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THE WHITE HOUSE

WASHINGTON

September 5, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: FRED F. FIELDING ^{Orig. signed by FFF}
COUNSEL TO THE PRESIDENT

SUBJECT: Initiating Section 301 Investigations

As my office advised you last night, this memorandum should not go forward to the President in its present form. The statutorily required preconditions for the initiation of a Section 301 investigation have not been met.

The only basis for self-initiation of a Section 301 investigation is 19 U.S.C. § 2412(c). That subsection provides that the Trade Representative may initiate an investigation if he determines one should be initiated to advise the President on the exercise of his authorities. Before making any such determination, however, the Trade Representative must consult with the various advisory committees established pursuant to 19 U.S.C. § 2155. 19 U.S.C. § 2412(c)(2). My office contacted the General Counsel of USTR last night and determined that the required consultations had not taken place. This morning the General Counsel of USTR advised that the consultations were proceeding and would be complete by close of business today. The memorandum for the President should be returned to the Economic Policy Council for inclusion of a statement that the required consultations were performed.

There is an additional issue presented by the proposal to have the President direct the Trade Representative to initiate an investigation, when the statute simply vests this authority in the Trade Representative himself. As a legal matter there is no need for Presidential action. I am not aware of any bar to the President directing a subordinate to take action within the subordinate's authority, provided the requisite preconditions have been met (such as the consultations). Any potential problem is eased by the fact that the Trade Representative supports initiation of an investigation in each of the present cases. On the other hand, the purpose of an investigation is to permit the Trade Representative to advise the President on his options, and to have the President direct the initiation of an investigation may create the impression that the President has pre-judged the need for action, short-circuiting the statutory process. In any event, the question of the

desirability of having the President direct the initiation of an investigation, when the statute vests that decision in the Trade Representative alone, does not appear to have been addressed. I recommend that the memorandum be returned to the Economic Policy Council with instructions to address that issue.

FFF:JGR:aea 9/5/85

cc: FFFielding
JGRoberts
Subj
Chron

WHITE HOUSE STAFFING MEMORANDUMDATE: 9/4/85 ACTION/CONCURRENCE/COMMENT DUE BY: 7:00- P.M. TONIGHTSUBJECT: INITIATING SECTION 301 INVESTIGATIONS

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	LACY	<input type="checkbox"/>	<input type="checkbox"/>
REGAN	<input type="checkbox"/>	<input type="checkbox"/>	McFARLANE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
WRIGHT	<input type="checkbox"/>	<input type="checkbox"/>	OGLESBY <i>go for it</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BUCHANAN	<input type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input type="checkbox"/>	<input type="checkbox"/>
CHAVEZ	<input type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input type="checkbox"/>
CHEW	<input type="checkbox"/>	<input type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
DANIELS	<input type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SVAHN	<input type="checkbox"/>	<input type="checkbox"/>
FRIEDERSDORF <i>go for it</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	THOMAS	<input type="checkbox"/>	<input type="checkbox"/>
HENKEL	<input type="checkbox"/>	<input type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
HICKEY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HICKS	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
KINGON	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

Please submit your comments on the attached proposed memo to the President of the Economic Policy Council to my office by 7:00 p.m. tonight. Thank you.

from

RESPONSE:

David L. Chew
Staff Secretary
Ext. 2702

THE WHITE HOUSE

WASHINGTON

September 4, 1985

MEMORANDUM FOR THE PRESIDENT

FROM: THE ECONOMIC POLICY COUNCIL

SUBJECT: Initiating Section 301 Investigations

Last week, when you announced your decision not to impose quotas on non-rubber footwear imports, you also instructed the United States Trade Representative to initiate several Section 301 investigations of unfair trade practices on the part of our trading partners.

The Economic Policy Council has developed and recommends six Section 301 cases to be adopted and announced as market opening initiatives, which will help create jobs for American workers without imposing a burden on American consumers. All of these cases involve specific unfair trade practices against the United States. These initiatives are intended to reinforce the Administration's efforts to promote freer trade by opening markets and resist the protectionist sentiments and measures developing in Congress.

The Council believes these Section 301 initiatives are a major element of the Administration's trade strategy and should be prominently featured in the forthcoming trade policy and strategy statement.

SECTION 301

Section 301 of the Trade Act of 1974 provides the President with broad authority:

- A. To enforce the rights of the United States under any trade agreement; or
- B. To respond to any act, policy or practice of a foreign country that --
 - i. is inconsistent with, or otherwise denies benefits to the United States under any trade agreement, or
 - ii. is unjustifiable, unreasonable or discriminatory and burdens or restricts United States commerce.

The term unreasonable refers to restrictions which are not necessarily illegal (under GATT) but which are otherwise considered unfair and inequitable.

Section 301 is intended to provide negotiating leverage to open foreign markets. It provides the President with authority to counter unfair practices by initiating investigations, entering negotiations and retaliating if the negotiations do not lead to a successful conclusion. In fact, the President even has the authority to retaliate, without conducting an investigation.

SELECTING SECTION 301 INITIATIVES

The Economic Policy Council considered several factors in determining which Section 301 initiatives to recommend. These factors included:

Nations Affected: The Economic Policy Council recommends Section 301 initiatives, in part, to ensure that these actions are perceived as part of the Administration's trade strategy of opening markets on a worldwide basis. The Council did not want the proposed initiatives to focus solely on newly industrialized countries, while not addressing some of the unfair trade practices of EC countries or Japan.

Timing: It is important that any initiatives proposed by the Administration be resolved in a timely manner. Investigations affecting practices not covered by GATT will involve bilateral negotiations and must be concluded within one year. Initiatives affecting practices covered by GATT will be adjudicated by GATT and may require a significant amount of time (perhaps as long as two years).

Prospects of a Favorable Resolution: The initiatives recommended possess a reasonable prospect of a favorable resolution. This is important not only for the sake of success, but also because the ultimate response on the part of the U.S. to unsuccessful negotiations may be retaliation.

Amount of Trade Affected: A final factor in determining appropriate Section 301 cases was the magnitude of trade affected. The Council believes that successful resolution of the recommended cases will recognizably increase U.S. export opportunities.

PROPOSED SECTION 301 INITIATIVES

The Economic Policy Council suggests you instruct the United States Trade Representative to accelerate Section 301 proceedings on the following cases:

Japan - Leather and Leather Footwear Quotas
EC-Canned Fruits

The EPC further suggests you instruct the USTR to begin Section 301 investigations of the following cases:

Korea-Insurance
Brazil-Informatics
Japan-Tobacco
Japan-Aluminum

The USTR would submit a recommendation to you by December 1 for retaliatory action in the Japan Leather and Leather Footwear Quotas and EC Canned Fruit cases unless they are settled to our satisfaction prior to that date.

In the remaining cases, you would direct the USTR to initiate Section 301 investigations. USTR would publish notice of these investigations in the Federal Register, solicit public comment on the issues raised and request consultations with the government affected. Unless these cases are settled to our satisfaction within a reasonable period of time (perhaps one year), the USTR will recommend to you, through the EPC process, specific retaliatory action against the offending country.

Japan - Leather and Leather Footwear Quotas

Since 1963 Japan has maintained identical quota systems to severely restrict imports of leather and leather footwear. The leather quota, which has prevented U.S. exporters from gaining a greater share of the \$1.6 billion leather market, has been found by a GATT panel to be in violation of Japan's international trade obligations. Although GATT has not reviewed the leather footwear quota, which restricts our access to the \$2.7 billion footwear market, it should also be illegal because it is identical to the leather quota.

Thus far, Japan has resisted any corrective action, despite a Section 301 investigation of the leather quotas in 1977 and a 1984 GATT panel report recommending that Japan eliminate the leather quota. The U.S. also initiated a Section 301 investigation of the footwear quota in 1982.

The Japanese have offered to replace the leather quota with a tariff program, providing compensation to the U.S. but we have rejected that offer because it does not improve access to the Japanese market.

The Economic Policy Council unanimously recommends accelerating this Section 301 investigation.

EC Canned Fruits

In 1978 the EC established a subsidy system to assist some of its fruit processors. The subsidies were intended to permit higher-priced EC products to compete on an equal

basis with imported items. In practice, however, the subsidies -- combined in many instances with minimum import prices -- have allowed EC products to be priced below competing imports.

This case is analogous to the citrus problem with the EC, on which you acted last June. The canned fruit issue is another instance in which the EC is blocking a GATT ruling in our favor and has refused to adjust to subsidies. The trade effects are relatively small (probably less than \$10 million) but the principle is important.

The Economic Policy Council unanimously recommends accelerating this Section 301 investigation.

Korea - Insurance

Foreign firms are prohibited from writing the most lucrative types of fire insurance in the Korean domestic market and are prohibited from writing life insurance for Korean nationals. In 1984, the total value of premiums for insurance other than life was over \$1 billion and nearly \$4 billion for life insurance.

The United States has a strong claim that Korea is in violation of its friendship, commerce and navigation (FCN) obligations by discriminating against U.S. insurers.

