plant capacity and unemployment in the labor force. Combined with the large deficits in our balance of trade, the 17 percent unused capacity and 6 percent unemployment rates have prompted widespread interest in the problem in both the public and private sectors.

CHAPTER 3

DOMESTIC BARRIERS TO EXPORTING

In his September 1978 trade message, the President stated that as equally important as providing financial and technical assistance to U.S. exporters was the reduction of Government-imposed disincentives and barriers which unnecessarily inhibit firms from selling abroad. According to a Department of Commerce official, the list of disincentives is a "whole series of things, separate policy decisions, which taken together, have the cumulative impact of deterring exports."

EXPORT LICENSING

Exports of most commercially available commodities are regulated by the Secretary of Commerce under the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401, et seq.), which states that controls may be used to (1) protect the national security, (2) further foreign policy, or (3) prevent excessive drain of scarce materials.

The act, however, diffuses licensing management authority among various departments. This export-licensing community consists of the Department of Commerce and a group of consulting agencies. The principal consultants are the Departments of Defense, Energy, and State and, to a lesser extent, the National Aeronautics and Space Administration. Any other agency that has special technical knowledge considered pertinent to a particular export license application also gives technical advice when asked to do so.

The Deputy Assistant Secretary of Commerce for Industry and Trade stated at congressional hearings in February 1978 that the export-licensing system did not lend itself to accountability because it did not focus decisionmaking responsibility on any single official. He stated the system also lacked predictability, certainty, a system of precedents, technical resources, a clear statement of policy, and sufficient high level Government attention to the policy issues raised. In a prior report, "Administration of U.S. Export Licensing Should Be Consolidated To Be More Responsive to Industry" ID-78-60, (Oct. 31, 1978) we supported this observation. An increasing number of denials of certain licenses are being based on foreign policy considerations to express U.S. displeasure with policies of certain countries. Potential exporters are uncertain whether their client or product will be a target or an example with which the administration will attempt to exercise political leverage.

As an example, the Department of Commerce tentatively approved a plan by a truck company for the sale of $70 million of heavy-duty trucks to Libya. After the firm spent $1 million on plant expansion to manufacture the trucks, the State Department recommended against the sale on the grounds that Libya supported international terrorism and the trucks could be used to transport tanks. Subsequently Commerce approved a sale by the company to Libya of trucks without tank-carrying capacity.

In another case a U.S. aerospace company executed a purchase agreement with Libyan Arab Airlines for the sale of two aircraft for use in commercial transport operations. The State Department recommended to Commerce that the license not be issued, again citing U.S. opposition to Libyan Government support of terrorists.

When a sale is lost as a result of a license being denied for foreign policy reasons, the customer probably will be lost. The aerospace company projected that possible airplane sales to Libya worth about $520 million from 1978 through 1985 could have been satisfied with U.S. equipment. The denial of the sale is expected to affect other North African airlines having use agreements with Libya. The total negative impact on the U.S. balance of trade resulting from losses for equipment and related commodities is estimated at $1.2 billion. This translates to an estimated 36,000 job-years. Of these, about 22,000 years would have been performed by subcontractors or suppliers with about 4,500 jobs.

Many have questioned just how effective export sanctions can be, given the ready availability of suitable substitutes. Representatives of the nuclear energy construction industry stated in congressional hearings in April 1978 that U.S. Government vacillation regarding nuclear export policy was one reason causing potential foreign customers to seek non-U.S. suppliers. They cited that the U.S. share of world sales of nuclear power reactors had dropped from 100 percent in 1972 to 17 percent in 1977 and that one large manufacturer had recently made its first foreign sale in over 2 years.

In our previously mentioned report on U.S. export licensing, we stated that the diffused management authority resulted in a lack of accountability to the public and of responsiveness to exporters and in potential losses to them because of failure to meet commitments. We further stated that:

"The authority to regulate exports lies absolutely with the Government and the Government has an obligation to sellers to insure that the decisionmaking process itself does not damage a new or continuing business relationship. If the seller is left in uncertainty about how a decision is being made, then that uncertainty may be transferred to the buyer with damaging results."

As the Export Administration Act, as amended, states, the unwarranted restriction of exports seriously affects our balance of payments and the uncertain policy toward certain types of exports has curtailed U.S. business efforts to improve our trade balance. We recommended to the Congress that

--export license application management responsibility be centralized in the Department of Commerce's Office of Export Administration, and

--a multiagency export policy advisory committee be established at an appropriate administrative level.

In a subsequent report issued to the Congress on March 1, 1979, entitled "Export Controls: Need To Clarify Policy and Simplify Administration (ID-79-16), we recommended also that the Congress amend the act to say that the President shall consider foreign availability when imposing export control for foreign policy purposes.

HUMAN RIGHTS

In July 1974 the Department of Commerce announced that validated export licenses would be required for each shipment of any instrument or equipment particularly useful in crime control and detection to the Soviet Union, East Europe, and the Peoples Republic of China. Commerce noted the Government's "continuing interest in the welfare of persons who seek to exercise their fundamental rights." The administration has resolved to make the advancement of human rights a central part of this country's foreign policy. In February 1978 the human rights policy was redefined by Presidential directive. Applications may now be denied to the police and military forces of any government believed to be violating the fundamental rights of its citizens. There is no official list of such governments in export administration regulations, except for the Republic of South Africa and Namibia.

