

6/24/77 [1]

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WITHDRAWAL SHEET (PRESIDENTIAL LIBRARIES)

FORM OF DOCUMENT	CORRESPONDENTS OR TITLE	DATE	RESTRICTION
memo w/attach	From Brzezinski to The President (3 pp.)re:meeting with Geoffrey De Freitas <i>sentiment, 1/24/13</i>	6/24/77	A
memo w/attach	From Peter Bourne to The President (2 pp.)re: meeting with President Lopez-Michelsen <i>opened 1/29/13</i>	6/24/77	A
memo	From Brzezinski to The President (2 pp.)re: Conventional Arms Transfers/ enclosed in Hutcheson to Lance 6/24/77 <i>opened 11/18/94</i>	6/23/77	A

FILE LOCATION

Carter Presidential Papers- Staff Offices, Office of the Staff Sec.- Pres. Handwriting File 6/24/77[] Box 33

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THE PRESIDENT'S SCHEDULE

Friday - June 24, 1977

8:15 Dr. Zbigniew Brzezinski - The Oval Office.

8:45 Mr. Frank Moore - The Oval Office.

✓ 9:00 Congressman Nick J. Rahall, II.
(5 min.) (Mr. Frank Moore) - The Oval Office.

✓ 9:15 Video-Tape Message for Fourth Annual Awards
(10 min.) to the Black Athletes Hall of Fame.
The Oval Office.

9:30 Mr. Frank Moore et al - The Oval Office.
(30 min.)

10:30 Mr. Jody Powell - The Oval Office.

10:45 Sir Geoffrey de Freitas, President of the North
(10 min.) Atlantic Assembly, and Congressman Jack Brooks.
(Mr. Frank Moore) - The Oval Office.

11:00 Mr. Charles Schultze - The Oval Office.

11:30 Vice President Walter F. Mondale, Admiral
Stansfield Turner, and Dr. Zbigniew Brzezinski.
The Oval Office.

✓ 12:00 Lunch with Congressman James C. Wright, Jr.
The Oval Office.

✓ 1:00 Meeting with Editors. (Mr. Jody Powell).
(30 min.) The Cabinet Room.

2:00 Presentation of Diplomatic Credentials.
(25 min.) (Dr. Zbigniew Brzezinski) - The Oval Office.

2:50 Mr. W. D. Johnson - The Oval Office.
(10 min.)

THE WHITE HOUSE
WASHINGTON
June 24, 1977

Zbigniew Brzezinski
Tim Kraft

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: JC note to set up meeting
with Marshall Shulman

THE WHITE HOUSE
WASHINGTON

ACTION	FYI
	MONDALE
	COSTANZA
	EIZENSTAT
	JORDAN
	LIPSHUTZ
	MOORE
	POWELL
	WATSON

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
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	IMMEDIATE TURNAROUND

	ARAGON
	BOURNE
X	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
	GAMMILL
	HARDEN
	HOYT
	HUTCHESON
	JAGODA
	KING

X	KRAFT
	LANCE
	LINDER
	MITCHELL
	POSTON
	PRESS
	B. RAINWATER
	SCHLESINGER
	SCHNEIDERS
	SCHULTZE
	SIEGEL
	SMITH
	STRAUSS
	WELLS
	VOORDE

THE WHITE HOUSE
WASHINGTON

6-24-77

Bob & Tim

Set up 15 minutes
with Marshall Shulman & me
re Soviet attitudes

J

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THE WHITE HOUSE
WASHINGTON

June 24, 1977

Zbigniew Brzezinski
Bob Pastor

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

Re: Letters to Foreign Leaders
to confirm points re
Rosalynn's discussions.

THE WHITE HOUSE
WASHINGTON

cc Bob Pastor

ACTION	FYI
	MONDALE
	COSTANZA
	EIZENSTAT
	JORDAN
	LIPSHUTZ
	MOORE
	POWELL
	WATSON

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	CAB DECISION
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	SCHULTZE
	SIEGEL
	SMITH
	STRAUSS
	WELLS
	VOORDE

THE WHITE HOUSE
WASHINGTON

6-24-77

Zbig & Bob Pastor

When Rosalynn came
back I asked for a
letter to each foreign
leader to confirm points
made in her discussion.

Where are they?

J. C.

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THE WHITE HOUSE
WASHINGTON

" Secret Attachment "
~~W. J. ...~~

ACTION	FYI
	MONDALE
	COSTANZA
	EIZENSTAT
X	JORDAN
	LIPSHUTZ
	MOORE
	POWELL
	WATSON

	ENROLLED BILL
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	SCHNEIDERS
	SCHULTZE
	SIEGEL
	SMITH
	STRAUSS
	WELLS
	VOORDE

THE WHITE HOUSE
WASHINGTON

Mr. President:

Brzezinski recommends that you only discuss one of Peter's talking points in such a brief meeting -- that you are happy with the clear commitment President Lopez made to us to work jointly on the problem of drug trafficking.

Rick (wds)

~~SECRET~~

~~SECRET~~

THE WHITE HOUSE

WASHINGTON
June 24, 1977

MEMORANDUM TO THE PRESIDENT

FROM Peter Bourne **P.B.**

SUBJECT: Meeting with President Lopez-Michelsen.

Thanks to the ground work which Rosalynn accomplished the meeting with President Lopez-Michelsen was extremely successful and lasted more than an hour. He immediately read your letter, responded very favorable to it, and asked me to express his appreciation to you. I then made the following points:

- Drug trafficking between U.S. and Colombia is a joint problem. That this issue was of great concern to you, not merely because of the effects on Americans, but also because of the economic damage to Colombian Society. It makes no sense for one country to be blaming the other. What was needed was joint cooperation at the highest level. He agreed to the joint commission headed by their Foreign Minister, who is currently in New York and whom he will have contact Secretary Vance this week. He recommended a follow up meeting between Vance, Foreign Minister Lievano, Ambassador Barco, Ms. Falco and myself, with Ambassador Barco to take the lead at future working level meetings with our officials. Most importantly he suggested that he would assign a narcotic liaison officer to their embassy here in Washington to work exclusively on the drug issue. I accepted the idea enthusiastically.
- I expressed your concern over corruption, and said that you were aware of information on many people in high positions in Colombia benefitting from the drug traffic. I conveyed your offer to provide him a confidential briefing, and he immediately accepted. I am arranging for this to take place during the next two weeks, with Hank Knocke taking the lead accompanied by Peter Bensinger.
- President Lopez also suggested that we seek jointly ways in which major American traffickers in Colombia might be more effectively prosecuted and returned to the United States. While this poses some legal problems I told him we would be delighted to pursue this.
- He made no move to demand large amounts of money, as we thought he might.
- Finally I told him that if in three months or six months he was not happy with the way things were going on this issue, or if he felt we had failed to fulfill the commitments I was making to him at this time, I knew that you would want him to let you know immediately.

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Per, Rac Project

ESDN: NLC-12C-18-90-2-0

BY 125 NARA, DATE 4/24/13

~~SECRET~~

~~SECRET~~

~~SECRET~~

MEMORANDUM TO THE PRESIDENT

FROM: Peter Bourne

SUBJECT: Meeting with President Lopez-Michelsen.

Later we met with the Minister of Justice and the Attorney General in a very friendly atmosphere and discussed some of the details of future cooperation. Before I left this morning I met with Antonio Ordoniez Plaja, a personal acquaintance of mine who is this year's President of UNICEF and very pro-American. He is to have lunch with President Lopez-Michelsen today and agreed to reiterate with him the points made in our earlier meeting.

Overall the trip could hardly have been more successful.

RECOMMENDATIONS

1. That you tell Ambassador Barco when he presents his Credentials, how happy you are with the clear commitment President Lopez made to us to work jointly on this problem. Also that you will make the helicopters available immediately.
2. That we proceed with the Commission as quickly as possible. I will follow up.
3. That Hank Knocke and Peter Bensinger brief Lopez-Michelsen on corruption providing him specific names.
4. That we continue to quietly bring pressure to bear on Colombia in the international community. During a meeting last week in London with Sir Michael Polliser the number two man in the British Foreign Office I asked that his government convey their concern to the Colombians over the drug issue. We should get other European countries affected by Colombian drugs and the United Nations fund for Drug Abuse Control to do the same.
5. The choice of our new ambassador for Colombia remains crucial. We need someone who is acceptable to the Colombians, capable and has some understanding of the drug issue. Ambassador David Osborne currently in Burma, an outstanding person is one possibility. I will work with State on this.

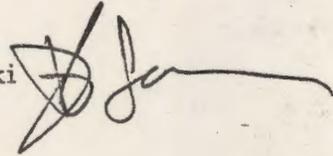
PGB:ss

c.c. Mrs. Rosalynn Carter
Zbigniew Brzezinski

~~SECRET~~

THE WHITE HOUSE
WASHINGTON~~CONFIDENTIAL~~MEETING WITH SIR GEOFFREY DE FREITASFriday, June 24, 1977
10:45 a.m. (10 minutes)
The Oval Office

From: Zbigniew Brzezinski

I. PURPOSE

To underscore your support for and interest in the work of the North Atlantic Assembly.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

- A. Background: The North Atlantic Assembly is composed of legislators from the 15 NATO countries. It addresses economic, political, military, educational, scientific, and cultural questions of concern to the member countries. Sir Geoffrey was elected President of the North Atlantic Assembly last November. Rep. Jack Brooks, Vice President of the Assembly, delivered your regards to the Assembly in November. He and other United States delegates have visited with most of the heads of state of the NATO-member countries. It has been suggested that the Assembly hold its meeting next spring in the United States or Canada. Brooks requested that you meet with de Freitas.
- B. Participants: Sir Geoffrey de Freitas (biographic sketch attached) and Dr. Zbigniew Brzezinski.
- C. Press Plan: White House photographer.

~~CONFIDENTIAL~~ (GDS)

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Per, Rac Project
ESDN: NLC- 46-8-10-1-1
BY: KS NARA, DATE 1/24/13

III. TALKING POINTS

A. U.S. Initiatives at NATO

You may wish to reiterate the importance of the initiatives contained in your speech at NATO:

- the study of NATO conventional force improvements;
- the analysis of how to improve standardization and inter-operability;
- the East-West assessment (which will provide a political framework for the defense measures we hope the Alliance will undertake.)