Despite the intensive efforts over the last 6 years, the U.S. has had only limited success in gaining access to Korea's insurance market. Without the threat of action under Section 301, we can expect Korea to protect its domestic insurance industry to the detriment of U.S. insurers.

Treasury, State, Commerce, USTR, Agriculture, Labor, Transportation, NSC and CEA recommend initiating this Section 301 investigation. OMB does not support initiating this investigation.

Brazil Informatics

In 1984, Brazil approved a complex new law codifying and extending past measures designed to promote a national informatics industry. The law provides broad authority to restrict imports for an eight year period and establishes a market reserve policy which sets aside for Brazilian owned-firms the exclusive right to produce and sell products within designated high-technology categories.

The Brazilian policy has had a dampening effect on U.S. informatics industries who wish to participate in the Brazilian computer market which ranks sixth or seventh in the world. A comparison of the growth in U.S. trade with

Brazil in computer products with the growth of the Brazilian computer market indicates that U.S. firms did not fully participate in the expansion of Brazil's computer market in recent years. During the 1980-82 period when the Brazilian market expanded rapidly, due primarily to the microcomputer segment, U.S. exports grew at only 14 percent annually while the Brazilian market increased by 30 percent.

Texas Instruments, Hewlett Packard, IBM, Burroughs, Digital Equipment Corporation and Ford/Philco have all experienced lost immediate sales and reduced long-term commercial prospects. As a result of Brazil's informatics policy, U.S. firms have been forced to restrict operations in Brazil. Some have sold or closed all or part of their Brazilian operations, or transferred their technology to a Brazilian firm.

The U.S. also has a meritorious claim that Brazil's market reserve is in violation of its GATT obligations. There are no GATT rules applicable to Brazil's investment restrictions, but they clearly are an obstacle to free trade.

Treasury, Commerce, USTR, Agriculture, Labor, Transportation, NSC and CEA recommend initiating this Section 301 investigation. State and OMB do not support initiating this investigation.

Japan Tobacco

For many years, U.S. cigarette exporters, who are highly competitive in the world market, have faced significant barriers in the lucrative (\$10 billion annually) Japanese market. These barriers included high tariffs and excise taxes, a prohibition on manufacturing by foreign firms, and restrictions on distribution. Although GATT rules do not apply to these barriers, they clearly constitute a major impediment to U.S. trade. The prohibition against manufacturing is particularly onerous -- when the Japanese are calling for greater U.S. investment in Japan! Despite intensive efforts by the U.S. since 1979 to open the Japanese market, the U.S. share has risen from 1.4 percent to only 2.1 percent. Diplomatic approaches have not been sufficient to redress this problem.

Treasury, State, Commerce, USTR, Agriculture, Labor, Transportation and NSC support initiating this Section 301 investigation. CEA and OMB do not support initiating this investigation.

Japan Aluminum

In 1977 Japan established a special program to assist in the restructuring of its primary and fabricated aluminum industry (smelters) and to secure low-cost input from off-shore producers in which Japanese smelters have equity ownership.

One element of the program grants Japanese smelters preferential tariffs on imported ingot. The program also has certain cartel-type features. Under the plan, approved by MITI and the Japanese Fair Trade Commission, the producers agree with MITI on supply and demand forecasts, and engage in joint research. Mergers are encouraged, and joint buying and selling is permitted. This plan has led to an increase in Japanese imports of aluminum ingot. However, U.S. smelters have not been able to share in this growing market. In fact, U.S. exports have declined and our exporters now have less than 1 percent of Japan's fabricated aluminum market. Our industry has long complained of these anti-competitive practices by the Japanese.

Treasury, State, Commerce, USTR, Agriculture, Labor and Transportation support initiating this Section 301 investigation. NSC, CEA, and OMB do not support this investigation.

DECISION

The USTR should accelerate Section 301 proceedings in the following cases:

Japan Leather and Leather footwear Approve _____ Disapprove _____
quotas

(unanimously supported by the EPC)

EC Canned Fruit Approve _____ Disapprove _____

(unanimously supported by the EPC)

USTR should initiate Section 301 investigations of:

Korea Insurance Approve _____ Disapprove _____

(Supported by Treasury, State, Commerce, USTR, Agriculture, Labor, Transportation, NSC and CEA. Opposed by OMB.)

Brazil Informatics Approve _____ Disapprove _____

(Supported by Treasury, Commerce, USTR, Agriculture, Labor, Transportation, NSC and CEA. State and OMB oppose.)

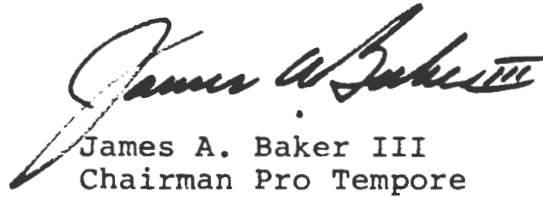
Japan Tobacco Approve _____ Disapprove _____

(Supported by Treasury, State, Commerce, USTR, Agriculture, Labor, Transportation and NSC. CEA and OMB oppose.)

Japan Aluminum Approve _____ Disapprove _____

(Supported by Treasury, State, Commerce, USTR, Agriculture, Labor and Transportation. NSC, CEA and OMB oppose.)

You should also be aware that you will be the first President to self-initiate a Section 301 investigation, under the Trade Act of 1974. This is a significant change in the management of U.S. trade policy, and when used as a tool for opening, rather than closing, markets, will improve our ability to promote a freer and fairer world trading system.



James A. Baker III
Chairman Pro Tempore

THE WHITE HOUSE

WASHINGTON

September 10, 1985

MEMORANDUM FOR RICHARD A. HAUSER

FROM:

JOHN G. ROBERTS 

SUBJECT:

Economic Policy Council Policy Directives

I discussed this with Gene McAllister, and he decided to withdraw the items. Decisions have already been made on these two and there is no need for an additional piece of paper. I suggested that if the EPC feels the need for a tasking memorandum from the President, it should be included as part of the decision package for the President to sign off on. We would review it through the normal clearance process, as we review the package being submitted to the President.

McAllister said he would consider this suggestion and discuss it with us shortly.

Attachment

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ D - OUTGOING

☐ H - INTERNAL

☐ I - INCOMING

 Date Correspondence
Received (YY/MM/DD)

Name of Correspondent:

Eugene McAllister

☐ MI Mail Report

User Codes: (A)

(B)

(C)

Subject:

Economic Policy Council Policy Directives

ROUTE TO:

ACTION

DISPOSITION

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CUHOLL		ORIGINATOR	85,09,10			1-1
CUAT18		D	85,09,10	S	85,09,10	CoB
						1-1
						1-1
						1-1
						1-1

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

Comments:

Keep this worksheet attached to the original incoming letter.

Send all routing updates to Central Reference (Room 75, OEOB).

Always return completed correspondence record to Central Files.

Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

THE WHITE HOUSE

WASHINGTON

September 10, 1985

MEMORANDUM FOR RICHARD A. HAUSER

FROM: EUGENE J. McALLISTER

EM 6556

SUBJECT: Economic Policy Council Policy Directives

The Economic Policy Council is developing a policy decision memorandum system, similar to that used by the National Security Council. After the President makes a decision on a question originated by the EPC, a decision memorandum from the President to the EPC charging specific agencies with implementing the decision would be distributed.

The EPC staff has prepared two decision memorandums; both are attached for your review. We have not sent them forward to the President yet.

It would be very helpful if you could review these two "policy directives" and let me know if any changes are necessary. The memorandum on the Section 301 actions is particularly timely. It would also be very helpful if we could set up some sort of review system.

Thanks very much.

cc David Chew

THE WHITE HOUSE

WASHINGTON

Economic Policy Council
Policy Directive #

Section 301 Trade Investigations

I hereby direct under authority of Section 301 of the Trade Act of 1974 that the United States Trade Representative (USTR) accelerate proceedings in the following two cases of alleged unfair trade practices against the United States, and, absent a satisfactory settlement of these issues, submit to me by December 1, 1985 recommendations for an action by the United States in retaliation to these practices:

1. Japan: Leather and Footwear Quotas

The USTR should accelerate its proceedings with respect to the existing Japanese practice of imposing quotas on imports of leather and leather footwear.

2. European Economic Community (ECC): Canned Fruits Subsidies

The USTR should accelerate its proceedings with respect to EEC production subsidies which benefit domestic fruit growers and processors to the detriment of imports.

I also hereby direct the United States Trade Representative (USTR) to initiate investigations of the following four cases of alleged unfair trade practices against the United States:

1. Korea: Insurance Services Barriers

The USTR should investigate Korean barriers to the provision of insurance services by U.S. insurance firms.

2. Brazil: Informatics Barriers and Policies

The USTR should investigate Brazilian restrictions on direct investment by U.S. firms in the informatics sector and barriers to informatics imports and other national policies that impede access for U.S. informatics exports to the Brazilian market.

3. Japan: Tobacco Barriers and Policies

The USTR should investigate Japanese restrictive tariffs and fees on tobacco product imports and other national policies restricting foreign cigarette manufacturing and distribution of tobacco products within the domestic market.