Implementation of the human rights policy has noticeably affected Eximbank financing. The Trade Act of 1974 (19 U.S.C. 2432) forbids the President from extending Government financing to non-market-economy countries which do not recognize the right and opportunity to emigrate.

Eximbank is required to take into account human rights questions when considering loans and guarantees. Current Eximbank procedure calls for a skeletal description of the project being considered to be sent to the Economic and Business Affairs Bureau at the State Department. A copy is sent to State's Bureau of Human Rights and Humanitarian Affairs, which conducts human rights reviews. The project is either routinely cleared or held for further discussion. Loans and guarantees which present human rights questions are dealt with by an interagency committee headed by the State Department. After review by the committee, the State Department issues an advisory opinion on how to proceed with the loan or guarantee.

In one case the Department recommended denial of a $270 million Eximbank loan for the purchase by Argentina of turbine generators. From an economic and financial point of view, the project was reported to be the type that would be favorably considered by Eximbank. Yet under law Eximbank has been directed to take into account the general status of human rights in those countries receiving exports supported by loans or financial guarantees.

The Secretary of State defined "human rights" to include (1) the right to be free from governmental violation of the integrity of the person, (2) the right to fulfillment of vital needs, such as food, shelter, health care and education, and (3) the right to enjoy civil and political liberties. Trade questions with human rights aspects are handled on a case-by-case basis. The Secretary further stated that in each case a series of questions was presented to determine whether and how to proceed. The first set of questions concerns the nature of the case: What kinds of violations or deprivations are there? Is there a pattern of violations? To what extent is the government responsible? The second set concerns the prospects for effective action: Will U.S. action be useful in promoting the overall causes of human rights? Will U.S. actions improve specific conditions or make things worse? Does our sense of values and decency demand that we speak or take action even though there is only a remote chance of making our influence felt? The final question addresses the issue of whether all those rights at stake have been considered: If the United States reduces aid to a government which violates the rights of its citizens, do we not risk penalizing the hungry and poor who bear no responsiblity for the abuses of their government?

The business community is confused by Government implementation of its human rights policy. An aerospace industry spokesman delineated the position of his industry regarding the human rights policy.

> "If they would define what countries have human rights problems, and what it will require to sell aircraft to these countries, we would establish the mechanism and attempt to comply. Our frustration revolves around the fact that we don't know the ground rules."

It was reported that a $1.6 million sale of an air ambulance to the Argentine Army had been delayed despite a recent sale of similarly equipped aircraft to the Argentine Ministry of Public Health. There was reportedly no equipment on the aircraft listed on the State Department's munitions list of equipment prohibited from export.

The 95th Congress amended the Export-Import Bank Act of 1945 to contain new language regarding human rights. The new legislation (12 U.S.C. 635) states that particular emphasis should be given to the "objective of strengthening the competitive position of United States exporters and thereby of expanding total United States exports," and that Eximbank should deny applications for credit for nonfinancial or noncommercial considerations only in cases "where the President determines that such action would be in the national interest where such action would cearly and importantly advance United States policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights." Eximbank officials believe that the greater emphasis given expanding exports through Eximbank credits will make it more difficult to deny loans for nonfinancial or noncommercial reasons.

ANTIBOYCOTT LEGISLATION

For the past 10 years, Governments of the Arab League have applied boycott rules against companies or their suppliers doing business with Israel. Until 1977 U.S. law allowed firms to file a negative certificate of origin--a statement that the company was not blacklisted by any Arab state and did no business with blacklisted firms.

Internal Revenue Code

The Congress included antiboycott provisions in the Tax Reform Act of 1976 (26 U.S.C. 908), under which a person is deemed to be cooperating or participating in an international boycott by agreeing, as a condition of doing business in a boycotting country, to refrain from doing business with a (1) boycotted country, (2) U.S. person engaged in trade in a boycotted country, or (3) company whose ownership or management is made up of individuals of a particular nationality, race, or religion.

Persons found to be cooperating or participating in a boycott are subject to losing the benefits of (1) foreign tax credits, (2) the right to defer taxes on foreign income, and (3) a domestic international sales corporation. The Internal Revenue Service, which administers the legislation, provides advisory opinions on boycott-related issues to business. The inquiring party does not become a matter of record.

The tax provisions were passed in the last hours of the congressional session, and it has been claimed that, as a result, the boycott provisions were poorly considered and poorly written. According to one Treasury Department official, the law is difficult to administer and needs specificity.

Export administration

The Export Administration Act of 1969, as amended in 1977 (50 U.S.C. 2403 et. seq.) sets forth a series of actions which U.S. companies may not take in compliance with foreign boycotts. The major prohibitions include:

1. Refusing to do business with anybody in order to comply with a foreign boycott.

2. Discrimination against U.S. citizens on the basis of race, religion, sex, or national origin when such a decision is made in order to comply with a foreign boycott.

3. Furnishing certain kinds of information about one's dealings with blacklisted firms or about one's dealing with boycotted countries when that information is sought for purposes of boycott enforcement.

Exceptions to the above include:

1. U.S. companies that reside in or have permanent operations in a boycotting country.

2. Certain import and shipping document requirements of a boycotting country, which, for instance, certify the origin of goods and supplies and

identify the carrier or insurance company involved in the transaction. However, negative certification may be supplied with respect to carriers and routes of shipment or to goods not made in Israel.