NOFORN

Sir Geoffrey Stanley DE FREITAS

UNITED KINGDOM

Vice President, European
Parliament (since 1975)Addressed as:
Sir Geoffrey

A member of the right wing faction of the Labor Party, Sir Geoffrey de Freitas is currently serving as president of the North Atlantic Assembly. Long interested in international affairs, he has represented his country at the UN General Assembly, the Consultative Assembly of the Council of Europe and the North Atlantic Treaty Parliamentarians' Conference. He has been chairman of the European-Atlantic Group, president of the British-Atlantic Committee and vice chairman of the British Council. A driving force in the 1975 campaign to continue British membership in the European Communities (EC), he is knowledgeable in defense affairs as well as EC matters. De Freitas has praised the US role in maintaining European security but has been unhesitatingly critical when he disapproves of US policies.

During 1934-35 de Freitas studied international law at Yale University. He has been a Member of Parliament since 1945, except for a 3-year-period when he served as High Commissioner to Ghana (1961-63) and Kenya (1963-64). He has lectured on various aspects of parliamentary democracy in America, India, Japan, Africa and Europe.

De Freitas, 64, has been married since 1938 to the former Helen Graham Bell, a graduate of Bryn Mawr University and daughter of Laird Bell, a Chicago lawyer. The de Freitases have three sons and a daughter.

CR M 77-13106

20 June 1977

SANITIZED

Per Rec Project

126-8-10-1-2

BY RS DATE 1/24/13

CONFIDENTIAL

THE WHITE HOUSE
WASHINGTON

Bert Lance: .

The attached is returned
from the President's outbox,
for your information.

~~CONFIDENTIAL~~ ATTACHMENT.

Rick Hutcheson

~~CONFIDENTIAL~~

MEMORANDUM

3663

THE WHITE HOUSE
WASHINGTON

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1

CONFIDENTIAL

June 23, 1977

ACTION

MEMORANDUM FOR: THE PRESIDENT
FROM: ZBIGNIEW BRZEZINSKI *ZB*
SUBJECT: Request for Decisions on Conventional
Arms Transfer Issues

Attached is a memorandum from Cy Vance which forwards several conventional arms transfer issues for your decision. Specifically, Cy recommends: (1) approval of 28 arms sales, valued at approximately \$1.8 billion; (2) continued deferral of decision on three other arms sales (Ethiopia, Pakistan, and Peru); and (3) that henceforth, he submit for your review only those cases of "major weapons systems requiring Congressional notification which involve major policy issues or are politically sensitive."

I fully concur in Cy's recommendations concerning the first two items. I believe, however, that it would be premature at this stage in a new policy for you to delegate too much decision-making authority on arms sales. If your new policy is to succeed, traditional ways of thinking in the bureaucracy are going to have to change, and tough trade-offs will have to be made. Both of these are most likely to happen if the working levels know that their recommendations will be personally reviewed by the President.

I would therefore recommend a compromise: That for the time being you continue to require that all cases which are submitted to Congress must be approved by you, except for sales to NATO, Australia, New Zealand, and Japan. Sales to these countries were exempted from most of the PD/NSC-13 controls, including the FY 78 dollar volume control, and hence do not present the tough trade-off issues raised by sales to non-exempted countries. You should get advance notice of such sales.

RECOMMENDATION:

That you approve Cy's recommendation concerning the pending sales cases, but approve only a modified version of his request to decide which arms

CONFIDENTIAL - GDS

Jay 11/18/94

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~ - GDS

2

sales will not be forwarded for your review, limiting these to sales to NATO, Australia, New Zealand, and Japan only, with advance notice.

To save you time, you may wish to indicate your preferences below:

Approve all 28 cases

Disagree; approve only those cases approved individually by you in Cy's memo _____

Approve Cy's recommendation that he "submit to you only those proposed cases regarding major weapons systems requiring Congressional notification which involve major policy issues or are politically sensitive" _____

Approve the modified version of Cy's proposal to give him discretionary authority on forwarding arms sales proposals which is limited to NATO, Australia, New Zealand and Japan _____

JC

JC

Include type of financing on each item in future

CONFIDENTIAL - GDS

~~CONFIDENTIAL~~

THE WHITE HOUSE
WASHINGTON
June 24, 1977

Stu Eizenstat

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: JC note to explain Forestry
Oral Bids, etc.

THE WHITE HOUSE
WASHINGTON

ACTION
FYI

	MONDALE
	COSTANZA
<input checked="" type="checkbox"/>	EIZENSTAT
	JORDAN
	LIPSHUTZ
	MOORE
	POWELL
	WATSON

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER

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Carp/Huron within
48 hours; due to
Staff Secretary
next day

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	BOURNE
	BRZEZINSKI
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	CARP
	H. CARTER
	CLOUGH
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	JAGODA
	KING

	KRAFT
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	MITCHELL
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	SCHNEIDERS
	SCHULTZE
	SIEGEL
	SMITH
	STRAUSS
	WELLS
	VOORDE

THE WHITE HOUSE
WASHINGTON

6-24-77

Stu.

Explain to me

- a) Forestry oral bids
- b) Ice cream composition
- c) Strip mining surface rights

Verbally is o.k.

J C

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THE WHITE HOUSE
WASHINGTON

June 24, 1977

Tim Kraft

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
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Rick Hutcheson

RE: Mark Hatfield

cc: Frank Moore

THE WHITE HOUSE
WASHINGTON

ACTION	FYI
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	EIZENSTAT
	JORDAN
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	SMITH
	STRAUSS
	WELLS
X	VOORDE

THE WHITE HOUSE
WASHINGTON

6-24-77

From Mark Hatfield

Will come by when
convenient - 15 minutes

Tim - please schedule -

J.C.

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THE WHITE HOUSE
WASHINGTON

ACTION	FYI
	MONDALE
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	SIEGEL
	SMITH
	STRAUSS
	WELLS
	VOORDE

Schlesinger
J

CONSISTENT COMPARISONS OF CONSUMER COSTS
UNDER DECONTROL AND THE ALTERNATIVE

The following analysis compares the effect of Carter and Krueger bills upon the American consumer. It is derived from an earlier paper entitled, Estimates of Producer Revenues and Consumer Costs Under Decontrol put out by the Administration's Energy Policy and Planning Office and thus accepts many of the assumptions of that paper. Only the obvious inaccuracies and inconsistencies have been changed. These are as follows:

- 1) Several categories of gas in both the subcommittee case and the Administration case were priced improperly for the Administration's analysis. The prices have been changed and explanatory notes are included.
- 2) The analysis released by the energy office implicitly assumes a price elasticity of 1.08 for new gas.

$$E = \frac{\frac{\Delta S}{S}}{\frac{\Delta P}{P}} = \frac{\frac{13-9.8}{9.8}}{\frac{1.89-1.45}{1.45}} = \frac{.3265}{.3034} = 1.08$$

The Administration assumes this elasticity for prices between \$1.45 and \$1.75 and an elasticity of zero above \$1.75. In this paper the Administration's price elasticity is applied to the entire price range instead of merely in cases in which the price does not exceed \$1.75.

The distinction made in the Administration analysis between price elasticity above and below the \$1.75 figure is wholly arbitrary.

- 3) The Administration paper implicitly assumes an alternative fuel price of zero. In reality since gas is a premium fuel and a relatively flexible commodity which can be substituted for almost any other form of energy, the alternative fuel bill for gas not produced under the Administration plan would be very expensive, since this gas would be replaced by oil imports and electricity.

Neither this paper nor the Administration paper takes into account the capital, environmental, or safety costs of switching from gas to coal. All these factors would tend to make the subcommittee alternative more attractive than the Administration plan. Nor do the analyses address the questions of production and jobs lost through fuel and feedstock scarcity.

The limited time frame of the study (8 years) benefits the Administration case in comparison with the subcommittee case. For every t.c.f. of gas produced, the consumers reap a net benefit of \$3.50. Over the longer term, when more new gas is produced under a deregulation scenario,

the balance would swing in favor of the subcommittee case. Over the 8 year period, however, the Administration case costs approximately 14 billion less than the Krueger case. If the analysis were extended two to three years, the additional new gas produced under the subcommittee case would tip the balance in the opposite direction.

SUBCOMMITTEE CASE

	<u>Avg. Price/mcf</u>	<u>Quan.(t.c.f.)</u>	<u>Consumer Cost (billions)</u>
New Discoveries	2.45	22.40	54.88
Interstate Uncommitted (1)	2.18	21.60	47.09
Intrastate Uncommitted	2.42	15.80	38.20
Interstate Committed	.55	49.10	26.98
Intrastate Committed(2)	2.00	35.50	71.00
Alternate Fuels		0	<u>0</u>
			238.15

* This quantity is derived by applying the implicit administration price elasticity to the difference in price between the Administration case and the Subcommittee case for new gas as defined by the Subcommittee bill.

(1) Since a price ceiling of about \$1.90/mcf would be imposed on this category of gas by the Subcommittee bill for the period 1978-1982, the average price would be approximately \$2.18.

(2) Intrastate committed gas is currently under contract and would not rise immediately to the deregulated price. This gas now averages about \$1.50 in Texas. The Subcommittee bill abrogates redetermination clauses and thus the gas could not rise to the deregulated price until the contracts expire. Also, the Subcommittee bill lessens the access of interstate pipelines to this gas once the contract expires, and thus its price would probably not rise to the full deregulated price even if all contracts did expire immediately.

ADMINISTRATION CASE

	<u>Avg. Price/mcf</u>	<u>Quan.(tcf)</u>	<u>Consumer Cost (billions)</u>
New Discoveries	1.89	13.0	24.61
Interstate Uncommitted (1)	1.42	21.6	-30.67
Intrastate Uncommitted	1.84	15.8	29.07
Interstate Committed	.55	49.1	26.98
Intrastate Committed (2)	1.60	35.5	56.80
Alternate Fuels (3)	6.00	9.4	56.40
			<hr/>
			224.53

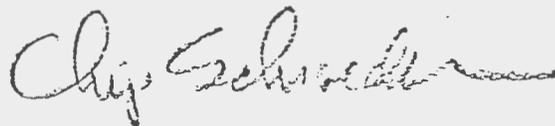
- (1) The Administration's estimated price for interstate uncommitted gas is too low. Much of this gas is produced from offshore and of fairly recent vintage, so it would get either the \$1.42 mcf F.P.C. 77-A price or a cost based \$1.60/mcf price.
- (2) Most of the gas now sold in intrastate commerce is sold at a high enough price to qualify for the "current BTU related price," and under the administration's scheme would average \$1.89/mcf over the 8-year period. Most of the rest would probably roll over to \$1.45 multiplied by the appropriate inflation factor. A weighted average of \$1.60 overall is a good approximation.
- (3) An increased supply of natural gas could and would be substituted for more expensive alternate fuels such as coal fired "peaking" electricity and base load generating units in small communities. It would be very expensive to convert to coal and install stack gas scrubbers in such facilities. The difference between gas energy and these alternatives is at least \$6.00 per million BTU's.

