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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

February 17, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Proposed Reorganization  
of Trade Policy Process

Craig Fuller is considering options for a possible reorganization of the President's trade policy process. He has inquired if the Cabinet Council on Commerce and Trade (CCCT) could meet the requirements of 19 U.S.C. § 1872. That section requires the President to establish an interagency organization composed of the United States Trade Representative (USTR) and the heads of other departments designated by the President. The duties of this organization include:

- o assisting the President in carrying out 19 U.S.C. §§ 2251, 2252, and 2253 (International Trade Commission investigations and subsequent Presidential action);
- o making recommendations to the President on basic trade policy issues;
- o advising the President with respect to the results of 19 U.S.C. § 2412(b)(2) hearings on petitions for Presidential action to enforce a trade agreement;
- o other functions with respect to the trade agreements program as the President may designate.

The responsibilities of this statutorily mandated interagency organization have traditionally been discharged by the Trade Policy Committee, pursuant to Executive Order No. 11846, as amended.

The CCCT as presently formed cannot assume the responsibilities of the interagency organization mandated by 19 U.S.C. § 1872. A separate provision, 19 U.S.C. § 2171(c)(1)(E), specifies that the USTR shall "be chairman of the interagency trade organization established pursuant to [19 U.S.C. § 1872]." The Secretary of Commerce, however, chairs the CCCT. The legislative history of 19 U.S.C. § 1872 indicates

that the specification that the USTR chair the statutorily mandated interagency trade organization is not a mere technicality. As it passed the House, what is now 19 U.S.C. § 1872 provided that the President may designate the chairman. The Senate altered this to provide that the Special Trade Representative, predecessor to the USTR, serve as chairman because it "felt that the Chairman, if he was chosen from one of the departments, would represent more the views of that department than the overall broader perspective represented by the Special Representative." S. Rep. No. 2059 (Sept. 14, 1962).

I have drafted a memorandum for your signature to Fuller indicating that the CCCT as presently constituted cannot meet the requirements of 19 U.S.C. § 1872, due to the requirements of 19 U.S.C. § 2171(c) (1) (E).

Attachment

THE WHITE HOUSE

WASHINGTON

February 17, 1983

MEMORANDUM FOR CRAIG L. FULLER  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING *Orig. signed by FFF*  
COUNSEL TO THE PRESIDENT

SUBJECT: Trade Policy Process

By memorandum dated February 10 you inquired whether the Cabinet Council on Commerce and Trade could satisfy the legislative requirement that the President establish an interagency organization to advise and assist him on trade policy issues. 19 U.S.C. § 1872. You noted that the Trade Policy Committee has traditionally fulfilled this legislative mandate.

The statutory provisions establishing the Office of the United States Trade Representative specify that the USTR shall "be chairman of the interagency trade organization established pursuant to [19 U.S.C. § 1872]." 19 U.S.C. § 2171(c)(1)(E). Since the Secretary of Commerce chairs the Cabinet Council on Commerce and Trade, any effort to satisfy the requirements of 19 U.S.C. § 1872 through the Cabinet Council would conflict with 19 U.S.C. § 2171(c)(1)(E). Our research indicates that when it mandated an interagency trade organization pursuant to 19 U.S.C. § 1872, Congress specified that the chairman be the Special Trade Representative, predecessor to the USTR, because it thought a chairman from one of the departments would not have as broad a perspective on the trade issues. This specification has been carried forward as 19 U.S.C. § 2171(c)(1)(E).

Accordingly, the Cabinet Council on Commerce and Trade as presently constituted cannot be considered the organization mandated by 19 U.S.C. § 1872, since that organization must be chaired by the USTR.