3. "Unilateral selection" by the boycotting country, client, or customer. A U.S. company which receives an order for specifically identifiable goods or an order for services to be performed within a boycotting country may comply with that order, even when it is known that the order is boycott based, so long as the client or customer makes the choice alone and specifically identifies who is wanted to participate in the transaction.

Although the right of one country to conduct a boycott against another country is recognized, the basic philosophy behind the antiboycott provisions is that no U.S. company should be forced to implement or help enforce another country's boycott.

Commerce regulations follow the law very carefully, allowing little latitude in enforcement. Three hundred examples of boycott situations are provided in the regulations. In addition, the Anti-Boycott Enforcement and Compliance Office gives informal advice to business regarding what is permitted and what is reportable.

The Departments of Commerce and State meet regularly concerning antiboycott activities, especially concerning potential political ramifications emanating from antiboycott legislation enforcement activities. State Department efforts are also directed at convincing Arab states to accept positive certificates of origin instead of statements that goods do not originate in a given country. These attempts have been successful in getting at least three boycotting governments to accept positive certificates of origin. Boycotting countries have also shown a willingness and ability to make other exceptions in their boycott practices. For example, Saudi Arabia has ended its practice of requiring nonblacklisted certification from vessels and insurance carriers. Instead statements of general commercial eligibility in nonboycotting terms are acceptable.

Impact of legislation less than anticipated

Reactions differ regarding the impact on trade of antiboycott legislation. According to the Department of Commerce, the impact has been much less than anticipated. Many U.S. firms have negotiated around the boycott provisions. Some businessmen believe that the legislation has had a slight negative effect on new Middle Eastern ventures, but there are indications that existing arrangements are holding up well as a result of exceptions in the law and an Arab willingness to modify boycott rules.

However, there are reported instances of lost sales. In congressional hearings in April 1978, it was reported that a large farm equipment manufacturer had to withdraw from bidding on an $18 million order from Iraq for 1,500 tractors because it could not certify that the products had not been made in Israel.

Duplication of legislation

The fact that two laws cover the same subject is perceived by the business community as unnecessary duplication. The administrative costs, both to Treasury and to business, of adequately carrying out the congressional mandate seems disproportionate to the benefit obtained in view of the comprehensive boycott sanctions in the Export Administration Act (EAA).

Not only are there two laws with which to comply, but they are dissimilar in certain provisions. EAA prohibits the providing of certain kinds of information, while the tax law penalizes a company if it enters into an agreement to provide certain information even though it may never be provided. The tax law prohibits discrimination on the basis of nationality, race, and religion, while EAA prohibits discrimination on the basis of race, religion, sex, or national origin. EAA prohibits acts by U.S. persons acting in U.S. commerce, while the tax law refers to the U.S. taxpayer.

FOREIGN CORRUPT PRACTICES

Under the Foreign Corrupt Practices Act (15 U.S.C. 78-dd-1) signed December 19, 1977, American firms are forbidden to pay, or to offer or authorize payment of, anything of value to foreign government officials, political parties, or their leaders or any other person, while knowing or having reason to know that all or part of that payment will be used to obtain or retain business. The law imposes on publically held and certain other corporations the general obligation to keep accurate books and records and a specific duty to establish accounting controls to prevent the use of "off the books" devices to disguise improper payments.

Corporations or firms found in violation of the law can be fined up to $1 million. Officers or directors of a corporation or any stockholder acting on its behalf can be fined no more than $10,000 or imprisoned not more than 5 years, or both.

The act was a congressional response to disclosure of payments by U.S. corporations to foreign government officials and ostensibly other influential private persons. During the 94th Congress the Committee on Banking, Housing, and Urban Affairs held extensive hearings on improper payments to foreign officials by U.S. corporations. During that session the Committee received from the Securities and Exchange Commission (SEC) a report on "Questionable and Illegal Corporate Payments and Practices," which summarized SEC's enforcement activities and findings. SEC analyzed, in part, the public filings of 89 corporations that had disclosed varying types of questionable payments. The report revealed that cases of undisclosed, questionable, or illegal corporate payments were widespread.

SEC is responsible for investigating potential violations of securities laws, but the only remedy it can bring on its own is an injunction. When SEC believes it has compiled enough evidence for a criminal action, it refers the case to the Justice Department for criminal prosecution.

Certain members of the business community believe the act limits the ability of U.S. enterprises to give gifts or payments to foreign political officials, even where these may be customary as part of the normal course of business, and results in foreign competition securing sales which might otherwise accrue to a U.S. business. Some business people feel that the act imposes expensive, unrealistic requirements for internal reporting and accounting systems which also apply to foreign branches and subsidiaries of U.S. companies and that these requirements result in increased operating costs.

As the legislation was enacted relatively recently, the extent, if any, to which it has placed U.S. firms at a competitive disadvantage in the international market is difficult to estimate. The lack of data also [illegible] problems. Businesses are reluctant to discuss problems encountered by stopping the payments prohibited by the act. Another factor limiting data is the possibility that some payments were made in competition aginst other U.S. firms rather than foreign firms.

