

REVIEW OF IMPLEMENTATION OF BASKET II OF THE HELSINKI FINAL ACT

HEARING
BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL
ECONOMIC POLICY AND TRADE
OF THE
COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES
AND THE
COMMISSION ON SECURITY AND
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CONTENTS

WITNESSES

Hon. Deane R. Hinton, Assistant Secretary for Economic and Business Affairs, Department of State-----	Page 2
J. Mishell George, Acting Deputy Assistant Secretary for East-West Trade, Department of Commerce-----	16
James H. Giffen, president, Armco International, Inc.-----	32

MATERIAL SUBMITTED FOR THE RECORD

Prepared statement of John P. Hardt, Associate Director for Senior Specialists and Senior Specialist in Soviet Economics, Congressional Research Service, Library of Congress-----	39
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APPENDIX

Responses by J. Mishell George to questions submitted in writing prior to the hearing-----	59
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THURSDAY, MARCH 6, 1980

HOUSE OF REPRESENTATIVES, COMMITTEE ON FOREIGN AFFAIRS,
SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY AND TRADE AND
COMMISSION ON SECURITY AND COOPERATION IN EUROPE,

Washington, D.C.

The subcommittee and the Commission met at 10:10 a.m. in room 2172, Rayburn House Office Building, Hon. Jonathan B. Bingham (chairman of the subcommittee) presiding.

Mr. BINGHAM. This is a joint meeting of the Commission on Security and Cooperation in Europe and the Subcommittee on International Economic Policy and Trade of the House Foreign Affairs Committee. I am glad to welcome the Cochairman of the Commission, Senator Pell, as well as our witnesses, on behalf both of the Commission, of which I am a member, and the subcommittee.

As you know, the Commission is an independent body of the Federal Government established in 1976 by the U.S. Congress and composed of representatives from both Houses of Congress, and the Departments of State, Commerce, and Defense. Its purpose is to monitor and encourage compliance by all 35 signatories with the provisions of the Helsinki Final Act.

The Commission has neither legislative nor executive powers, but it has been mandated to hold hearings, prepare studies, and issue reports and public statements concerning fulfillment and nonfulfillment of the obligations agreed to under the Helsinki accord.

Prior to the Soviet invasion of Afghanistan, the spirit of Helsinki seemed to be alive in the numerous bilateral and multilateral activities underway in the fields of economics and science. The Economic Commission for Europe (ECE) has willingly accepted its mandate from the Helsinki Final Act. A high-level meeting on the environment culminated in the signing of an agreement limiting transboundary air pollution.

Additionally, the Trade Committee of the ECE is actively discussing a broad range of issues raised in Basket II of the Final Act.

Bilaterally, the United States has entered into discussions with the Soviet Union in 11 different subject areas, many of those postponed under our new policy toward that country. Since Helsinki 1975, East European countries like Hungary and Romania have been accorded most-favored-nation treatment and have sustained that privilege through positive emigration policies.

Last month the Commission adopted a resolution proposed by Representative Millicent Fenwick, one of the sponsors of legislation creating the Commission, condemning the Soviet invasion of Afghanistan and the arrest and exile of Andrei Sakharov as blatant violations of the Helsinki Final Act.

The resolution called on the signatory states of the Final Act to join in such protest and to undertake sanctions against the Soviet Union as may be available to them including refusal to participate in the Moscow Olympics and the suspension of appropriate trade, economic, and commercial activity.

The hearing will focus on the current status and prospects of U.S. commercial and economic relationships with the Soviet Union and the countries of Eastern Europe, implementation of Basket II, efforts to promote better implementation, and the impact the Soviet violation of the Helsinki accords in Afghanistan will have on the Madrid Review Session and the CSCE process as a whole.

Senator Pell, have you an opening statement at this time?

Senator PELL. I have no opening statement, thank you.

Mr. BINGHAM. Mr. Lagomarsino?

Mr. LAGOMARSINO. No; thank you.

Mr. BINGHAM. Our first witness is Ambassador Deane Hinton, Assistant Secretary of State for Economic and Business Affairs. I am pleased to note that the Economic Bureau of the State Department is taking an interest in the economic issues arising under the Helsinki Agreement. These are issues which cut across geographic regions, and I think it is most appropriate that the Economic Bureau be directly and prominently involved in making and monitoring policy on these issues.

Secretary Hinton, would you proceed, please?

STATEMENT OF HON. DEANE R. HINTON, ASSISTANT SECRETARY FOR ECONOMIC AND BUSINESS AFFAIRS, DEPARTMENT OF STATE

Deane R. Hinton is the Assistant Secretary for Economic and Business Affairs and a Career Minister in the Foreign Service.

He was born in Ft. Missoula, Montana, on March 12, 1923, received his A.B. degree from the University of Chicago in 1943, and did graduate study at the Fletcher School of Law and Diplomacy and Harvard University. From 1943 to 1945, he served with the U.S. Army as a Second Lieutenant.

Entering the Foreign Service in 1946, Ambassador Hinton was assigned as Chief of the Political Section to our Embassy in Damascus. In 1949, he was transferred to our Consulate in Mombasa, Kenya, as Principal Officer, where he remained until 1951. He studied Economics at Fletcher School of Law and Diplomacy and Harvard University during the academic year 1951-52 and was then assigned as International Finance Officer at our Embassy in Paris. In 1955 he became Chief, West Europe Branch, and later Chief, Regional European Research of the Bureau of Intelligence in the Department. In 1958, he was assigned as Chief of Overseas Development and Finance Section, Brussels/USEC.

In 1961, Ambassador Hinton was detailed to the National War College, following which he was assigned as Chief of the Commodity Programming Division of the Bureau of Economic Affairs. He became Director of the Office of Atlantic Political-Economic Affairs in the Bureau of European Affairs in 1963, and Director of the USAID Mission and Counselor for Economic Affairs at our Embassy in Guatemala in 1967. In 1969, he went to Santiago as Director of the USAID Mission and Counselor for Economic Affairs. In 1971, he was assigned as Assistant Executive Director of the Council on International Economic Policy at the

White House, and in 1973, became Deputy Executive Director of the Council on International Economic Policy at the White House.

Ambassador Hinton became Ambassador to the Republic of Zaire in 1974. In 1975 he returned to the Department as Senior Adviser to the Under Secretary of State for Economic Affairs. Prior to assuming his present position, he served for four years as United States Representative to the European Communities with the rank of Ambassador.

Ambassador Hinton received the Department's Superior Service Award in 1963. He speaks French and Spanish.

Mr. HINTON. Mr. Chairman, thank you very much. It is good to be here with you today.

Members of the Commission and members of the subcommittee, before proceeding, Mr. Chairman, I would like to introduce the two gentlemen who are here with me, if I might.

I have on my right Deputy Assistant Secretary of State for European Affairs Allen Holmes, and on my left, Henry Clarke, Deputy Office Director for East-West Trade.

I have a statement, Mr. Chairman. I also am suffering from a cold. I would be delighted to read this statement, but it occurs to me that if you would let it go into the record we would have more time for questions and answers and, I hope, some discussion, because I have a feeling that you and certainly Senator Pell and Congressman Lagomarsino probably know from your past participation in the Commission and in the subcommittee as much or a good deal more about the Helsinki Accords and the Belgrade Conference and the run up to Madrid than I do.

So, I would like not only to respond to your questions, but perhaps to get some ideas from you and from Mr. Oliver, who has had ideas which have been very useful in the past in this process.

Mr. BINGHAM. We will certainly put the full statement into the record, without objection.

Might I suggest that you just summarize it briefly, and we will go right to questions?

Mr. HINTON. I think the essence of the statement is to build on what Under Secretary Matthew Nimetz said when he was here a month ago, the essence of which, as you noted in your introductory statement, is that Afghanistan has changed the environment in which we are operating. Afghanistan is a flagrant case of Soviet aggression and continued repressive action. It is a clearcut violation of the commitments that the Soviets took, obligations, if you will, at Helsinki.

I might, deviating from the statement a bit, remind the subcommittee of what some of the Basket I principles were: Sovereign equality and respect for the rights inherent in sovereignty; refraining from the threat or use of force, and not just in Europe, Mr. Chairman, but throughout the world, in all relations; inviolability of frontiers; the territorial integrity of states; peaceful settlement of dispute; and non-intervention in internal affairs. These are the principles of Helsinki. So I don't think there is any question as to what has happened here in terms of the spirit of the Final Act.

The other point Under Secretary Nimetz made, and I must say I associate myself with it today, is that the process of Helsinki, of the Commission on Security and Cooperation in Europe, is a very important process indeed, and we want to keep it going. We want to get back to a position where we can indeed pursue cooperative ventures with

the Soviet Union, and we want during this present period, and I think this is a point of interest to you and your colleagues, to continue to do the best we can to improve our relations with the Eastern European states who are not guilty of being in Afghanistan.

Now, we will continue the economic measures, by and large, that we have taken to make the Soviets pay a cost, and economic measures also designed to deter further provocative actions by the Soviets or aggression. We will continue that while the Soviet troops are in Afghanistan. That is the key to this situation, Mr. Chairman. If the Soviets move out of Afghanistan, we will be back on a cooperative course. But even if they stay there we will continue to talk. We will go to Madrid. We will examine Baskets I, II, and III. We will make constructive new proposals, and we will hope for a little bit of reciprocity on fundamental attitudes from the Soviet Union. We will hope we can continue to do things in cooperation that will build better relations with the Eastern European states.

[Mr. Hinton's prepared statement follows:]

PREPARED STATEMENT OF HON. DEANE R. HINTON, ASSISTANT SECRETARY FOR ECONOMIC AND BUSINESS AFFAIRS, DEPARTMENT OF STATE

Mr. Chairman and members of the Commission on Security and Cooperation in Europe; Mr. Chairman and members of the Subcommittee on International Economic Policy and Trade.

In his appearance before the Commission on January 24, Under Secretary Nimetz informed you of our approach to CSCE and preparations for the Madrid review conference in light of the dramatic change in the world situation brought about by the Soviet invasion of Afghanistan. Mr. Nimetz stated that Basket One of the Helsinki Final Act is a virtual catalog of principles of international conduct violated by the Soviet Union. And he explained why we have come to the conclusion that it lies in the interest of the United States to persevere in CSCE despite the setback that has been dealt to the cause of security and cooperation in Europe by Soviet behavior.

In response to your invitation I would like today to address the issues of cooperation in the field of economics, science and technology, and the environment which comprise the portion of the Final Act that has become known as Basket II.

Soviet actions in Afghanistan have severely undermined the possibilities for economic cooperation between the USSR and the Western signatories of the Final Act. The invasion endangers the security of all nations, whether in Europe or elsewhere. We have taken firm steps in our economic relations with the Soviet Union to deal with this crisis. The measures we have taken—on grains and phosphates, on technology, on fisheries, and in other areas—are specific in character. Their purpose is clear. It is to impose a heavy price on Soviet aggression in order to hasten Soviet withdrawal from Afghanistan, and to deter similar actions elsewhere.

At the same time, we consider it deeply in the interest of the United States and our allies that the essential framework of East-West relations be preserved. The measures we have taken do not—and are not intended—to diminish the possibility of increased East-West cooperation. Rather, their purpose is to promote and encourage a return to a relationship with the Soviet Union in which the cooperative spirit of Basket II is a relevant and appropriate guide.

Consistent with the purpose of our sanctions, we intend that they shall remain in force until Soviet troops are fully withdrawn from Afghanistan.

As I have suggested, we remain committed to the quest for improved East-West relations and to the maintenance of the infrastructure of cooperation which has been set in place in recent years. It is in this spirit that we continue to subscribe wholeheartedly to the ideal of cooperation which the Final Act sets forth; and we will continue our efforts to broaden wherever possible the areas of practical application in our foreign relations of all the undertakings of the document signed at Helsinki. We continue to hope that the Soviet Union will

come to accept a similar view, and that they will see the need for restraint in their policies.

CSCE is an important element of the framework of East-West cooperation which we seek to preserve. We are mindful of the letter and the spirit of the Final Act. We are mindful, too, that the CSCE Final Act is a political document, and not a legal one. The measures we have taken do not violate treaty commitments of the United States. The Final Act does not prohibit our acting appropriately to protect and defend the interests of our country and those of others who look to the United States for leadership.

CSCE cannot be viewed in isolation. It cannot be considered apart from the fabric of East-West relations in which it is embedded. It is for this reason that I have dwelt at some length on U.S.-Soviet relations and the specific purpose and goals of our economic sanctions.

Let me use this opportunity to stress that these measures are directed at the Soviet Union alone. Our efforts continue to promote a more secure and humane existence for the people of other CSCE signatory states, including, importantly, the countries of Communist East Europe.

Our economic, commercial, and scientific relations with the other countries of Eastern Europe continue to develop, with each country at a different pace, reflecting the variety among them and differences in the depth of their interest in a strengthened relationship with the United States. Economic cooperation with some of these countries has attained large proportions and the flow of ideas, goods, and capital between them and the United States is substantial. In others, the absence of Most-Favored-Nation tariff treatment and access to financing on Exim terms is frequently cited as exercising a restraining influence on the development of trade. Other obstacles, addressed explicitly in the Final Act and a frequent subject in our contacts with East Europe, are the paucity of timely economic and commercial information publicly available to western businessmen and the difficulties our business people face in some countries establishing contact with potential end users of their products.

As in the other Baskets of the Final Act, we intend to seek in Basket II at Madrid a thorough review of implementation. We believe our allies agree with this approach. We are prepared, in addition, to entertain proposals for new activities on the part of the CSCE signatories which could promote further implementation and nourish the CSCE process. We expect to work with our allies and others to see whether agreement can be reached on broadly acceptable proposals for introduction at Madrid. A meeting of NATO member government Basket II experts to be held shortly (March 19-20) in Brussels will provide an opportunity for a thorough exchange of views.

Our concept of the Final Act as a unified whole requires that we conceive of Basket II as connected in an organic fashion with Baskets I and III. To do otherwise is to invite other countries to ignore or play down components of the Final Act which they find uncongenial. We have spoken on frequent occasions of the importance of balance in our approach to CSCE, by which we mean that progress at an even pace in all three baskets will assure that no area of the CSCE compact is permitted to wither. Yet the issues that are the subject of Basket II should also be considered on their own merits and not as a counter or tradeoff for concessions offered or extracted elsewhere.

There is no doubt that the severe strain in our relations with the Soviet Union brought on by the invasion of Afghanistan has made much more difficult our effort to promote respect for basic human rights in the Soviet Union. Internal exile of Nobel Prize-winning physicist Andrei Sakharov demonstrates how far the Soviets are prepared to go in defiance of world opinion to repress dissenting views.

We do not believe that in the present circumstances economic measures taken by the United States in response to Soviet actions exert a significant influence on Soviet human rights behavior. In the current circumstances the Soviet perception of a need to increase internal discipline in a period of increased international tension appears to be controlling.

To conclude, let me emphasize that it is our firm intention to persevere, despite the difficulties and contradictions which burden our efforts, in our effort to maintain and strengthen the integrity of the CSCE process through support for Basket II of the Final Act.

Mr. BINGHAM. Thank you.

I would like to ask about the review of export controls with respect to the Soviet Union which was initiated some 6 weeks or more ago. We have heard no results from that review. Could you tell us its current status? I would specifically like to know whether the United States has presented a proposal to Cocom.