Mr. Krueger,

During our hearings several Intrastate pipelines indicated that their average purchased gas acquisition cost was in the range of \$1.40-1.60/mcf. Subtracting \$.20 for transportation, it appears that the average flowing gas price intrastate is \$1.30 to \$1.35. The Administration analyses assumed a flowing gas price of only \$.62 in 1978 and \$.70 in 1985. If one instead assumes a 1978 price of \$1.35 and a 1985 price of \$2.40 (still below the distillate equivalent price) then the Administration analyses understates producer revenues under continued regulation by \$4.53 billion in 1978 and a cumulative total of \$44.36 billion through 1985. This means that case 1 deregulation costs \$56 billion minus \$44 billion, or \$12 billion rather than their calculated \$56 billion.

	78	79	80	81	82	83	84	85
<i>Base</i> Bill Case								
Committed Volume	6.2	5.6	5.1	4.5	4.1	3.7	3.3	3.0
Price 1	.62	.63	.64	.65	.67	.68	.69	.70
Price 2	<u>1.35</u>	<u>1.60</u>	<u>1.90</u>	<u>2.00</u>	<u>2.10</u>	<u>2.20</u>	<u>2.30</u>	<u>2.40</u>
<i>Δ</i> Revenues <i>in billions</i>	4.53	5.43	6.43	6.08	5.86	5.62	5.31	5.10
								<i>#</i> <u>44.36</u> <i>BILLION</i>

Chip Schroeder



"Some Errors in Administration's Analysis of Deregulation"

Error 1: \$5.6 billion error

The Administration has assumed that Interstate Uncommitted Gas would immediately sell, under the Subcommittee bill, at deregulated prices ranging from \$2.35 to \$2.43 per mcf. Most Interstate Uncommitted Gas comes from the federal domain offshore. This gas, under the subcommittee bill, would sell at FPC-approved prices, but until those were set, the bill sets the interim price at \$1.90. The total quantity of gas that the Administration postulated in this category is 11.2 trillion cubic feet. This amount, multiplied by $\$2.39 - 1.90 = .49$, comes to a grand total error of \$5.6 billion.

Error 2: \$17.43 billion error

The Administration document assumes that contracts for interstate gas which is already flowing and being sold at FPC-regulated prices would be terminated and renegotiated. This assumption is false: the Subcommittee-passed bill does not allow for any automatic redetermination of existing contract prices. Under the bill the FPC would have to approve any changes in price, as it does now; therefore no change in the price of this gas can be attributed to the Subcommittee bill.

Error 3: \$12.06 billion error

The Administration assumes that flowing gas currently committed for intrastate sales would be subject to renegotiation

of contracts. While such contracts, upon expiration, are subject to renegotiation under the Subcommittee bill, they are also subject to it under existing policy, which the Administration used for its base case. Therefore no change can be attributed to the Subcommittee bill.

Error 4: incalculable billions, resulting from erroneous base case assumptions. . .

The Administration base case supposedly represents a continuation of the status quo: interstate and intrastate markets with a continuation of current policies. Yet there are several obvious errors:

- (a) the price for newly discovered gas is assumed to range from \$1.52 - \$1.55 between the years 1978-1985. This assumption apparently posits that all interstate and intrastate gas would sell for prices comparable to new interstate gas. In fact, new intrastate gas in Texas now sells for about \$2. Thus the base case assumptions for newly discovered gas are low.
- (b) the price assumed for interstate uncommitted gas is set at \$1.30 from 1978-85. This price is unrealistically low, given the Court's recent approval of FPC Opinion 770A, which granted \$1.42 for new gas since 1975.

- (c) the price assumed for intrastate uncommitted gas is set at prices of \$1.52 - \$1.60 for the years 1978 - 85. This price is clearly erroneous, since new intrastate gas today sells in Texas at about \$2.
- (d) the price assumed for intrastate committed gas is \$.62 to \$.70 from 1978 - 85. In reality, the average price in the largest intrastate market is already about \$1.50.
- (e) the document postulates that the Carter energy plan would produce at least 4.1 trillion cubic feet of additional gas beyond the base case because of its higher price. In calculating base case costs, however, the Administration assumed that replacement fuels for this quantity of gas lost through lack of price incentive, cost nothing. If substituted for by the cheapest substitute, OPEC oil, the cost to American consumers would be at least \$10 Billion.

Error 5: uncounted billions

The Administration assumed 4.1 TCF of additional supply response for the Administration proposal compared with the Base Case, because of the higher Administration price of \$1.75 per mcf. However, it assumed no additional supply response for the Subcommittee bill, which allows a price higher than \$1.75.

Page 4.

Such an assumption is illogical. Further, for each additional TCF of gas so produced, consumers save at least \$2.5 Billion, the cost of replacement fuel.

GAS PRICE CONTROL - CASE 1

(1975 dollars, revenues in billions)

	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1978-85</u>
Newly Discovered									
Quantity	.2	.3	.5	.9	1.7	2.6	3.1	3.7	
Price	2.35	2.37	2.39	2.41	2.43	2.46	2.48	2.50	
Revenues	.470	.711	1.195	2.169	4.131	6.396	7.688	9.250	\$ 32.0
Interstate Committed:									
Quantity	1.1	1.7	2.3	2.9	3.2	3.3	3.5	3.6	
Price	2.35	2.37	2.39	2.41	2.43	2.46	2.48	2.50	
Revenues	2.585	4.029	5.497	6.989	7.776	8.118	8.680	9.000	\$ 52.6
Intrastate Committed:									
Quantity	.8	1.3	1.7	2.1	2.3	2.4	2.6	2.6	
Price	2.35	2.37	2.39	2.41	2.43	2.46	2.48	2.50	
Revenues	1.880	3.081	4.063	5.061	5.589	5.904	6.448	6.500	\$ 38.5
Interstate Committed:									
Quantity	8.6	7.8	7.0	6.3	5.6	5.1	4.6	4.1	
Price	.52	.53	.54	.55	.56	.57	.58	.59	
Revenues	4.472	4.134	3.780	3.465	3.136	2.907	2.668	2.419	\$ 26.9
Intrastate Committed:									
Quantity	6.2	5.6	5.1	4.5	4.1	3.7	3.3	3.0	
Price	.62	.63	.64	.65	.67	.68	.69	.70	
Revenues	3.844	3.528	3.264	2.925	2.747	2.516	2.277	2.100	
Total Revenues	13.251	15.483	17.799	20.609	23.379	25.841	27.761	29.269	\$173.3
Case Price -									
Case Revenues	11.266	12.152	12.941	14.157	15.464	16.250	16.987	17.384	\$116.6
Difference	1.985	3.331	4.858	6.952	7.915	9.591	10.774	11.885	\$ 56.7

error 1



GAS DECONTROL - CASE 2

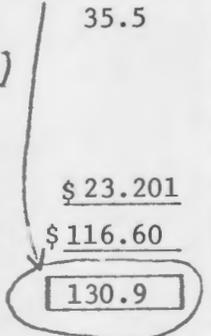
(1975 dollars, revenues in billions)

	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1978-85</u>
Interstate									
Committed:									
Existing total	8.6	7.8	7.0	6.3	5.6	5.1	4.6	4.1	
Renegotiated	.3	.5	.8	1.0	1.3	1.5	1.8	2.05	
Renegotiation									
Price	2.35	2.37	2.39	2.41	2.43	2.46	2.48	2.50	
Price Difference	1.83	1.84	1.85	1.86	1.87	1.89	1.90	1.91	error 2 ↓
Revenue Difference	.549	.920	1.480	1.860	2.431	2.835	3.420	3.916	<u>\$17.43</u>
Intrastate									
Committed:									
Existing total	6.2	5.6	5.1	4.5	4.1	3.7	3.3	3.0	
Renegotiated	.2	.4	.6	.8	.9	1.1	1.3	1.5	
Renegotiation									
Price	2.35	2.37	2.39	2.41	2.43	2.46	2.48	2.50	
Price Difference	1.73	1.74	1.75	1.76	1.76	1.78	1.79	1.80	error 3 ↓
Revenue Difference	.346	.696	1.050	1.408	1.584	1.958	2.327	2.700	<u>\$12.06</u>
Total Revenue Difference	.895	1.616	2.530	3.268	4.015	4.793	5.747	6.616	\$29.48
Case 1 Revenue Difference	1.985	3.331	4.858	6.452	7.915	9.591	10.774	11.885	\$56.79
Total Case 2 Revenue Difference	2.880	4.947	7.388	9.720	11.930	14.384	16.521	18.501	\$86.27

Administration Base Case

	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1978-85</u>
Newly-Discovered									
Quantity (tcf)	.2	.3	.4	.7	1.3	1.9	2.3	2.7	9.8
Price (per mcf) <i>(ERROR 4c)</i>	1.52	1.52	1.53	1.53	1.53	1.54	1.54	1.55	
Revenues (billions of dollars)	.3	.46	.61	1.07	1.99	2.93	3.54	4.18	<u>\$ 15.085</u>
Interstate Un-committed									
Quantity (tcf)	1.1	1.7	2.3	2.9	3.2	3.3	3.5	3.6	21.6
Price (per mcf) <i>(ERROR 4b)</i>	1.30	1.30	1.30	1.30	1.30	1.30	1.30	1.30	
Revenues (billions of dollars)	1.43	2.21	2.99	3.77	4.16	4.29	4.55	4.68	<u>\$ 28.08</u>
Intrastate Un-committed									
Quantity (tcf)	.8	1.2	1.5	1.9	2.2	2.3	2.5	2.5	14.9
Price (per mcf) <i>(ERROR 4c)</i>	1.52	1.52	1.53	1.54	1.56	1.57	1.58	1.60	
Revenues (billions of dollars)	1.22	1.82	2.29	2.93	3.43	3.61	3.95	4.00	<u>\$ 23.25</u>
Interstate Committed									
Quantity (tcf)	8.6	7.8	7.0	6.3	5.6	5.1	4.6	4.1	49.1
Price (per mcf)	.52	.53	.54	.55	.56	.57	.58	.59	
Revenues (billions of dollars)	4.47	4.13	3.78	3.46	3.14	2.91	2.67	2.42	<u>\$ 26.981</u>
Intrastate Committed									
Quantity (tcf)	6.2	5.6	5.1	4.5	4.1	3.7	3.3	3.0	35.5
Price (per mcf) <i>(ERROR 4d)</i>	.62	.63	.64	.65	.67	.68	.69	.70	
Revenues (billions of dollars)	3.84	3.53	3.26	2.92	2.75	2.52	2.28	2.10	<u>\$ 23.201</u>
TOTAL REVENUES	11.27	12.15	12.94	14.16	15.46	16.25	16.99	17.38	<u>\$ 116.60</u>
TOTAL QUANTITY (tcf)	16.9	16.6	16.3	16.3	16.4	16.3	16.2	15.9	<u>130.9</u>