FFF:JGR:aw 2/17/83

cc: FFFielding  
JGRoberts  
Subj.  
Chron

THE WHITE HOUSE

WASHINGTON

February 17, 1983

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FFF:JGR:aw 2/17/83

cc: FFFielding  
JGRoberts  
Subj.  
Chron

## PART V—ADMINISTRATIVE PROVISIONS

§ 1871. Repealed. Pub.L. 93-618, Title VI, § 602(d), Jan. 3, 1975, 88 Stat. 2072

**Historical Note**

Section, Pub.L. 87-764, Title II, § 241, tentative for Trade Negotiations. See Oct. 11, 1962, 76 Stat. 878, provided for section 2171 of this title. the appointment of the Special Repre-

§ 1872. Interagency trade organization

**Establishment; composition; meetings; participation by other agencies**

(a) The President shall establish an interagency organization to assist him in carrying out the functions vested in him by this subchapter and sections 2251, 2252, and 2253 of this title. Such organization shall, in addition to the United States Trade Representative, be composed of the heads of such departments and of such other officers as the President shall designate. It shall meet at such times and with respect to such matters as the President or the chairman of the organization shall direct. The organization may invite the participation in its activities of any agency not represented in the organization when matters of interest to such agency are under consideration.

**Duties**

(b) In assisting the President, the organization shall—

(1) make recommendations to the President on basic policy issues arising in the administration of the trade agreements program,

(2) make recommendations to the President as to what action, if any, he should take on reports submitted to him by the United States International Trade Commission under section 2251(d) of this title,

(3) advise the President of the results of hearings held pursuant to section 2412(b)(2) of this title, and recommend appropriate action with respect thereto, and

(4) perform such other functions with respect to the trade agreements program as the President may from time to time designate.

**Use of resources of agencies; procedures and committees**

(c) The organization shall, to the maximum extent practicable, draw upon the resources of the agencies represented in the organization, as well as such other agencies as it may determine, including the United States International Trade Commission. In addition, the

President may establish by regulation such procedures and committees as he may determine to be necessary to enable the organization to provide for the conduct of hearings pursuant to section 2412(b)(2) of this title, and for the carrying out of other functions assigned to the organization pursuant to this section.

Pub.L. 87-794, Title II, § 242, Oct. 11, 1962, 76 Stat. 878; Pub.L. 93-618, Title I, § 171(b), Title VI, § 602(b), Jan. 3, 1975, 88 Stat. 2009, 2072; Pub.L. 96-39, Title IX, § 902(c), July 26, 1979, 93 Stat. 300; 1979 Reorg. Plan No. 3, § 1(b)(1), eff. Jan. 2, 1980, 44 F.R. 69273, 93 Stat. 1381.

#### Historical Note

**1979 Amendment.** Subsecs. (b)(3), (c). Pub.L. 96-39 substituted "section 2412(b)(2) of this title" for "section 2411(c) and (d) of this title".

**1975 Amendment.** Subsec. (a). Pub.L. 93-618, § 602(b)(1), substituted reference to sections 2251, 2252, and 2253 of this title for reference to sections 1981 and 1982 of this title.

Subsec. (b)(2). Pub.L. 93-618, § 602(b)(2), (3), substituted "reports submitted by him" for "reports with respect to tariff adjustment submitted by him" and "section 2251(d) of this title" for "section 1901(e) of this title".

Subsec. (b)(3). Pub.L. 93-618, § 602(b)(4), (5), substituted "hearings held pursuant to" for "hearings concerning foreign import restrictions held pursuant to" and "section 2411(c) and (d) of this title" for "section 1882(d) of this title".

Subsec. (c). Pub.L. 93-618, § 602(b)(5), substituted "section 2411(c) and (d) of this title" for "section 1882(d) of this title".

**Effective Date of 1979 Amendment.** Amendment by Pub.L. 96-39 effective July 26, 1979, see section 903 of Pub.L. 96-39, set out as a note under section 2411 of this title.

**Change of Name.** The United States Tariff Commission was redesignated the United States International Trade Commission by Pub.L. 93-618, Title I, § 171(a), Jan. 3, 1975, 88 Stat. 2009. See section 2231 of this title.