Mr. HINTON. Mr. Chairman, we have, I believe, a witness this morning, Mr. Mishell George, Deputy Assistant Secretary of Commerce, who I think will also want to comment on that question, particularly since the review has been under the chairmanship of Secretary Klutznik. Subject to his correcting me, my perception is that the review process is virtually over, if not over. It has been a detailed, careful examination of some very complicated issues.

Now, your second question about Cocom, I would like to answer in three different ways. We have indeed made proposals in Cocom. Those proposals come out in good measure from the review you referred to. We will make additional proposals in Cocom as we straighten out some highly technical points that the review process in this Government indicates further work is needed on. Those are very technical ones.

Mr. Chairman, as you know, Cocom is an informal arrangement between key governments for controlling strategic exports to Communist countries, and the principles of that organization are that it works on a confidential basis. Thus, if you and your colleagues want to go into the details of the proposals we have made and exactly where we stand, I think I would have to ask that we go into executive session. I would like to be as helpful as I can on Cocom, and we can talk about it. But when we go into the precise proposals and where things stand, what is coming and what the reactions have been to what we have done so far, I hope you will appreciate that it is fairly sensitive. One of the rules of Cocom is that each member says he will not really go and discuss what goes on in Cocom in public.

Mr. BINGHAM. I do appreciate that, but I think that our subcommittee, which is so deeply involved in the operations of the Export Administration Act, should be advised. We have requested to be advised of what proposals are made to Cocom, and we have had no response. We can arrange for a briefing or executive session, but I think we are entitled to know what is going on.

Mr. HINTON. I agree with that, Mr. Chairman. I would want to cooperate with you. I did not realize that we had a specific request before the executive branch on this.

Mr. BINGHAM. I do not know how formally the request was made.

Mr. HINTON. I would add, Mr. Chairman, that my understanding is that the Secretary of Commerce will be reporting to the President on the results of the review. As I say, it is virtually terminated, and I would think that that report, which will concentrate on our internal review and our own export control regulations, will touch on the relation of all of this to Cocom. I would also presume, although I cannot commit the Secretary of Commerce, that in one form or another the substance of that report will be made available to the Subcommittee on International Economic Policy and Trade. I cannot describe the specific aspects of it that are in Cocom, beyond confirming that we have indeed made a number of proposals and we have had discussions, Cocom has been meeting on these proposals, and there are some differences in Cocom. There is a considerable degree of support for some

of the proposals we have put forward. There is a desire and a willingness to study all of the proposals. Nothing has been rejected out of hand.

This is indeed very highly technical material. I read some of the instructions, and frankly, do not understand what they talk about. Some of them I understand a little bit about. I do not really think that unless we could meet privately—and I would be glad to meet with you and members of your committee and the Senator or in executive session. You tell me. I would like to cooperate to the maximum extent, bearing in mind the sensitivity of the Cocom relations between the members of Cocom.

Mr. BINGHAM. We understand that. I do not want to pursue the matter too long here. I do not think it is of as much concern to the Commission.

Let me say this, though. It does seem to me that if proposals have been made on behalf of the United States to Cocom, that would seem to indicate that something more than just a review is going on, that U.S. policy is being transmitted in the form of proposals, and that is what we would like to be informed of.

Mr. HINTON. Perhaps, Mr. Chairman, I could explain my perception of the process. It might be helpful to you in directing your questions, preferably to my colleague from the Department of Commerce.

Immediately after the invasion of Afghanistan the Deputy Secretary of State went to Europe, had meetings, met with the North Atlantic Council, consulted in broad general terms on what the action of our NATO allies was to the situation. I think one can say that the seriousness of the situation was shared by absolutely every ally. There is complete unanimity in the alliance, as I understand it, on the nature of the threat and the objectives as to what has to be done.

There was in those initial discussions considerable examination of various possibilities and lines of policy. Then there were, of course, the decisions made by the President. You are familiar with what he did. One of those decisions, and I come to the subject here, was to establish an internal review on an export policy, particularly of high technology items.

As that review went forward, there were other continuing consultations, with the Deputy Secretary, the Secretary. Mr. Cooper, the Under Secretary for Economic Affairs, went to Europe on several occasions and talked to our allies. They came here and we talked. Ambassador Phillip Habib carried out similar conversations with the Japanese Government on the whole range of matters we were considering.

Given your personal position and belief about the Export Administration Act, I think you would agree that one of the assessments that was made was to what degree can we expect by controls we will have some of our allies with us, or to what degree will we have to go unilaterally and take our chances?

So, there is an interaction here.

Now, the internal review process has gone on longer than we had initially anticipated. It is a complicated business. At various points in that process Secretary Klutznick and the other policy level officials were able to agree on this kind of a proposal in this area. That might

mean reserving a number of proposals for further examination and review.

I would anticipate that the process is virtually complete. There are technical difficulties, even when there is a clear-cut policy decision that we will try to work out.

For example, we might have a new policy on the handling of disembodied technology. It is one thing to reach agreement on what that means, and that is the direction in which you want to go, but quite another thing to draw up definitions so that you can license in a meaningful fashion and you can have procedures for dealing with this kind of technological know-how transfer. So, I would anticipate that some of the technical work should continue.

Mr. BINGHAM. Thank you very much.

Senator Pell.

Senator PELL [presiding]. Thank you, Mr. Chairman.

Mr. Hinton, this is a little off the subject, but I noticed that you and I came into the Foreign Service in the same year, but you came in as the chief of the political section in Damascus, which was a pretty good start, and I congratulate you.

Mr. HINTON. They were desperate in those days, Senator. There were no Arabic language officers. There had been a political officer and he got sick. I went out as a commercial officer, and the chargé said, Mr. Hinton, would you like to run the political section? The political section, by the way, was one officer. But thank you very much.

Senator PELL. I congratulate you. You have stayed on a successful course since.

A question that concerns me a little bit is the scope or reach of the Helsinki accords. Is it the view of the Department now that a Soviet action anywhere in the world in contravention of the U.N. Charter, such as moving troops into another country, would be a violation of the Helsinki accords?

Mr. HINTON. Well, I am not sure what the view of the Department is, I can tell you that in my view basically that is correct. The obligation is to avoid the use of force or to threaten the use of force:

The participating states will refrain in their mutual relations as well as their international relations in general from the threat or use of force against the territorial integrity, political independence, or any other matter inconsistent with the purpose of the United Nations.

Though you will get different wording in different baskets under differing points, I believe that an action that is in violation of the United Nations Charter is also in violation of the political spirit of Helsinki.

This is a question I asked my colleagues to explain to me. Helsinki is a political document, not a treaty. So there is an obligation, a commitment to do things or not do things, but it is not absolutely a binding legal obligation.

On the other hand, the U.N. Charter is a binding legal obligation. I am not a lawyer, Senator, but that is my understanding.

Senator PELL. I would agree with you. But I think we are on dangerous ground when we extend the reach of what is really a statement of pious intentions applying to Europe, to situations outside that area.

I am wondering if we are not in for trouble if we start applying it to

an action like the Soviet one in Afghanistan, or, even to something like ours in the Dominican Republic in 1965. I think that is going a little further than the signatories meant to go, and that is shown by the emphasis on the term "participating states" in the Helsinki Final Act.

What is your thought on this?

Mr. HINTON. Well, I see what you have in mind, Senator, but I must say I find it very difficult to believe that we can have real security in Europe and real cooperation in Europe if the Soviet Union is going to use its armed forces outside of Europe. Whatever your views or my views might be about the Dominican Republic, we did not go in and continuously put down a rebellion. We established order and got Americans who were in danger out. It may or may not have been the right thing to do at that time. It is now 2½ months after the Soviet intervention in Afghanistan. There are somewhere, I judge, over 100,000 Soviet troops. There has been continuous fighting. There is considerable resistance. There have been very large casualties. So it strikes me that it is a different situation. But on the fundamental point you are making, I don't see how you can disassociate the behavior of the Soviet Union in Afghanistan from cooperation in Europe.

Mrs. FENWICK. Will the Senator yield?

Senator PELL. I will yield to Mrs. Fenwick.

Mrs. FENWICK. I must say I cannot agree with the Senator in this particular regard. To me the Helsinki accord was far more than a pious declaration of hope. It was signed by 35 nations, and although it is not a treaty, it seems to me to indicate something serious about the concern of people for peace and for economic trade, and above all, perhaps, for human rights.

I think sending the troops to the Dominican Republic would be more like the Moroccan and Senegalese troops that went into Zaire at one time. They didn't kill everyone in sight. They were more in the way of a protective, stabilizing force, and they were withdrawn without any casualties resulting from their presence.

I think one has to look at these things with both idealism and common sense. There are moments when troops get off a ship and it is not always a horrible thing. For example, even Tanzania's actions in Uganda have to be differentiated from the Russian attack on Afghanistan.

Senator PELL. Thank you, Mrs. Fenwick. I agree with you that there are vast differences here in the size and scope. We know we were correct in the Dominican Republic, and we succeeded in getting the government we wanted there, but the point is how it appears to the world as a whole, and I am citing the points that were read by Mr. Hinton, where he is quite correct. It says:

The participating states will refrain in their mutual relations as well as in international relations in general from the threat or use of force against the territorial integrity or political independence of any state.

And so on and so forth.

It goes on to say:

Accordingly, the participating states will refrain from any acts constituting a threat of force or the direct or indirect use of force against another participating state. Likewise, they will refrain from any manifestation of force for the purpose of inducing another participating state.

My point is, we have plenty of references to the U.N. Charter. We should stick to that. I think we are stretching too far to use the Helsinki accords as a means of criticizing Soviet action all over the world. If we are going to take the Helsinki accords as being a sacred obligation—and I am all for that—then how do we relate that to our violation of basket II, regarding economic cooperation and so forth, where, because of the sanctions against the Soviet Union over Afghanistan, we are going in the reverse direction, a course which I think in many cases is correct. It seems to me you are marching in two different directions simultaneously, Mr. Hinton, which is not unusual, not for you personally, I mean, but the entire Government.

MR. HINTON. Well, Senator, it is too bad that you and your colleagues cannot question the Commissar for Economic Relations—

Senator PELL. A little louder, please.

MR. HINTON. That you cannot question the Commissar for Economic Relations and get his opinion as to who is in violation of the letter or spirit of the Helsinki agreement. I go back to two points. I do not think we are, Senator. It depends upon your reading, and it depends upon the context which you are in. I said earlier, and I believe you share the view that Helsinki is a process. Whatever the words are here, the facts are, there has been a brutal act of aggression. That has to have some impact on the process.

I have also made the point that we are going to go ahead with the process. We are going to go to Madrid. We will be preparing with our friends in the West. We will be meeting on basket II measures, and what we can do to advance cooperation. It is not that we are against cooperation. Far from it. We stand by these principles.

But I go now to basket II. I do not know where we are going to get trying to place the blame for things that have happened, but one of the leading points in basket II is that the participants are resolved to promote and insure conditions favorable to such development as economic cooperation and expansion of trade.

Now, however you view what has happened, I don't think that you can say that the Soviet actions have promoted and insured conditions favorable to such development. You asked me, I guess, about whether we are doing exactly what we should do under basket II.

Senator PELL. No, that was not the question.

MR. HINTON. And I agreed that the Soviets are out of line on basket II.

Senator PELL. Fine. We could take a long time on this, but my question was very specific. Would you agree with me that we are marching in two different directions? On the one hand, we are saying that obligations under the Helsinki accords apply worldwide, but on the other hand we are saying we will violate these obligations when it comes to economic cooperation and things of that sort with the Soviet Union.

MR. HINTON. I am afraid I cannot agree to that proposition. I do not myself believe we have violated—

Senator PELL. Have the Soviets violated the Helsinki accords in your view by going to Afghanistan?

MR. HINTON. Well, as I read the explicit paragraph, yes, despite their obligation, they have done something which is contrary to six or seven of the principles guiding the relations between participating states.

Senator PELL. Have we formally communicated this fact or our view to the Soviet Union?

Mr. HINTON. We certainly formally communicated to the Soviet Union at the highest levels our belief that the Soviet action is unwarranted under the principles of international law.

Senator PELL. That is not my question, Mr. Hinton. Excuse me.

Mr. HINTON. I will ask Mr. Holmes if he has in terms of the Helsinki. I don't know.

Mr. HOLMES.¹ No.

Mr. HINTON. Mr. Holmes says no.

Senator PELL. Why not?

Mr. HINTON. I think the basic fact, Senator, has been the violation of the United Nations Charter, the vote in the General Assembly, the veto of the Soviets in the Security Council. We did not focus on Helsinki, but on the other hand, I guess it would be, if you have laws against murder, and they are categoric, and you have all of the evidence to convict on a murder charge, while you might as a lawyer also bring a charge of third degree manslaughter, you know, you concentrate on the central charge.

The only reason I guess we have come up into this discussion of Helsinki is that the Commission, yourself, and others wanted to examine how this impacted on basket II, and my answer is, we are continuing to cooperate. We are prepared to go to Madrid and cooperate. We regret this whole business, but you are asking me apparently to say that we are in violation of something which (a) is not a legal obligation, and (b) I am saying there are principles in the world.

Senator PELL. Excuse me. I do not want to hog the time here. I am presiding at the moment in the absence of Congressman Bingham. My questions are rather short. Perhaps your answers could be, too. It is a great smokescreen of words, but, one, we agree, no protest has been made under the Helsinki accords to the action in Afghanistan; two, where we disagree, as I understand it, is, you believe the Helsinki accords have been violated.

I would disagree with that there. I would agree with you that the action is absolutely, obviously outrageous, and we should focus on the United Nations Charter but not seek to stretch the reach of the Helsinki accords. Do you disagree with what I have said?

Mr. HINTON. Senator, I accept the point we have not yet cited the Helsinki accords to the Soviets. I think it is predictable that we sit down in Madrid and do what I believe you and other members of the Commission want: go through the entire Helsinki accords, examine where we stand, point by point, basket by basket, principle by principle. In that context, of course, we are going to suggest that the Soviets have violated some fundamental principles. We will talk about it, and we hope to get them out of Afghanistan.

I wish I could give you a "yes" or "no" answer.

Senator PELL. Thank you.

Would you agree that we are in violation of the accords in lowering our level of exchanges?

Mr. HINTON. Well, it seems to me—and I quoted the language on commercial exchanges—that all of this cooperation will have to be ex-

¹ Allen Holmes, Deputy Assistant Secretary for European Affairs, Department of State.

amined like other parts about business contacts and facilities, the trade provisions, the marketing provisions, industrial cooperation. There will be people who will allege we have not been as cooperative as they thought we should be, but I go back to the point, it is sort of hard to be cooperative if the conditions are not very favorable to that.

Senator PELL. Thank you very much.

I have probably talked long enough. My only point here is that I believe the Helsinki Final Act applies only to the area of the signatory nations, and you believe that it has a worldwide application.

Congressman Lagomarsino.

Mr. LAGOMARSINO. Thank you, Senator.

Mr. Hinton, I think I generally agree with you in the exchange you just had with the Senator, although for the life of me I don't see why it makes that much difference whether we have made a protest about Basket II or not. What the Soviets did is outrageous, and whether there was a Helsinki agreement, a United Nations, or anything else, I think we should be taking the action we are taking and probably more.

Mr. HINTON. I think the Senator does, too. It is a minor point we have differed on.

Senator PELL. [Nods affirmatively.]