(ERROR 4e)



THE WHITE HOUSE
WASHINGTON

June 24, 1977

Stu Eizenstat

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: Letter from W. T. Beebe

THE WHITE HOUSE
WASHINGTON

"Letter from W T Beebe"

ACTION	FYI
	MONDALE
	COSTANZA
X	EIZENSTAT
	JORDAN
	LIPSHUTZ
	MOORE
	POWELL
	WATSON

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

	ARAGON
	BOURNE
	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
	GAMMILL
	HARDEN
	HOYT
	HUTCHESON
	JAGODA
	KING

	KRAFT
	LANCE
	LINDER
	MITCHELL
	POSTON
	PRESS
	B. RAINWATER
	SCHLESINGER
	SCHNEIDERS
	SCHULTZE
	SIEGEL
	SMITH
	STRAUSS
	WELLS
	VOORDE

28
THE PRESIDENT HAS SEEN.

DELTA AIR LINES, INC.
HARTSFIELD ATLANTA INTERNATIONAL AIRPORT
ATLANTA, GEORGIA 30320

W. T. BEEBE
CHAIRMAN OF THE BOARD AND
CHIEF EXECUTIVE OFFICER

June 20, 1977

SC
The President
The White House
Washington, D. C. 20500

Dear Mr. President:

Enclosed is a copy of my letter to Miss Mary Schuman who was kind enough to ask for Delta's comments regarding the staff working draft of a bill which would amend the Federal Aviation Act. There are very, very serious deficiencies and inconsistencies which simply must be addressed and recognized by the executive and the legislative branches of the government.

In the first place, as I have said so many times, the various regulatory reform or deregulation bills, and including the present staff working draft, will if enacted be in direct conflict with one of the two or three most important issues facing the country today, and that is the conservation of energy. The executive branch and the legislative branch simply cannot on the one hand call for sacrifices to be made in the interest of conserving energy and then enact legislation which will result in a far greater use of energy. Severe loss of credibility is a certain result.

In the second place, this working draft again provides for substantial subsidies being paid for air services which are not now subsidized. This money would come out of the general tax funds, and there cannot be any legitimate reason for adding this burden to the taxpayers when service is now provided subsidy free for a great many of the communities which would end up going on subsidy under the proposed draft.

Thirdly, there has never been a recognition that all that is good in these regulatory reform proposals can be accomplished under the existing act and, especially, under the leadership of a man like Dr. Kahn. I strongly urge that the expediency of enacting legislation simply for the sake of new legislation be abandoned.

Electrostatic Copy Made
for Preservation Purposes

The President

June 20, 1977

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There are so many other points to be made, but I want only to hit the highlights with you, Mr. President, including my last point which is that this act is so discriminatory in favor of charter operators and against long-time aggressive, competitive airlines such as Delta as to render it punitive and highly suspect as to its constitutionality.

With every good wish,

Respectfully yours,

WTB-hst

A handwritten signature in blue ink, appearing to read "Tom". The signature is written in a cursive, flowing style with a long horizontal stroke extending to the right.

DELTA AIR LINES, INC.
HARTSFIELD ATLANTA INTERNATIONAL AIRPORT
ATLANTA, GEORGIA 30320

W. T. BEEBE
CHAIRMAN OF THE BOARD AND
CHIEF EXECUTIVE OFFICER

June 20, 1977

Miss Mary Schuman
Assistant Director-Domestic
Policy Staff
Office of Domestic Council
The White House
227 Old Executive Office Building
Washington, D. C. 20501

Dear Miss Schuman:

You have asked for Delta's comments concerning the Staff Working Draft (dated June 13, 1977) of a Bill which would amend the Federal Aviation Act. As we understand it, this draft is a rework of S. 689 and S. 292, concerning which Mr. Dick Maurer, our Senior Vice President and General Counsel, and Jim Callison, our Vice President-Law & Regulatory Affairs, have provided detailed comments to the Senate Aviation Subcommittee, with copies to you and others.

Regretfully, we must oppose the new draft. I say "regretfully" because Delta has endeavored in the past to provide interested Executive and Congressional offices with constructive comments and suggestions for improving the existing Federal Aviation Act, if it must be amended at all. We had hoped that as a result of our extensive efforts in this respect, a new draft bill would be produced which would more closely reconcile the views of reformers, of those who believe in the soundness of the existing Act, of large carriers, of small carriers, and of consumers. We do not believe that the present draft does this.

We remain ready to assist and contribute to the reform debate, but we frankly see few of our past suggestions embodied in the present draft; actually find many of our comments and ideas rejected; see repetition in the explanatory statement accompanying the draft of many of the same factual errors which we have previously pointed out to the Senate Aviation Subcommittee and others; see many areas where the draft is less favorable to carriers in Delta's position, which have grown over the years as the result of efficient and profitable operations, than was S. 689 or S. 292; find a number of new concepts in the bill upon which we have not been given an opportunity to comment or testify; and therefore see no basis upon which

we can support the draft. In our extended testimony on S. 292 and S. 689 we listed areas of change which we thought might be constructive, and suggested specific alternative language where we thought the language in those bills would not be in the public interest. Once we have had an opportunity to study the new draft in more detail, and if we are provided with an opportunity to do so, we could attempt this sort of constructive comment once again. But our initial reaction to the new draft is that from the standpoint of carriers in Delta's position, the bill is highly discriminatory and, realistically, not subject to amendment in a manner which would render it acceptable to Delta.

Indeed, a hurried reading of the draft leads us to believe that it may even specifically be designed to penalize Delta and other carriers in Delta's position. For example, the "Automatic Market-Entry" section provides that large air carriers may file an application for such authority annually for not more than one pair of points "so long as the statute miles between such points for each year does not exceed 2,000 miles." This provision would let every large carrier in the country seek authority in Delta's Atlanta-Los Angeles market, which is 1,946 miles in length. On the other hand, it would preclude us from seeking authority in many other transcontinental markets into which we conceivably might want to move, for example, New York-Los Angeles and Miami-Los Angeles. We see no rational basis for segregating transcontinental markets even within the southern tier in this manner, and can only conclude that the provision has not been adequately thought through, or that it was specifically designed to discriminate against carriers in Delta's position. This is just a single example--we mention other discriminatory aspects of the draft below.

But before we go into any more detail, let us make five preliminary, general comments:

First, we did not obtain a copy of the bill and its explanatory statement here in Atlanta until late Wednesday afternoon. Mr. Maurer has been out of the office, and Mr. Callison has been substantially tied up on other matters. Accordingly, Delta has not yet had a chance to do more than quickly peruse the Working Draft. As a result, our comments in this letter will be fairly general.

Second, Delta's basic position remains the same as it has throughout the regulatory reform debate, and as it has been detailed in Mr. Maurer's testimony, Mr. Callison's SMU article,

and elsewhere--namely, that the existing Federal Aviation Act is a remarkable piece of legislation, highly flexible, always forward-looking, strongly pro-competition, and otherwise generally capable of permitting accomplishment of all of the goals of those advocating reform, including more competition, more entry, pricing flexibility, improved financial results for the industry, and the like. We do not subscribe to the view expressed by the last CAB Chairman, that the agency cannot so administer the existing Act as to accomplish all of those goals, without any legislative change. In this connection, we would like to stress that the written views of the new Chairman, Mr. Alfred Kahn, indicate to us that under his leadership this constructive application of the existing statute can and will in fact occur, as it has most of the time in the past. At the least, we think Mr. Kahn should be given an opportunity to work within the existing statute and to demonstrate again its flexible and constructive nature, before major legislative change is made, such as that proposed in the present Staff Working Draft.

Third, the Staff Working Draft, like S. 292, S. 689 and previous airline economic regulatory reform proposals, is highly inconsistent with other, more urgent national goals. For example, the draft not only places added emphasis on competition and new entry, but would virtually force the CAB to grant any application for new route authority which is coupled with an "innovative or more efficient method" or "significant reduction in fares or charges," regardless of the economics of the resulting system. Indeed, the proposed new Policy Statement makes no mention of "sound economic conditions," which forms part of the present Statement. All of this, of course, is designed to force a large, sudden expansion of the air transportation system, including an increase in competition. Delta favors a steadily increasing degree of industry competition, including new entry where that is appropriate, but we find the Working Draft's emphasis on a sudden burst of change to be wholly inconsistent with President Carter's emphasis on energy conservation. While none of the reformers' arguments have satisfactorily addressed the matter, the fact is that an increase in industry competition has always resulted in lower load factors. Lower load factors mean less efficient use of fuel, higher unit costs, and therefore higher fares. In addition, increased new entry must result inevitably in increased, not decreased, fuel consumption. The Working Draft's over-emphasis on a large, rapid expansion of the system is thus inconsistent both with the goals of energy conservation and lower rates and fares for the traveling public.

Fourth, we recognize that a few of the positions which we advocated in testimony on S. 292 and S. 689 were adopted, at least in part, by the Working Draft, and we are grateful for that. For example, we are pleased to see that the Working Draft would not totally repeal Section 412 and 414 of the existing statute insofar as interstate and overseas air transportation is concerned. While our people have not yet had a chance to study the details of the Working Draft's proposed revisions of those two sections of the statute, we are pleased over their general retention. Similarly, while we again have not had time to study the matter in depth, we find the Working Draft's proposed amendment of Section 408 to be preferable to the provisions in S. 689, which would have transferred the entire subject matter of mergers, consolidations, and acquisitions of control to the Department of Justice for handling under the antitrust laws. I am sure that our staff will desire to comment later in detail, if an opportunity is provided, concerning the new standards worked into the proposed revisions of Sections 408 and 412, particularly insofar as they relate to problems of company failures which have always been experienced in our industry in the past when competition was rapidly increased. Mergers in the past have been permitted under the "Failing Business Doctrine," which we think have been wholly salutary. The proposed language for Section 408 might compromise this opportunity to preserve routes which have been created and competition which has been operating. As soon as time permits, our people will study these aspects of the matter in more detail.