"United States Trade Representative" was substituted for "Special Representa-

tive for Trade Negotiations" in subsec. (a), pursuant to Reorg. Plan No. 3 of 1979, § 1(b)(1), 44 F.R. 69273, 93 Stat. 1381, eff. Jan. 2, 1980, as provided by section 1-107(a) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 993, set out as notes under section 2171 of this title.

**Transfer of Functions from East-West Foreign Trade Board.** The East-West Foreign Trade Board, which was established by Pub.L. 93-618, title IV, § 411, Jan. 3, 1975, 88 Stat. 2065, and classified to section 2441 of this title, was abolished by Reorg. Plan No. 3 of 1979, § 6, 44 Stat. 69275, 93 Stat. 1381, eff. Jan. 2, 1980, as provided by section 1-107(a) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 993, set out as notes under section 2171 of this title, and the functions of the Board under subsecs. (a) and (b) of section 411 of Pub.L. 93-618 transferred to the interagency organization established under this section by section 5(e) of Reorg. Plan No. 3 of 1979. See section 2441 of this title.

**Trade Policy Committee.** For provisions relating to the establishment of the Trade Policy Committee, see section 3 of Ex. Ord. No. 11846, Mar. 27, 1975, 40 F.R. 14291, set out as a note under section 2111 of this title.

**Legislative History.** For legislative history and purpose of Pub.L. 87-794, see 1962 U.S. Code Cong. and Adm. News, p. 3110. See, also, Pub.L. 93-618, 1974 U.S. Code Cong. and Adm. News, p. 7186; Pub.L. 96-39, 1979 U.S. Code Cong. and Adm. News, p. 381.

#### Library References

Customs Duties ⇨10.  
United States ⇨31.

C.J.S. Customs Duties § 17.  
C.J.S. United States § 31.

Office of the Special  
15 CFR Chap. 7

## § 1873. RA

Section, Pub.L. 87-  
Oct. 11, 1962, 76 Stat.

## § 1881. M

Except as otherwise provided in this title, or in any other law, after 1962, any duty proclaimed in a treaty or section 15 of this title, or in a trade agreement with a foreign country, whether entered into before or after Oct. 11, 1962, shall be subject to the provisions of Pub.L. 87-794, Title II, § 242, and Title VI, § 602(b).

**References in Title.** The Tariff Classification of Merchandise referred to in this title is defined in note under section 101.

Customs Duties ⇨

**Generally 1**  
Assessment on entries  
Countervailing 2

#### 1. Generally

"Most-favored-nation" treatment. The United States has entered into trade agreements of all countries with the United States which provide for an equal agreement on equal terms. See Kurt S. Adler, In Supp. 943, 88 Cus. Supp. 496 F.2d 122.

#### 2. Countervailing

The imposition of a countervailing duty does not violate the most-favored-nation clause. Energetic

PART 4—OFFICE OF UNITED STATES  
TRADE REPRESENTATIVE

## § 2171. Structure, functions, powers, and personnel

**Establishment within Executive Office of President**

(a) There is established within the Executive Office of the President the Office of the United States Trade Representative (hereinafter in this section referred to as the "Office").

**United States Trade Representative; Deputy United States Trade Representatives**

(b)(1) The Office shall be headed by the United States Trade Representative who shall be appointed by the President, by and with the advice and consent of the Senate. As an exercise of the rule-making power of the Senate, any nomination of the United States Trade Representative submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on Finance. The United States Trade Representative shall hold office at the pleasure of the President, shall be entitled to receive the same allowances as a chief of mission, and shall have the rank of Ambassador Extraordinary and Plenipotentiary.

(2) There shall be in the Office two Deputy United States Trade Representatives who shall be appointed by the President, by and with the advice and consent of the Senate. As an exercise of the rule-making power of the Senate, any nomination of a Deputy United States Trade Representative submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on Finance. Each Deputy United States Trade Representative shall hold office at the pleasure of the President and shall have the rank of Ambassador.