Mr. LAGOMARSINO. With regard to Cocom, I personally think that should have been the first priority. Maybe it was, but that is not the impression I get. That should have been the first priority. When we read in the press that trucks from the Kama River plant are carrying Soviet troops into Afghanistan, I think we ought to examine where we went wrong in the past, because obviously some mistakes have been made and we should do everything we can to prevent that, with or without the question of whether the Soviet troops withdraw from Afghanistan.

I think we should want to prevent that kind of technology from going to them, or at least consider such action. I hope we pay further attention to that, and some time during the course of this hearing I hope we will hear more about what progress we are making with our allies on the subject.

You say in your statement "Rather, their purpose is to promote and encourage a return to a relationship with the Soviet Union in which the cooperative spirit of Basket II is a relevant and appropriate guide."

I would hope in doing this we would take into consideration what the President himself said after the Soviet invasion of Afghanistan; namely, that his eyes had been opened by that action. I trust our new relationship or the continuation of our old relationship will be somewhat more realistic than many of us think our old relationship was.

You need not comment if you do not want to.

Mr. HINTON. Perhaps I should say a word about Kama River, Congressman. One of the very earliest actions of the internal review led to the Secretary of Commerce suspending the licensing of spare parts for computers that were in Kama River. I cannot totally accept, if you will forgive me, your point of view, because there is a problem here.

As I understand it, you were one of the architects, along with Congressman Bingham, of the Export Administration Act. We have this requirement, and it is very logical, that we are to maintain our export position in the world. We do have economic considerations as well as concerns about the Soviets on trucks and strategic items.

It is very unlikely that our allies share the view that trucks are the kind of technology that is central to the strategic position and military posture of the Soviet Union. As you are aware, there has been a discussion going on in the American Government about the wisdom or the lack thereof of licensing this, that, or the other thing for Kama River for about 10 years. We have now reached a conclusion; we can see that there are trucks from Kama River in Afghanistan; we don't like it; and we have acted.

What I am saying to you, Congressman, is, our allies are going to have a little trouble with this, I am afraid.

Mr. LAGOMARSINO. Could I interrupt you at that point? Have we taken action to prevent the export of any other materials or parts to the Kama River plant?

I don't know if there have been any applications for licenses.

Mr. HINTON. I would have to ask Mr. George. My belief is we have suspended action on all of the items that were under control. If someone wanted to export an ordinary piece of equipment, say, to put a tire on a rim, we have no licensing controls, and there would be no way—

Mr. LAGOMARSINO. I am talking about licensing.

Mr. HINTON. Yes; all of the licenses are suspended, and we are denying them to Kama River, to the best of my knowledge.

Mr. LAGOMARSINO. You say, "Consistent with the purpose of our sanction, we intend they shall remain in force until but only until Soviet troops are withdrawn from Afghanistan."

The only question I have about that particular statement is the phrase, "but only until," which would seem to imply that as soon as the troops are out, everything will be exactly the way it was, and we will completely ignore what happened in Afghanistan.

Mr. HINTON. I think I like your critique of this better than I like my statement. What it should have said, if I may admit to error, it should have said, when they are out we will reexamine the situation, and some of these measures certainly would come off, but I take your point. I am afraid I was overly black and white in this statement. You are dead right. My apologies.

Mr. LAGOMARSINO. A person reading this could very well get the impression that all we are interested in is the troops getting out. We certainly are interested in that. I am interested in what they are doing in the meantime, like in Kerala, where they wiped out a whole village, at least of the men, on fairly good authority now, and in the northeast provinces, where they are engaged in a fairly brutal genocidal action. Reports are not yet confirmed about the use of poison gas.

I think they might well be able to get out pretty soon because there won't be anyone left to oppose the puppet regime they leave.

Mr. HINTON. I accept the spirit of your correction, and if I could rewrite the statement, I would. It is there, but I am trying to correct that now. You are right. It is too black and white.

Senator PELL. Congressman Simon.

Mr. SIMON. Thank you very much, Mr. Chairman.

First of all, I was interested in your background, your starting at the same time in the Foreign Service with Senator Pell. You are the only man I have know to get ahead of Senator Pell.

Mr. HINTON. I do not think I am ahead. He sits up there and asks the questions, and I sit down here and try to answer. He is a Senator.

Mr. SIMON. You said we are going ahead with Madrid. I think it is important that we remember that 10 months after the Cuban missile crisis we achieved a nonproliferation treaty with the Soviets. I was pleased last night by the President's statement that détente must go ahead. Somehow we have to stand up to naked aggression, but we have to serve the national interest rather than the national passion. I think it is sometimes easier to do the latter rather than the former.

I was interested in your statement about the trade sanctions. Their purpose is clear. It is to impose a heavy price on Soviet aggression in order to hasten Soviet withdrawal from Afghanistan.

I have asked the Library of Congress to give me an example, somewhere in modern history, where trade sanctions have been effective, and so far the Library of Congress has not been able to come up with anything. In the case of Cuba, in the case of China, I think you can make a very strong case that our trade sanctions have hurt us more than they have hurt the party we intended to hurt. I would be interested in your analysis of the likelihood that trade sanctions are going to be effective, and can you give me any illustration where they have been effective?

Mr. HINTON. I think that is an excellent question, Congressman. Let me start by saying, of course, trade by definition is mutually beneficial to the exporter and the importer. That is why it takes place. That is why people sign up and transact business. Now, in the theory of economics, who benefits more or less, how the gains from trade are distributed, is a pretty technical point. In some situations the exporter does a little bit more than in others.

I have no problem with your statement that we are paying a cost, too. Of course we are. It follows from the point that two-way trade is beneficial. We chose with some considerable care the name "trade sanction" which of course was the grain agreement, and it meets the point of this sentence you have drawn our attention to, because it does both. It imposes a heavy price or a cost, and the idea is to hasten Soviet withdrawal, and it is meant to deter similar actions elsewhere.

Let me say a word about the latter point. As you know, the President did not abrogate the agreement. The agreement is still in effect, but we did not ship the 17 million tons which we had in a consultative mode agreed to, and indeed was largely under contract. We held that back. This does indeed impose a cost on us as well as on them. I do not think myself that anyone would argue that in and by themselves trade sanctions would lead to a decision by the Soviets to withdraw from Afghanistan.

When you say, are there any cases, I think there are cases one can find which changed the perception of the state being penalized and eventually led them to change behavior. By holding back grain—

Mr. SIMON. If I may interrupt, can you think of any case in the last century?

Mr. HINTON. You know, we live in a multicausal world, and there is no case I know of in which you can say, this cause led directly to that effect. It is perfectly clear to me, but perhaps not to you, that the sanctions on trade with Cuba have had both desirable and undesirable effects. It has not made Mr. Castro change his mind about revolutionary behavior, but it has certainly impacted on the evolution of Cuban society, their relations, and what they are doing around the world.

Now, the difficulty here is, and I repeat, it is just like the Zimbabwe case. It has an impact. It is one of 40 or 50 measures that are having an impact, that are working. I know of no way analytically to isolate it, but I do think I can give you the theory, as I understand it, and we could discuss it, and perhaps you would agree on the grain, the impact is going to be on the meat consumption.

You have a Politburo. Mr. Brezhnev has been telling his people they are going to eat better under this glorious system, and he has had as a central point of the domestic programs of the Soviet Union that they were going to improve the diet, and if you have been to Moscow and noticed what ordinary people eat, you would agree it needs improvement, and one area is meat.

Now, the ordinary Soviet citizen may get a little more meat right now because they are going to have to slaughter some animals because they don't have feed for them, but in about 6 months or so they are going to be eating less meat. If, by word of mouth, information gets around and if the various radio communications networks that we have make the point that there is a connection between only having a few ounces of meat once a week or once every 2 weeks and with what your leadership has done in Afghanistan, you may have some impact. If the leadership really attached importance to this, as they apparently did in those endless speeches about it, and suddenly it is not as easy to do—in fact, it can't be done—it puts them back.

Clearly, it is not going to force the Soviet Army out of Afghanistan. Whatever their motivations are, they don't go to change in the diet of the Soviet citizen. But it is designed, just as the Olympic measures are designed, to bring home a point to the Soviet people. Conceivably even in a totalitarian, autocratic society, you get a little discontent, you get people talking about it, and they say, what the hell are we doing in Afghanistan, and why is it the rest of the world has not agreed with us, and why are we not eating so well?

Now, this is the theory, and clearly, neither you nor I think—and there is no reason for anyone to think—that holding back on computer software or grain, or being more restrictive on Kama River, in and of itself, is going to change the fundamental decision. My impression is that if the Soviets had known what was going to happen, if they had realized that they would have these costs, and if they had known what was going to happen in the United Nations and in the Islamic world, they would not have done what they did.

I do not see any signs of their backing out of it. They are there and seem to want to stay there, but that is the theory.

Now, I guess that is a very long answer, to say you are basically right on the fundamentals. There is no place I know of where you can demonstrate, A, B, C, that an economic measure has changed an act of aggression, but it impacts on the decisionmaking process.

Mr. SIMON. I would just say very briefly in response, Mr. Chairman, and then I yield back the floor, I think we have to be cautious here. If I may use the Cuba illustration, it seems to me it would be difficult to imagine a scenario where we could have done more to force Cuba into a position of being a Soviet satellite than we have done. And I think most of us consider Cuba to be a Soviet satellite today for all practical purposes.

Mr. HINTON. I believe that is right, and I would only add that has imposed a major economic burden on the Soviet Union.

Mr. SIMON. It has done that.

But has the price been worth it? I think these are things we have to consider.

Mr. HINTON. I do not know. I think it is a good question.

Mr. SIMON. Thank you. Senator Pell.

Senator PELL. Thank you.

Thank you very much indeed, Secretary Hinton, for being with us. It is possible we may have additional questions to submit to you in writing.

Mr. HINTON. Of course.

Senator PELL. We now move on to Mr. Mishell George, Deputy Assistant Secretary of Commerce for East-West Trade.

STATEMENT OF J. MISHELL GEORGE, ACTING DEPUTY ASSISTANT SECRETARY FOR EAST-WEST TRADE, DEPARTMENT OF COMMERCE

Currently, Acting Deputy Assistant Secretary for East-West Trade. He has held this position since January, 1980. Mr. George is the principal policy adviser to the Assistant Secretary for Trade Development in the Department of Commerce. Mr. George has led technical negotiation teams on annual strategic item list reviews at the International Coordinating U.S. Committee in Paris and on related bilateral matters. With the establishment of the Bureau of East-West Trade in 1972, Mr. George served first as Director of the Office of Joint Commission's Secretariat. In 1975 he became Director of the Bureau's Office of East-West Country Affairs with responsibility for managing country desks for all the Communist countries, maintaining liaison with these countries' embassies in Washington.

Mr. George has been with the Department of Commerce since 1946, holds an MA from George Washington University and a BA from Allegheny College.

Mr. GEORGE. Mr. Chairman, may I introduce two colleagues I have with me at the table? On my left is Mr. Richard Scissors, who is the Acting Director of the Office of East-West Country Affairs in the Department of Commerce. On my right is Ms. Deborah Lamb, who is a member of our staff, who follows the CSCE matters very closely for me.

Mr. Chairman, I have submitted the responses to the 20 questions which were asked of us.¹ I have also submitted a copy of my full statement which, if you would agree, I would like to have entered into the record. I would then make a brief summary statement of what that contains, so that we will be able to retain as much of the available time as possible to respond to questions which you may have.

Senator PELL. Yes. Will you carry on, please?

¹ The questions and responses appear in the appendix, p. 59.

Mr. GEORGE. I am pleased to have this opportunity to appear both before this distinguished Commission and the Subcommittee on International Economic Policy and Trade to offer my observations on the prospects for and progress already made toward increased East-West economic cooperation in the context of the Conference on Security and Cooperation in Europe.

President Carter has stressed repeatedly that the administration attaches the greatest significance to achieving full implementation of the CSCE Final Act, and will press actively to maintain the terms of the Final Act as a focal point for encouraging and measuring progress in the development of East-West cooperation. We approach the Madrid CSCE review session during a time in which our economic cooperation with countries of Eastern Europe continues to progress while United States-Soviet relations are clouded by uncertainty.

The Soviet invasion of Afghanistan, in clear violation of Basket I principles, has necessitated the imposition by the United States of controls over the export to the U.S.S.R. of grain, certain agricultural commodities, phosphates, and high technology products, and has regrettably limited the possibilities for development of our economic and commercial ties with the Soviet Union at this time.

These measures are directed only against the Soviet Union and are not intended to reflect a change in overall U.S. trade policy. We fervently hope that circumstances will change sufficiently to warrant the improvement of United States-Soviet economic relations. In the meantime, it becomes even more important that we continue to pursue avenues of increased economic, commercial, and scientific cooperation with the countries of Eastern Europe.

In the 2 years since the Belgrade Review Conference, the Department of Commerce has been actively involved in numerous activities addressing many of the aspects of Basket II. Government-to-government commercial commissions with Romania, Poland, and Hungary, cochaired in the Department of Commerce, have met regularly for discussion of topics related to our mutual economic cooperation.

In addition, we have provided advice and assistance on request to the seven private sector trade and economic councils which have been established to improve the commercial relations and contacts between the business community and the individual Communist countries.

Numerous trade promotion programs have also been carried out under the sponsorship of the Department of Commerce, through which hundreds of U.S. business firms have been introduced to markets in Eastern Europe and the Soviet Union. In 1979, we conducted the first round of bilateral CSCE consultations with individual Eastern European states, and a second round of consultations, which include a detailed examination of Basket II provisions, is underway.

On the multilateral level, we have consistently supported efforts within the United Nations Economic Commission for Europe to address some of the Basket II issues, such as harmonization of standards, facilitation of international trade procedures, and guidelines for international contract practices, as well as efforts to reduce obstacles to trade, improve the quality and flow of economic and commercial information, and address questions related to marketing, industrial cooperation, and business contacts and facilities.

All of these areas will become subjects for further consideration at Madrid. We feel that the first section of the Madrid conference should be devoted to a review of implementation since the Belgrade followup conference.

The Commission's recently published domestic compliance report, "Fulfilling Our Promises: The United States and The Helsinki Final Act," carefully documents U.S. compliance with the provisions of Basket II, noting substantial progress in some areas, and shortcomings in others. It is my personal belief that the overall U.S. record of implementation of the Basket II provisions is unexcelled by any other signatory.

The record of the Communist signatory states, on the other hand, has been mixed, particularly in areas of importance to the United States—the improvement of business contacts and facilities and provision of pertinent, timely, and detailed economic and commercial information.

I do not mean to suggest that the U.S. record of implementation of Basket II is perceived by the Communist country signatories to be flawless; there are certainly areas in which they have criticized our performance, and these have been outlined in detail in the Commission's report. Complaints by Communist country signatories include the absence of MFN tariff status in our trade with some of the Eastern countries, U.S. export control regulations and import protection measures, and difficulties with the issuance of visas.

U.S. actions in these areas have evolved from consideration of our national security interests, concern with the human rights and fundamental freedoms expressed elsewhere in the Final Act, and the need for trade to be conducted in such a way as not to cause or threaten to cause serious injury in domestic markets, a concern recognized in Basket II itself.

In the period since the Belgrade Review Conference, MFN has been granted to Hungary and Congress has approved renewal of the President's authority to permit continued extension of such treatment to Romanian exports. In addition, the executive branch has undergone extensive reorganization of international trade functions. Important effects of that reorganization will include enhancement of U.S. Government programs for export promotion, streamlined procedures for expediting the handling of antidumping and countervailing duty petitions, and increased emphasis on the overall development of U.S. foreign trade.