A feature of the Working Draft which would perhaps be acceptable is its approach to the revitalization of dormant authority. The approach in the Working Draft is a new one, allowing any air carrier to in effect force a proceeding for transfer to it of dormant authority held by another air carrier, provided that the CAB has previously found the authority in question specifically required by the public convenience and necessity. While we reserve the right to comment on this after our people have studied it in more detail, this approach on the surface appears to be a reasonable one. We are especially pleased to see the limitation of the section to authority for which a specific need has been found.

Fifth, we see a profound contradiction between the supposed thesis of the Working Draft, to lessen governmental regulation, and (a) the Draft's proposed meticulous Congressional prescription of standards and rules--a new, detailed form of regulation

which would be rigidly embodied in a statute, instead of the flexible regime now existing; and (b) the added regulatory responsibilities imposed upon the CAB in various areas, most notably with respect to small community service and its subsidization.

We would now like to turn to our basic problem with the Working Draft--its discrimination against carriers in Delta's position. This discrimination would be worked in three ways simultaneously: (a) a proposed new basic statutory policy which would favor new entrants and smaller carriers, and make it virtually impossible for existing carriers to obtain new route authorizations except under the Automatic Market-Entry section; (b) the Automatic Market-Entry section itself, which discriminates both in time and quantity against larger carriers; and (c) in the undue confinement of scheduled carriers' off-route charter operations. These three provisions in combination render the Working Draft wholly inappropriate from Delta's standpoint.

If there must be an Automatic Market-Entry provision, we would not seriously object to showing some more favoritism to small carriers than larger carriers. We thought the provision advanced by United Air Lines in commenting upon S. 689 to be reasonable in this respect. We do not find the provision in the Working Draft to be reasonable. As mentioned earlier, we think it specifically discriminates against Delta, which we obviously find wholly unacceptable. But even in basic concept, we think it overly favors the small carriers.

We also would have no objection to a stronger emphasis on competition in the Policy Statement of the Act, and offered a suggestion in this respect while testifying on S. 689. But we think the Working Draft over-emphasizes new entry and avoidance of industry concentration, leaving existing carriers with no opportunity for expansion other than under the limited Automatic-Entry provision. As a technical matter, we also find the repeated references to competition, concentration, innovation, and the like in both the Policy Statement and in the proposed new Section 401 to be highly confusing and unnecessary. The best approach, in our opinion, would be to strengthen the existing Policy Statement with increased emphasis on competition, including new entry and opportunity for growth by both large and small existing carriers, and the avoidance of repetition on this subject in Section 401.

The proposed confinement of scheduled carriers' off-route charter authority is highly discriminatory and unfair to carriers in Delta's position. The existing supplemental carriers are given an opportunity to seek scheduled carrier authority, as we read the Working Draft. In equity, we see no reason why the scheduled carriers should not also have the opportunity to seek charter authority. Not only is this opportunity denied in the Working Draft, but in addition carriers in Delta's position are given virtually no opportunity to increase their charter operations in the future, even if that might be in the public interest or in the interest of sound, economical airline operation.

In sum, in this area of the Act we feel that the Working Draft is specifically designed to penalize those of us who have worked hard over the past years under the present system to grow, operate profitably, treat our people fairly, and render good public service for travelers, shippers and the United States Postal Service. It is for this reason that we view the Working Draft to be "unrepairable" from our standpoint, whether reform of the existing statute is desirable in some areas or not.

We have extensive problem with a number of the specific sections in the Working Draft. As I indicated, my people have not had time to study the draft in any detail, and probably will not be able to do so for some days because of prior commitments. The following comments are therefore reasonably general.

1. We feel that the initial Working Draft, like S. 689, would make charter service the basic air transportation service, with scheduled service to be only an "add-on." We think scheduled airline service is the basic need of the traveling and shipping public, as well as the Postal Service, and therefore cannot accept this aspect of the proposed new draft.
2. The initial Working Draft is so designed that any application which proposes any innovation, a supposedly more efficient method of operation, or a "significant" reduction in fares or charges, or which claims to be avoiding "industry concentration, market domination, or monopoly power" would have to be found to be "consistent with" the public convenience and necessity, and would therefore have to be granted. Any applicant can dream up arguments on these various subjects, and as now written the Working Draft

would therefore require grant of virtually every application filed. Whatever one may think of past CAB implementation of the existing Federal Aviation Act, we think this sudden transformation of the agency to a mere "rubber stamp" role is far too drastic, and we must oppose this concept of the Working Draft.

3. We have previously stated Delta's views in opposition to the negative public convenience and necessity test. We adhere to those views, and therefore oppose the Working Draft's proposed use of the negative standard in 1981 and beyond.
4. We still see no reason for two separate Policy Statements, one concerning domestic air transportation and one concerning foreign air transportation.
5. We are pleased to see that there is no automatic removal of restrictions other than closed door restrictions, and no prescription that such removal must be made within a prescribed period of time. Delta remains opposed, however, to legislative removal of even closed door restrictions. We think a command to the CAB to study the matter and remove them on a case-by-case basis, as it is already doing, would be appropriate.
6. We have previously indicated initial favorable reaction to the proposed use of essentially mandatory transfer authority with respect to dormant operating authority. But we see no reason to prohibit all other route transfers, as the Working Draft would do, and we oppose such a prohibition. As long as they are suitably controlled, route transfers can be helpful to the system and the public.
7. We have general problem from Delta's standpoint with the repeated reference in the Working Draft to "monopoly power." One such reference occurs in proposed Section 401(d) with respect to public convenience and necessity standards (which we have previously indicated we think should be embodied only in the Policy Statement). Another such reference occurs in the section on rates and fares, where the privilege of a zone of reasonableness would not be extended to a market in which the filing air carrier transports 90% or more of the local and connecting passengers. While we

doubt that the Aviation Subcommittee Staff intended to do so, this penalizes the most efficient and aggressively competitive air carriers. From time to time Delta Air Lines is charged with having a "large" number of "monopolies." The argument is a most misleading one, because in most of the markets in which we are so charged, one or more other carriers holds authority equal to our own. The simple fact of the matter is that in most of these markets Delta has been competitively effective to the point that the other carriers have reduced their share to 10% or less. We do not see any reason to penalize such aggressive competition, as would seemingly be done in the Working Draft's proposed Sections 401 and 1002.

8. We are pleased to see the requirement in the Working Draft that if the CAB is to suspend tariffs over which it would retain a suspension power, it must do so in advance of the proposed tariff effective date. Delta has previously indicated, however, that it prefers a 45/15 day requirement (proposed tariffs to be filed on 45 days' advance notice, with required CAB action at least 15 days in advance) to a 60/30 day provision. We think the longer 60/30 day provision would lessen carrier control over its own rates and fares, and increase administrative delay.
9. We do not yet understand the new mail provisions of the Working Draft. While we have not in the past indicated major concern with having mail rates established through tariff procedures, we do not find where the Working Draft adequately provides for such procedures. The mere reference to tariffs in Section 21 of the Working Draft would not seem to take care of the matter, because the present tariff sections of the statute do not cover charges for the carriage of mail. Perhaps we have missed something which will turn up on more detailed examination, but the seeming omission does concern us. We are also seriously concerned with giving the United States Postal Service authority to contract for the transportation of mail, even at rates set forth in lawful tariffs, because of the general abuses which that Service has made of contracting power in the past. We believe that the contracting power would be used to whipsaw tariff mail charges to an uneconomic level, with the carrier best able to endure the low rates to ultimately receive the bulk of the mail in any market. We do not think this would be in the public's interest, and most certainly not in the industry's interest.

10. We are strongly opposed to the proposed expansion of the CAB's exemption powers to cover any "person" rather than just air carriers and classes of air carriers. If provision is made for expedited procedures in general, this expansion of the exemption power would seem to be unnecessary. On the other hand, its extension to "any person" could enable the agency to undermine the entirety of the remaining portions of the statute. We see no need for this excess.
11. We have read the sections on small community and local air service with interest, including the related subsidy provisions. These do not directly affect Delta, and because of the limited time which we have had to study them we will therefore not comment on them herein, except to note that contrary to the general theme of so-called regulatory reform these sections seem to portend far more, and far more detailed, regulation than currently exists.
12. We have previously indicated our serious objection to the severe limitations which would be put upon our right to seek charter authority, and to operate off-route charters. In the past we have opposed the related provisions of the Working Draft which would, in effect, deregulate all-cargo operations. We do not think enough attention has been given to the possible detrimental effects of complete deregulation of all-cargo transportation. Delta does not currently operate all-cargo aircraft, however, and we will therefore not comment on this matter in more detail at this time.
13. We strongly oppose proposed Section 421(g) insofar as it would eliminate the existing requirement for a public hearing before the CAB may alter, amend, modify, suspend or revoke an existing certificate. We do not think such a governmental privilege can or should be removed without the due process of law, which includes a public hearing. While it might be possible to force a hearing through court procedures, we do not think the statute should be amended to eliminate the existing hearing right.
14. With respect to rates and fares, Delta does favor some sort of legislation which would give us a zone of reasonableness within which to adjust standard rates and fares. We have considerable pricing freedom in other areas, but

In this one area the CAB has been unduly restrictive since its Domestic Passenger Fare Investigation was concluded. As we have previously indicated, however, at this juncture no one knows the exact results which will flow from increased pricing flexibility for the industry, and we would therefore still favor an approach which would urge the CAB, for an experimental period, to use its existing powers, with more permanent legislation to be considered in light of this experience. We have previously submitted statutory language on this subject to the Aviation Subcommittee of the U. S. Senate, and we continue to support that particular provision. We believe that the proposed plus-10, minus-35 zone set forth in the initial Working Draft to be excessive on the down side. We are also puzzled by the Draft's proposal that the zone of reasonableness be tied to a "standard industry fare level" which the CAB would be required to adjust annually. The concept of an annual "automatic" adjustment for fare levels might be preferable to the present, somewhat slow procedures at the CAB with respect to rates and fares. On the other hand, it seems to us that the proposed annual adjustment power would enable the CAB to eliminate many of the fare changes which carriers might have made during the preceding year. For example, it would be simple to eliminate last year's fare decrease merely by increasing the standard level through adjustment of the formula. We think this matter needs more study, and we are not yet prepared to comment further on it, or on the various proposed changes to the rate-making standards and other features of the proposed rate and fare provisions.