**Duties of United States Trade Representative and Deputy United States Trade Representatives**

(c)(1) The United States Trade Representative shall—

(A) be the chief representative of the United States for each trade negotiation under this subchapter or section 2411 of this title;

(B) report directly to the President and the Congress, and be responsible to the President and the Congress for the administration of trade agreements programs under this chapter, the Trade Expansion Act of 1962, and section 1351 of this title;

(C) advise the President and Congress with respect to non-tariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs;



Ch. 12 NEGOTIATING & OTHER AUTHORITY 19 § 2171

(D) be responsible for making reports to Congress with respect to the matter set forth in subparagraphs (A) and (B);

(E) be chairman of the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962;

(F) be responsible for such other functions as the President may direct.

(2) Each Deputy United States Trade Representative shall have as his principal function the conduct of trade negotiations under this chapter and shall have such other functions as the United States Trade Representative may direct.

**Powers of United States Trade Representative**

(d) The United States Trade Representative may, for the purpose of carrying out his functions under this section—

(1) subject to the civil service and classification laws, select, appoint, employ, and fix the compensation of such officers and employees as are necessary and prescribe their authority and duties;

(2) employ experts and consultants in accordance with section 3109 of Title 5 and compensate individuals so employed for each day (including traveltime) at rates not in excess of the maximum rate of pay for grade GS-18 as provided in section 5332 of Title 5, and while such experts and consultants are so serving away from their homes or regular place of business, to pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of Title 5 for persons in Government service employed intermittently;

(3) promulgate such rules and regulations as may be necessary to carry out the functions vested in him;

(4) utilize, with their consent, the services, personnel, and facilities of other Federal agencies;

(5) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the work of the Office and on such terms as the United States Trade Representative may deem appropriate, with any agency or instrumentality of the United States, or with any public or private person, firm, association, corporation, or institution;

(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 665(b) of Title 31; and

(7) adopt an official seal, which shall be judicially noticed.

**Use of other Federal agencies**

(e) The United States Trade Representative shall, to the extent he deems it necessary for the proper administration and execution of

**WHITE HOUSE  
CORRESPONDENCE TRACKING WORKSHEET**

*Roberts - push*

- O - OUTGOING
- H - INTERNAL
- I - INCOMING  
Date Correspondence Received (YY/MM/DD)    /    /

Name of Correspondent: Craig L. Fuller

MI Mail Report                      User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: Trade Policy Process

**ROUTE TO:**

**ACTION**

**DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response Code	Completion Date YY/MM/DD
<u>CW Holland</u>	ORIGINATOR	<u>8310215</u>		<u>  </u> / <u>  </u> / <u>  </u>
<u>CW AT18</u>	D	<u>8310215</u>	S	<u>8310218</u>
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**ACTION CODES:**

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure
- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

**DISPOSITION CODES:**

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

**FOR OUTGOING CORRESPONDENCE:**

- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

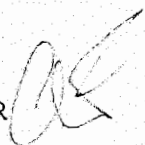
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THE WHITE HOUSE  
WASHINGTON

February 10, 1983

MEMORANDUM FOR FRED FIELDING

FROM: CRAIG L. FULLER 

SUBJECT: Trade Policy Process

I am putting together options for the possible reorganization of the President's trade policy process. Congress has stated, through legislation:

"the President shall establish an interagency organization to assist him in carrying out the functions vested in him by this title (Trade Negotiations and Trade Policy Development). Such organization shall in addition to the Special Representative for Trade Negotiations be composed of the heads of such departments and of such other officers as the President shall designate....In assisting the President, the organization shall make recommendations to the President on basic policy issues arising in the administration of the trade agreements program...."