In the coming months, our preparations for the Madrid Review Conference will continue with increased intensity. However, our expectations from initiatives taken under the rubric of Basket II are not unlimited. There are, after all, fundamental differences in the economic and social systems of the signatory states. The strength of the Final Act lies in the fact that it recognizes that diversity.

The development of economic cooperation between East and West, as circumstances warrant, continues to be of importance to the United States, not only for the economic benefits which accrue to us through trade, but also for the contribution that increased cooperation makes toward attainment of the political and humanitarian goals we seek.

[Mr. George's prepared statement follows:]

PREPARED STATEMENT OF J. MISHELL GEORGE, ACTING DEPUTY ASSISTANT
SECRETARY FOR EAST-WEST TRADE, DEPARTMENT OF COMMERCE

The Present Perspective

I am pleased to have this opportunity to appear before both this distinguished Commission and the Subcommittee on International Economic and Trade Policy to offer my personal observations on the prospects for, and progress already made toward, increased East-West economic cooperation in the context of the Conference on Security and Cooperation in Europe (CSCE). CSCE has become an important means for encouraging and measuring progress in the development of East-West cooperation.

President Carter has stressed repeatedly that the Administration attaches the greatest significance to "achieving the full implementation of the CSCE Final Act as a means toward lowering the barriers between East and West and improving the everyday lives of their people." The Administration will continue to press actively

to maintain the terms of the Final Act as a focal point for cooperative endeavors in East-West political and economic cooperation.

We approach the Madrid review session of the Conference on Security and Cooperation in Europe during a time in which U.S. economic cooperation with the countries of Eastern Europe continues to progress, while U.S.-Soviet relations are clouded by uncertainty. The Soviet invasion of Afghanistan and continued presence of Soviet troops in that country have necessitated the imposition by the U.S. of controls over the export to the U.S.S.R. of grain, certain agricultural commodities, phosphates and high technology products. The charge has been levied by some that these measures constitute a violation of the spirit of the Helsinki Agreement. I must argue to the contrary.

Indeed, if the spirit of the Helsinki Accords was violated, it was violated by the Soviet actions in Afghanistan, and not by measures taken subsequently by the United States to protect our national security and foreign policy interests. The Basket I 'Declaration on Principles Guiding Relations Between Participating States' clearly states that CSCE signatories "will refrain in their mutual relations, as well as in their international relations in general, from the threat or use of force against the territorial integrity or political independence of any State..."

The Final Act inextricably links together progress in the areas of human rights and human contacts, security and disarmament, as well as economic, commercial, scientific and cultural cooperation. The significance of Final Act implementation--and of the upcoming Madrid review of its progress--lies precisely in bringing these various elements of cooperation together to form a coherent whole.

When viewed from this perspective, it becomes evident that the economic sanctions necessitated by the Soviet invasion of Afghanistan do not violate the agreement signed by the 35 signatories to the Final Act. Moreover, the measures which have been taken are directed only against the Soviet Union and are not intended to reflect a change in our overall trade policy.

We fervently hope that circumstances will change sufficiently to warrant the improvement of U.S.-Soviet economic relations. In the meantime, the framework for expanded East-West economic cooperation has been left intact, and it becomes even more important that we continue to pursue avenues of increased economic, commercial, and scientific cooperation with the countries of Eastern Europe.

The Basket II section of the Helsinki Agreement is officially entitled "Cooperation in the Field of Economics, of Science and

Technology and of the Environment", and contains a broad array of provisions designed to encourage economic cooperation and to reduce barriers to trade. In the two years since the Belgrade review conference, the Department of Commerce has been actively involved in numerous activities addressing many of the aspects of Basket II. Government-to-government commercial commissions with Romania, Poland and Hungary, cochaired in the Department of Commerce, have met regularly for discussion of topics related to our mutual economic cooperation. In addition, numerous trade promotion programs have been carried out under sponsorship of the Commerce Department, through which hundreds of U.S. business firms have been introduced to markets in Eastern Europe and the Soviet Union.

In 1979, we conducted the first round of bilateral CSCE consultations with individual East European states, and a second round of consultations with those states has already begun. These sessions examine the whole range of CSCE-related issues, including detailed examination of Basket II provisions.

On the multilateral level, we have consistently supported efforts within the United Nations Economic Commission for Europe to address some of the Basket II issues, such as harmonization of standards, facilitation of international trade procedures, and guidelines for international contract practices, as well as efforts to reduce obstacles to trade, improve the quality and flow of economic and

commercial information, and address questions related to marketing, industrial cooperation and business contacts and facilities.

As we draw closer to the Madrid conference, we must turn our attention to an assessment of the progress toward, and prospects for, further meaningful implementation of Basket II. We must also examine the significance of Basket II itself in achieving our goal of the orderly expansion of mutually beneficial trade.

The Role of Basket II

I believe that the cornerstone of our East-West economic policy should continue to be the development of a long-term, cooperative relationship with the countries of the East, consistent with our national security and foreign policy objectives. The movement toward expanded economic cooperation between the U.S. and the countries of Eastern Europe and the Soviet Union was already well underway before the negotiation of the Final Act. Basket II reflects that trend, recognizes the diversity of problems involved in expanding East-West trade and economic cooperation, and provides a set of rough guidelines for addressing these problems. It is not, nor should it be, the sole instrument for fostering the development of East-West trade on a mutually beneficial basis.

It is our judgment that the usefulness of Basket II lies partly in the fact that it encourages both bilateral and multilateral approaches to East-West economic issues through a variety of

existing channels. I have mentioned the activities of the Economic Commission for Europe and the government-to-government commercial commissions which have been established with some of the individual Eastern states. In addition, though not all Helsinki signatories have acceded to the GATT, efforts in the Tokyo Round of the Multilateral Trade Negotiations concluded last year complement the principal objectives of Basket II. In fact, under MTN auspices, the U.S. concluded separate bilateral agreements with Romania, Hungary and Poland covering matters not dealt with in the multilateral forum. And in addition to the joint governmental commissions, seven private sector trade and economic councils --one unilateral and six bilateral -- have been established and are operating to improve commercial relations and contacts between the business community and the individual communist countries.

Review of Implementation Since Belgrade

We consider that the first section of the Madrid conference should be devoted to a review of implementation since the Belgrade follow-up conference. The Commission's domestic compliance report, Fulfilling Our Promises: The United States and the Helsinki Final Act, published in November 1979, carefully documents U.S. compliance with the provisions of Basket II, noting the substantial progress made in some areas and shortcomings in others. It is my personal belief that the U.S. record of implementation of the Basket II provisions is unexcelled by any other signatory. In each of the

areas targeted for cooperative endeavours we are able to report some degree of progress. The record of the communist signatory states, on the other hand, has been mixed.

For example, the United States has consistently supported the concept that improved business contacts and facilities are of vital importance to the development of trade. To this end, we have actively supported the governmental commissions and have given advice and assistance upon request to the private sector trade and economic councils established between the U.S. and Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania and the U.S.S.R. In market economies, the question of business contacts, that is, access to officials and end-users, is largely of an unofficial and private nature. In state-trading countries, the question of contacts between importers and exporters is regulated by governmental authorities and has been a source of difficulty in expanding our economic cooperation with those countries. The ease with which contacts are made between potential buyers and sellers varies widely among the Communist countries, and individual countries' authorities have at times restricted, and at times facilitated, these business contacts. Particularly difficult conditions in this regard have been encountered in the Soviet Union, Bulgaria, Czechoslovakia and the German Democratic Republic (GDR), and business contacts are not easy even in Poland, Hungary, and Romania.

Another area in which the potential for increased cooperation has not been realized is the provision of economic and commercial information. The availability of the detailed, timely and pertinent economic and commercial information has long been considered by the U.S. as essential to the establishment of a long-term, growing trade relationship. The U.S. publishes a wealth of information on a wide variety of subjects, ranging from detailed information on national production and economic conditions to foreign trade statistics. All of this information is published at regular intervals and widely disseminated. The record of the communist states in this area of Basket II has not shown much improvement since the signing of the Helsinki Accords. In fact, the availability of information has decreased in some instances--notably in the U.S.S.R., Bulgaria, and the GDR.

Prospects for Improved Implementation

I do not mean to suggest that the U.S. record of implementation of Basket II ^{is} perceived by communist country signatories to be flawless; there are certainly areas in which they have criticized our performance, and these have been outlined in detail in the Commission's recent report. Complaints by communist country signatories include the denial of MFN status to a few Eastern countries (Poland, Hungary and Romania receive MFN treatment from the U.S.), U.S. export control regulations, import protection

measures and difficulties with the issuance of visas. U.S. policy has evolved from consideration of our national security interests (export controls and restrictions on issuance of visas), concern with the human rights and fundamental freedoms expressed elsewhere in the Final Act (withholding of MFN trading status) and from a recognition of the need, as noted in Basket II itself, for trade to be conducted in such a way as not to cause or threaten to cause serious injury in domestic markets (import protection measures).

In the period since the Belgrade review conference, MFN has been granted to Hungary and Congress has approved renewal of the President's authority to permit continued extension of MFN treatment to Romanian exports. In addition, the Executive branch has undergone extensive reorganization of international trade functions. Important effects of that reorganization will include enhancement of U.S. Government programs for export promotion, streamlined procedures for expediting the handling of antidumping and countervailing duty petitions, and increased emphasis on the overall development of U.S. foreign trade.

Nevertheless, certain states continue to view various aspects of U.S. trade policy as obstacles to the development of trade, and as such we must continue our attempts to seek constructive solutions to these issues.

As I have noted, our preparations for Madrid have already begun. Chief preparatory vehicles have been the bilateral consultations with Bulgaria, the German Democratic Republic, Hungary, Poland and Romania, during which topics of concern to both sides have been discussed--MFN, industrial cooperation, the extension of multiple entry visas to businessmen and the establishment of business representations, among others. Consultations with our Western Allies will begin actively later this month, as we explore areas for discussion at Madrid for future East-West cooperation, particularly in the fields of improved economic and commercial information and business facilitation.

Our expectations from initiatives taken under the rubric of Basket II are not unlimited. There are, after all, fundamental differences in the economic and social systems of the signatory states. However, the strength of the Final Act lies in the fact that it recognizes that diversity. The development of economic cooperation between East and West continues to be of prime importance to the United States, not only for the economic benefits which accrue to us through trade but also for the contribution that increased cooperation makes toward attainment of the political and humanitarian goals we seek.

Senator PELL. Thank you very much indeed. You have been in this work for many years, I notice, just as long as Assistant Secretary Hinton, since 1946. What is your own view as to the validity of the thesis that the more the West trades with the East, the more our economies will become interdependent, and, therefore, the better our chances will be of influencing the direction of the East's diplomacy?

In other words, can economics be used as political leverage, in your view?

Mr. GEORGE. The question is put in many ways other than the one you have put it in. Let me answer your question this way from my own point of view and experience. It is my judgment that trade between two countries which have problems does not free such trade from the impact of political judgments and issues. I know there are those who claim that trade is a large part of the answer to peace and good will between nations. I do not think that trade does any harm in that regard. I know of no evidence to prove that it is materially of assistance where there are significant policy differences between governments.

Senator PELL. Let me approach it from another angle. Do you believe that greater economic well-being for the Soviet Union and its allies will reduce political oppression in those countries?

Mr. GEORGE. There is a long line between those two points. Let me answer to this degree. It seems to me that trade between, let us say, the United States and the Soviet Union, in the absence of most severe differences, would be a helpful thing. It does seem to me that when people in a country which has not had as much as most of the other industrialized countries of the world have the opportunity to gain more, and in some ways that is going to have influences on the government. Just how far those influences would go takes a better man than I to judge.

Senator PELL. It is fascinating for me to see how we have changed directions with regard to China. We have changed. I am not sure the Chinese system has changed particularly. I recall 20 years ago the intense disapproval I received when I declined to sign the Committee of One Million's statement that we should not recognize China.

I do not think we realize that it is we who changed more than the other person. My own view is, in the long haul, trade and contact bring about maybe a slightly eroding effect on their system.

What have you done in the Department of Commerce to familiarize American businessmen with the opportunities afforded under the provisions of Basket II? Basically, how helpful has the Helsinki accord been to American business, if any?

Mr. GEORGE. Following the signing of the Final Act, the Department of Commerce put out for the use of businessmen an explanatory pamphlet which stressed to them the potential advantages that exist in the compliance by nations with the Final Act. That was basically an informational device which we gave to them.

Second, we have had meetings of the Department of Commerce Advisory Committee on East-West Trade, at which we have both sought their views as to the kinds of problems and the kinds of evidence we might use, and the various meetings in Belgrade, and we will do the same with regard to Madrid.

Beyond that, we have taken note of the Final Act and its provisions at other meetings we have had with businessmen as they came along.

Senator PELL. Thank you very much.

I must apologize for departing at this point. I will turn the chair over to Congressman Simon. Thank you.

Mr. SIMON [presiding]. Thank you, Mr. Chairman.

Let me direct a few questions to you and yield to my colleague from California.

I don't know if you happened to see the story in this morning's Washington Post: "East Europe Wants Ties to West." Let me read a few paragraphs from that story. It talks about various little things that are building tensions, and it says:

A group of East European scientists were told last month that a scientific conference in California would be closed to them as well as their Soviet colleagues. Another East European business representative is being asked to supply more extensive information for visa requests to the United States.

Against this background of political uncertainty, half a dozen American firms recently cancelled reservations to attend the Hungarian trade fair in April.

And then this paragraph:

Such actions, while small, and certainly not in all cases a reflection of official U.S. policy, have heightened concern in Eastern Europe about once again being isolated from the west. These anxieties are greater because of a general economic downturn in Eastern Europe marked by flagging growth rates, disguised inflation, shortage of goods, and rising debt burdens.

I am curious as to whether you have any reaction to this story. Are we in a period when, in fact, there is diminishing trade between East and West or incipient diminishing trade?

Mr. GEORGE. First of all, let me address the point made with regard to the interest of the East European countries to continue trading with us and to improve their relations.

I do believe this is so, although obviously those countries, if they could, could speak better for themselves than I in this regard. I think that there has been over recent years improvement in our relations with the Eastern European countries. I think that has developed from the desire on both sides to improve those relationships, and I believe that both sides have gained from that action. Particularly under the stresses of today's conditions, I can understand where questions might exist.

I had occasion yesterday to speak to a conference in New York City dealing with one of these countries, and I made it perfectly clear that the policies we were following now toward the Soviet Union are policies directed toward the Soviet Union and not toward these countries. It would be my hope that that situation will continue, and that no forced action on the part of anyone would be disruptive of that.

Second, you made reference to a scientific conference which involved some of our export controls. The basic facts, I think, are that, one, this was a conference for which the managing group did not look carefully enough at the export control regulations. This was not a new or exceptional kind of action. It was merely the fact that they had not either been aware of or adequately examined the export control regulations, and certain types of information which were intended by them clearly to have been discussed there should not and cannot be discussed without an export license.

There was some modification, as I understand it, of their agenda, and the session itself then proceeded.

Mr. SIMON. The gentleman from California.

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

Mr. George, I get the distinct impression that compliance in Basket II has been pretty much a one-way street insofar as the Soviet Union and the United States are concerned. The U.S. record is pretty good, while the Soviets, and to some lesser extent the Eastern bloc's record is not very good at all. It seems to me that cooperation should be a two-way street.

Can you answer the question of what benefit is there for the United States to give up technology and technical information with little in return?