15. Proposed Section 1010 concerning expedited procedures is not satisfactory to us, because it unduly restricts the right to a hearing. We are pleased to see that our suggestions concerning legislative sanction of the show cause procedures have been adopted by the Working Draft, but in areas where show cause procedures are not appropriate--that is, where there are material, disputed facts at issue--we think a hearing should be required by statute, as we think it in any event would be by basic due process. As we read proposed Section 1010 it would give the CAB the discretion to hold or avoid a hearing in almost any instance, as it sees fit. We object to this. The hearing process itself has not been the cause of delay in the past at the CAB. As Delta has pointed out before, the primary delay has occurred before a matter has been set for hearing, or

after it has been submitted to the CAB for decision following issuance of an Administrative Law Judge's Initial Decision. We also have general concern with the imposition of time limits on the Administrative Law Judges. All in all, Delta continues strongly to support its own proposed expedited procedure language, as set forth in the Section 1010 advanced in our written testimony on S. 689.

16. We are pleased to see that the Working Draft continues to include a federal preemption section. Delta has suggested a somewhat broader section, which we continue to prefer. We do think that federal preemption of economic regulation needs to be clearly stated in any new law, and that preemption of operational aspects of the industry's regulation needs to be clarified. We think confusion will result from the Working Draft's proposed permission for the CAB to allow a state to continue to regulate the intrastate operations of an air carrier whose interstate operations will be regulated by the CAB. Indeed, this provision could well result in increased, and even duplicating regulation. We would think full federal preemption in this area would be preferable.

As we said earlier, the foregoing comments are initial reactions only. If an opportunity presents itself, we would like to comment in more detail. But in general we are certain to remain opposed to most of the Working Draft. We would nevertheless urge you to take all steps you can to insure that adequate time is provided for comments on the Working Draft, before the Aviation Subcommittee's mark-up session. We think this would take a matter of some weeks, if for no other reason than so many of the provisions in the draft are totally new, and that our own staffs are committed at this particular time to other matters which cannot simply be dropped to comment fully on the proposed draft.

We thank you for soliciting our views, and for your visiting last week with our Mr. Shipley. Mr. Shipley, Mr. Maurer, or Mr. Callison would be happy to discuss our views with you in more detail, if you think that appropriate.

Sincerely yours,



WTB/rta

bc: President Jimmy Carter

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

Mr. President:

Original memos from the Cabinet to the President go directly to Jack Watson. Jack passes them along to me. I give them to you, after getting comments from the Senior Staff on those occasions when comments are appropriate.

In this case, HEW informed us last Friday that a response to your note to Califano on costly medical devices had been sent. We checked with Jack's office, which indicated that no memo had been received. Yesterday, Jack's office found a copy of the memo on file, but indicate that they never received the original Califano memo.

As Jack's office received only a copy, they assumed that you must already have received the original, and hence took no action on the memo.

As the original copy could not be located, we passed along a copy to you.

Rick

**Electrostatic Copy Made
for Preservation Purposes**



THE PRESIDENT HAS SEEN.

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D. C. 20201

June 13, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: Joseph A. Califano, Jr.

gac

In response to your May 3 note, I have launched an analysis of HEW's ability to control -- under existing statutes -- the acquisition and use of expensive medical equipment. Four areas seem the most promising, and we are trying to develop initiatives in each.

Potential Limits on Purchase

- o Develop National Health Planning Guidelines -- Under the Health Planning Act, National Health Planning Guidelines could require that state planning agencies establish limits on the acquisition and use of expensive medical equipment. For example, quantitative maximums might limit the number of a particular machine that can be purchased for each one million population.
- o Extend Certificate-of-Need Requirements -- Certificate-of-Need programs require State approval of equipment costing more than \$100,000 for health care facilities and Health Maintenance Organizations. The standards for approval under this program could be tightened significantly as well as extended to cover expensive equipment purchased by private physicians' offices and by group practitioners.

Potential Limits on Use

- o Regulate Use through Medicare-Medicaid Reimbursement -- The Department could impose stringent cutbacks in the reimbursement provided under Medicare and Medicaid for excessive and unnecessary use of expensive equipment and procedures, such as routine CT Scans.

**Electrostatic Copy Made
for Preservation Purposes**

6-24-77
Rick-
Who gets
the original?
Why the 11 day
delay?
J.C.

- o Establish Standards on Use of Expensive Equipment --
The professional medical community, through the Professional Standards Review Organization, could establish standards proscribing as medically improper excessive use of marginally effective medical procedures involving high cost equipment.

Once enacted, our Cost Containment legislation will reduce the proliferation of expensive equipment in hospitals through the \$2.5 billion national limit on capital expenditures. As you know, we are discussing the possibility of additional legislation to cover capital expenditures in physicians' offices.

I will provide you with a more detailed report on the action I intend to take in each of the areas I have identified as soon as the staff reports are completed.

THE WHITE HOUSE
WASHINGTON

May 3, 1977

Secretary Califano

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Stu Eizenstat
Jack Watson

Re: Use of Costly X-Ray Device

THE WHITE HOUSE
WASHINGTON

5-3-77

To California

Let's take similar
action - stronger if
possible - & include
other devices as
advisable.

J.C.

5/3/77

Panel Urges Curb on Use Of Costly X-Ray Device

By Lawrence Meyer

Washington Post Staff Writer

A panel of health experts recommended yesterday that strong measures be adopted to prevent overbuying and overuse of a sophisticated, expensive X-ray device known as the CT scanner.

The report, prepared by a committee of the National Academy of Science's Institute of Medicine, was given added emphasis by the president of the Blue Cross Association—the nation's largest private health insurer—who said his organization may restrict or withhold reimbursement of charges for CT scanning if the report's recommendations are not adopted.

The Institute of Medicine's report is the most complete and authoritative study yet made public on the efficacy of the CT scanner and potential problems the device poses. A study by the congressional Office of Technology Assessment, more limited in scope, is still in draft form and has not been formally made public.

The CT (for computed tomography) scanner uses a thin beam of X-rays coupled with a computer to present a reconstructed view on a television screen of cross sections of internal body organs.

A scanner costs anywhere from \$300,000 to \$700,000 to purchase and patients are charged from \$150 to \$500 for a series of scans, according to the Institute's report. The report estimates that 76 scanners are already being used or on order.

According to studies of the CT scanner and estimates by health experts, the annual bill for scans is already from \$200 million to \$300 million annually and could reach \$1 billion by the end of the decade.

The CT scanner has been hailed by some physicians as a device that could revolutionize medicine. Its critics charge, however, that the scanner has come into widespread use without sufficient attention to its usefulness, that too many have been bought and that the opportunity for medical profiteering with the device is enormous.

The institute study was done under

the sponsorship of the national Blue Cross Association, which has roughly 107 million subscribers across the country.

The report, while acknowledging the scanners' efficiency in certain cases, recommends that insurance companies should pay for CT scans only when these standards are followed:

- CT scanners used should have been installed with the approval of a local health planning agency under a certificate of need program.

- Scans should not be performed until a request for the test is reviewed by a physician responsible for controlling access to the device.

- A utilization review program should be established to make sure that tests performed were appropriate.

- Scanners should perform a minimum of 2,500 tests a year. Amortization of the purchase cost of scanners should be spread over at least five years to limit costs.

- A uniform professional fee of \$35 per patient on top of the cost of the test should be established except where local conditions warrant a higher or lower fee.

- Use of scanners in doctors' offices and private clinics should be permitted "only when placement in full-service hospitals is not practical."

- "New units should not be approved until there is full and appropriate use of existing scanners."

Walter J. McNerney, president of Blue Cross, said that the next step for his organization is to study the panel's recommendations to decide which should be implemented by local Blue Cross Organizations.

McNerney was asked at one point during a press conference called to discuss the report if Blue Cross might refuse to pay charges generated by machines that did not meet the study's recommendations. "If we follow the recommendations of the report," McNerney said, "we would be doing precisely that. We would not be paying for the scan."

McNerney indicated that the report will provide Blue Cross with a lever to limit the spread of scanners.

THE WHITE HOUSE
WASHINGTON

June 24, 1977

Jack Watson
Stu Eizenstat
Bob Lipshutz
Robert Strauss

Re: Proclamation Implementing Color
Television Orderly Marketing
Agreement

The attached was returned in the
President's outbox and is forwarded
to you for your information.

Rick Hutcheson

cc: Bob Linder

THE WHITE HOUSE
WASHINGTON

Mr. President:

Eizenstat and Lipshutz concur.

Rick (wds)

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

June 21, 1977

MEMORANDUM TO: THE PRESIDENT
FROM: Jack Watson *Jack*
SUBJECT: PROCLAMATION IMPLEMENTING COLOR
TELEVISION ORDERLY MARKETING
AGREEMENT

Attached is a memorandum from Bob Strauss briefly outlining the provisions of a proclamation to be signed by you implementing import relief through the orderly marketing agreement that we have negotiated to limit color television receiver imports from Japan. The proclamation has been approved by the Department of Justice in accordance with Executive Order Number 11030. By virtue of Section 2(f) of Executive Order Number 11846, OMB's approval is not required.

It is extremely important that the proclamation be signed as soon as possible, and in any event no later than Friday morning, June 24, so that it can reach the Federal Register by noon that day for publication on Monday, June 27. Otherwise, no advance notice will be provided to persons who are affected by the proclamation.

So that you will not have to read the entire proclamation, I am attaching a brief outline of its provisions.

Attachments

Technical Description of Proclamation Implementing
Import Relief on Color Television Receivers

The proclamation is issued pursuant to authority in the Trade Act of 1974 (sections 202 and 203). The Proclamation (1) recites the USITC finding; (2) recites the Presidential determinations made on the USITC findings both with regard to the split vote on injury and on the remedy for the serious injury found to exist; (3) the determination of the President to negotiate an orderly marketing agreement and a recitation of the statutory requirements that were met regarding that decision, including the report to the Congress; (4) a recitation of the Trade Act requirement that import relief be proclaimed and take effect within 90 days after the Presidential determination; (5) the recitation of the fact that an orderly marketing agreement was signed on May 20 and giving the main provisions of that agreement; (6) a recitation that the agreement is in conformity with the Trade Act by permitting the importation of a quantity or value of articles which is not less than the average annual quantity or value in a recent representative period.

The implementing provisions of the proclamation cite the Constitutional and statutory authorities of the President and,

(1) Proclaims that an orderly marketing agreement was entered into between the Government of the United States and the Government of Japan effective July 1, 1977, to be implemented according to its terms and as directed in the Proclamation;

(2) and (3) Delegates to the Special Representative for Trade Negotiations acting in consultation with other interested agencies the President's authority under section 203(e)(2) and (3) and 203(g)(1) and (2) to make determinations regarding the orderly marketing agreements and other import relief and to administer the relief, including a specification that the Special Representative shall prepare for the President any additional proclamations that might be necessary;

(4) Directs the Special Representative, in addition to other necessary actions, to institute certain specific actions in administering the agreement, including:
(a) The basis on which the Special Representative may make determinations under 203(e). (b) and (c) The conditions under which import restrictions will be

placed on articles entering from Japan. (d) The conditions under which action may be taken against third countries, and (e) The requirement that should any U.S. border action be taken, notice will be given in the Federal Register prior to that action.