Traditionally, the Trade Policy Committee has fulfilled this legislative mandate. In your view, could the Cabinet Council on Commerce and Trade meet the legislative requirements outlined above?

Attached is the membership list of the Cabinet Council on Commerce and Trade.

CABINET COUNCIL ON COMMERCE AND TRADE

Secretary of Commerce, Chairman Pro Tempore

Secretary of State

Secretary of the Treasury

Attorney General

Secretary of Agriculture

Secretary of Labor

Secretary of Transportation

Secretary of Energy

U.S. Trade Representative

Chairman, Council of Economic Advisers

Ex Officio Members:

The Vice President

Counsellor to the President

Chief of Staff

Assistant to the President for Policy Development

Wendell Gunn, Executive Secretary (6437)

MEMORANDUM

*file - Cabinet  
Council on  
Commerce + Trade*

THE WHITE HOUSE

WASHINGTON

March 17, 1983

MEMORANDUM FOR FRED F. FIELDING

*Let's discuss, ASAP*

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Draft Presidential Decision Memorandum  
Re: Commission on U.S. Trade Policy

Richard Darman has requested comments by close of business March 17 on the above-referenced draft decision memorandum, prepared by USTR William E. Brock. The memorandum recommends the establishment of a "blue-ribbon Presidential Commission with membership drawn from industry, labor, agriculture, and academia" to analyze trade policy problems and recommend an appropriate trade policy for the 1980's. Brock states in his memorandum that such an initiative is needed to respond to growing protectionist sentiments both here and among our trading partners, and to review the possibly out-moded and inadequate GATT process. Brock specifically notes that the proposed Commission would have a long-term perspective and would not address organization of Executive Branch trade offices. The proposal calls for a Commission of up to twenty-five members (and includes a list of candidates) and a staff under the direction of retiring deputy USTR David R. Macdonald.

I see no legal objections to the decision memorandum, but we should take this opportunity to remind those involved of some of the legal requirements that would accompany a decision to establish a Commission as recommended by Brock. The Commission would be subject to the Federal Advisory Committee Act (FACA), 5 U.S.C. App. I § 3(2) (B), and accordingly must be established by executive order and operate under a charter, id. § 9(a)(1), (c). Its meetings must also be conducted in compliance with FACA, id. § 10.

The other question of particular concern to this office is the applicability of conflict of interest laws. Based on descriptions in the Brock memorandum, it appears that the members of the Commission would be Special Government Employees. Although the members are to be "drawn from" industry, labor, agriculture, and academia, the memorandum does not suggest that they are to represent the interests of their respective segments of the economy in such a fashion

*See your  
memo?*

*Also should  
memo discuss  
alternatives?*

that they could be considered not to be government employees at all. The members of the Commission would thus be subject to 18 U.S.C. § 208, which prohibits participation in any matter the outcome of which will have a direct and predictable effect on financial interests covered by the section. The list of possible members contains many individuals with financial interests in international trade. The mandate of the Commission, however, concerns such broad policy issues that I do not think there will be any inherent section 208 problems. At this stage we should alert those concerned to the SGE status of Commission members and the need for consideration of conflicts questions once the Commission charter and list of proposed members become more definite.

THE WHITE HOUSE

WASHINGTON

March 17, 1983

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING *Orig. signed by FFF*  
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Presidential Decision Memorandum  
Re: Commission on U.S. Trade Policy

Counsel's Office has reviewed the above-referenced draft decision memorandum, and finds no objection to it from a legal perspective.

A commission of the sort proposed in the decision memorandum would be subject to the Federal Advisory Committee Act, 5 U.S.C. App. I, and accordingly must be established by executive order, operate pursuant to a charter, and otherwise conduct its business in compliance with the requirements of the Act. Members of the commission could be considered Special Government Employees, and it will be necessary to address potential conflict of interest questions once the mandate of the commission and the list of proposed members become more definite. In short, we need more time to review.