The fact that the act represents a unilateral action to curb corrupt payments could put U.S. firms at a disadvantage in international trade. The U.S. Council of the International

Chamber of Commerce is seeking passage of a strong international treaty to nullify possible disadvantages to U.S. firms. The United Nations is also involved in drafting an international treaty dealing with corrupt practices.

Some representatives of industry have recommended that the Department of Justice, along with SEC, issue regulations to more clearly state what is prohibited under the act, so that business can undertake certain transactions with assurance that they will not be subject to criminal penalty.

However, in an independent survey conducted by a trade association, 25 major U.S. companies stated that, in general, they preferred that no further clarification be sought. They felt that any further guidance by Justice would probably cause more problems than it would solve.

In his September 1978 export trade policy message, the President directed Justice to provide guidance to the business community concerning its enforcement priorities. The Commerce Department believes that guidelines would help reduce the uncertainty now faced by U.S. firms which, frequently and in good faith, make payments abroad in the context of such normal business dealings as the use of agents and joint ventures.

To date Justice has not been forthcoming with statements of interpretation or guidance.

ANTITRUST REGULATIONS

Five statutes govern the U.S. approach to antitrust in the international arena:

--The Sherman Act of 1890 (15 U.S.C. 1)

--The Clayton Act of 1914 (15 U.S.C. 13).

--The Federal Trade Commission Act of 1914 (15 U.S.C. 45).

--The Webb-Pomerene Export Trade Act of 1918 (15 U.S.C. 62).

--The Capper-Volstead Act of 1922 (7 U.S.C. 291).

The Sherman, Clayton, and Federal Trade Commission Acts extend their jurisdiction to commerce with foreign nations. U.S. antitrust laws apply to U.S. citizens and foreign persons living abroad, to the extent that they do business in U.S.

markets directly or through agents. The laws apply to individuals and enterprises which seek unlawfully to restrain competition in the United States. This "effects doctrine" confers jurisdiction not merely as to violations taking place in the United States but also violations that begin or are advanced beyond U.S. boundaries which have a direct, foreseeable, and substantial "effect" here.

In addition to enforcing and litigating antitrust matters, the Justice Department has adopted Business Review Procedures designed to elicit a statement from the Department regarding current enforcement intentions based on facts available at that time. Thus a company may know whether potential activities could be challenged by Justice as violative of antitrust law. Only once has Justice initiated litigation after first issuing a favorable review letter, and then only after finally withdrawing the original letter. The Department has also issued an "Anti-Trust Guide for International Operations" which spells out, with examples, what is and is not permissible.

Notwithstanding Justice's attempts to assist business with potential antitrust problems, a common and recurrent concern of businessmen with respect to applying U.S. antitrust laws to international transactions is the uncertainty perceived as to what is legal and illegal under substantive provisions of the law. In addition, they believe the application of the laws places them at a competitive disadvantage, as described by the Assistant Secretary of Commerce for Industry and Trade.

> "American companies perceive themselves at a competitive disadvantage because of U.S. antitrust laws applied to business conducted outside our borders. I believe we need a serious examination of whether the antitrust laws needlessly impair our ability to compete against industrial conglomeration abroad, conglomerates which often enjoy the blessing of their governments."

In April 1978 a Senate Subcommittee inserted in the record an article stating that because of U.S. antitrust restriction vis-a-vis other countries' rules, two large U.S. firms had to vie independently for a $450 million generator and turbine contract in competition with a European consortium led by German and Swiss firms.

In his declaration of September 9, 1978, on national export policy, the President stated that:

"There are instances in which joint ventures and other kinds of cooperative arrangements between American firms are necessary or desirable to improve our export performance. The Justice Department has advised that most such foreign joint ventures would not violate our anti-trust laws, and in many cases would actually strengthen competition. This is especially true for one-time joint ventures created to participate in a single activity, such as a large construction project. In fact, no such joint conduct has been challenged under the antitrust laws in over 20 years."

However, as many businessmen apparently are uncertain on the issue and uncertainty can be a disincentive to exports, the President instructed Justice, in conjunction with Commerce, to clarify and explain the scope of the antitrust laws in the international area, with special emphasis on the kinds of joint ventures that are unlikely to raise antitrust problems.

The President instructed also that Justice expedite requests by business firms for guidance on international antitrust issues under Justice's Business Review Procedures.

Webb-Pomerene Act

To insure free access to foreign markets for domestic exporters, this act exempts firms from antitrust laws for cooperative participation in export association. The act was intended to achieve equality of opportunity especially for smaller businesses in competition with foreign cartels. The act does not authorize any activities by merger or joint ventures between U.S. and foreign corporations which could restrain domestic export commerce.

The Federal Trade Commission (FTC) administers the act. The Department of Commerce promotes formation of associations among U.S. industries. The Department of Justice is authorized to intervene when association activities are deemed in restraint of trade within the United States or in the export market with domestic competition.

The act requires that to obtain the benefit of the exemption, every association annually file with FTC a verified written statement setting forth certain operating information. If FTC feels that the association is operating beyond the scope of the exemption, it may investigate and recommend a readjustment of the association's business to conform with the law. If such recommendation is not followed, FTC refers the matter to the Attorney General for action. The Attorney General may also conduct an independent investigation if it is felt that the association is operating beyond the scope of the exemption and if an antitrust violation is believed to exist. In fact, no joint export venture involving American firms has been the subject of either Government prosecution or private litigation for over 20 years.