RR
Signature

THE WHITE HOUSE

WASHINGTON

Economic Policy Council
Policy Directive #

Tied Aid Export Credits

I hereby direct the Secretary of the Treasury to transmit legislation seeking a supplemental appropriation of \$300 million for grants tied to Export-Import Bank credits or private sector loans. The purpose of this program of tied aid credits is to support the Secretary's negotiating efforts in eliminating predatory tied aid credits by other countries.

I also direct the Chairman of the Export-Import Bank of the United States immediately to begin drawing on its capital and reserves to offer tied aid credits as an interim step in support of this effort. This Export-Import Bank program will be superseded when appropriated funds are available in accordance with the proposed legislation.

I direct the Secretary of the Treasury to control the use of these funds with the advice of the National Advisory Council on International Monetary and Financial Policies. This program would expire at the determination of the Secretary of the Treasury or by September 30, 1987 unless expressly renewed by the Congress.

THE WHITE HOUSE

WASHINGTON

September 19, 1985

MEMORANDUM FOR GENE MCALLISTER
EXECUTIVE SECRETARY
ECONOMIC POLICY COUNCIL

FROM: JOHN G. ROBERTS *JGR*
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Fact Sheet: The President's
Trade Policy Action Plan

Counsel's Office has reviewed the draft fact sheet. I would change the second sentence under point 1 on page 2 to read as follows: "Using the authority granted in a recent amendment to the Trade Act of 1974, the President has asked the United States Trade Representative to initiate or accelerate unfair trade practice investigations." It is misleading to stress that this is the first time a President has done so, when the pertinent legislative authority was not available until October 30, 1984. Also, the statute grants the authority to the Trade Representative, not the President, so you cannot say the authority was "granted him" by the Act.

On page three, first point 2, is not the correct word "multilateral" rather than "plurilateral"?

cc: David L. Chew

ID #

CU

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ D - OUTGOING☐ H - INTERNAL☒ I - INCOMINGDate Correspondence
Received (YY/MM/DD)

Name of Correspondent:

D. Chew☐ MI Mail Report

User Codes: (A)

(B)

(C)

Subject:

*Fact Sheet: The President's Trade Policy Action
Plan*

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<i>CU HALL</i>	ORIGINATOR	<i>95.09.19</i>			<i>1 1</i>
<i>CUAT 19</i>	Referral Note: <i>R</i>	<i>95.09.19</i>		<i>S</i>	<i>15.09.19 4PM</i>
	Referral Note:	<i>1 1</i>			<i>1 1</i>
	Referral Note:	<i>1 1</i>			<i>1 1</i>
	Referral Note:	<i>1 1</i>			<i>1 1</i>
	Referral Note:	<i>1 1</i>			<i>1 1</i>

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Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

CLOSE HOLD**WHITE HOUSE STAFFING MEMORANDUM**DATE: 9/19/85 ACTION/CONCURRENCE/COMMENT DUE BY: 4:00 TODAYSUBJECT: FACT SHEET: The President's Trade Policy Action Plan

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	LACY	<input type="checkbox"/>	<input type="checkbox"/>
REGAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	McFARLANE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
WRIGHT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OGLESBY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BUCHANAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input type="checkbox"/>	<input type="checkbox"/>
CHAVEZ	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input type="checkbox"/>
CHEW	<input type="checkbox"/>	<input checked="" type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DANIELS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SVAHN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FRIEDERSDORF	<input checked="" type="checkbox"/>	<input type="checkbox"/>	THOMAS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HENKEL	<input type="checkbox"/>	<input type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
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HICKS	<input type="checkbox"/>	<input type="checkbox"/>	<u>MCALLISTER</u>	<input type="checkbox"/>	<input type="checkbox"/>
KINGON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS: Please give your comments directly to Gene McAllister,
with an info copy to my office by 4:00 p.m. today. Thanks.

RESPONSE:

100 501 1 11 2 40

David L. Chew
Staff Secretary
Ext. 2702

9-19-85
2:00 p.m.

The President's Trade Policy Action Plan

The President's trade policy is based on five principles:

1. Free trade and fair trade are in the best interest of the citizens of the United States. Free trade produces more jobs, a more productive use of our nation's resources, more rapid innovation, and a higher standard of living. Free trade also advances our national security interests by strengthening the economic and political systems of our allies. Fair trade based upon mutually acceptable rules is necessary for support of free trade.
2. The United States plays the critical role in ensuring and promoting an open trading system. If the United States falters in its defense and promotion of the free worldwide trading system, the system will collapse, adversely affecting our national well-being.
3. The United States' role does not absolve our trading partners from a major obligation to support a more open trading system. This obligation includes: dismantling trade barriers, eliminating subsidies and other forms of unfair trade practices, and entering into trade liberalization negotiations in the GATT.
4. The international trading system is based upon cooperation. Since World War II, we have made enormous progress in moving toward an open worldwide trading system. Protectionism threatens to undermine the system. Our trading partners must join us in working to improve the system of trade that has contributed to economic growth and security of ourselves and our allies.
5. America has never been afraid to compete. When trade follows the rules, and there is an equal opportunity to compete, American business is as competitive as any. This is fair trade and we will not impair it. When these conditions do not exist, it is unfair trade, and we will fight it.

The President has taken a number of actions to translate these principles into policy.

Making Free Trade Fair Trade

The President will vigorously pursue U.S. rights and interests in international commerce under U.S. law and the GATT, and will see that other countries live up to their obligations and trade agreements with the U.S. More specifically:

1. The President will attack foreign unfair trade practices. Using the authority granted him in the Trade Act of 1974, the President has asked the United States Trade Representative to initiate or accelerate unfair trade practice investigations, the first time ever done so by a President of the United States. Other actions, when appropriate, will be taken. Those taken so far are:
 - o Japanese leather, and leather footwear import restrictions
 - o European Community canned fruit subsidies
 - o Korean insurance policy barriers
 - o Brazil's restrictive informatics policy
 - o Japan's tobacco restrictions
2. To discourage our trading partners from seeking unfair advantage by using predatory credits to subsidize their exports, the President has asked the Secretary of the Treasury to draft legislation to establish a fund of \$300 million in grants which would support up to \$1 billion in tied aid credits to regain U.S. markets that were taken away by trading partners who use such subsidies.
3. The President has asked the United States Trade Representative to initiate and accelerate both bilateral and multilateral negotiations with countries where the counterfeiting or piracy of U.S. goods has occurred. The Administration will increase efforts to protect intellectual property rights (patents, copyrights, trademarks), with a view toward possible legislative or administrative initiatives.
4. The President has asked the Secretary of State to establish time limits on the current discussions with Japan designed to open access to specific Japanese markets, at the end of which specific commitments will be evaluated and follow-up procedures begun. New sectors will be added that offer the promise of expanded U.S. exports.

Promoting Free Trade and Exports

The United States is a great trading nation. The health of our economy depends on both exports and imports. The President's goal is to preserve as a free and open a trading system as possible. A free and open system will be a fair system.

1. The President seeks to engage our trading partners in multilateral negotiations in the GATT to achieve freer trade, increase access for U.S. exports, and repair the fabric of the international trading system.

The President wants to use the multilateral negotiating process to improve access for U.S. agriculture, high technology and other competitive products and address newer forms of international trade problems, including intellectual property protection, services trade, and investment issues.

2. The President will also explore possible bilateral and plurilateral trade agreements that would promote more open trade and serve U.S. economic interests.
3. The President has asked the Secretary of Commerce and the Economic Policy Council, in conjunction with the President's Export Council, to review the adequacy of current export promotion activities with a view toward strengthening them and increasing private sector involvement.
4. To better assist workers in adjusting to the dynamics of the world trading system, the President has asked the Secretary of Labor and the Economic Policy Council to review existing worker assistance programs to assure that they promote an effective policy that contributes to the maximum capacity for change, mobility, and increased productivity.

Improving the World and Domestic Economic Environments

The trade deficit has grown because economic difficulties abroad have persisted while the U.S. has been more successful in utilizing our economic opportunities. Our superior economic performance is reflected in the high value of the dollar. Better balance in world economic performance must be achieved.

1. The President believes his tax reform proposal is essential to strengthening the economy and making U.S. businesses more competitive in international markets.
2. The President has asked the Secretary of the Treasury to urge Bonn Summit participants to act on their commitments to remove rigidities and imbalances in their economies. We are not seeking old fashioned "pump priming" but rather basic policy shifts such as reducing the size of the government sector, lowering taxes, and liberalizing financial markets.
3. The United States is prepared to consider the value of hosting a high-level meeting of the major industrial countries to build upon the Group of Ten monetary studies by considering in a cooperative fashion, the policies and performance of the major industrial countries, and how these can be improved to promote convergence toward non-inflationary growth.
4. The President has also asked the Secretary of the Treasury to encourage debt-burdened LDCs to reduce government impediments to the functioning of markets, encourage private

production, and substitute capital for debt by encouraging both domestic and foreign investment

THE WHITE HOUSE

WASHINGTON

September 20, 1985

MEMORANDUM FOR GENE MCALLISTER
EXECUTIVE SECRETARY
ECONOMIC POLICY COUNCIL

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Written Statement: Trade Policy

Counsel's Office has reviewed the proposed written statement on Administration trade policy. On page 9, paragraph 4, the penultimate sentence should be changed to read "The Export-Import Bank will begin an aggressive targeted mixed credit lending policy." The same change should be made in point 13 on page 15. The policies of the Export-Import Bank are governed by a Board of Directors, and it is unclear whether the President may direct the Bank to take specific action. It is acceptable to state as fact what the Bank will do, but we should not suggest that the decision was anything more than a decision by the Bank itself.