FFF:JGR:dgh

cc: FFFielding  
✓ JGRoberts  
Subject  
Chron

MEMORANDUM

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COUNSEL TO THE PRESIDENT

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Re: Commission on U.S. Trade Policy

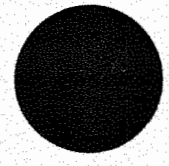
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FFF:JGR:aw 3/17/83

cc: FFFielding  
JGRoberts  
Subj.  
Chron

## WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET



- O - OUTGOING
- H - INTERNAL
- I - INCOMING  
Date Correspondence Received (YY/MM/DD) 1/1

Name of Correspondent: Richard G. Darman

MI Mail Report      User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: Draft Presidential Decision Memorandum  
Re: Commission on U.S. Trade Policy

ROUTE TO:	ACTION	DISPOSITION	
Office/Agency      (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response      Code      Completion Date YY/MM/DD
<u>W Holland</u>	ORIGINATOR	<u>83.03.15</u>	_____      _____ <u>1 1</u>
<u>W AT18</u>	Referral Note: <u>D</u>	<u>83.03.15</u>	_____ <u>S</u> <u>83.03.17</u>
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| <p><b>ACTION CODES:</b></p> <ul style="list-style-type: none"> <li>A - Appropriate Action</li> <li>C - Comment/Recommendation</li> <li>D - Draft Response</li> <li>F - Furnish Fact Sheet<br/>to be used as Enclosure</li> </ul> | <ul style="list-style-type: none"> <li>I - Info Copy Only/No Action Necessary</li> <li>R - Direct Reply w/Copy</li> <li>S - For Signature</li> <li>X - Interim Reply</li> </ul> | <p><b>DISPOSITION CODES:</b></p> <ul style="list-style-type: none"> <li>A - Answered</li> <li>B - Non-Special Referral</li> <li>C - Completed</li> <li>S - Suspended</li> </ul> |
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- FOR OUTGOING CORRESPONDENCE:**  
 Type of Response = Initials of Signer  
 Code = "A"  
 Completion Date = Date of Outgoing

Comments: \_\_\_\_\_

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## WHITE HOUSE STAFFING MEMORANDUM

DATE: 3/14/83 ACTION/CONCURRENCE/COMMENT DUE BY: 3/17/83

SUBJECT: DRAFT PRESIDENTIAL DECISION MEMORANDUM RE COMMISSION ON U.S. TRADE POLICY

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	GERGEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input type="checkbox"/>	HARPER	<input type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JENKINS	<input type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input type="checkbox"/>	<input type="checkbox"/>
CLARK	<input type="checkbox"/>	<input type="checkbox"/>	WHITTLESEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/> P	<input checked="" type="checkbox"/> SS	WILLIAMSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	VON DAMM	<input type="checkbox"/>	<input checked="" type="checkbox"/>
FELDSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	BRADY/SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING →	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
FULLER	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

May we have your comments on the attached memorandum by close of business Thursday, March 17. Thank you.

Richard G. Darman  
Assistant to the President  
(x2702)

Response:

THE UNITED STATES TRADE REPRESENTATIVE  
WASHINGTON  
20506

February 4, 1983

MEMORANDUM FOR THE PRESIDENT

FROM: WILLIAM E. BROCK

SUBJECT: Presidential Commission on U.S. Trade Policy

This memorandum recommends that you establish a new Commission to examine the foundations for U.S. trade policy and to recommend a trade policy for the 1980's.

PROBLEM

Public support for an open trade policy is rapidly eroding because of a growing perception that our trade policy, our trade laws, and our international trade agreements are not ensuring fair and equitable treatment for American firms engaged in international trade. This erosion of support for free and open trade has manifested itself in the form of intense political pressure for protectionist action. As a result, a national debate has evolved over the future direction of U.S. trade policy. Unless the Administration can initiate decisive action, this national debate could easily degenerate into partisan demagoguery ultimately resulting in protectionist solutions.