The act has not significantly promoted exports

The hope that the antitrust exemption would result in the formation of hundreds of associations serving as joint selling agencies for small firms has not been realized. An FTC study found that successful associations usually consisted of the dominant leaders of an oligopolistic industry involving a homogeneous product. It also found that large firms were the most common beneficiaries of the Webb-Pomerene Act. Association exports in 1976 were only 1.5 percent of the total U.S. exports.

The Webb-Pomerene Act has been critized for being too broad and vague. It has been argued that the prohibitions in the Sherman and Clayton Acts do not reach the type of joint export ventures among sellers designed to derive economies of scale or to create countervailing power that was a major goal of the act. Furthermore, other means are available to achieve the desired results. Export agents or brokers could provide most of the same services export associations were originally intended to provide. Department of Justice officials state that it is doubtful that activities exempted by the act would otherwise violate U.S. antitrust law.

The act is theoretically the means to allow U.S. firms to cartelize in export trade. A major premise of the act is that the existence of foreign selling cartels places domestic firms at a competitive disadvantage. However, traditional cartel theory states that under such circumstances firms operating outside cartels often benefit from the high price set by the members. A nonmember U.S. exporter is free to charge a lower price to compete with the cartel. Seldom has a Webb association member cited protection from a foreign cartel as its reason for joining the association.

A principal criticism directed against the act is that association activities adversely affect domestic markets.

The argument says that by encouraging anticompetitive combinations in export trade, it invites similar restraints in domestic trade. While some export agreements have been overtly extended to the domestic market, the more likely "spillover" effect of export associations relates to the exchange, between domestic producers, of export information on prices, costs, and production. The exchange of such information regarding foreign markets, which is permitted by the act, can facilitate parallel pricing in the domestic market.

A final objection to the act is that the exemption undermines U.S. Government credibility in advocating strong international antitrust rules.

Supporters of exemption argue that there is nothing inherently anticompetitive about associations and that real benefits can accrue to small manufacturers that operate in a highly concentrated market if they join together for export.

Associations claim that the act removes uncertainty concerning the legality of joint exporting arrangements and, at least for some companies, actually encourages exporting. Supporters believe the act would be even more useful if antitrust immunity applied to services as well as goods.

In 1973 we concluded in a report to the Congress that because of uncertainties over possible anti-trust implications the act had not been effective in inducing companies to form associations to compete in foreign markets. 1/ The report found that clarifying the act and expanding its scope to include services and intangible items could help create an environment in which U.S. firms might more readily join together and present a complete package, including financing, technology, equipment, and commodities in competing for large projects abroad.

Anti-Trust Commission recommends retention of act

Upon direction of the President, a National Commission for the Review of Anti-Trust Laws and Procedures was established. Review of exemptions to antitrust laws was included in the Commission's work. In a draft report, the Commission made two recommendations regarding the Webb-Promerene Act:

1/Clarifying Webb-Pomerene Act Needed to Help Increase U.S. Exports (B-172255, Aug. 22, 1973).

1. The antitrust exemption for export associations should be made contingent upon a showing of particular need.

2. The act should cover services.

The Commission stated that:

"* * * the questions raised concerning the Webb Act, as presently drafted, are substantial. The act creates opportunities for significant spillover effects in domestic commerce. It creates an adverse environment for pro-competitive diplomatic initiatives. It would seem that the pro-competitive purposes of Webb associations could be accomplished without antitrust immunity."

Despite evidence which would seemingly counsel elimination of the act, the Commission could not make such a definitive recommendation. However, the Commission did state its belief that a legislative reexamination of the necessity of the exemption was warranted. The Commission believed that if the Congress determined that some exemption was appropriate, "any reformulated immunity statute should limit its application to situations where the public benefits outweigh the potential harm."

Along these lines it made some general observations. For one, American firms seeking an antitrust exemption for export business activities should be required to make a showing of need. Any showing of need should be related to the act's original purpose to enable entry by American companies in the world market on equal terms with combinations of their foreign competitors or customers. An appropriate need can be demonstrated when associations can provide genuine economies in promoting and conducting U.S. export trade or when associations are needed for defending legitimate commercial interests.

The Commission observed that any exemption required a demonstration that the proposed association would not adversely affect either the domestic or international trade of the United States. In addition, any exemption should permit the President or his representative to prohibit or modify an export agreement if he finds that it may violate treaties or other international obligations.

In discusssions with several Webb-Pomerene associations, we found that in one case the exemption was said to mean the difference between success and failure in the foreign market. The motion picture industry association represents highly competitive companies. The biggest problem faced by the association is foreign government import controls. Only by acting as a group can the industry exercise its leverage by withholding the product from the market. The phosphate industry uses its association as an export broker, in addition to setting a price in the export market. The processed food industry uses its association to present a united front in negotiation of ocean freight rates with shipping companies. A machine tool association representing complementary industries in bidding for joint ventures stated that it probably did not need the exemption.

Exemption for agriculture

In 1922 the Capper-Volstead Act was passed. The act states that persons engaged in producing agricultural products may act together in associations, corporate, or othewise in collectively processing, preparing for market, handling, and marketing such products in interstate and foreign commerce. Associations may have marketing agencies in common, and such associations and their members may enter into contracts or agreements to achieve these purposes. The act prohibits any cooperative action which tends to create monopoly or restrain trade.