In the last paragraph on page 9, the statement discusses the self-initiated Section 301 cases and notes "This is the first time any President has taken this bold step." This is also, however, the first time any President (actually, the Trade Representative) has been authorized by Congress to self-initiate Section 301 investigations. The sentence misleadingly suggests other Presidents had the option of doing what the President did, but declined to do so. The sentence should be dropped. Point 12 on pages 14-15 on this same issue is acceptable as written, if "cases" is changed to "investigations," in the two places it appears. Under 19 U.S.C. § 2411(c), the President may take action under Section 301 -- initiate a case -- without waiting for an investigation. That provision has been on the books for some time. The recent change in the law permits the Trade Representative to self-initiate investigations.

Minor points:

- Page 1, paragraph 5, "Amerkican."
- Page 8, paragraph 4, line 6, "is" should be "are."
- Page 9, paragraph 3, line 8, delete comma.
- Page 9, paragraph 5, line 4, delete "cases of."
- Page 11, line 1, "formk."

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<u>Cuat 18</u>	Referral Note: <u>R</u>	<u>85,09,19</u>		<u>S</u>	<u>85,09,20</u>
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VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	LACY	<input type="checkbox"/>	<input type="checkbox"/>
REGAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	McFARLANE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
WRIGHT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OGLESBY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BUCHANAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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CHEW	<input type="checkbox"/>	<input checked="" type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DANIELS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SVAHN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FRIEDERSDORF	<input checked="" type="checkbox"/>	<input type="checkbox"/>	THOMAS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HENKEL	<input type="checkbox"/>	<input type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
HICKEY	<input type="checkbox"/>	<input type="checkbox"/>	MCALLISTER	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HICKS	<input type="checkbox"/>	<input type="checkbox"/>	ELLIOTT	<input type="checkbox"/>	<input checked="" type="checkbox"/>
KINGON	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

Please provide any comments directly to Gene McAllister, Room 231, by 9:00 a.m. tomorrow, September 20th, with an information copy to my office. Thank you.

RESPONSE:

1005 SEP 19 11 44 AM '85

David L. Chew
Staff Secretary
Ext. 2702

September 19, 1985

Administration Statement on
International Trade Policy

The Administration's Basic Trade Principles

A policy of free and fair trade is in the best interest of the citizens of the United States and the world. Such a policy produces more jobs, a more productive use of our nation's resources, more rapid growth and innovation, and a higher standard of living for Americans. Free and fair trade also advances our national security interests by strengthening the economic and political systems of our developed and developing country partners.

Despite these clear net benefits, protectionism has been on the rise in recent years. Protectionism is costly and contrary to our nation's economic prosperity and its security interests. Proposals in Congress for tariff surcharges or quotas, whether or not made for the purpose of political gain, are irresponsible and dangerous.

The United States plays the critical role in ensuring and promoting a free worldwide trading system. If the United States falters in its defense and promotion of the free worldwide trading system, the system will collapse, adversely affecting our national well-being.

Our trading partners also have a major obligation to support a more open trading system. This obligation includes: dismantling trade barriers, eliminating subsidies and other forms of unfair trade practices and entering into trade liberalization negotiations in the GATT. The international trading system is based upon cooperation. Since World War II, we have made enormous progress in moving toward an open worldwide trading system. Protectionism threatens to undermine that cooperation. Our trading partners must join us in working to improve the system of trade that has contributed to the economic growth and security of ourselves and our allies.

America has never been afraid to compete when trade is carried out under rules and there is a fair opportunity to compete. American industry and agriculture are competitive worldwide. When the rules are not followed, however, or where fair competitive conditions do not exist, then trade is unfair and the Administration will take action to fight it. ✓

In its 1981 Statement on U.S. Trade Policy, the Administration indicated the high priority that it would give to international trade. In this connection, it emphasized the dual objectives of strengthening the private domestic economy through the President's domestic economic recovery program and pursuing open and fair

trade internationally. Real private investment has risen more rapidly than GNP, particularly in the case of producers' durable equipment, and now accounts for a higher share of national output than at any other point in post-war history. This activity suggests that U.S. industry is re-equipping with the most modern and productive technologies available and building a solid base to strengthen its long-run competitive position.

The Administration's basic approach in its domestic economic and international trade policy has been to allow the operation of private market forces to the maximum extent possible. The U.S. economy today is stronger and more vibrant than ever before. Since 1980, private civilian employment has grown by 8 million. Manufacturing production has increased by 17 percent. Meanwhile, price inflation has dropped from double-digit levels (12.4 percent in 1980) to less than 4 percent in 1985. The continued efforts of the Administration to strengthen the domestic economy through the restoration of noninflationary growth will help further strengthen our economy's performance in coming years and improve our international competitiveness.

Internationally, the Administration's trade policy has been to step up efforts for a more open and fairer system of international trade, in which market forces also operate more freely from government restrictions and subsidies. The Administration has striven to reduce foreign barriers to U.S. exports, to counter foreign subsidy and other unfair practices abroad and to use available authority to encourage our trade partners to live up to their trade obligations.

The Administration continues to believe that open markets, based upon mutually agreed rules and equitable trading relations, are in our national interest.

Challenges of Expanding International Trade

U.S. economic activities are becoming more integrated with those of the global economy. Our business firms, workers and local and national governments must increasingly take into account this fundamental fact. In 1985, U.S. exports and imports of goods and services amount to 21 percent of our gross national product. This compares to 13 percent in 1970 and only 9 percent in 1950.

The trend toward a greater role for international trade in our economy is irreversible. The rapid growth and change of the economies of other countries, both developed and developing, provide new and growing markets for our exports and sources of our imports. As a result, U.S. production and consumption activities are becoming more integrated with those around the world.

Our dependence on foreign markets for our industrial and agricultural products, and the important challenge of foreign

competition in our domestic market, make it imperative that we continue to foster a strong and internationally competitive economy and a more open global system for international trade and capital flows. This Administration accords a high priority to policies that achieve these objectives.

In spite of the growing importance of international markets to our economy, there are major threats to open and market-based trade. There are extensive government interventions into the economies of our trading partners which impair our ability to do business internationally and export. This Administration will continue to vigorously seek the liberalization of protectionist industrial, agricultural, investment and intellectual property policies overseas in order to enable our producers to increase their trade and foster U.S. growth and jobs.

We must also address the problem of growth of protectionist pressures at home. Advocates of tariff surcharges frequently cite the currently large trade deficit of the United States as an argument for restricting our businesses' and consumers' ability to purchase imported products. Advocates of protection at home argue that our trade deficit is a drag on our economic growth. Yet, such an analysis is as wrong as its prescriptions.

The best proof that a free market and free trade work is our own growth success compared to the slower growth of the economies of our trade partners. Our nation's trade deficit has become very large; but at the same time, and for the same reason, 8 million jobs have been created since 1980. It is important to emphasize that these new jobs have been created for one of the very same reasons that the trade deficit has widened: our robust growth over the last several years has stimulated demand for both domestic and foreign products. This growing demand has served our interest by giving Americans a greater choice and lower prices, and by helping to keep friendly nations healthy and stable. We must recognize that we could not have had our own vibrant growth without also creating a larger trade deficit.

In contrast to the robust economic growth and rising demand in the United States over the last several years, the growth of our trade partners has been generally slower. This has further contributed to our trade deficit (and our trade partners' surpluses). While our nation's industrial production grew by 19 percent since 1982, the industrial output of our major developed country partners generally grew much less -- by 17 percent in Canada, by 2.5 percent in France, by 8 percent in Germany, by 9 percent in Great Britain, and by 1.4 percent in Italy. Greater private investment and spending in these and other countries would help close the gap between their growth rates and ours. This, in turn, would help shrink our trade deficit by expanding foreign demand for our products relative to our demand for their products.

Also, the international debt problems of many developing nations have cut into their ability to import from the United States. U.S. exports to highly indebted developing countries have been cut in some cases by half since 1981. As these debtor nations adopt policies which shift their economies away from government-controlled to market-oriented decision making, and restore confidence of the international business and banking community, their potential to grow will be restored, and U.S. exports to them will once more expand.

The Administration will encourage debt-burdened LDCs to reduce government impediments to the functioning of markets in their economies, encourage production through market incentives to their business firms and employees, and substitute equity capital for debt by encouraging both domestic and foreign investment. These steps will enhance economic growth, thereby increasing debt repayment capabilities and also expanding U.S. export opportunities.

The Dollar in International Markets

Since 1979, the dollar has risen substantially in value relative to those of the currencies of other major trading partners. Its rise has been fueled by the inflow of capital from abroad seeking the returns and safety provided by our economy. These capital flows have added to our productive resources and have helped to put a lid on inflation.