BACKGROUND

Previous Administrations have managed protectionist pressures by strengthening the world trading system through multilateral trade negotiations. These negotiations were intended to liberalize world trade and to improve the trading rules. Unfortunately, in the current protectionist climate, our trading partners are simply unwilling to enter into multilateral negotiations today. This became abundantly clear during the GATT Ministerial when our trading partners only hesitantly accepted an obligation not to adopt new protectionist measures and refused to expand the GATT's mandate to deal with the emerging trade problems.

In light of our need to contain protectionist pressures and of the difficulty we will certainly encounter in seeking a multilateral solution to our current trade problems, I believe it is imperative for your Administration to initiate a new, activist -- but not protectionist -- open trade strategy. Such a strategy should ensure that international trade can continue its important role in disciplining our economy.

One element of this strategy is the formation of a Presidential Commission to make concrete recommendations for a trade policy designed to defend U.S. trade interests, thereby strengthening the consensus for free and open trade. The Commission would consist of leaders and trade experts from business, labor, agriculture, and academia, and would work toward re-establishing the bipartisan approach to trade policy that existed up until recent times. Consideration was given to Congressional representation on the Commission, but it was felt that such participation by the Congress would distort the objectivity of the Commission's findings. However, an informal liaison will be established between the Commission and all interested parties, including the Congress, private trade experts, and existing advisory committees (e.g., the Advisory Committee on Trade Negotiations). By engaging all interested parties in its work, the Commission will focus the debate on trade policy in a fashion so as to ensure that the Administration maintains the initiative on this issue.

In addition to giving us a means for managing domestic protectionist pressures, the new Commission can also provide useful insight on how to approach emerging trade issues. The trading system has changed fundamentally since the GATT was first conceived in 1947. At that time, a homogenous group of 23 nations acceded to the GATT as a means for preserving international competition by disciplining government intervention in the form of trade barriers.

Today, the GATT has a heterogenous membership of 87 nations, some of which do not have market economies. Both developed and less developed members have adopted new, sophisticated nontariff barriers that are not directly addressed by the GATT. The replacement of fixed exchange rates with floating exchange rates in 1971 has dramatically heightened the impact of foreign exchange movements on trade flows.

Because of these developments, the GATT framework may not be fully capable of dealing with the trade problems that we face today and will probably face tomorrow. And, since our domestic laws are designed around the GATT framework, they too may need review. The Presidential Commission on Trade Policy would analyze from a long-term perspective how U.S. trade interests have been and will be affected by the changing nature of the trading system, and may recommend a new international and domestic legal framework for addressing the emerging trade issues of the 1980's. The organization of the Executive Branch for trade administration and policy formation would not, however, be a part of the Commission's work program.

#### RECOMMENDATION

That you establish a blue-ribbon Presidential Commission with membership drawn from industry, labor, agriculture, and academia, to analyze the problems and challenges of U.S. trade policy, to assess the effectiveness of domestic and international discipline and procedures in dealing with these problems, and to recommend an appropriate trade policy for the 1980's.

APPROVE \_\_\_\_\_

DISAPPROVE \_\_\_\_\_

## PRESIDENTIAL COMMISSION ON U.S. TRADE POLICY

Objective: To re-establish a bipartisan approach for an open U.S. trade policy designed to maintain trade as an effective discipline on the U.S. economy, and to establish a framework for addressing the emerging trade issues of the 1980's.

Mandate: The Commission would be mandated to:

- 1) Study the factors and developments that have influenced the evolution of the world trading system and assess how international and domestic trade laws and institutions have adjusted to these developments.
- 2) Assess the effectiveness of existing international and domestic trade laws and institutions in:
  - facilitating adjustment to changing world cost and price relationships;
  - disciplining unfair government intervention which distorts trade patterns and undermines the efficient allocation of goods and services worldwide; and
  - providing a framework for expeditiously resolving trade disputes.
- 3) Determine the extent to which government intervention in the international marketplace has artificially influenced the evolution of comparative advantage and international trade, thereby shifting the burden of unemployment.
- 4) Recommend a trade policy of the 1980's designed to deal with the new realities of international trade in a fashion so as to maintain international trade as a discipline on the U.S. economy.