UNCERTAIN TAX INCENTIVES

U.S. businesses engaged in exporting and employing U.S. citizens overseas have had the benefit of certain income tax incentives. Recently these incentives have come under attack by the administration and through legislative action. The uncertainty of the future status of the incentives is said to be detrimental to planning courses of action by industry in the export market.

Domestic international sales corporation

The Revenue Act of 1971 (26 U.S.C. 992) authorized the establishment of domestic international sales corporations (DISC). A DISC acts as a commission agent for the buying and selling of goods for export and export sales promotion. It can be either an independent company or a subsidiary established solely to sell and promote the products of its parent corporation. However, it must be a separately incorporated entity to qualify for the tax benefits.

Under the 1971 Act, a DISC was permitted to defer 50 percent of the Federal income tax on income from export sales provided that at least 95 percent of the DISC's gross receipts were received from exports and export-related activities and

95 percent of its assets were export related. In the Tax Reform Act of 1976, the Congress reaffirmed the continuing need for DISCs as a stimulant to U.S. export but limited deferral to taxes on income over 67 percent 1/of a DISC's average export income. Benefits are phased out over time unless the company's export sales continue to grow.

Some businessmen argue that DISCs have helped to stimulate U.S. exports. In March 1977 there were 9,400 DISCs. An analysis by the Treasury Department of selected companies reporting DISC operations in 1975 indicated that exports of companies using DISCs out performed exports of other companies.

The administration has attempted to eliminate DISCs for several reasons, including the contention that they favor larger exporting companies and that small business exporters have derived little or no benefit. It is thought that the larger companies would have exported in the absence of DISCs and therefore the loss of tax revenues is not warranted by any export promotion benefits of DISCs.

In its tax reform proposals submitted in 1978, the administration called for phasing out of DISCs by 1981. Although no action was taken there is sentiment in the Congress that the act authorizing the establishment of DISCs should be repealed.

Taxation of U.S. citizens living abroad

For more than 50 years section 911 of the Internal Revenue Code has offered U.S. citizens working abroad tax benefits to compensate for extra living expenses. This incentive was to promote U.S. exports and commercial competitiveness. The Tax Reform Act of 1976 reduced the earned income exclusion and the foreign tax credit and increased the tax rate. The reductions were later deferred until the 1977 tax year. The Foreign Earned Income Act of 1978 (26 U.S.C. 911) reinstated much of the tax relief eliminated under the Tax Reform Act of 1976.

In a February 21, 1978, report to the Congress, 2/ we concluded that because of the seriousness of the deteriorating U.S. economic position, the few policy instruments available for promoting U.S. exports and commercial competitiveness

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1/DISCs with $100,000 or less income are exempt, and those earning from $100,000 to $150,000 are partially exempt.

2/Impact on Trade of Changes in Taxation of U.S. Citizens Employed Overseas (ID-78-13), Feb. 21, 1978.

abroad, and uncertainties about the effectiveness of these, serious consideration should be given to continuing section 911-type incentives of the Internal Revenue Code, at least until more effective policy instruments are identified and implemented.

Foreign tax credit

Income earned abroad by a subsidiary or an affiliate of a U.S. company may be subject to tax by both the U.S. Government and the governments of other countries in which the income is earned. U.S. companies are permitted to credit income taxes paid to foreign government on profits earned abroad against their U.S. income taxes on those profits. This credit acts as a shield against the double taxation of income earned abroad. Proposals to repeal the foreign tax credit have not been successful.

In 1978 the administration proposed current taxation of undistributed earnings of foreign subsidiaries or affiliates controlled by U.S. corporations. This proposal never became law.

Under current U.S. law, the U.S. parent company is not taxed on its interest in the income of controlled foreign subsidiaries or affiliates until that income is received as a dividend. The administration proposal sought to subject such income to U.S. taxation at the time it was earned, regardless of whether any of it had been remitted to the U.S. shareholder.

With respect to U.S. companies, some business spokesmen have claimed the proposal would impose a significant administative burden and would result in payment of additional U.S. taxes on all unremitted earnings of controlled foreign subsidiaries or affiliates in countries with lower effective tax rates than the United States. These additional U.S. taxes would place foreign subsidiaries or affiliates of U.S. companies at a disadvantage vis-a-vis their foreign-owned competitors which would not be taxed on their earnings by their parent country governments until those earnings were repatriated, if at all.

OBSERVATIONS

The private sector perceives the export trade environment created by the U.S. Government as one fraught with uncertainty. The business sector believes that U.S. trade policy is being formulated on an ad hoc basis through ever-changing rules with little or no assistance on how to operate in an export environment continually in flux. U.S. exporters do not believe they can operate in effective long-term market development if they are constantly threatened with changes in legislation and administrative rules which adversely affect their ability to export.

It is not possible to quantify the cumulative effect of the various disincentives to trade on the U.S. economy. However, it has been estimated in some individual instances. An airplane manufacturer, in assessing the impact of human rights policies on trade, has calculated that sales denied to Latin American nations, together with orders not placed by U.S. manufacturers and suppliers that see no merit in expending time and money on sales almost certain to be denied, account for a very large sum. The State Department is said to have estimated that $813.5 million of sales were possible casualties of human right policies, and this figure does not include business that was discouraged or potential spinoff business.