The increase in the dollar's value, while enriching our economy, has also placed additional impediments in the way of our exports and has acted to encourage imports. The Administration is concerned about the effect of the dollar's rise in value on ability to compete internationally. Many U.S. producers have become less competitive relative to their competitors overseas because of the dollar's increase in value over the past 6 years. There are, however, no quick fixes for the dollar. Persistent intervention or the "pegging" of exchange rates at artificial levels are not feasible approaches. The dollar's strength, in part, reflects the relative strength of our economy. We should also avoid attempting to limit the inflow of capital which seeks to take advantage of, and contributes to, the positive prospects for our economic growth.

There would be an important contribution to moderating the dollar's rise if the policies of our trade partners succeeded in accelerating the growth of their economies. There would be an important contribution to the growth of U.S. exports through both a gradual strengthening of their currencies and the effect of their expanded incomes on their purchase U.S. products. The Administration is encouraging our trade partners to adopt policies that will accelerate their economic growth, and will urge Bonn Summit participants to act on their commitments to remove domestic rigidities and imbalances in their economies. We are not seeking

old-fashioned "pump-priming" increases in government spending, but rather policy shifts such as expenditure reductions, tax reform, and financial market liberalizations which permanently increase growth opportunities.

Federal Expenditure, Tax and Regulatory Policies

This Administration has achieved a major objective that is fundamental to an internationally competitive economy and an effective trade policy. The Administration's economic recovery program provided incentives to invest, increase productivity and diminish inflation from the dangerously high levels reached in 1979 and 1980. The resulting reduction in interest rates and inflation, coupled with lower marginal tax rates for individuals and businesses, have encouraged investment and yielded a combination of a strong recovery with lower inflation.

The expansion in investment since 1982 has been the most rapid of any economic recovery in the postwar period. The investments being made today will result in long-term enhanced U.S. competitiveness relative to foreign producers in both overseas and domestic markets. It is important to our international competitiveness to maintain, under our tax policies, the stimulus to savings and investment. The Administration has retained, as part of its tax reform proposals, the elements of our tax code that are favorable to individual and business savings and capital investment, including reduced individual and corporate tax rates, indexed depreciation of assets and the retention of the tax-credit provision for research and development expenditures. The President's tax reform proposal is essential to strengthening the economy and making U.S. businesses more competitive in international markets.

Another major Administration initiative -- to reduce federal expenditures -- is also important to the improvement of our international competitiveness through a moderation of the dollar's value and the reduction of the claims that such expenditures place on the nation's resources. In 1984, total private investment spending in the United States amounted to \$637 billion, while total business and personal savings exceeded \$675 billion. These savings would have been sufficient to finance our private investment expenditures had it not been for the federal budget deficit of over \$175 billion last year. This deficit absorbed domestic savings, required the importation of many billions of capital borrowed from abroad, and contributed to raising the value of the dollar.

The high level of federal government expenditures and budget deficits have also had other negative effects on our nation's international competitiveness.

First, they have prevented interest rates from being further reduced. Indeed, unless government expenditures are brought back

in line with revenues, interest rates could rise later, thereby raising the cost of investment funds to U.S. firms. The recent report of the President's Commission on Industrial Competitiveness indicated that the financial cost of capital is a major problem for U.S. companies competing in world markets. We must bring interest rates down further by reducing federal government spending and deficits.

The Administration has strongly pressed the Congress to reduce federal expenditures substantially. Such reductions would not only benefit our domestic economy, but also substantially improve our international competitive standing. Interest rates would be further reduced, more resources would be released to more productive uses in the private sector; and, very importantly, we would expect to see an improved level of the dollar that would benefit U.S. export and import-competing industries. A reduction in the government budget deficit may not lead to a substantial decline in the value of the dollar; if domestic and foreign investors also perceive that accomplishment as further increasing the attractiveness of U.S. assets, a large decline in the dollar will not occur. In any case, however, tighter control over federal expenditures and greater public sector efficiency would improve the performance of the economy and our international competitiveness.

The Administration also continues to work to reduce the burden of federal regulations that unnecessarily hamper U.S. economic growth, productivity and exports. On the export side, the Administration sought and obtained legislation in the form of the Export Trading Company Act of 1982, allowing banks to participate actively in the formation of export trading companies to facilitate U.S. exports of goods and services. The Administration will continually review the operation of this Act, and propose further modifications if there is a need to do so.

In the domestic regulatory area, the Administration believes that introducing more competition into previously regulated sectors will increase productivity and our international competitiveness. The Administration will also consider trade implications when reviewing proposed regulations and when developing further deregulation initiatives. The Administration will examine the use of the trade leverage created by its deregulatory process to seek to open foreign markets, thereby minimizing the problem of free rides for foreign suppliers.

The Administration will increase efforts to protect intellectual property rights domestically (patents, copyrights, trademarks); we will accelerate work in this area with a view toward possible Administration legislative and administrative initiatives.

The Administration is also reviewing, and will seek to amend, if warranted, anti-trust laws or regulations that impede

our international competitiveness.

International Financial and Development Policies

The Administration is also actively supporting U.S. trade interests by pursuing initiatives in the international financial and development policy area. At recent economic summit and ministerial meetings, we have urged our foreign partners to pursue economic growth-oriented policies. This would reduce the U.S. trade deficit through increased demand for our exports, and would also provide additional export opportunities for debt-ridden LDCs.

The Administration actively supports the efforts being coordinated by the International Monetary Fund and World Bank to help strengthen the international financial system and promote economic development.

To this end, the United States is prepared to consider the possible value of hosting a high-level meeting of the major industrial countries, in order to review the various issues involved in transforming the findings of the Group of Ten into appropriate action. Such a special meeting could build on the G-10 studies by considering, in a cooperative fashion, the policies and performance in the major industrial countries, and how these can be improved to promote convergence toward non-inflationary growth.

U.S. exports have suffered in recent years as a result of the external debt crisis affecting a number of developing countries. For example, U.S. exports to Latin America have declined substantially in recent years in light of the serious debt-servicing problems of many countries in this region. Conditional IMF financing programs can assist debtor countries in making a transition to sustainable growth. To this end, it is important that the United States support IMF efforts to seek macro and micro-economic policy reform as part of financial assistance packages negotiated with debtor countries.

The Administration believes that reform of trade and investment policies should be part of the policy reforms being negotiated by the IMF as part of conditional financing programs. Reduced export subsidies and liberalized trade barriers will benefit many developing countries' efforts to improve economic efficiency and accelerate economic growth. The Administration continues to press for these reforms in its representation and voting in the IMF. Such efforts will contribute to a more open and healthy international environment for U.S. and developing country trade and growth.

In its relations with the World Bank, the Administration has been pressing for expanding the role of the private sector in promoting long-term economic growth in developing countries. The

Administration believes that less government intervention in the economies of developing countries and fewer restrictions on domestic and foreign investment will greatly assist rapid development and growth of world trade. A reduction of developing country restrictions on foreign investment can promote competition and reduce the inefficiency created by protected domestic monopolies, at the same time providing funds and productive capabilities to meet these countries' debt service requirements. The Administration supports the implementation of the Multilateral Investment Guarantee Agency recently negotiated in World Bank meetings, in order to help promote the flow of international investment. The Administration also encourages developing countries to negotiate individual agreements to protect and give national treatment to foreign investment.

Price controls and subsidies normally distort both development and trade and lead to wasteful uses of World Bank funds and the development of industries whose survival in the international marketplace depends upon continuing government aids. Such policies can also inflict damage on U.S. industries which are in competition with government-assisted foreign companies. The Administration will continue to press the World Bank to assist in promoting market-oriented development policies.

Trade Policy: Ensuring Better Access and Fairer Trade

U.S. trade policy must be based on a realistic appraisal of the position of the United States in the world economy. Clearly our nation remains strong and vibrant, the economic leader of the free world with a political leadership role based on that strength. To carry out this role we must lead in creating conditions of open and expanding international trade that will contribute to global prosperity.

The Administration reaffirms its basic trade policy position as enunciated in its July 8, 1981 statement. In accordance with that position, the Administration will continue to pursue more open access to markets abroad for U.S. exports and fairer conditions of trade, while opposing policies at home and abroad that is protectionist. We seek substantial trade liberalization from our major developed and advanced-developing trade partners that will open their markets to U.S. products as much as our markets have been open to their goods and services. The United States is taking the initiatives that are necessary to achieve more equitable conditions of access in a number of foreign markets, particularly Japan and Europe. ✓

Our trade policy must combine concerted efforts with our trading partners to attain fair competitive conditions in the world trading community over the long run with a willingness to take temporary steps, as necessary, to ensure fair competitive conditions for U.S. producers.

Other nations must understand that the political support in the United States for building a more open trading system will be impossible to maintain if progress in achieving more open and fairer trade is not made soon. The United States will, as Administrations have done in the past, initially approach international trade issues in a determined, but non-confrontational, way. But, if necessary, we will take action to achieve more open foreign markets and defend ourselves against unfair foreign trade practices.