Mr. GEORGE. We are indeed getting down to basics.

[General laughter.]

Mr. GEORGE. The approach that I have taken to this question is merely that unless there are pretty severe policy needs we should be able to have reasonable distribution of technology worldwide. In our area, in the area of most of the free world countries, this also involves appropriate recompense to the originators and controllers of such technology. I draw a line between scientific technology and practical technology, and so do our regulations.

We have gone as far as we felt warranted in allowing technology to flow without an export license. There are areas, then, where we require an export license, and so long as the requirements which we for good reason impose are met, it seems to me that the flow should occur even though there are those who with some justice claim that at least during some periods the outflow of that technology may or may not have various impacts on the domestic economy.

I would like to call to their attention that the United States has grown mightily using other people's technology as well as its own, that there is a sharing which in fact we have fostered in the world on the trading in technology, and I would indeed hate to see us take any extreme action on unwarranted bases that would limit such flow and interchange.

Mr. LAGOMARSINO. I have just one further question. I believe the witness can answer it rather quickly. High technology trade cut off to the Soviet Union, why is it allowed to continue to the Soviet bloc countries? Aren't we afraid of diversion to the Soviet Union?

Mr. GEORGE. We recognize the dangers involved. We also realize that each of these Eastern European countries has something at stake in terms of being able to retain the continued flow of technology and goods from the United States to them. We shall be watching very closely what happens in our trade with these countries, to avoid diversion, and they realize that we must do that.

I believe there are some risks involved. I think that we can reasonably take those risks so long as we closely watch what is going on and investigate as thoroughly as we can.

Mr. SIMON. We are in a situation where we have a quorum call on the House floor. Mr. George, we thank you for your testimony. We would like to have the liberty of submitting additional questions to

you which could be entered into the record, and if our next two witnesses can be patient, we will resume our hearing in about 10 minutes.

Mr. GEORGE. I will be happy to do that.

Mr. SIMON. Thank you.

[Whereupon, a brief recess was taken.]

Mr. SIMON. The hearing will resume.

Our next witness is Mr. James H. Giffen, president of Armco International.

Mr. Giffen, we are pleased to have you here.

STATEMENT OF JAMES H. GIFFEN, PRESIDENT, ARMCO INTERNATIONAL, INC.

James H. Giffen is Assistant to the Chairman of Armco, Inc. and Director, Corporate Development, for the Corporate Executive Office. Corporate Development seeks, examines, recommends and negotiates business opportunities on a worldwide basis, including acquisitions, mergers, joint ventures and other business opportunities not normally associated with Armco's day-to-day operations.

Mr. Giffen is also President of Armco International, Inc. which is the foreign trading subsidiary of Armco, Inc. Armco International, Inc. develops and coordinates opportunities between Armco, planned economies such as the USSR and the PRC and market economies where hard currency is in short supply.

Mr. Giffen attended the University of California where he received a Bachelor of Arts degree in political science in 1962 and a Doctor of Jurisprudence degree in 1965. He is a member of the Bar of the State of California.

Mr. Giffen has travelled extensively to the Soviet Union concluding numerous contracts with Soviet organizations and is author of the book, "The legal and Practical Aspects of Trade with the Soviet Union" which was written as a text book for law schools, business schools and American companies interested in trading with the Soviet Union. The book was first published in 1969 and has had three printings. Mr. Giffen has also written numerous articles on East-West trade and international trade and financing, and has previously testified before the U.S. Congress.

He is a member of the Council on Foreign Relations, the New York District Export Council (Member of Executive Committee and Chairman of Sub-Committee on East-West Trade) and the National Committee of the Harvard-Columbia Russian Studies Fund.

Mr. GIFFEN. Thank you, Mr. Chairman.

Today I am testifying not only as a private businessman, but as a concerned American, concerned about the U.S. economy, the weakened value of the dollar, the lack of growth of U.S. exports, the deepening deficit in our balance of payments, and the conflicts and inconsistencies that plague our trade policies, particularly with respect to our trading relations with the Soviet Union.

In August 1975, when the Final Act of the Conference on Security and Cooperation in Europe was concluded, we were hopeful that a significant expansion of economic cooperation between the United States and the Soviet Union would soon follow. Unfortunately, the expected expansion of trade with the Soviet Union did not occur.

This morning, Mr. Chairman, I would like to discuss two subjects. First, I would like to review those activities and developments that did occur between 1975 and 1979 which were contemplated within the Basket II provisions of the Final Act, and second, I would like to review the economic relationship between the United States and the Soviet Union since the Soviet action in Afghanistan.

Probably the most important organization that was created to promote an expansion of United States-Soviet trade is the U.S.-U.S.S.R.

Trade and Economic Council. The Council is a bilateral organization staffed by both American and Soviet personnel with offices in New York and Moscow and dedicated to the improvement of relations between the two countries through trade.

The Council is an excellent example of cooperation in the field of economics in keeping within the letter and spirit of the Final Act.

For example, the Council compiles relevant trade statistics, produces a variety of publications, and sponsors joint seminars and exhibits both in the United States and the Soviet Union. Between 1975 and 1979, American companies held over 183 members at the Council's Moscow office.

In addition, each year the Council holds its annual meeting in either the Soviet Union or the United States on an alternating basis. In 1975, 35 Soviet delegates attended the Council meeting in the United States, and in 1976, 300 U.S. businessmen participated in the annual meeting in the Soviet Union.

In 1977, 70 Soviet delegates attended the U.S. meeting and in 1978, 400 U.S. businessmen attended the annual meeting in the Soviet Union.

During these meetings, technical and commercial information is exchanged and the entire trading relationship is reviewed.

The Council also sponsored 57 foreign trade organization delegation visits and 48 Soviet business delegation visits to the United States between 1975 and 1979.

Quite aside from the Council, many American companies were active on their own. While 20 American companies had opened official accredited U.S. business offices in Moscow before 1975, 13 new offices were opened between 1975 and 1979. American companies were also active in participating in Soviet exhibitions. During the period, 757 American companies participated in exhibitions in the Soviet Union, and 49 American companies held single company separate exhibits. Soviet organizations held 47 exhibits in the United States during the same period.

On the whole, most American companies found that they were able to obtain more technical and economic information from the Soviets and had better access to their Soviet counterparts than they had ever had prior to August 1975. Whether this was a direct result of the conclusion of the Final Act can be questioned. However, there is little doubt that most American companies, such as Armco, found that the Soviets were attempting, within the confines of their procedures and bureaucracy, to do most of those things that were contemplated within the Basket II provisions.

What were the results of these activities? Total United States-Soviet trade equaled approximately \$2 billion in 1975, rose to \$2.5 billion in 1976, fell to \$1.8 billion in 1977, increased to \$2.8 billion in 1978, and finally in 1979 reached an alltime high of \$4.4 billion.

During the 5-year period since the conclusion of the Final Act the United States had a total positive balance of trade of \$9.2 billion. Approximately 350,000 to 450,000 jobs were created as a result of this trade and the United States gained approximately \$600 million worth of capital formation.

Let's examine the results of 1979. The United States exported \$3.6 billion worth of goods and technology to the Soviet Union and imported approximately \$870 million. Total trade between the two countries,

therefore, equaled \$4.4 billion, which compares to total U.S. world trade of approximately \$390 billion.

These numbers may not seem very significant, yet when one compares the surplus in this country's favor of \$2.7 billion derived from United States-Soviet trade to the overall 1979 U.S. trade deficit of approximately \$24.7 billion, it takes on greater importance.

And please note, Mr. Chairman, it was not trade with the Soviet Union which contributed to our huge deficit, weakened the dollar, increased inflation, and helped erode the economic base upon which the security of the country depends. In United States-Soviet trade, American companies were making money for the United States and were doing it very well.

Furthermore, according to Department of Commerce indicators, the \$3.6 billion of exports to the Soviet Union probably created \$238 million in capital formation and between 100,000 and 140,000 jobs. Looking at the situation another way, the surplus created from our rather meager trade relations with the Soviet Union—hampered as they are by existing law—helped us to pay approximately 4 percent of our total energy bill owed to other countries.

What could be the potential of trade with the Soviet Union and benefits to the United States in a more favorable political climate?

Most of us in the American business community believe that the Soviet Union does have the potential to be a far more profitable market for the United States than it was over the last 5 years. We did not take full advantage of the opportunities that were presented.

One way we can calculate the potential of U.S. exports to the Soviet Union is by comparing the United States with other Western countries which have normalized their trading relationships with the Soviet Union. The Federal Republic of Germany, Japan, France, and Italy each export well over \$1 billion of manufactured products to the U.S.S.R.—almost double the volume of similar U.S. exports.

If economic relations between the United States and the Soviet Union were encouraged to expand through some of the suggested actions in the Basket II provisions, U.S. exports might increase substantially for two reasons.

First, with access to Export-Import Bank financing and the availability of new American goods on competitive terms, the Soviets might raise their overall purchases of technology and equipment.

Second, because of the entry into the market of American products financed by Export-Import Bank credits the Soviet might well shift some of their purchasing requirements from other Western countries to the United States thereby increasing the U.S. market share. In short, the United States might capture a larger share of a larger market.

The statistical evidence is not entirely without support. Since 1975, we have obtained a great deal of information about the projects the Soviets are currently planning and about the purchases they will need to make. Over the last several years, we have obtained, for example, specific lists of major projects the Soviets would like to conclude with American countries if trade were normalized.

It does not seem unreasonable to project a doubling or tripling of U.S. exports to the Soviet Union within a 5-year period if the political

climate were more positive and if the concepts of the Basket II provisions were followed.

Even assuming that an expansion of United States-Soviet trade makes commercial and financial sense for the United States, does it make political sense? No American company that I am aware of would support an expansion of such trade if it were not politically beneficial to the United States.

For example, when the Soviet Union took action in Afghanistan, the U.S. Government response with respect to trade was probably necessary to signal the Soviets that such activities were totally unacceptable. However, while temporary, restrictive measures on trade might be beneficial for purposes of registering dissatisfaction over particular political and military activities, are they really effective in forcing the Soviets from taking such action in the future or from reversing it once it has been started?

There are basically two theories on how trade should best be used to benefit the United States. The first theory argues that trade should be connected to nontrade issues and be used as a coercive instrument to obtain results on those issues. The second theory argues that trade is interdependent upon the entire United States-Soviet relationship and should be used to obtain long-term, broad benefits for the United States.

Those that argue that trade should be linked to nontrade issues believe that the Soviets ought to be coerced into making concessions on such issues or be denied trade. However, those who make such arguments must remember that in order for the United States to be in a position to force the Soviet Union to do anything, we must have leverage. Without leverage, it is useless and perhaps even dangerous for us to follow such a course.

How do we get leverage? We can only get leverage if the Soviet Union cannot do without the particular technology or products the U.S. companies have available for export, and similar technology or products are not available from some other source in the world. Mr. Chairman, we are not aware of any situation where one country has had leverage over a second where both of those two conditions did not exist. There must be both an absolute need and no other alternative available.

Mr. Chairman, most of us in the American business community who deal with the Soviet Union know that the United States simply does not have such leverage. There are a few technologies or products that the Soviets do not have available in their own country, and for those technologies or products they do need they find they have many willing suppliers outside of the United States.

For example, consider Soviet needs for petroleum technology and equipment. Such exports are currently rendered very difficult by virtue of regulations and the absence of Government-sponsored financing. The regulations are based on the premise that the United States should use its allegedly exclusive position as an exporter of such technology and equipment to gain nontrade concessions. It is argued that without American exports, Soviet energy exploration, development, and production will be severely hampered.

Mr. Chairman, the simple fact of the matter is that the United States does not have an exclusive position in the world with respect

to petroleum technology and equipment. In fact, the Soviets today, with little help from us, are producing more oil than any other nation in the world—approximately 11.7 million barrels per day. By way of comparison, the United States, as you know, produces 8.6 million barrels a day.

Mr. SIMON. Mr. Giffen, I hate to interrupt you. We are in a situation in which we have a rollcall in the House again. May I enter the rest of your statement in the record? I have taken the liberty of getting ahead of you as you were testifying, and reading the rest of your statement, which is an excellent statement. If I may just read into the record here a few sentences that you have on page 11.

Neither Soviet nor American businessmen can be expected to be interested in trade as dependent upon someone's interpretation of the political situation at any given time. Since few American companies are interested in trade subject to such uncertainty, there simply will be no projects of any real size. Any benefits we may derive from our economic advantages will quickly evaporate.

I think that is a very significant statement.

[The balance of Mr. Giffen's prepared statement follows:]

In addition, if one takes a look at Soviet purchases of petroleum equipment over the last several years, it is clear that a majority of Soviet purchases have come from the countries of Western Europe and Japan. In 1978, 55 percent of all Soviet petroleum equipment and technology purchases—\$464 million worth—came from Western Europe and Japan.

The United States is not the only supplier of petroleum technology and equipment in the world today. How much leverage then, do we have by refusing to sell such technology or equipment to the Soviet Union? The United States can really do very little to prevent the U.S.S.R. from further developing its energy resources if that is what it wants to do.

Furthermore, Mr. Chairman, the value of what the Soviet Union obtains now from the United States is insignificant by comparison to its GNP and to its purchases from other sources. Total Soviet imports of United States technology and equipment account for just over one-fifth of one percent of that country's gross national product. How much leverage can the United States hope to have, in seeking to force non-trade policy changes?

Finally, Mr. Chairman, using trade to attempt to obtain foreign policy objectives ties trade policy closely to current political events. This introduces further instability and uncertainty into the trade relations between the two countries. Our relationship with the Soviets is already complicated enough because of the differences which exist between planned and market economies. The major projects under consideration between American companies and Soviet organizations simply require the investment of too much time and effort to be subject to these uncertainties. Neither Soviet nor American businessmen can be expected to be interested in trade that is dependent upon someone's interpretation of the political situation at any given time. Since few American companies are interested in trade that is subject to such uncertainty, there simply will be no projects of any real size. Any benefits we may derive from our economic advantages will quickly evaporate.

Most American companies simply do not believe that trade should be connected to non-trade issues.

I do not believe that the United States now has or can have sufficient leverage in terms of trade with the Soviet Union to force it to act in any particular manner on any given non-trade issue.

However, I do believe that the United States can obtain important political benefits by having graduated, permissive legislation which might influence the Soviets to act in a particular manner in the overall relationship. Increased trade will provide the Soviets with a greater commercial stake in a stable world order. Since they are denied the possibility of expanded trade today, they have nothing to lose by refusing to act in a given manner on any non-trade issue. But with the possibility of an expanding trade relationship, they might be far more receptive to respond positively to our desires.

Mr. Chairman, in October of 1978, President Carter stated that many could "remember the days when the United States was engaged in total war against Germany and Japan, countries that are now our closest allies.

"Largely, through the bonds of trade and commerce, these nations have become our partners in seeking a prosperous global future. I have often wondered what would have happened if we had the same bonds of trade before 1939 or before 1941."

Mr. Chairman, one must logically wonder what would have happened in Afghanistan had the same bonds of trade existed with the Soviet Union before 1979.

The United States should take steps to further the goals of the Basket II provisions of the Final Act which will have the effect of creating jobs, capital formation and strengthening the dollar—all of which will lead to a more secure United States and a more stable world order. With a secure defense and a strengthened economy, the United States can meet any adversary on any battlefield, military, economic or whatever and be successful.

Mr. SIMON. Let me ask a few questions very briefly, and if you can keep your answers brief, I will be able to make the rollcall.