Industry appears to want to know the rules and to want them to be consistent. Firms would care to know how their export attempts will fare before committing significant amounts of time and money to projects which appear acceptable at inception, but then can be denied because of nontrade objectives. No one policy or regulation will keep an exporter from doing business, but given a whole series of policies and regulations that appear confusing and onerous, even the large exporters become reluctant to commit resources. Industry must assess the risks in undertaking any transaction. Newly imposed or changed policies and regulations contribute heavily to that element of risk to the point at which not only are potential exporters being discouraged but existing ones must consider the value of the export market.

CHAPTER 4

EFFORTS TO STRENGTHEN GOVERNMENT ORGANIZATION

The primary determinant of a nation's success in exporting is the existence of a highly motivated and competitive domestic private sector which vigorously seeks out and exploits sales opportunities in overseas markets. No matter how active the Government is, there is no substitute for the willingness of the U.S. private sector to compete in international markets.

However, the Government is obliged to strategically coordinate its policies and programs which affect the ability of firms to export and which create the environment in which exporting occurs. The first step is to insure that the organization under which the programs are conducted is logical and promotes the efficiency of efforts to develop export and minimizes the adverse effects of other programs on export potential.

The problem has long been recognized. In January 1972 the Secretary of Commerce stated:

> "The United States has never seriously considered a special export climate distinct from the domestic commercial climate * * *. * * * our financing, fiscal, tax, labor, transportation, antitrust, and other policies have been framed to meet the domestic needs of a continental economy, with little regard to the effects they might have on the competitive position of our exports."
>
> * * *
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> "Until recently, in the formulation of our economic policies, both domestic and foreign, the needs of exporting have had lower priority.
>
> "Another basic need is for a broader recognition that exports must be promoted. In this respect, the United States Government holds a key to export expansion. Companies can be expected to increase their export activities only if there is a favorable climate and an expectation of growth and profit. Without a firm and enduring Government commitment to improving the export environment and strengthening our export promotion, however, no dramatically increased long-range business commitment to exporting can be expected to occur."

Over the past 10 years, much consideration has been given to the effectiveness of Government organization and its impact on international trade.

In 1968 the Commerce Department released a study appraising prospects for U.S. international trade through 1973 and recommending actions to improve export growth. This study, entitled "U.S. Foreign Trade: A Five-Year Outlook With Recommendations for Action," recommended, among other things, that the U.S. Goverment

> "Bring together the presently fragmented Government export efforts by developing a common Government policy and coordinating the resources needed to carry it out * * *.
>
> "While a considerable part of the export promotion function is in the Department of Commerce, a broad measure of the responsibility for export support is diffused throughout the Executive Branch with no central focus except for the Budget Bureau and a Special Assistant to the President for whom export expansion is a collateral duty * * *."

In November 1970, the President's Advisory Council on Executive Organization reported that:

> "The time is long since past when the Federal Government can continue a piecemeal approach to its critical role in keeping the American economy productive, growing and competitive."

The Council proposed a new department which would, in part, (1) implement a broad range of economic programs cutting across traditional lines of interests to achieve overall policy objectives and (2) provide an integrated focus for Federal efforts to promote international trade.

The Council maintained that such a department was needed because the existing fragmentation of economic programs and activities had made difficult the integration of related economic activities and had resulted in inconsistent policies. The Council claimed that it had also resulted in the creation of awkward mechanisms for coordinating interagency activity, jurisdictional competition, overlapping mandates, and a general inability to establish accountability; it had led to the confusion of participants, duplication of effort, and conflicts in administration.

PAST ATTEMPTS

In Janaury 1971 the President established in the Executive Office of the President, the Council on International Economic Policy (CIEP). The purpose was to insure timely consideration of issues, help achieve consistency between international and domestic economic policy, and maintain close coordination with our basic foreign policy objectives. It did not, however, provide the means for coordinating the programs to carry out the policy.

In establishing CIEP, the President stated that:

> "In the Executive Office of the President, the Council of Economic Advisors, the National Security Council, and the Office of Management and Budget are involved in various aspects of foreign economic affairs. More than 60 other units and coordinating bodies throughout the executive branch have responsibility for certain limited portions of foreign economic affairs."

At first CIEP's role in international trade matters was tenuous. The Secretary of the Treasury resisted CIEP influence in international monetary policy, and the staff of the Special Trade Representative viewed itself as a rival to the CIEP staff. Late in 1972 the President consolidated responsibility for all economic policy by creating within the Executive Office the Council on Economic Policy and naming the Secretary of the Treasury as Chairman, Assistant to the President for Economic Policy, and Chairman of CIEP. According to the Secretary of the Treasury:

> "The very breadth and comprehensiveness of the policy responsibility not only permitted greater informality in operation but also helped to bypass some of the difficulties that had hampered the CIEP experiment. With the Treasury Secretary as the head of the Council on Economic Policy and with the CIEP becoming in effect the international arm of the council, it was possible to coordinate the Treasury's work in international economic policy with the CIEP's and Special Trade Representative's work in the international trade area. Once a single overall structure was in place to resolve broad issues in policy, assignments of day-to-day responsibility for particular issues created fewer jealousies and bureaucratic rivalries."