The Administration will step up the use of the authority given to it by Congress to address foreign unfair trade practices which distort U.S. trade and investment and will vigorously pursue U.S. trade interests and rights under U.S. laws and the GATT, and will see that other countries live up to their trade agreement obligations with the United States.

The Administration will continue its vigorous enforcement of U.S. laws aimed at countering foreign dumping and subsidy practices. Competition in international trade should involve business firms, not government treasuries. This call for the diligent negotiation of international rules on export subsidies, a high-priority endeavor of this Administration. Where such rules are absent, inadequate, or unsatisfactory in their implementation, the U.S. will vigorously protect its legitimate market share against the subsidy programs of other nations. ✓

The Administration will also step up its efforts to address the problem of foreign governments' financial assistance to exports, particularly where mixed credits are involved, while pressing for international agreement eliminating subsidized export financing. So-called "mixed credits" arise when governments combine export credits with financial assistance grants of funds in order to lower the cost of credit on their export sales. Mixed credits are a significant and growing subsidies problem in the world trading system. The Administration is directing the Export-Import Bank to begin an aggressive targeted mixed credit lending policy. At the same time, the Administration will seek a \$300 million appropriation for grants to support up to \$1 billion in mixed credit loans. ✓

The Administration will be receptive to petitions from U.S. firms and individuals that present valid complaints about foreign unfair trade practices. The President recently announced five (cases of) Administration-initiated cases under Section 301 of the Trade Act of 1974 to address unfair trade practices abroad. [This is the first time that any President has taken this bold step.] The Administration will take tactical measures aimed at eliminating unfair foreign trade practices and opening foreign markets, if efforts to resolve such issues through consultations fail. The denial or limitation of access to the U.S. market may be a necessary measure in this process. ✓

The Administration supports the market-opening objectives of equitable access legislation but will oppose legislation that would require the President to close U.S. markets on the basis of sectoral reciprocity. The proper approach is to grant the Administration authority to negotiate foreign barrier reductions. The Administration will follow up on its report to the Congress on the subject of foreign industrial targeting, by continuing to examine the potential problems created by foreign targeting, and where appropriate, possible remedies.

We will seek the removal of foreign barriers and distortions to U.S. trade in services and high technology industries (areas in which we have a significant worldwide competitive advantage) and to U.S. direct investment abroad, which contributes positively to U.S. exports and other overseas earnings. An important new priority will be to reduce and eliminate barriers to and distortions in U.S. trade arising from inadequate foreign protection of U.S.-generated intellectual property - patents, copyrights and trademarks.

In the agricultural trade area, the Administration will continue to counter foreign export subsidies which endanger our traditional overseas markets. The Administration will continue to explore possible uses of its export Payments-In-Kind (PIK) program to encourage our trade partners, particularly in Europe, to commit themselves to the elimination of agricultural export subsidies.

Minimizing Exceptions to Open Trade

Free trade is in the best interest of the citizens of the United States. Free trade produces more jobs, a more productive use of our nation's resources, more rapid innovation, and a higher standard of living. Free trade also advances our national security interests by strengthening the economic and political systems of our allies. Protectionism, in the form of tariff surcharges or quotas, are costly and contrary to our national economic and security interests.

It is, nevertheless, recognized internationally that nations may occasionally find it necessary to take actions that do not always conform to free trade principles. The Administration will, in appropriate cases, temporarily safeguard U.S. industries from serious harm caused primarily by a surge in imports. Such action, taken under U.S. trade law, are consistent with our international obligations. They must, however, reflect the nation's overall economic or security interests. Relief will be temporary, decline over the period of relief, and have the prospect of adjustment on the part of the U.S. industry so that it will be competitive after the relief is terminated.

The President's recent decision of no import relief in the non-rubber footwear case is consistent with this policy. Import

relief in the form of tariffs or quotas would not have enhanced the long-term competitiveness of the segments of the U.S. industry under strong import pressure; the more competitive segments of the U.S. industry did not require import relief. In addition, the cost of import relief to U.S. consumers would have been many billions of dollars and U.S. export industries would have suffered from inevitable retaliation by our affected trade partners. The President therefore decided that import relief was not in the national interest. ✓

Instead of protection, the Administration will examine ways to promote worker retraining. In the recent footwear case, for example, the President ordered the Secretary of Labor to devise a plan under the Job Training Partnership Act to retrain displaced workers. The Administration will also review existing worker assistance programs in order to assure that they promote an effective human adjustment policy which contributes to the maximum capacity for change, mobility, and increased productivity. This review will include an assessment of: (a) training and retraining programs - sponsored by government, labor and business - on a comprehensive and continuing basis; and (b) employment service, job bank, training, and relocation support for displaced workers in order to minimize human cost and the loss of valuable skills.

The Administration reserves the right to respond to economic conditions internationally and to levels of import penetration that threaten domestic industries essential to our long-term national security. Furthermore, the Administration will vigorously enforce our export control laws in the interest of our own national security. At the same time, the Administration recognizes the reality of foreign availability and the importance of our reputation as a reliable supplier. We are also aware that future technical advances by U.S. industry depend on maintaining the widest possible access to foreign markets and on fostering the widest exchange of scientific information.

International Negotiations to Improve Access and Achieve Fairer Trade

There is a need to strengthen the international trading system through the cooperative efforts of the United States and its trade partners, in order to obtain better access and fairer conditions of international trade.

There is a compelling need for overhaul of the General Agreement on Tariffs and Trade (GATT), which has provided the international legal framework for international trade over the past 40 years. The GATT's effectiveness has waned in recent years, primarily because its machinery and rules have not been adapted to current needs of the international trading community.

The GATT must be strengthened in the following areas:

dispute settlement; discipline over import restraints (whether in the form of safeguards, infant industry or balance of payments restrictions) and rules on the use of export subsidies. GATT negotiations must also achieve a vastly improved environment for the conduct of trade in agricultural products. Negotiations are needed to more fully complete work on the non-tariff barrier codes which were initially developed in the Tokyo round. And the GATT must examine issues and extend its domain in areas which are increasingly important to international trade, including the protection of intellectual property, trade in services, and trade-distorting investment practices.

The United States has urged its trade partners to enter into a new round soon to deal with these issues in the GATT. Such a round would send a positive signal that GATT members reaffirm their belief in an open trading system and in the GATT as an institution capable of adapting itself to changing conditions. We would hope that negotiations in the GATT could begin in 1986.

While our highest priority remains the improvement of the world trading system through a new round of multilateral trade negotiations, the United States remains interested in the possibility of achieving further liberalization of trade and investment through the negotiation of bilateral free trade arrangements such as the one recently concluded with Israel. We believe that, under certain circumstances, such agreements could complement our multilateral efforts and facilitate a higher degree of liberalization, mutually beneficial to both parties, than would be possible within the multilateral context.

The United States will give careful consideration to any serious proposal to enter into the negotiation of such agreements. The paramount factor in evaluating such proposals will be their economic value to the United States; we will not pursue any agreement which is not clearly in our economic and commercial interest. Finally, the prospects for significant progress in a new round of multilateral trade negotiations will also influence our deliberations on such bilateral initiatives.

The Administration will consult closely with Congress and with representatives of the private sector before making any decision with respect to prospective bilateral free trade agreements and it will notify Congress of its intentions in accordance with existing U.S. law.

In addition to possible bilateral free trade agreements, the United States will undertake other bilateral efforts to improve access for U.S. trade and investment. These bilateral efforts will address specific issues. Recently, the United States entered into sector-specific discussions with the government of Japan to improve access for U.S. producers of telecommunications equipment, medical and pharmaceutical products, electronics goods

and forestry products. New sectors will be added that offer the promise of expanded U.S. exports.

The Administration also entered into discussions with the Japanese government to seek more open financial markets in Japan and a role for the yen which more reflects Japan's increasing economic importance in the World economy. We will be following-up on commitments made by Japan in this area.

Other bilateral trade-related initiatives include efforts by the United States to negotiate bilateral investment treaties with less-developed and advanced developing countries. Such treaties provide nondiscriminatory treatment, protection against expropriation, the right of free transfer of funds, the arbitration of investment disputes and coverage of intellectual property for U.S. investors.

Summary of the Administration's Trade Policy

At this time of major challenge to the future of U.S. and world trade, the Administration will carry out an active program to address the two key elements of its trade strategy -- maintenance of a strong and growing economy and more open and fairer conditions for U.S. trade. In this connection, the Administration will do the following:

Domestic and International Economic Policies

1. The Administration will, for the benefit to our international trade as well as our overall domestic economy, vigorously seek to bring federal spending under control. The Congress and public must more clearly recognize the adverse impact of excessive government spending and budget deficits can have on the dollar's value and U.S. trade. The Congress also has a major responsibility to bear, in this respect, to help reduce our trade deficit.
2. The Administration will continue to urge that the Congress adopt the President's tax reform proposal, which is essential to strengthening the economy and making U.S. businesses more competitive in international markets.
3. The Administration will review, and will seek to amend, if warranted, our domestic anti-trust laws or regulations to the extent that they unnecessarily impede our international competitiveness.
4. The Administration will consider trade implications when reviewing proposed regulations and when developing

further deregulation initiatives. The Administration will examine the use of the trade leverage created by its deregulatory process to seek to open foreign markets, thereby minimizing the problem of free rides for foreign suppliers.