Budget: \$1 million assuming most of the personnel can be detailed to work for the Commission from Executive agencies on a nonreimbursable basis.

Staff: The staff would work under the direction of David R. Macdonald, retiring Deputy United States Trade Representative, as Executive Director, and would include eight professional staff members and six support staff.

Membership: The Commission would consist of up to 25 members drawn from the following list:

Agriculture

Robert Delano, President, American Farm Bureau Federation  
 James Dutt, Chairman and CEO, Beatrice Foods Company  
 James Ferguson, Chairman and CEO, General Foods Corporation  
 William Pearce, Corporate Vice President, Cargill, Inc., and Former  
 Deputy U.S. Trade Representative  
 Claire Sandness, Chairman, Land O'Lakes, Inc.  
 Robert Schaeberle, Chairman and CEO, Nabisco Brands, Inc.  
 Clayton Yeutter, President, Chicago Mercantile Exchange, and Former  
 Deputy U.S. Trade Representative

Industry

James Bere, Chairman and CEO, Borg-Warner  
 James Burke, Chairman and CEO, Johnson and Johnson  
 Williard Butcher, Chairman, Chase Manhattan Corporation  
 Joseph Flavin, Chairman and CEO, The Singer Company  
 Robert Ingersoll, Former Ambassador to Japan, and Former CEO, Borg-  
 Warner  
 Reginald Jones, Former Chairman, General Electric Company  
 Paul Lyet, Former Chairman and CEO, Sperry Corporation, and Chairman  
 of the President's Export Council  
 Robert Malott, Chairman and CEO, FMC Corporation  
 James McKeivitt, President, National Federation of Independent  
 Businessmen  
 Lee Morgan, Chairman and CEO, Caterpillar Tractor Company  
 John Opel, Chairman and CEO, International Business Machines Corporation  
 Edmund Pratt, Chairman and CEO, Pfizer, Inc., and member of the  
 President's Export Council  
 Donald Rumsfeld, President and CEO, G. D. Searle  
 Irving Shapiro, Former Chairman, E. I. DuPont De Nemours  
 Mark Shepherd, Jr., Chairman and CEO, Texas Instruments, Inc.  
 Edson Spencer, Chairman and CEO, Honeywell

Labor

Murray Finley, President, Amalgamated Clothing and Textile Workers  
 Union  
 Douglas Fraser, President, United Automobile, Aerospace and Agricul-  
 tural Implement Workers of America  
 John Lyons, President, International Association of Bridge, Structural,  
 and Iron Workers  
 Charles Pillard, President, International Brotherhood of Electrical  
 Workers  
 Glenn Watts, President, Communications Workers of America

Academia

Robert Baldwin, Professor, University of Wisconsin  
 Barbara Franklin, Senior Fellow in Public Management, Wharton  
 School, University of Pennsylvania  
 Robert Hudek, Professor of Law, University of Minnesota  
 John Jackson, Professor of Law, University of Michigan, Former  
 General Counsel of USTR  
 D. Gale Johnson, Professor, University of Chicago  
 Ray Vernon, Professor, Harvard University



Operation: The Commission would meet as necessary in Washington to review analyses of trade issues prepared by outside consultants under staff supervision. In addition, the Commission would solicit the views of all interested parties, and would establish informal liaison with existing advisory groups (i.e., the President's Export Council and the Advisory Committee on Trade Negotiations) as well as trade specialists and foreign governments. All input received by the Commission would provide a basis for its recommendations to the President.

Timing: The Commission is expected to complete its work within nine to twelve months of the date of its establishment.