In August 1972 the International Economic Policy Act of 1972 (22 U.S.C. 2842) was enacted "to provide for closer Federal interagency coordination in the development of a more rational and orderly international economic policy for the United States." The act provided that CIEP was to be composed of the President; the Secretaries of State, the Treasury, Defense, Agriculture, Commerce, and Labor; the Director of the Office of Management and Budget; the Chairman of the Council of Economic Advisers; and the Special Representative for Trade Negotiations. The President was authorized to name additional members and to designate one to preside in his place as Chairman. The act provided for an Executive Director, a staff, and appropriations.

In October 1973 the original concept was modified by eliminating the President as a member of the Council, adding the Secretary of Transportation, and providing that the President designate the Chairman from among the members of the Council.

In September 1974 the President issued Executive Order 11808 establishing the Economic Policy Board (EPB) to provide advice concerning all aspects of national and international economic policy; to oversee the formulation, coordination, and implementation of all U.S. economic policy; and to serve as the focus for economic policy decisionmaking. EPB was chaired by the Secretary of the Treasury and consisted of 14 other Cabinet Officers. EPB's membership was somewhat different from that of CIEP and did not include the Secretary of Defense. The Executive Order provided that the Assistant to the President for Economic Affairs be the Executive Director.

EPB was created to replace a number of cabinet-level committees dealing with various economic policy issues and problems and to insure that there was adequate coordination on all economic policy issues.

Although CIEP was structured to coordinate all agencies involved in considering international economic policy, some cabinet members were unwilling to use it. This reduced CIEP's ability to make economic policy and mediate interagency conflicts. CIEP became more of an issue review organization than a policymaking unit within the Executive Offices. The Administration did not consider CIEP functional because it avoided issues of real significance. CIEP itself decided there was no need for continuing review of trade policy, and its legislative authority was allowed to lapse in 1977.

Two presidential councils were established in 1973 to help guide export policy--the President's Export Council (PEC) and the President's Interagency Committee on Export Expansion (PICEE). PEC was made up of representatives from industry who advised the President on export expansion activities. PICEE was composed of representatives from 13 Federal agencies to insure that U.S. export policies and programs would be coordinated and operated effectively to achieve common objectives. Both PEC and PICEE were chaired by Secretaries of Commerce. Both PICEE and PEC had become inactive, however PEC has been revived and reorganized in keeping with the President's September 1978 statement on national export policy.

In 1977 the President created the Economic Policy Group (EPG) to coordinate international as well as domestic economic policy. EPG replaced the previous structure consisting of EPB and CIEP.

EPG has two standing committees--the Steering Committee and the Executive Committee--and ex officio members. The Steering Committee was established to monitor and guide the many Cabinet-wide interagency processes by which domestic and international policy is developed. The Executive Committee concentrates on macroeconomic issues--employment inflation, investment, and growth.

More specialized economic questions--trade, agriculture, housing, international monetary matters, taxes, and North-South economic relations, for example, are discussed and developed for presidential decision through interagency meetings and consultation led by the department having chief responsibility and are monitored by the steering committee.

EPG has also created or assumed responsibility for several task forces of sub-cabinet level charged with examining broad areas of international economic policy, including one on the U.S. trade balance, which is chaired by Treasury.

EPG is not intended to supplant the several economic coordinating bodies created by statute, such as the Trade Policy Committee under the Office of the Special Representative for Trade Negotiations.

Various administrations have created groups within the Executive Office of the President to coordinate economic policy. These groups were composed of the heads of Government agencies involved in administering international trade programs and other top economic officials. Such membership, however, is rarely able to transcend the particular interests of their agencies. Without delegation of clear decisionmaking authority to one member, such committees become nothing more than a new forum for discussing policy differences.

PROPOSALS

The Congress and the administration have recently put forward various plans to reorganize the executive branch to make it more effective in carrying out the Government's role in international trade. These plans include proposals to (1) create a new cabinet-level department which would be composed of various trade-related agencies and activities presently dispersed throughout the Federal Government, (2) strengthen the existing Department of Commerce by transferring to it various Federal trade agencies and activities, and (3) consolidate trade policymaking, administration of trade regulations and laws, and coordination of industrial and agricultural trade activities under the Special Representative for Trade Negotiations.

The purpose of these plans is to create an effective and efficient coordination of trade policies within the U.S. Government and to give trade a higher priority in the policy-formulation process so as to strengthen the international economic and commercial interests of the people of the United States. Senator William V. Roth, Jr., cosponsor with Senator Abraham Ribicoff of the International Trade And Investment Act (S. 377) to create a Department of International Trade and Investment, stated that

> "At the present time, there is a great deal of fragmentation in the governmental structure dealing with international economic issues. Some of this is inherent in any organization and is needed to insure that any single problem is considered from a variety of important perspectives. Some of it however is a product of historical evolution with little or no present logic, and is very detrimental to the formulation of realistic, coherent international economic policies."

OBSERVATIONS

Most major trading countries approach international trade with a more centralized and consolidated organizational structure than does the United States. Most have a ministry of trade at the cabinet level. In the United States, many agencies are involved in international trade, each with its own purposes and objectives. Both the public and private sectors contend that the Government lacks the capacity to coordinate the diverse actions of these agencies. However, each of the Government reorganization plans put forward by members of Congress and the administration call for consolidation of the presently dispersed agencies responsible for international trade. These plans aim to give trade a higher priority in the policymaking process and to improve Government coordination in assisting the private sector to compete in the international market.