5. The Administration will increase efforts to protect intellectual property rights domestically (patents, copyrights, trademarks); we will accelerate work in this area with a view toward possible Administration legislative and administrative initiatives.
6. The U.S. will encourage our trading partners to adopt policies that will accelerate their economic growth thereby expanding our export opportunities. Specifically we will urge Bonn Summit participants to act on their commitments to remove rigidities and imbalances in their economies. The U.S. will also continue to use discussions in the IMF and OECD to pursue this strategy.
7. The Administration will encourage debt-burdened LDCs to reduce government impediments to the functioning of markets in their economies, encourage production through market incentives to their business firms and employees, and substitute equity capital for debt by encouraging both domestic and foreign investment.
8. The 1984 yen-dollar efforts toward liberalizing Japan's financial markets and internationalizing the yen will continue.

Free and Fair Trade Policies

9. Because the United States depends upon both exports and imports for its prosperity and because protectionism is too costly, the Administration's goal will be to - preserve as free and fair trading system as possible.
10. The United States will vigorously pursue its rights and interests in international commerce under U.S. law and the GATT, and will see that other countries live up to their obligations and trade agreements with the United States.
11. The Administration will continue vigorous enforcement of U.S. antidumping and countervailing duty laws.
- ✓ 12. In the past, the U.S. has initiated Section 301 unfair trade cases only in response to formal petitions for action from U.S. industries. The Administration will,

as appropriate, also self-initiate such cases to address foreign unfair trade practices.

13. Where export subsidy rules are absent, inadequate, or unsatisfactory in their implementation, the U.S. will vigorously protect its legitimate market share against the subsidy programs of other nations. Also, the Administration is directing the Export-Import Bank to begin an aggressive targeted mixed credit lending policy. At the same time, the Administration will seek a \$300 million appropriation for grants to support up to \$1 billion in mixed credit loans. ✓
14. The Administration will take tactical measures aimed at eliminating unfair foreign trade practices and opening foreign markets, if efforts to resolve such issues through consultations fail. The denial or limitation of access to the U.S. market may be a necessary measure in this process.
15. The Administration will support the market-opening objectives of equitable access legislation; but it will oppose legislation that would require the President to close U.S. markets on the basis of sectoral reciprocity. The proper approach is to grant the Administration authority to negotiate foreign barrier reductions.
16. The United States will continue market-oriented sector selective (MOSS) discussions with Japan. However, time limits will be placed on existing sector discussions, at the end of which specific commitments will be evaluated and follow-up procedures begun. New sectors will be added that offer the promise of expanded U.S. exports.
17. The Administration will follow up on its reports to the Congress on the subject of foreign industrial targeting by continuing to examine the potential problems created by foreign targeting and, where appropriate, possible remedies.

U.S. Export Promotion Policies

18. The United States will seek to reduce our nation's trade deficit through increasing exports instead of restricting imports. An example is the \$2 billion export enhancement program (BICEP).
19. The Administration will work with private sector advisory groups (e.g., the President's Export Council) to improve export promotion and to help U.S. companies look at global marketing efforts.

- 20. The Administration will evaluate Federal export promotion activities during the fall budget review, and alter these activities as necessary to improve their effectiveness.
- 21. The Administration will again seek legislation to remove the export disincentives in the Foreign Corrupt Practices Act.

Multilateral and Bilateral Trade Negotiations for U.S. Exports and Fair Trade

- 22. There is a great need for a more comprehensive disciplined and effective system of world trade rules. The system needs fixing! The Administration will maintain efforts to launch a new GATT trade round.
- 23. The Administration will examine possible bilateral and plurilateral negotiating opportunities, both to improve market access and enhance fairness and promote wider interest in the multilateral negotiating process.
- 24. If requested by the Government of Canada, we will be prepared to work with the Congress in exploring possibilities of a free trade arrangement with that country.

Minimum Exceptions to Free Trade

- 25. The Administration is committed to market-based solutions to trade problems, at home and abroad; but occasional exceptions, in the form of relief from import competition may be necessary.
- 26. Import relief, when undertaken, will be transparent, temporary, time-specific, decline over the period of relief, and lead to greater competitiveness.
- 27. The Administration will review existing worker assistance programs in order to assure that they promote an effective human adjustment policy which contributes to the maximum capacity for change, mobility, and increased productivity.
- 28. The Administration reserves the right to respond to economic conditions internationally and to levels of import penetration that threaten domestic industries essential to our long-term national security.

- 29. The Administration will vigorously enforce our export control laws in the interest of our own national security. At the same time, the Administration recognizes the reality of foreign availability and the importance of our reputation as a reliable supplier.

THE WHITE HOUSE

WASHINGTON

September 25, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Canada-U.S. Free Trade Agreement

Prime Minister Mulroney of Canada is to call the President tomorrow to indicate his interest in negotiating a free trade agreement. Mr. Regan asked Mr. McFarlane to determine what legal bases had to be touched in terms of Congressional notification, consultation, etc. before such negotiations could commence. McFarlane asked Ambassador Yeutter to look into the question. Yeutter has now sent a memorandum to McFarlane, attaching a legal analysis from USTR General Counsel Holmer. Chew has asked for your views.

The pertinent provisions of the Trade Act of 1974, as amended by the Trade and Tariff Act of 1984, are exceedingly complicated (as witnessed by the statutory citations below). The 1984 Act granted the President specific authority to conduct negotiations for free trade agreements, including agreements on tariff barriers, and provided that the implementing legislation for such agreements would be considered on a "fast track" basis by Congress, if the President went through various notification and consultation hoops. The "fast track" basis is highly desirable -- the agreements are considered by Congress within 60 days, and are not subject to amendment. The President can always negotiate as he sees fit, reach an agreement, and submit implementing legislation, but, as a practical matter, the Administration is willing to go through the hoops to obtain "fast track."

The authority for the President to enter into a trade agreement providing for the reduction or elimination of duties (a free trade agreement) is found at 19 U.S.C. § 2112(b)(4). The other country must request such an agreement, 19 U.S.C. § 2112(b)(4)(A)(i). The President must notify Congress 90 days before entering into such an agreement, and publish the notification in the Federal Register. 19 U.S.C. § 2112(e)(1). In addition -- and this requirement was added in 1984, along with the grant of specific authority -- the President must, at least 60 days before giving the 90 days notice, notify the Senate Finance Committee and the House Ways and Means Committee of any

negotiations concerning such an agreement, and "consult with such committees regarding the negotiation of such agreement." 19 U.S.C. § 2112(b)(4)(A)(ii)(I), (II).

If the President fails to meet these requirements, he loses "fast track," 19 U.S.C. § 2112(b)(4)(B)(ii)(I). "Fast track" is also lost if either the Senate Finance Committee or the House Ways and Means Committee disapproves of the negotiation during the 60-day period referred to above, 19 U.S.C. § 2112(b)(4)(B)(ii)(II). This is not an unconstitutional legislative veto, since it goes to Congress's ordering of its own calendar; OLC approved the provision in the bill when it was being considered by Congress.

In his list of required consultations, Holmer omits the requirement in 19 U.S.C. § 2112(c) that the President consult with the Senate Finance Committee and the House Ways and Means Committee before entering into any agreement. This requirement was in the 1974 Act, and may now be considered redundant of or superseded by the more elaborate 60-day notice and consultation provision with respect to the same committees added in 1984, and appearing at 19 U.S.C. § 2112(b)(4)(A)(ii). Both provisions are still on the books, however, and the new one refers to consultations regarding negotiations, while the old one refers to consultations regarding an agreement. In the interest of completeness, I would note the Section 2112(c) requirement in the memorandum for Chew.

In addition to the foregoing, there is an omnibus provision, 19 U.S.C. § 2211(b)(1), that requires the USTR to keep "official advisers" -- members of Congress designated by the Speaker of the House and the President pro tempore of the Senate -- "currently informed" on the status of U.S. trade negotiations.

As a legal matter, then, there is no need to notify Congress or the pertinent committees immediately about Mulroney's request, or to begin consultations with the committees. That need only happen at least 60 days before giving the 90 day notice. As a practical and political matter, however, those most active on these issues in Congress would be surprised if negotiations proceeded too far along with the Canadians without notifying Congress. As Holmer's memorandum points out, the legislative history suggested the committees would have an early opportunity to disapprove negotiations. According to Alex Platt of NSC, the proposal is for Yeutter to sound out the committees informally about Mulroney's call. If the reaction is clearly negative, the matter will be dropped. If the reaction is positive, the required

written notice to the committees will be given, and negotiations will commence. Negotiations would not commence during the period of informal consultation. This plan more than complies with the statute.

Attachment

THE WHITE HOUSE

WASHINGTON

September 25, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Canada-U.S. Free Trade Agreement

You have asked for our views on the requirements for notification of and consultation with Congress prior to the negotiation and conclusion of a free trade agreement with Canada. I understand Prime Minister Mulroney is expected to telephone the President concerning such an agreement tomorrow. I have reviewed the attached memoranda from Ambassador Yeutter and USTR General Counsel Alan Holmer on this subject, and have no legal objection to those memoranda.