It should be noted that this proclamation does not now place U.S. border restrictions on Japanese goods but sets forth specific conditions under which the U.S. will do so should the orderly marketing agreement not be effective or should imports from countries not party to the agreement disrupt or threaten to disrupt the effectiveness of the orderly marketing agreement. The major emphasis is on export control by the Government of Japan with enforcement authority to be used by the U.S. should export controls not be successful in keeping imports at or below the level set in the agreement. It is our view that such authority and the recognition in the agreement that U.S. border restrictions will be imposed when a certain level of unauthorized imports is reached (also specifically set forth in the proclamation) meets the requirements of section 203(a)(4) of the Trade Act.

(5) Directs the Special Representative to take whatever actions and functions are necessary concerning the administration implementation, modification, amendment or termination of the orderly marketing agreement or any other actions taken pursuant to the proclamation, and delegates authority to him to make changes in part II of the Appendix to the TSUS;

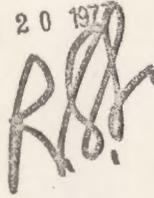
(6) Directs the Commissioner of Customs to take such actions as the Special Representative shall determine are necessary in administering the import relief proclaimed pursuant to the proclamation;

(7) Directs the United States International Trade Commission to conduct mandatory surveys of the domestic industry;

(8) Proclaims the term of the proclamation to be July 1, 1977 through June 30, 1980.

THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS
WASHINGTON

JUN 20 1977



MEMORANDUM FOR THE PRESIDENT

FROM : Ambassador Robert S. Strauss

SUBJECT: Proclamation Implementing Color Television
Orderly Marketing Agreement with Japan

On May 20, I signed an orderly marketing agreement limiting color television receiver exports from Japan, which will be enforced at the U.S. border should the agreed limits be reached. This action was undertaken in response to your directive of May 19, which followed a finding by the U.S. International Trade Commission that import competition was injuring the domestic color television receiver industry.

Attached at Tab A is a proclamation implementing the import relief given by the orderly marketing agreement. A copy of my memorandum to you of May 17, describing the agreement, is attached at Tab B.

The agreement limits the amount of color television receivers to be exported from Japan to the U.S. to a total of 1.75 million receivers per year for a three year period beginning July 1, 1977.

The proclamation delegates to the Special Trade Representative, acting in consultation with other interested Executive agencies, authorities necessary to oversee and administer the agreement. This delegation includes the authority to negotiate similar agreements with other countries, should subsequent import relief be proclaimed, to restrict imports of color television receivers from other countries, and to determine that the agreement with Japan has become ineffective, in which case we may recommend to you other import relief (tariffs, quotas, or tariff-rate quotas) permitted by law. These delegations have been worked out in consultation with the interested agencies.

placed on articles entering from Japan. (d) The conditions under which action may be taken against third countries, and (e) The requirement that should any U.S. border action be taken, notice will be given in the Federal Register prior to that action.

It should be noted that this proclamation does not now place U.S. border restrictions on Japanese goods but sets forth specific conditions under which the U.S. will do so should the orderly marketing agreement not be effective or should imports from countries not party to the agreement disrupt or threaten to disrupt the effectiveness of the orderly marketing agreement. The major emphasis is on export control by the Government of Japan with enforcement authority to be used by the U.S. should export controls not be successful in keeping imports at or below the level set in the agreement. It is our view that such authority and the recognition in the agreement that U.S. border restrictions will be imposed when a certain level of unauthorized imports is reached (also specifically set forth in the proclamation) meets the requirements of section 203(a)(4) of the Trade Act.

(5) Directs the Special Representative to take whatever actions and functions are necessary concerning the administration implementation, modification, amendment or termination of the orderly marketing agreement or any other actions taken pursuant to the proclamation, and delegates authority to him to make changes in part II of the Appendix to the TSUS;

(6) Directs the Commissioner of Customs to take such actions as the Special Representative shall determine are necessary in administering the import relief proclaimed pursuant to the proclamation;

(7) Directs the United States International Trade Commission to conduct mandatory surveys of the domestic industry;

(8) Proclaims the term of the proclamation to be July 1, 1977 through June 30, 1980.

Implementation of Orderly Marketing Agreement
On Certain Color Television Receivers

By the President of the United States of America

A PROCLAMATION

1. On March 22, 1977, the United States International Trade Commission (USITC) reported to the President (USITC Publication 808) the results of its investigation under subsection (b) of section 201 of the Trade Act (19 U.S.C. 2251(b)) (the Trade Act). The USITC determined that color television receivers assembled or not assembled, finished or not finished, provided for in item 685.20 of the Tariff Schedules of the United States (TSUS) are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles. By an evenly divided vote, three USITC Commissioners determined serious injury to exist in the monochrome television receiver industry and three Commissioners made no determination of injury with respect to the monochrome receiver industry. The Commissioners also had an evenly divided determination on the question of injury to that portion of the industry producing subassemblies of color television receivers, also provided for in item 685.20 of the TSUS. On those articles on which an injury determination was made, the Commission recommended the imposition of an increased tariff.

2. Pursuant to section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)), in the case of an evenly divided vote on serious injury the President may consider the determination agreed upon by either group of Commissioners as the determination of the Commission. On May 19, 1977, I determined to accept the determination of those Commissioners making no determination of injury to the monochrome television

receiver industry as the determination of the Commission and to accept the determination of those Commissioners finding serious injury to that portion of the industry producing subassemblies of color television receivers as the determination of the Commission.

3. On May 19, 1977, pursuant to Section 202(b)(1) of the Trade Act (19 U.S.C. 2252(b)(1)), and after taking into account the considerations specified in section 202(c) of the Trade Act (19 U.S.C. 2252(c)), I determined to remedy the serious injury found to exist by the USITC through the negotiation of an orderly marketing agreement with Japan, the major supplier of color television receivers to the U.S. market, pursuant to section 203(a)(4) of the Trade Act (19 U.S.C. 2253(a)(4)); and announced my intention to conclude such an agreement limiting the export from Japan into the United States of color television receivers and certain of their subassemblies, and setting conditions under which the United States would limit imports into the United States of such articles. On May 19, 1977, in accordance with section 203(b)(1) of the Trade Act (19 U.S.C. 2253(b)(1)), I transmitted a report to the Congress setting forth my determination and intention to conclude an orderly marketing agreement and stating the reasons why my decision differed from the action recommended by the USITC.

4. Section 203(e)(1) of the Trade Act (19 U.S.C. 2253(e)(1)) requires that import relief be proclaimed and take effect within 90 days after a Presidential determination to negotiate an orderly marketing agreement.

5. Pursuant to the authority vested in the President by the Constitution and the statutes of the United States, including section 203(a)(4) of the Trade Act (19 U.S.C. 2253(a)(4)), an orderly marketing agreement was concluded on

May 20, 1977, between the Government of the United States of America and the Government of Japan, limiting the export from Japan to the United States of color television receivers and certain subassemblies thereof, for a period of three years beginning July 1, 1977, to 1.75 million units in each annual restraint period, and setting forth conditions under which limitations would be placed on the importation into the United States of such articles by the Government of the United States. The agreement shall be implemented by the terms of the Notes exchanged and as directed in this proclamation.

6. In accordance with section 203(d)(2) of the Trade Act (19 U.S.C. 2253(d)(2)), I have determined that the level of import relief hereinafter proclaimed permits the importation into the United States of a quantity or value of articles which is not less than the average annual quantity or value of such articles imported into the United States from Japan in the 1972-1975 period, which I have determined to be the most recent representative period for imports of such articles.

NOW, THEREFORE, I, Jimmy Carter, President of the United States of America, acting under the authority vested in me by the Constitution and statutes of the United States, including section 203 of the Trade Act (19 U.S.C. 2253) and section 301 of Title 3 of the United States Code, do hereby proclaim:

(1) An orderly marketing agreement was entered into on May 20, 1977, between the Government of the United States of America and the Government of Japan with respect to the trade in certain articles of color television receivers effective July 1, 1977. The orderly marketing agreement with Japan accounts for a major part of the United States imports of the articles covered by the agreement. The

orderly marketing agreement is to be implemented according to its terms and as directed in this proclamation.

(2) The President's authority under section 203(e)(2) of the Trade Act (19 U.S.C. 2253(e)(2)) to negotiate orderly marketing agreements with other foreign suppliers of articles subject to this proclamation after any import relief proclaimed pursuant to Sec 203(a)(1)(2)(3) or (5) takes effect, is hereby delegated to the Special Representative for Trade Negotiations (hereinafter referred to as the "Special Representative"). The President's authority under section 203(e)(3) of the Trade Act (19 U.S.C. 2253 (e)(3)) to determine that any agreement negotiated pursuant to section 203 (a)(4) or (5) or 203 (e)(2) of the Trade Act (19 U.S.C. 2253 (a)(4)(5) and (e)(2)) is no longer effective is hereby delegated to the Special Representative, to be exercised in conformity with paragraph (4) below. In the event of such a determination, the Special Representative shall prepare any proclamations that may be appropriate to implement import relief authorized by section 203(e)(3) of the Trade Act (19 U.S.C. 2253(e)(3)).

(3) The President's authority in section 203(g)(1) and (2) of the Trade Act (19 U.S.C. 2253(g)(1) and (2)) to prescribe regulations governing the entry or withdrawal from warehouse of articles covered by the orderly marketing agreement and to issue rules and regulations governing the entry, or withdrawal from warehouse, for consumption of like articles which are the product of countries not parties to such agreement, has been delegated to the Secretary of the Treasury pursuant to section 5(b) of Executive Order No. 11846. Such authority shall be exercised by the Secretary of the Treasury, upon direction by the Special Representative, in consultation with representatives of the member agencies of the Trade Policy Staff Committee.

(4) In exercising the authority delegated in paragraphs (2) and (3) above, the Special Representative shall, in addition to other necessary actions, institute the following actions:

(a) Statistics on imports from Japan and from all other sources of articles covered by the agreement shall be collected on a monthly basis. Should the export restraint level specified in the orderly marketing agreement with the Government of Japan be exceeded, or should imports from countries not parties to such agreement increase in such quantities so as to disrupt the effectiveness of the orderly marketing agreement, the Special Representative, after consultation with representatives of member agencies of the Trade Policy Staff Committee, may make a determination that for the purposes of section 203(e)(3) of the Trade Act the orderly marketing agreement does not continue to be effective.