When you speak about aggregate United States-Soviet trade, how much of our sales are agricultural? For example, \$4.4 billion in 1979. Do you happen to know?

Mr. GIFFEN. The total trade turnover was \$4.4 billion; \$3.6 billion were the exports, and I believe about \$800 million of that amount was in manufactured products, so the remainder would have been in agricultural products.

Mr. SIMON. I see. And when on page 5 you talk about "hampered as they are by existing law," you are talking about Jackson-Vanik, Export-Import? What are you talking about?

Mr. GIFFEN. The Jackson-Vanik amendment, the present regulations under the Export Administration Act, the Johnson Act, and several other regulations that are confronting us in our everyday moves into the market.

Mr. SIMON. And from your perspective, we would be better off politically and economically if we did not have this hindrance to trade between our two countries?

Mr. GIFFEN. Yes, sir. If you are going to use a carrot and stick theory, you have to show some carrot every once in a while. In the last 5 years, we have been using pretty much all stick but no carrot.

Mr. SIMON. Some people have suggested there is a hard currency problem to any real growth in trade. Have you any comment on that?

Mr. GIFFEN. Before looking at others, I suggest people should first look at the United States, at our currency and balance of payment problems before analyzing the subject of Soviet trade. However, to answer the question, yes, the Soviets do have a hard currency problem. The Soviets are going to have to increase their exports in the long term, and in the short term, in order for them to grow, they will need Government-sponsored export financing. However, they have been able to obtain such financing from almost every other one of our allies.

Mr. SIMON. You talk about major projects in which the Soviets would want to include American companies if trade were normalized. What type of things are you talking about?

Mr. GIFFEN. The best example I can give you is the project we concluded in December 1979 for a steel mill which would produce electrical steels. The contract amount was \$353 million. It took 3 years, 8 months, and 1 day to negotiate, and it contains 8,000 pages. Originally, when we began the discussions, we wanted to have 100 percent Ameri-

can participation. However, without Export-Import Bank financing, American participation was reduced from \$350 million to \$100 million. If the export license for this project is ultimately denied, the total American participation will be zero.

The project is typical of the type of project that the Soviets are interested in discussing with American companies, projects which create capital, jobs, and a positive balance of payments for the United States.

Mr. SIMON. In fact, in that situation, if we do not provide the assistance, they are not going to give up the project. Won't they simply go to France or somewhere else to get it done?

Mr. GIFFEN. Today you need to have bodyguards to get through the French businessmen if you wish to visit Soviet foreign trade organizations. The Soviets can obtain almost every single item, piece of technology, or equipment from our allies, that they cannot obtain from the United States with the exception of those items which are high technology items. However, such items are already covered under the strategic provisions of the Export Administration Act as opposed to foreign policy provisions.

Mr. SIMON. Mr. Giffen, I thank you very much. I am sorry to have to cut you short like this. We appreciate your testimony, which I think is very significant.

I would like to take the liberty of submitting additional questions to you, and if you could respond, we would add those to the record.

Mr. GIFFEN. I would be happy to, Mr. Chairman.

Mr. SIMON. Mr. Hardt, we face a problem here. I am not going to be able to return. Could we—and I apologize for doing this—can we enter your statement in the record and submit questions to you?

Mr. HARDT. Surely.

[Mr. Hardt's prepared statement follows:]

PREPARED STATEMENT OF JOHN P. HARDT, ASSOCIATE DIRECTOR FOR SENIOR SPECIALIST, AND SENIOR SPECIALIST IN SOVIET ECONOMICS, CONGRESSIONAL RESEARCH SERVICE, LIBRARY OF CONGRESS

As a staff member of Congressional Research Service, I should explicitly note the legislative and policy constraints under which we operate: We are required to be objective and nonpartisan. My remarks will, therefore, be largely technical in nature.

The Commission's charter suggests that the purpose of these Hearings is several fold:

- 1) Assess means for monitoring and taking advantage of the Final Act agreed to at Helsinki in August 1975.
- 2) Respond to official documents related to the Helsinki agreement which have appeared after the signing of the Final Act, especially those available since the Belgrade meeting in 1977 with some reference to the earlier period between Helsinki and Belgrade. Particular attention is given to Fulfilling Our Promises: The United States and the Helsinki Final Act: A Status Report, November 1979.
- 3) Prepare for the next meeting of the Helsinki signatory countries in Madrid scheduled for Fall, 1980.

I bring to this commentary the perspective of an economist who has long been a student of the societies of East and Central Europe, including the Soviet Union. I have also been privileged to have been on congressional delegations to the International Economic Association (IEA) for three successive years to meetings in Hungary, Sweden, and the German Democratic Republic. The meeting in Dresden focused on the Helsinki agreement. During that trip I was also able to attend other meetings and conduct many interviews

in-depth with economists and officials of the Eastern signatory countries on subjects related to the Final Act. The compendium released by the Joint Economic Committee, The East European Economies Post Helsinki, was available for supporting the discussion at Belgrade that year. I organized, coordinated and edited that volume for the Committee. Subsequent meetings of the International Economic Association in Tokyo in 1977 also dealt with Basket II considerations. Once again, the Chairman of the Joint Economic Committee asked me to organize, coordinate and edit an assessment of the East European economies scheduled for release in 1980. This collection of papers may be of utility for the Madrid deliberations.

In 1978-1979 I was a member of four delegations to the Soviet Union and East Europe, including the Senate Interparliamentary Delegation to the U.S.S.R. and Hungary in November 1978. These delegations all touched on subjects relevant to Basket II.

COMPLIANCE WITH "BASKET 2" OF FINAL ACT.

In evaluating the issue of compliance with "Basket II"

I should like to comment selectively on business contracts and facilities, economic and commercial information, industrial cooperation, and legal and institutional arrangements, such as arbitration.^{1/} Before commenting on each of these areas, it seems important to touch on the political context of this period--from the time of the Helsinki meeting through the election of President Carter and the Belgrade meeting to the present post Belgrade period.

^{1/} First Semi-Annual Report to the Commission on Security and Cooperation, Transmitted by President Ford to Chairman Fancell, December 3, 1976. (Hereafter, Semi-Annual Report).
Fulfilling our Promises: The United States and the Helsinki Final Act, A Status Report, compiled and edited by the Staff of the Commission on Security and Cooperation in Europe, November 1979. (Hereafter, Status Report).

In preparation for Madrid and discussion there of Basket II, we should not underestimate the importance of the process at this time. Our sanctions in response to the Soviet Afghan invasion and interruption of our dialogue at many levels with the Soviet and East European nations increase the importance of this multinational forum. Economic and technical exchanges through the Helsinki framework may become increasingly important for revival of normal relations if this is the policy option we wish to exercise.

Political Climate from Helsinki to Carter Election, August 1975, to November 1976.

Although the Helsinki Final Act was signed by 35 nations, I would suggest that two--the Soviet Union and the United States--are the pacesetters--especially in economic policy. If we may liken the relationship of the two powers to a joint airflight, this Helsinki period might be likened to a "holding pattern." After the Trade Act and the Export Import Bank Act amendments had been passed by Congress and signed by the President in January 1974, MFN status was offered to the U.S.S.R. in fulfillment of the commercial agreement arrangements. The Soviet Union did not accept the conditions of the Jackson-Vanik amendment and the treaty did not go into force. However, most of the arrangements on business facilities (i.e., the Trade Center in Moscow), exchange of information, third-country arbitration, terms of settlement of Lend Lease debts, anti-dumping and market-disruption understandings continued without rupture. But the governmental-propulsion was apparently lacking for further change in the areas of agreement and continued to be absent when the Final Act went into force in August 1975. The impetus for change which resulted from adoption of the Final Act thus had to be based on the incentives operating below the superpower and governmental level. The governments of many of the signatory nations in Western and

and Eastern Europe were relatively more active than the United States and the Soviet Union during this period in fostering economic and commercial relations. The private and public commercial interests in the participating nations were similarly more active than their government counterparts.

Likewise the lack of a Federal policy (an agreed Executive and Congressional position) and a national consensus in the United States among government, private industry, labor, the banking community and other groups in a common position created a climate of uncertainty which reinforced the lack of momentum.^{2/} This divisiveness was illustrated by presentations made by official and quasi-official U.S. representatives to the meeting of the U.S.-U.S.S.R. Trade and Economic Council in Moscow in November 1976. A number of these U.S. representatives took a critical posture towards the established U.S. position on tariffs and credit, as signed into law by President Ford in January 1975. Moreover, some chose to attribute U.S. resistance to granting MFN to the U.S.S.R. unconditionally without human rights' conditions to certain special interest groups in the U.S. domestic-political arena. For Eastern observers not understanding our constitutional processes and our democratic procedures, these explanations may have been confusing. This may have been especially difficult for a Soviet audience attempting to evaluate likely changes under a new U. S. Congress and a new President.

Assuming that uncertainty discourages expansion of commercial relations and further assuming that most of the changes called for in "Basket Two" involve changes that require institutional and political change, the climate of the initial Helsinki period was not conducive for change. Nonetheless, as

^{2/} My testimony to the Senate Commerce Committee, February 4, 1976.

the first Semi-Annual Report indicates, there was considerable compliance and no major con-compliance or retrogression from the provisions of "Basket Two."^{3/}

Political Climate from Carter Election to Eve of Madrid Meeting in 1980

For most of the time period of the Carter Administration, there continued to be a "holding pattern" between the Soviet Union and the United States: constraint on tariffs, credits, business facilitation, market conditions and industrial cooperation. As for agriculture, a Five-Year Grain Agreement which was to terminate in October 1981 was signed. Thus, agricultural trade was generally insulated from political relations. Licensing of high-technology trade was somewhat simplified and clarified in the Export Administration Act amendments adopted in 1977. However, the use of foreign policy, as well as national security criteria with respect to export administration were reintroduced in the wake of the dissident trials, in the Soviet Union in the summer of 1977. The Administration's decision on the export of a drilling bit plant and an advanced computer was based largely on human rights' considerations. With the passage of the Export Administration Act of 1979, it appeared that the use of foreign policy criteria was again restricted. The Administration was given specific guidance in the Act for use of this foreign policy criteria and the use was extended on a year-by-year basis.

Earlier with the initialing of the SALT II Treaty by Presidents Carter and Brezhnev at Vienna in April 1979 and the improvement in U.S. relations with the PRC, the Administration and the Congress expected that both the PRC and the Soviet Union might have a trade agreement prior to Madrid. To this end the Stevenson-AuCoin amendments seemed expressly designed to modify the waiver requirements of Section 402 of the Trade Act (the Jackson-Vanik amendment) to permit the Executive more flexibility in assessing compliance and to extend the term of the waiver from one to several years.

The role of trade restrictions was changed dramatically in the wake of the Soviet invasion of Afghanistan in December 1979 by the President's economic sanctions against the Soviet Union. Some of the highlights of the President's policy of economic sanctions were the following:

3/ Semi-Annual Report, pp. 68-118.

1. Agricultural trade was put back in the political arena. "Grain as a weapon" reemerged as an instrument of American foreign policy.
2. All high-technology exports were reviewed and foreign policy criteria for exports was reemphasized, especially in energy-equipment exports.
3. Industrial cooperation, compensation agreements, market disruption criteria were all reexamined in the context of the Occidental fertilizer deal: ammonia imports were restricted to avoid "market disruption" and U. S. super-phosphate exports to the U.S.S.R. were restricted.

Other sanctions on fishing rights, airlift and other transport rights generally added, at least temporarily, to the interruption of "normalized relations."

Other signatory nations generally accepted the principle of the sanctions as an appropriate response to the Afghanistan invasion, but limited their specific actions, generally complying with the grain embargo but continuing the sale of high-technology equipment. The members of Cocom, as before, did not support the American use of foreign policy criteria in export policy.

It was of singular importance that the economic actions of the United States and other Western signatory countries were directed at the Soviet Union exclusively, not the members of CMEA or the Warsaw Pact. Unlike other Soviet uses of force outside its borders, the Afghanistan invasion was not a bloc action. It was appropriate, then, that the sanctions were not extended to the Eastern bloc.

Indeed, during the Carter period, normalized relations with the smaller nations of CMEA expanded, especially with Poland and Hungary. Poland received substantially more official agricultural credits (Commodity Credit Corporation credits) from the United States and a formal trade agreement between the United States and Hungary was signed, in conformance with the Trade Act, in 1978.

Implications of Economic Sanctions in Response to the Afghan Invasion

The application of the economic sanctions may be viewed as either a specific and unique response to an unacceptable Soviet action--the Afghan invasion--or as the beginning of a basic change in U. S. eastern commercial policy. To date, the Carter Administration appears to have left open the possibility that the degree of economic normalization attained prior to the invasion could be restored if certain conditions, such as Soviet troop withdrawals from Afghanistan, were satisfied. Whether the U. S. policy actions are reversible is important for our compliance with a number of the provisions of the Final Act:

1. Will the five year grain agreement stay in force? To date, 8 million metric tons are still permitted for export to the U.S.S.R. under the agreement.
2. Will licenses for high-technology exports in compliance with the Export Administration Act of 1979 be validated, including supply of parts, repairs, etc.?
3. Will long-term cooperative agreements, such as the Occidental fertilizer agreement be abrogated, modified, or temporarily changed?
4. Will the bilateral fishing agreement regulating Soviet fishing in the U. S. 200-mile zone be continued so that fishing rights may be restored?
5. Will the sanctions continue to be applied solely to the U.S.S.R., but not to the smaller nations of East Europe?
6. Will scientific and educational exchanges be delayed and interrupted not terminated?

If all of the above are answered in the affirmative, i.e., if the Administration leaves itself the option of reviving of the status quo ante in Eastern commercial normalization, then, the Commission's Status Report of November 1979 will be a valid basis for Basket Two discussion at Madrid. Otherwise, there may be a need for a basic reappraisal.

If the first interpretation is valid, the Commission's recommendation that the "network of commercial and scientific interchanges" be expanded with the Eastern CSCE states may be acted on.^{4/}

As also noted in the Status Report, "The Act's Basket II provisions have, however, provided governments and industrial enterprises with a well-defined chart of problem areas and suggested remedies."^{5/} As in my earlier testimony, I should like to comment on some of these problem areas and suggest remedies:

Business Contacts and Facilities

The quantity and quality of contacts have increased more rapidly than the trade turnover between the nations of East and West. Governmental commissions, chambers of commerce, accreditation and in-country facilities (including trade centers), have all moved forward. The number of specialists on various aspects of East-West commercial relationships has experienced a quantum jump. To date there have been few, if any, major backward steps. Whereas rumors abound that one or another major company may pull out of Eastern trade or that Eastern countries will begin to write off some Western nations in their future plans, little withdrawal has occurred. We are now in a critical time for such decisions in the U.S.S.R. Some banks,

^{4/} Status Report, pp. 254-5.

^{5/} Status Report, p. 254.

airlines, and businesses have modified their representation. Depending on how American banks and enterprises interpret current policy and developments, there may be significant future withdrawals.

Economic and Commercial Information

There has been some modest improvement in the data available, including that from the Soviet Union in the period assessed, but also some discouraging and distressing shortfalls:

- a) Whenever economic performance is poor, the data quality deteriorates or disappears, e.g., agricultural performance, energy output and consumption, regional data.
- b) Many series published before the Final Act have been modified or terminated without notice by some signatory nations.
- c) Data is selectively available to preferred Western banks or enterprises, but not to the public as required.