I would begin by pointing out that, as a constitutional matter, the President is free to negotiate with other countries without restriction, and submit any necessary implementing legislation to Congress for action. To obtain the desired "fast track" treatment under 19 U.S.C. § 2191, however, the various notification, consultation, and approval requirements must be satisfied. The President must notify Congress 90 days before entering into a free trade agreement, and publish this notification in the Federal Register, 19 U.S.C. § 2112(e)(1), and, at least 60 days before giving that notice, must provide the Senate Finance Committee and House Ways and Means Committee written notice of negotiation of such an agreement, and consult with those committees on the negotiations. 19 U.S.C. § 2112(b)(4)(A)(ii). In addition, a general provision, 19 U.S.C. § 2211(b)(1), requires USTR to keep certain members of Congress "currently informed" on trade negotiations.

In the interest of completeness, I should point out that there is another consultation requirement, not noted in the USTR memoranda, contained in 19 U.S.C. § 2112(c). That provision requires that the President consult with the Senate Finance Committee and the House Ways and Means Committee, and other affected committees, prior to entering into any agreement. This requirement was in the Trade Act of 1974, and may be considered to be redundant of or superseded by the more elaborate requirement with respect to these committees added by the Trade and Tariff Act of 1984. Both provisions are still on the books, however, and

19 U.S.C. § 2112(c) refers to the agreement itself, while 19 U.S.C. § 2112(b)(4)(A) refers to the negotiations. Prudence would dictate consulting with the pertinent committees a second time pursuant to 19 U.S.C. § 2112(c), on the agreement, after the consultations required by 19 U.S.C. § 2112(b)(4)(A), on the negotiations.

Strictly speaking, then, there is no legal requirement to advise Congress or the pertinent committees immediately upon Prime Minister Mulroney's call. Notification and consultation is legally required under 19 U.S.C. § 2112 no earlier than 150 days before entering into an agreement, and under 19 U.S.C. § 2211 at some vague point before negotiations progress too far.

Since either the Senate Finance Committee or the House Ways and Means Committee can block fast track treatment, however, 19 U.S.C. § 2112(b)(4)(B)(ii)(II), I agree that prudence may dictate promptly advising Congress of Mulroney's interest.

I understand that the proposal is for Ambassador Yeutter to consult informally with committee members and other members of Congress about Mulroney's interest before commencing negotiations. Formal written notification of the committees would take place if the reaction is favorable, again before commencing negotiations. This is beyond the strict requirements of the law, but I certainly have no objection to the proposed course of action.

Attachment

FFF:JGR:aea 9/25/85


cc: FFFielding
JGRoberts
Subj
Chron

THE UNITED STATES TRADE REPRESENTATIVE
Executive Office of the President
Washington, D.C. 20506

September 25, 1985

MEMORANDUM

TO: The Honorable Robert C. McFarlane

FROM: Clayton Yeutter 

SUBJECT: Notice and Consultation Requirements Concerning
Canadian Bilateral Trade Negotiations

In response to your request I asked our General Counsel to provide the attached memorandum describing our legal obligations to notify and consult with the Congress prior to entering into a trade agreement with Canada. The obligations are specific since we would undoubtedly submit the agreement under a "fast track" procedure that has been authorized by Congress.

As you can see, we have to send official notifications to the Congress at least 90 days before we enter into an agreement, and we have to give notice to the Senate Finance and House Ways and Means Committees 60 days prior to that. None of this should be a problem, however, since we'll not likely be "entering into," i.e., signing an agreement with the Canadians for at least another two or three years. This will be a lengthy, complex negotiation.

The more relevant obligation is one of consulting with the Senate Finance and House Ways and Means Committees in a manner responsive to the legislative history of these provisions. This has both political and legal implications. Though the legal requirements provide considerable flexibility as to when we consult, political realities would seem to dictate consultation on the Hill before we begin formal negotiations with Canada.

We have suggested to the Canadians that they use "exploratory" language in their written communication from the Prime Minister to the President. I have provided the suggested language to Jim Kelleher, the Canadian Trade Minister. If they use it, and then follow up with a more formal request later, we will have ample flexibility as to when we consult.

If, on the other hand (for their own political reasons), the Canadians choose to send us a formal request this week, I believe we should consult with the Congressional committees on

this matter relatively soon -- probably during the next 30 days. Legally we could slip it more than that; it would be dangerous to do so politically both here and in Canada.

I have already made informal soundings with some of the key players on both committees. Though they are sensitive to the various bilateral controversies now brewing with the Canadians most seem prepared to draw a distinction between such short term issues and the longer range, historic opportunity that is presented here.

Call me, Bud, if you would like to discuss further.

Attachment

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

September 25, 1985

MEMORANDUM

To: Ambassador Yeutter
From: Alan F. Holmer *AFH*
Subject: Congressional Notification Concerning Canadian Bilateral Trade Negotiations

You have asked what legal obligations we have to notify the Congress about any bilateral trade negotiations with Canada. This memorandum describes the applicable legal requirements: (1) to notify the House and Senate at least 90 days before entering into such an agreement, (2) to notify the Senate Finance and House Ways and Means Committees at least 60 days prior to the 90-day notice to the Congress, and (3) to keep Congressional trade advisers "currently informed" of trade negotiating objectives. It also describes the legislative history of the Trade and Tariff Act of 1984, which reflects Congress' expectation that the President will consult with the relevant committees before entering into trade negotiations. While there is no clear legal requirement that we notify the Congress before we begin negotiations, we believe that for political and policy reasons, we have no choice but to notify the Congress formally before entering into trade negotiations.

90-Day Notice to the Congress before Entering into an Agreement.

Section 102 of the Trade Act of 1974, as amended, 19 U.S.C. 2112, allows the President to submit agreements to reduce or eliminate barriers to trade to the Congress for "fast track" review. Any trade agreement negotiated with Canada would be so submitted.

Section 102(e)(1) requires the President to notify the House of Representatives and the Senate of his intention to enter into an agreement to be submitted to the Congress under section 102, at least "90 days before he enters into such trade agreement." This means the President cannot sign a bilateral trade agreement with Canada denoting his intention to seek necessary

domestic implementing authority, until 90 days after he has notified the Congress of his intention to sign.

60-Day Notice to and Consultations with the Senate Finance and House Ways and Means Committees.

Section 401 of the Trade and Tariff Act of 1984, 98 Stat. 2948, 3013-15, amended section 102(b) of the Trade Act of 1974 to add a new paragraph (4)(A). This provision allows the President to submit to the Congress, under section 102, trade agreements (with countries other than Israel) that provide for the elimination or reduction of U.S. duties. The preconditions for such submission under section 102 are that: (1) the other country must have requested the negotiations, and (2) the President must provide written notice to and consult with the Senate Finance and House Ways and Means Committees at least 60 days prior to the 90-day notice to the Congress required by section 102(e)(1).

The effect of section 102(b)(4)(A) and (e)(1) is to require 150-day Congressional notice (and consultations with the relevant committees) prior to entering into any bilateral trade agreement with Canada.

Requirement to Keep Congressional Advisers Currently Informed of U.S. Negotiating Objectives.

Section 161(b)(1) of the Trade Act of 1974, 19 U.S.C. 2211 (b)(1), requires the U.S. Trade Representative to keep the officially designated Congressional advisers for trade issues "currently informed on United States negotiating objectives, [and] the status of negotiations in progress" This provision clearly requires that we apprise those advisers of any Canadian bilateral trade negotiations at some point, and arguably could be construed to require advising them prior to entering into negotiations (since negotiating objectives would include entry into negotiations).

Legislative History Suggesting Desirability of Notice and Consultations Prior to Any Negotiations.

In addition to the broad requirements of section 161, the Congress clearly expects notice and an opportunity to consult prior to any trade negotiations, and prudence requires it.

In introducing the conference report on the Trade and Tariff Act (H.R. Rep. No. 1156, 98th Cong., 2d Sess. (1984)), Senator Danforth stated,

Similar authority could be used by the President to negotiate trade agreements with other countries to reduce tariff and nontariff barriers--subject to the approval of the Finance and Ways and Means Committees. (130 Cong. Rec. S13,972 (daily ed. Oct. 9, 1984))

Likewise, Congressman Rostenkowski introduced the report in the House by stating,

[N]o tariff agreement with any other country could be negotiated under the expedited congressional approval procedure without prior agreement of the House Ways and Means and Senate Finance Committees and a congressional consultation period. (130 Cong. Rec. H11,657 (daily ed. Oct. 9, 1984))

Congressman Gibbons added his opinion that,

The provision ... also grants to the President the power to negotiate free trade arrangements with other countries around the world if the President first consults with the Committee on Ways and Means and with the Senate Finance Committee. (130 Cong. Rec. H11,658 (daily ed. Oct. 9, 1984))

From a political perspective, therefore, prudence dictates that we err on the side of caution and initiate consultations prior to entering into negotiations.