(b) With respect to the products of Japan, beginning on July 1, 1977, the Special Representative may direct the Commissioner of Customs to restrict the entry, or withdrawal from warehouse, for consumption of articles subject to the orderly marketing agreement which are not accompanied by a valid export certificate showing authorization for export to the United States pursuant to the provisions of the agreement.

(c) With respect to the products of Japan, entry, or withdrawal from warehouse, for consumption of articles not accompanied by a valid export certificate will be denied for the remainder of a restraint year should the total amount of such articles entered, or withdrawn from warehouse, for consumption in the United

States reach three percent of the level for that restraint period specified in the agreement.

(d) With respect to the products of other countries, beginning on July 1, 1977, if the quantity of imports of all other countries, excluding Japan, of the articles subject to import relief under this proclamation appear likely during a 12 month period to disrupt the effectiveness of the orderly marketing agreement, the Special Representative may initiate consultations with those countries responsible for such disruption and may prevent further entries of such articles for the remainder of the restraint period or otherwise moderate or restrict the imports from such countries pursuant to section 203(g)(2) of the Trade Act, (19 U.S.C. 2253(g)(2)). Before exercising this authority, the Special Representative shall consult with representatives of the member agencies of the Trade Policy Staff Committee.

(e) Should the Special Representative determine to institute import restrictions on articles entered, or withdrawn from warehouse, for consumption from Japan or from other countries pursuant to paragraphs (2) and (4)(d) of this proclamation, such action shall become effective not less than eight days after such determination and any necessary changes in the TSUS have been published in the Federal Register.

(5) The Special Representative shall take such actions and perform such functions for the United States as may be necessary concerning the administration, implementation, modification, amendment or termination of the agreement described in paragraph (1) of this proclamation and any actions and functions necessary to implement paragraphs (2), (3) and (4) of this proclamation. In carrying out his responsibilities under this paragraph the Special Representative

is authorized to delegate to appropriate officials or agencies of the United States authority to perform any functions necessary for the administration and implementation of the agreement or actions. The Special Representative is authorized to make any changes in Part 2 of the Appendix to the TSUS which may be necessary to carry out the agreement or actions. Any such changes in the agreement shall be effective on or after their publication in the Federal Register.

(6) The Commissioner of Customs shall take such actions as the Special Representative shall determine are necessary to carry out the agreement described in paragraph (1) of this proclamation and to implement any import relief pursuant to paragraphs (2), (3) and (4) of this proclamation, or any modification thereof, with respect to the entry or withdrawal from warehouse, for consumption into the United States of products covered by such agreement or by such other import relief.

(7) The USITC shall issue reports and conduct the following surveys with respect to color television receivers and related products:

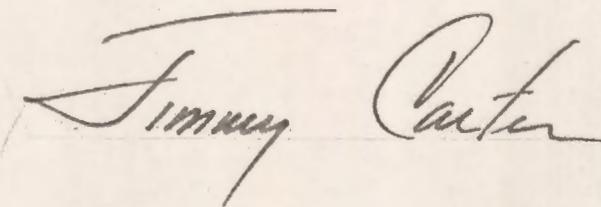
(a) Quarterly. Surveys by calendar quarter to obtain from producers in the United States monthly data on production, shipments, inventories, employment man-hours, and prices, and other economic factors indicative of conditions in the U.S. industry. The initial surveys shall cover the fourth quarter of 1976 and the first two quarters of 1977. Subsequent surveys shall cover individual quarters with the last such survey covering the quarter which ends not less than 60 days prior to the termination of the import relief.

The USITC shall publish the results of the initial surveys by September 1, 1977 and the results of later surveys within 45 days of the end of the surveyed quarter.

(b) Annual. Annual surveys to obtain data from producers in the United States by calendar quarter on profits, capacity, and annual data on capital expenditures and research and development expenditures; and to obtain from importers data by calendar quarter on prices, orders, and inventories. The initial surveys shall cover the calendar year 1976 and the calendar year 1977, and the results shall be published by March 31, 1978. The results of subsequent surveys shall be published by March 31 of each year thereafter so long as the import relief is in effect.

(8) The proclamation shall be effective as of July 1, 1977, and shall continue in force through June 30, 1980, unless the period of its effectiveness is earlier expressly modified or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this
day of June in the year of our Lord,
nineteen hundred and seventy seven, and of the Independence
of the United States of America the two hundred and first.

A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink and is positioned in the lower right quadrant of the page.

THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS
WASHINGTON

JUN 20 1977

MEMORANDUM TO: Mr. Jack Watson

FROM : Ambassador Robert S. Strauss *RS*

SUBJECT : Proclamation Implementing Color Television
Orderly Marketing Agreement

Enclosed, with a cover memorandum for the President, is a proclamation implementing import relief through the orderly marketing agreement that we have negotiated to limit color television receiver imports from Japan. These agreements were concluded pursuant to the President's directive of May 19, a copy of which is attached at Annex I. I signed the agreement with Japan on May 20.

It is important that the proclamation be signed not later than Friday morning, June 24, so that it can reach the Federal Register by noon that day for publication on Monday, June 27. Otherwise, practically no advance notice would be provided to persons affected by the proclamation. The agreement is effective July 1, 1977 and the proclamation must be signed by that date to domestically implement the agreement.

For use as needed during your staffing, we have provided in Annex II a technical description of the proclamation.

The proclamation has been approved by the Department of Justice, in accordance with Executive Order No. 11030. This approval was given by telephone, as is usual in urgent cases. They will provide a follow-up formal memorandum on the proclamation for the files once the proclamation is published. By virtue of section 2(f) of Executive Order No. 11846, the approval of the Office of Management and Budget is not required for proclamations such as this.

I would appreciate very much your assistance in processing this proclamation expeditiously.

THE WHITE HOUSE
WASHINGTON

MEMORANDUM FOR

The Special Representative for Trade Negotiations

SUBJECT: Import Relief Determination Under Section 202(b)
of the Trade Act of 1974: Television Receivers

Decision Memorandum on Television Receivers

Pursuant to Section 202(b)(1) of the Trade Act of 1974 (P.L. 93-618), I have determined the actions I will take with respect to the report of the United States International Trade Commission (USITC) dated March 22, 1977, concerning television receivers, color and monochrome, assembled or not assembled, finished or not finished, and subassemblies thereof. In that report the Commission determined that color television receivers, assembled or not assembled, finished or not finished, provided for in item 685.20 of the TSUS are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles. Three Commissioners found injury in both the color and monochrome television industries.

Pursuant to Section 330(d) of the Tariff Act of 1930, as amended, the President may accept, in the case of an evenly divided USITC vote on an injury determination, the determination of either set of Commissioners on the question of injury. I have decided to accept the determination of those three Commissioners who voted that the domestic monochrome television industry has not been seriously injured or threatened with serious injury by increased imports. Import

relief is therefore not authorized for this industry under section 203 of the Trade Act of 1974. I have, however, decided to accept the determination of those three Commissioners who voted that the domestic industry producing subassemblies of color television receivers has been seriously injured by increased imports.

Pursuant to section 202(b)(1) of the Trade Act, I have determined to provide import relief to the television industry producing color television receivers, assembled or not assembled, finished or not finished and subassemblies thereof provided for in item 685.20 of the TSUS.

I am, therefore, directing you to negotiate and conclude an orderly marketing agreement with the Government of Japan, the major supplying country, to resolve the immediate problems of our domestic color television industry for a three-year period which will provide the domestic industry time to remedy the injury found to exist.

This determination is to be published in the Federal Register.

Jimmy Carter

Technical Description of Proclamation Implementing
Import Relief on Color Television Receivers

The proclamation is issued pursuant to authority in the Trade Act of 1974 (sections 202 and 203). The Proclamation (1) recites the USITC finding; (2) recites the Presidential determinations made on the USITC findings both with regard to the split vote on injury and on the remedy for the serious injury found to exist; (3) the determination of the President to negotiate an orderly marketing agreement and a recitation of the statutory requirements that were met regarding that decision, including the report to the Congress; (4) a recitation of the Trade Act requirement that import relief be proclaimed and take effect within 90 days after the Presidential determination; (5) the recitation of the fact that an orderly marketing agreement was signed on May 20 and giving the main provisions of that agreement; (6) a recitation that the agreement is in conformity with the Trade Act by permitting the importation of a quantity or value of articles which is not less than the average annual quantity or value in a recent representative period.

The implementing provisions of the proclamation cite the Constitutional and statutory authorities of the President and,

(1) Proclaims that an orderly marketing agreement was entered into between the Government of the United States and the Government of Japan effective July 1, 1977, to be implemented according to its terms and as directed in the Proclamation;

(2) and (3) Delegates to the Special Representative for Trade Negotiations acting in consultation with other interested agencies the President's authority under section 203(e)(2) and (3) and 203(g)(1) and (2) to make determinations regarding the orderly marketing agreements and other import relief and to administer the relief, including a specification that the Special Representative shall prepare for the President any additional proclamations that might be necessary;

(4) Directs the Special Representative, in addition to other necessary actions, to institute certain specific actions in administering the agreement, including:
(a) The basis on which the Special Representative may make determinations under 203(e). (b) and (c) The conditions under which import restrictions will be

Elements of Color TV Agreement with Japan

I. Exchanges of Notes constituting an orderly marketing agreement

Coverage:

Mainly complete and fully assembled color television receivers, but also including incomplete and partially assembled color television receivers that are substantially complete. (This latter category has not been historically important in U.S. TV imports; however, including these incomplete but substantially complete receivers in the coverage of the agreement affords some protection from circumvention of the intent of the agreement by the importation of TV receivers that require very little U.S. labor for their final assembly).

Timing:

Three years, July 1, 1977 to June 30, 1980

Restraint Levels:

1.75 million color television receivers each year divided between 1.56 million complete receivers and 0.19 million incomplete receivers.

Other Countries:

U.S. has authority to restrict other foreign suppliers if they increase exports to the disadvantage of Japanese exporters.

II. Japanese side letter on investment

- Japanese Government will guide its color TV producers to provide significant labor content in production operations to be located in the United States.

III. U.S. side letter on pending trade cases

- U.S. informs Japan of its position with respect to other color TV trade cases pending.

IV. U.S. transmittal of Justice memo on antitrust

- Provides Justice Department opinion that agreement provides antitrust protection to Japanese firms in carrying out provisions of the agreement.