Industrial Cooperation

Trade of goods and services on a normal, commercial basis is clearly not enough to bridge the systemic differences and meet the needs of both Eastern and Western economies. Many hundreds of industrial cooperation agreements have been developed in recent years. The number varies according to definition. Several common problems seem to dictate the need for new forms, problems such as facilitating technology transfer flows, establishing new forms of financing, and providing for institutional conditions which would encourage stable trade relations between East and West. Technology transfer problems and the need to further develop a long-term relationship between the East and West have led to agreements on technological exchange as well as long-term contracts, such as the Fiat agreement which is now in its second decade. Balance-of-payments problems have encouraged compensation agreements that tie financing

to the export of products from the new enterprises. A myriad of less formal arrangements tend to encourage the established relationships which expand existing agreements rather than develop new ones. Western companies with "beachheads" in Eastern economies tend to be the vehicles for future development.

Arbitration and Other Institutional Arrangements

The acceptance of third-country arbitration and accommodation of Eastern legal and institutional practices to Western modes has relieved some uncertainty, cost and time in developing commercial relationships.^{6/}

At the same time, acceptance by Eastern traders of Western applications of quotas, anti-dumping procedures, and market disruption criteria has raised levels of uncertainty about the expansion of East-West trade in the minds of Eastern planners. The unexpected embargo of Eastern meat in the Common Market, the setback in the United States in the Polish golf cart case, are earlier examples of these Western market uncertainties. The decision of the International Trade Commission on market disruption in the fertilizer case raises further uncertainties on the future of compensation agreements in U.S.-U.S.S.R. trade.

RESTATEMENT OF PRINCIPLES AND PROBLEMS OF IMPLEMENTATION

A number of principles have been stated and accepted in the Final Act and subsequent documents. One overarching principle as yet unsettled relates to the definition of the general criteria for change: Is change to take place in the economic and commercial practices of all countries on the basis of common interest and benefit? or, are the Eastern countries to change toward Western principles and institutions? It is important to clarify

^{6/} M. Baumer and Dieter-Jabobsen, "Institutional Aspects of East-West Economic Relations," Journal of World Trade Law, August-September, 1976, pp. 434-452.

this principle, especially if, as I perceive it, the Eastern signatory countries adhere to the former interpretation and some of the Western nations—including the United States—adhere to the latter.

These differences are illustrated by official statements released in Bucharest in November 1976 and Washington in December 1976,

Eastern View

The states which participated in the All-European conference decided that they each will build relations with other participating states on the basis of the following principles: sovereign equality, respect of the rights inherent in sovereignty; non-use of force or the threat of force; inviolability of frontiers; territorial integrity of states; peaceful settlement of disputes; non-intervention into internal affairs; respect of human rights and fundamental freedoms; equality and the right of peoples to settle their own destinies; cooperation between states; and a good neighbor policy of fulfilling obligations under international law. The trends and forms of development of mutually-advantageous cooperation were defined and concerted. 7/

Western View

The Final Act has not transformed the behavior of signatory nations overnight, but it has committed the national leaders who signed it to standards of behavior which are compatible with Western thoughts about the relationship of people to their governments. With its profoundly Western orientation, the Final Act reflects the great importance that the West attaches to human rights and the self determination of peoples. As stated in greater detail in the accompanying report, the United States rejected in the negotiations and rejects in principle the concept of hegemony. 8/

The terms "mutually advantageous cooperation" and "profoundly Western orientation" seem to connote the difference in basic perspectives, even though the latter phrase is directly specifically to "Basket Three." There is no question that the structure of government in the Eastern and Western nations is different and that these differences influence the attainment of

7/ Warsaw Pact, p. 2. (Underline added.)

8/ Semi-Annual Report, p. VIII. (Underline added.)

the goals of the Final Act. Clarifying this concept is important. If the changes in institutions are primarily or solely on the part of the Eastern nations, then their motivation for compliance will be different than if the required changes are to be reciprocal.

Even assuming reciprocal change, the costs of change will have to be assessed in each case as less than the expected benefits. The exchange rate in these dynamic calculations would seem to differ from country to country in both East and West. Perhaps a useful guiding principle for all participating nations would be concentrating on those areas for change where the net benefits are perceived as greatest in both East and West. One example might be the provision of detailed planning data by Eastern nations in the interest of obtaining Western credits at world market rates. The cost to Eastern leaders might be a more relaxed disclosure policy than is traditional or deemed desirable, and a greater exposure of their economies to the involvement of Western decision-makers. The Western banks and commercial interests may, in turn, have to accommodate to the uncertainty and cost of operation in unfamiliar Eastern environments and/or possibly longer or more risky patterns of repayment. Each side presumably would benefit more than the perceived cost of change if the accommodations were made. Western nations would benefit by obtaining a greater understanding of Eastern economies which could result in the opening up of new markets and Eastern countries would benefit by obtaining much needed Western credits. At the same time benefits in economic affairs, in tariff and credit across the board, and changes in emigration and other policies of concern might not be easily balanced.

A number of specific principles and areas referenced in the Final Act may be commented on in terms of a likely net benefit calculus:

Economic Interdependence

The principle of world economic interdependence was stated in the Final Act:

Convinced that the growing world-wide economic interdependence calls for increasing common and effective efforts towards the solution of major world economic problems such as food, energy, commodities, monetary and financial problems, and, therefore, emphasizes the need for promoting stable and equitable international economic relations, thus contributing to the continuous and diversified economic development of all countries. ^{9/}

Complementarity of resources--natural and capital--adds to production and efficiency of economic performance. Eastern nations now refer to the international division of labor. Western countries restate the notion of comparative advantage. The flow of resources restricted only by production and transportation costs is to the general economic interest of all participants in the world market. However, some advantages or disadvantages from Eastern and Western perspectives may be contrasted by reference to selected aspects of more economic interdependence. These are illustrated below:

Technology Transfer

Western. Sales of plant and equipment to Eastern nations may broaden the future sale's base of technologically advanced product lines by permitting large-scale production, keeping unit costs down and research and development budgets up; however, some sales may put future global competitive positions at risk through patents and other contracts and may risk making a significant

^{9/} Final Act, p. 89.

contribution to the military-related production of possible adversaries, through the transfer of technology.

Eastern. Western technology effectively absorbed may be the critical margin for performance in key economic sectors. However, the political and institutional changes conducive to effective technology transfer may weaken the traditional Eastern system of planning and management.

Improved Reporting and Dissemination of Economic Information

Western. More and better economic information is the basis of expansion of economic ties. Stable markets and less risky relations are more likely to result in an economic environment in which knowledge of available economic opportunity is full and accurate. However, privileged commercial and banking information--industrial secrets, privileged market forecasts, etc.--is critical for maintaining competitive market positions.

Eastern. Generation of more uniform, reliable data may improve Eastern planning and management and, if supplied to Western users, may assure lower price and more favorable credit terms. However, control over information is a form of political control and a security measure. Wider, foreign dissemination of key economic data may weaken Party control of the economy, escalate debate among resource claimants, and provide information to those who may use it for purposes otherwise adverse to Eastern state interests.

TRADE DEVELOPMENT

In principles most countries now favor increased trade.

Western. The Tokyo Round reinforced American and Western commitment to free trade. Freer trade may encourage substantial long-run expansion of markets in the Eastern nations and provide cheaper, better sources of raw

materials and manufactured goods. However, a sharp change in commercial markets may lead to dislocation in the Western domestic economies in terms of employment and production, e.g., components for Western autos may be produced at lower cost in Eastern nations. The short-term impact on Western employment may be deemed costly.

Eastern. Lower tariffs (MFN would especially favor Eastern industrial exports to the West), less restrictive quotas and other measures directed toward the Western principle of free trade would facilitate the expansion of East-West trade and reduce the pressures of balance-of-payments deficits. However, expanded exports of industrial products requires some upgrading to meet world market standards and will still leave products open to unilateral determination of market disruption or dumping. Easier credit terms or extension of cooperative agreements may mean more intrusion in the domestic information and management systems than desired.

JOINING THE WORLD MARKET

Interdependence implies some acceptance of the world market.

Western. Large scale, high technology Western enterprises require expanding markets to take advantage of economies of scale, keep costs down and stay competitive. The Eastern market appears to be the great untapped potential. However, the Eastern state control of trade isolates the Western seller from the user, long-term stability of trade prospects appear somewhat unpredictable, costs in a highly bureaucraticized and controlled Eastern market seem high and short-term profits small.

Eastern. Access to the world market may not only provide superior goods, technology, and systems, but some guide to domestic Eastern comparative advantages in establishing production priorities. However, the world market still has the traditional Marxist disadvantages of being anarchic, subject to cycles in demand and instability in prices. The recent Eastern exposure to Western stagflation, contributing to their balance-of-payments deficits brought this long-term problem abruptly into current focus.

INTERRELATIONSHIP OF BASKETS

In general, all issues of the Final Act are interrelated, but how and in what manner is under question.

Western. Progress in economic interdependence may shift the emphasis away from security and political confrontations toward areas of mutual interest in expandable commercial and cultural relations and redirect the emphasis away from military and political control. However, military preparations in the East and reduction in the cultural and political barriers may not proceed hand in hand with economic improvement, e.g., resources may be released for rather than withdrawn from military programs; moderation in foreign relations may lead to more control of internal change in domestic Eastern relations.

Eastern. There may, in the short run, appear to be more gain from expanding economic relationships with the West and the world market--advanced technology, improved systems of management, and the like; Western conditions may tie "Basket Two" to "Basket Three" and overbalance the economic gains with perceived losses in political terms. "Humanization of borders" or relaxed restrictions on emigration may lead to "brain drains," weakening of political, control, and external criteria for decisions perceived to be domestic in character.

AGENDA FOR MADRID

Issues may be developed that may be resolved by instrumentalities to expand on the application of the Helsinki agreement.

I. INSTRUMENTALITIES TO EXPAND ON THE APPLICATION OF THE HELSINKI AGREEMENTA. Economic and Commercial Information

The data and information required for normal economic and commercial relations has deteriorated. A better monitoring and consultative system appears to be needed. General release of economic data has not improved for any Eastern signatory countries. The following are options that might be considered to improve the situation:

- 1) A non-governmental American advisory group
to the Commission on the status of compliance in specific countries--"an economic/commercial Helsinki Watch Committee."
- 2) An informal Western government committee might be set up to monitor compliance on a continuous basis. This multilateral Western government group might use the inputs from the American group or other national groups for consideration.
- 3) A continuing committee within the Helsinki framework might be set up to discuss data and information questions.

B. Business Contacts and Facilities

Cost and efficiency in East-West relations is dependent on improved commercial relations, better in-country facilities, improved visa arrangements. This is an area where other Western nations than the U. S. may effectively take the initiative, e.g., the Federal Republic of Germany.

C. All-CSCE Meetings on Specific Topics

Specific Soviet suggestions have been made for holding transport, environment, and energy meetings in the CSCE context. Some Western initiatives may be forthcoming on such meetings as an All-European or All-CSCE energy meeting. These meetings would certainly be affected by the changes that occur in signatory nation policy in the wake of the Soviet Afghanistan invasion and the Western sanctions.

II. INSTRUMENTALITIES TO ENHANCE THE ORIGINAL HELSINKI AGREEMENT

A clarification of the universality of mutual interest and mutual benefit flowing from adherence to the spirit, as well as the latter of the agreement, might be in order. The useful assessment of United States' compliance referenced in the Status Report is a positive step toward this goal. The assessments in the Status Report indicate that the United States no longer considers itself or other Western nations as the norm for compliance. A further detailed clarification might be useful by all signatory nations at Madrid that all recognize a need to improve compliance, based on common mutual benefit. I attempted to develop common bases and objectives for East-West commercial relations in a discussion paper published recently, reflecting papers by leading Eastern and Western economists. (See enclosed). 10/

10/ J. Hardt, "Commentary on Professor Bogomolov's Position," Partners in East-West Economic Relations, the Determinants of Choice. New York. Pergamon Press, 1979. pp. 18-27.

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Mr. SIMON. My apologies for proceeding in that way. We thank you for your patience in being here this long. Our hearing is adjourned. [Whereupon, at 12:05 p.m., the meeting was adjourned, to reconvene at the call of the Chair.]

APPENDIX

RESPONSES BY J. MISHELL GEORGE TO QUESTIONS SUBMITTED IN WRITING PRIOR TO THE HEARING

1.

QUESTION:

How does the current economic embargo on the Soviet Union conform to our obligations under the Helsinki Agreement? Can the U.S. argue that these actions are in compliance with the letter and spirit of the Final Act? How does the placement of economic trade restrictions against the Soviet Union change the positions we took in Basket II at Belgrade?

ANSWER:

The Final Act is neither a treaty nor a legally binding agreement; it is, rather, a document signed at the highest level imposing certain moral and political obligations on the 35 signatory states.

The preamble to the Final Act, the Declaration on Principles, unequivocally states that CSCE signatories "will refrain in their mutual relations, as well as in their international relations in general, from the threat or use of force against the territorial integrity or political independence of any State..." The Soviet actions in Afghanistan are clearly in violation of that principle, indeed in violation of the spirit of the Final Act.

The Helsinki Accords provide a blueprint for steadily increasing economic cooperation on the basis of respect for the norms of international conduct. Soviet actions have regrettably undermined the possibilities for expanding our economic and commercial cooperation with the Soviet Union at this time, while underlining the need for us to continue with our cooperative endeavors with the East European countries.

At Madrid, as at Belgrade, we will seek a thorough review of implementation, and entertain proposals for new cooperative projects which might further implementation of the Basket II provisions, commensurate with changing circumstances.

2.

QUESTION:

What is the value of expanding trade with the Soviet Union and Eastern Europe in terms of American jobs and business? In terms of our balance of payments? What can be done to encourage long-term purchasing patterns in place of short-term sporadic trade? Has there been any progress in the effort?

ANSWER:

U.S. exports to the U.S.S.R. and Eastern Europe reached a record \$5.7 billion in 1979, yielding a U.S. trade surplus of \$3.8 billion. The value of the cumulative 1972-1979 U.S. surplus was \$12.0 billion, providing beneficial effects to U.S. domestic employment and our balance of payments.

Even so, trade with these countries is only a very small portion of U.S. trade with the world, with 1979 exports to the U.S.S.R./EE only about 3 percent of our total to the world and with these countries providing only about 1% of our total imports.

The major portion of U.S. exports to the Soviet Union and Eastern Europe has always been agricultural products (1979 shipments of \$4.5 billion were 79 percent of our total exports to these countries). While agricultural exports to the Soviet Union and Eastern Europe have fluctuated, depending partly on their grain crops and import needs, manufactured good imports from the United States have grown from \$174 million in 1972 to over \$978 million in 1979. However, the U.S. share of Western manufactured goods exports to these countries has never been large. For example, the U.S. share of Soviet manufactures imports from the West fluctuated between 5.3% and 8.7% in recent years, with the FRG, Japan, France, Italy, and sometimes the U.K., usually ranking ahead of the United States.

The relatively low U.S. position as a manufactured goods supplier is attributable to several factors, including long standing trading ties between Western Europe and the communist countries, while the U.S. lags in normalizing commercial relations with some of these countries.

The development of stable, long term trading patterns between the U.S. and the Eastern countries is necessarily a slow process, requiring development of information on market opportunities and a building of mutual confidence.

Joint ventures and various forms of industrial cooperation which provide for exchanges of technology, equipment and products extending over several years and which develop continuing relationships between Western firms and their Eastern counterparts provide one route to an expanding, long term, mutually beneficial trade.

We have worked within the bilateral commissions, with the Economic Commission for Europe and through other means to foster the conditions that make industrial cooperation arrangements beneficial to both parties. Some progress has been made and we will continue these efforts.

3.

QUESTION:

What might be gained by extending MFN to the Soviet Union, and to Eastern European countries which do not now benefit from such treatment? What benefits can the U.S. realize in terms of commercial sales, jobs, joint venture-type arrangements, enhanced independence of Eastern European countries, progress in humanitarian areas?

ANSWER:

MFN privileges have been extended to Poland, Romania and Hungary. According to econometric studies, the potential benefits of MFN to those countries not yet accorded this treatment (the U.S.S.R., Czechoslovakia, the German Democratic Republic and Bulgaria) would vary markedly, depending on their export patterns. A Commerce Department study estimated that MFN treatment would have expanded the recipient's 1976 exports to the U.S. as follows:

U.S. Imports Under MFN and Non-MFN Conditions
(Million of U.S. Dollars)

	1976 Actual \$	1976 Estimated \$ MFN Increase	1976 Percent Rise
Bulgaria	26.9	11.2	41.4%
Czechoslovakia	36.4	63.3	169.0%
GDR	13.7	34.2	250.0%
U.S.S.R.	220.9	17.3	7.8%

According to these estimates, the direct benefits of MFN would be quite small, particularly for the Soviet Union, which currently exports mostly raw materials and semi-finished products not importantly affected by non-MFN rates.

Econometric studies of MFN benefits, however, are necessarily static analyses based on historical data and cannot accurately assess the potential longer term effects on trading patterns. Non-MFN rates impose an artificial economic barrier that tends to distort and reduce current levels of U.S. trade with countries lacking this normal trading status. However, non-MFN treatment alters not only current trading patterns, but may have even more important effects on future patterns. For example, the U.S.S.R. is not currently a significant exporter of aluminum, so that econometric modeling of the non-MFN treatment does not consider its effects on Soviet aluminum exports to the United States. But, MFN treatment on U.S. markets was an important consideration in discussions of U.S. and competing Western firms on joint ventures for the production of aluminum, wherein payment was to be accomplished by Soviet aluminum exports from the venture's output.

Similarly, lack of MFN treatment is likely to discourage the participation of U.S. firms in any cooperative projects wherein the resultant product would encounter significant non-MFN tariff rate differentials, effectively displacing these transactions and their sales and job creation benefits to our Western competitors.

In addition to the economic barriers created by lack of MFN, failure to provide this normal trading status creates strong psychological barriers on the Eastern side, where MFN is seen not only in economic, but in prestige terms. Receipt of MFN is viewed as a recognition of the legitimacy of the trading relationship and as an essential link in forging a more normal relationship. Indeed, there are probably rather narrow limits on further increases of trade with those countries not granted MFN.

More generally, the extension of MFN would allow the Eastern Europeans to expand their trade relations with the West. This will help them to adopt a more independent stance in their international relations.

4.

QUESTION:

What has been the experience of the U.S. government and business with the commercial agreements with Romania, Poland, and Hungary? What plans are there for conclusion of agreements with other East European countries? What prospects are there for revival of the agreement with the Soviet Union?

ANSWER:

The signing of Trade Agreements with Romania in 1975 and Hungary in 1978 made both countries eligible for most-favored nation tariff treatment, subject to annual review by both Houses of Congress. (Poland has been receiving MFN from the United States since 1960, although the U.S. has not formally concluded a Trade Agreement with the Poles). As a result of MFN our total bilateral trade with these three countries has grown steadily, with increases in both U.S. imports and exports. Additionally, conclusion of a trade agreement with Hungary made that country eligible for credits from the Export-Import Bank and the Commodity Credit Corporation. (Poland and Romania also are eligible for CCC and Ex-Im credits.) These programs have played an important role in the export of U.S. manufactured and agricultural products to Poland and Romania, as well as Hungary, by helping U.S. firms compete more effectively against other Western countries.

At this time there are no plans for concluding trade agreements with Bulgaria, Czechoslovakia, or the German Democratic Republic, nor do we envision proposing implementation of the 1972 agreement with the Soviet Union at this time.

5.

QUESTION:

Should the U.S. re-examine the possibility of extending Export-Import Bank credit to the Soviet Union and to Eastern European countries not now entitled to such credit, as well as loosening further the credit ceilings? If U.S. export credits were made available to Eastern countries not now entitled to such credits, what might be gained in terms of American commercial sales and jobs? In terms of balance of payments benefits? Should we consider amendment or repeal of the Johnson Act to facilitate borrowing by some Eastern European countries on the American financial market?

ANSWER:

Elimination of existing restrictions on U.S. export credits to Eastern countries is a desirable objective of trade normalization which we hope can be achieved one day. While not prepared to sponsor a legislative initiative at present, the Administration is prepared to seek change at a more appropriate time, consistent with overall U.S. foreign policy objectives.

Assuming a more positive evolution in the overall East-West political climate than has occurred of late, there would undoubtedly be a significant increase in U.S. exports to those Eastern countries presently subject to USG credit restrictions. This would mean increased business for U.S. companies, more jobs for American workers, and an improved U.S. balance of payments position.

Amendments and Attorney General opinions have narrowed the scope of the Johnson Act so that it now applies only to certain types of credits to some Eastern countries, i.e. Czechoslovakia, Poland, the U.S.S.R., and possibly the German Democratic Republic. The Act does not impede export financing from the United States, nor has it prevented these countries from securing needed general-purpose dollar loans outside the United States.

The Administration supported repeal of the Johnson Act in 1945, in 1973 hearings on pending trade legislation, and in 1976 congressional hearings. Under present conditions, however, we have no active plans to seek repeal of this legislation, although we are hopeful for circumstances which would permit this some day.

6.

QUESTION:

Is any easing of U.S. export control legislation or regulations feasible? (Consider in terms of commodities permitted for export to Eastern Europe; speeding action on license applications). What would be the effect of easing export controls on the U.S. balance of payments; on national security?

ANSWER:

We do not believe that it is necessary to amend the Export Administration Act of 1979 (EAA 79) which became effective last October 1. There is sufficient flexibility within the legislation to permit either easing or tightening of controls. Amending the Export Administration Regulations within the framework of the EAA 79 is a continuing process that can either ease or tighten our control over commodities permitted for export to Eastern Europe.

U.S. export controls imposed for national security purposes are coordinated with our partners in COCOM during periodic negotiations to revise the COCOM list of controlled items. The 1978-79 COCOM List Review, except for computers (CCL 1565) and recording media (CCL 1572), has been completed and the revised list of controlled items will take effect on April 1. In compliance with EAA 79, the U.S. commodity control for Eastern Europe will also be amended on April 1. These changes will increase controls in some areas while decreasing control in other areas. The inter-agency policy review currently in progress is operating under the goal of minimizing long-term trade disruptions while protecting U.S. national security and foreign policy objectives.

We are placing top priority on improving the processing time for license applications. In Section 10 of EAA 79 many processing deadlines are imposed on Commerce and our advisory agencies. We are now in the process of formulating and implementing changes in our procedures to insure compliance with Section 10. The Secretary of Commerce has ordered a management and resources review of OEA to determine the adequacy or inadequacy of the OEA budget/resources/staff to carry out its functions under EAA 79. He has further advised OMB of this study and the possibility that reconsideration of budgeted resources may be in order.

The effect on the U.S. balance of payments or U.S. national security of any relaxation of controls would depend upon the nature and scope of the relaxation contemplated. The U.S. is not a major trading partner of the Soviet Union and exports of controlled items to the U.S.S.R. represent only a fraction of our overall trade picture. Therefore, the near-term effects on the U.S. balance of payments of a relaxation of controls would be relatively minor.

7.

QUESTION:

What access do American firms enjoy to prospective end-users of their products and to other commercially influential institutions in individual Eastern European countries? To what extent has such access improved since the Final Act was adopted? What is the U.S. government doing to persuade Eastern European governments to comply with their CSCE pledges in regard to business contacts and facilities?

ANSWER:

Over the past five years, conditions have improved moderately for U.S. businessmen in gaining access to East European end-users and government officials. It is impossible to report the exact number of trade contacts made between U.S. businessmen and their East European counterparts since the Final Act was adopted, but there can be little doubt that this largely unofficial and private network of trade contacts has increased since August of 1975 and has been one indication of both sides' positive attitude toward East-West trade.

Contact has been facilitated through several mechanisms. The three joint Commercial Commissions which the U.S. has established with Poland, Hungary, and Romania have been especially active in examining problems regarding the availability of business facilities in these countries, bilateral exchanges of commercial information, and access to end-users. In addition, the annual bilateral consultations between government representatives of both sides on implementation of the business facilitation provisions in Basket II of the Final Act have provided opportunities in which to discuss questions and problems in this area. While some problems remain in individual countries' compliance with these provisions, progress has been made since the signing of the Final Act.

8.

QUESTION:

Under the current trade restrictions against the Soviet Union, how many validated licenses have been revoked, suspended or denied? What type of goods have these entailed? What goods are restricted for export from the U.S. but have not been restricted by COCOM? What is the anticipated loss to the business community because of these restrictive measures? Will West European nations permit export of products restricted by the United States? If so, which nations and what products? What is the long-term effect of these trade restrictions with respect to trade flows, reliability of source, etc.?

ANSWER:

While we are pleased to respond to the Commission's question, we do not consider the subject of export controls, which is primarily a question of national security and foreign policy, a proper subject for discussion within the context of Basket II.

Since January 8, when the President directed that no further validated license be issued for export to the U.S.S.R. pending completion of a review of U.S. export policy, eight export license applications have been denied and two have been revoked. Two hundred eighty-four outstanding validated licenses for export to the Soviet Union have been suspended. The applications that were denied covered products with potential military applications such as yarns used for ballistic protection and high-strength military structures; digital computing systems and peripheral enhancements for Soviet computers; seismic data processing equipment; research equipment used in the development of microwave semiconductors; and technical data and technology for a telecommunications plant. The licenses revoked were for the export of spare computer parts for the Soviet Union's Kama River truck plant.

We are currently engaged in discussions with our COCOM partners in an attempt to arrive at an agreed multilateral position on restrictions on exports to the U.S.S.R. The extent of West European and Japanese participation in controls will have a definite bearing on final U.S. licensing policy. These discussions are currently in their early stages; it would be inappropriate to attempt to predict their outcome at this time.

The long-term effect on trade flows, reliability of sources, etc., of the current suspension of export licensing to the U.S.S.R. will depend on the scope and duration of the controls decided upon as a result of the current review of U.S. export policy. We expect that review to be completed soon.

9.

QUESTION:

What U.S. government restrictions are impeding the operations of East European business representatives in the U.S. and in what areas (i.e. visas, travel, joint stock company formation, permits for commercial offices etc.); might easing of restrictions be considered? What is the U.S. government doing and what ought it to do to encourage smaller firms to establish or expand trade with Eastern Europe? Has there been any improvement since CSCE?

ANSWER:

Since the signing of the Final Act the U.S. has acted favorably on several requests by East European commercial organizations to expand and facilitate their operations in the U.S., both in terms of personnel and scope of activity. For example, Hungary has opened a branch office of its New York Commercial Office in Chicago and an office of the Hungarian National Bank in New York; Romania has established an office of the Romanian Foreign Trade Bank in New York; and the GDR and Bulgaria have been granted permission to open commercial offices in the U.S. To date, 12 offices outside Washington have been established to promote East European commercial interests in the United States. These governmental offices must comply with all U.S. laws and regulations, including the Foreign Agents Registration Act, but these laws are applied on a non-discriminatory basis.

East Europeans have criticized U.S. visa laws and procedures as discriminating against their businessmen. Specifically, complaints have focused on what is alleged to be U.S. Final Act non-compliance in refusing visas to East European businessmen on national security grounds and in the lengthy delays many have experienced in obtaining visas. The U.S. has attempted to ease these problems by proposing the extension of multiple entry visas to resident businessmen from CMEA states on a reciprocal basis (agreements have already been signed with Romania in 1977 and GDR in 1978). Generally, for the large majority of Eastern businessmen, U.S. visas are granted promptly and with few or no difficulties. Occasional delays may be attributed to the fact that new U.S. procedures have recently been established and that prudent decisions must carefully be considered.

Under the existing regulations economic or foreign policy concerns may not be considered in making decisions on visa applicants who may pose a national security risk. It is appropriate that the Commission has recommended that the appropriate bodies in Congress re-examine the relevant provisions of the Immigration and Nationality Act to allow for consideration of other criteria and to ensure that visa requests are processed as expeditiously as possible.

10.

QUESTION:

What are the requirements of American business and other American organizations for quantity, quality, types of, timeliness of economic and commercial information from the Soviet Union and Eastern European countries, and to what extent are these being met? What improvements, if any, have become noticeable since the Final Act? What further improvement might be obtainable through bilateral action? At Madrid?

ANSWER:

The requirements of American business for economic and commercial information are essentially those proposed in the Final Act. Statistics on market size; production and consumption; statistics on foreign trade by product and country; laws and regulations concerning trade; information on a country's planned economic development; and information on useful contacts. The business community could further benefit from knowledge of the needs and expectations of end-users and from knowledge of marketing practices and channels of distribution. U.S. banks need data on balance of payments, debt, and debt service obligations.

Information in these areas from the Soviet Union and East European countries is usually so sketchy and irregular as to be of little use to the business community, though the quantity and quality of economic information varies from country to country. The President's semi-annual reports to this Commission, the most recent of which was submitted in January of this year, provide somewhat detailed summaries of the status of the provision of economic and commercial information on a country-by country basis. The reports have concluded that, with some minor exceptions, the volume and quality of information has not improved significantly since the signing of the Final Act.

Through bilateral channels, the U.S. continues to seek improvement in Eastern provision of economic and commercial information. This topic is a major concern at meetings of the bilateral joint commercial commissions the U.S. has established with the U.S.S.R., Romania, Poland, and Hungary. In Romania, Hungary and Poland, the Export-Import Bank uses bank-to-bank channels to obtain financial information, and the Polish government is now providing financial information in considerable detail to selected Western creditors.

At Madrid, we hope to pursue efforts begun in the Trade Committee of the Economic Commission for Europe directed toward improving the quality of commercial information and harmonizing foreign trade statistics nomenclatures to conform with the standardized reporting code used by the U.N. We will seek at Madrid a reaffirmation of the tasks mandated by the Final Act and carried out largely under the auspices of the Trade Committee to promote the collection, publication and dissemination of economic and commercial information.

11.

QUESTION:

To what extent are American firms now being permitted to carry out market research and trade promotion activities in Eastern Europe? What can be done, in the bilateral or multilateral context, to encourage Eastern European governments to permit more traditional market research and trade promotion activity?

ANSWER:

The extent to which American firms are now being permitted to carry out both market research and trade promotion activities within Eastern Europe varies from country to country. In fact, the only general statement that can be made is that if a given company is willing to devote the time to win the trust of the host country officials and production managers in the company, its products, and the company's representatives, the company can be reasonably successful in marketing its products in Eastern Europe.

The problems of market research and of trade promotion in Eastern Europe are of sufficiently different character to warrant splitting the discussion of the two.

In discussing market research in Eastern Europe, the obvious must be stated--in a state-controlled economy there is really no such thing as a true market place as we in the West understand it. The market for imported consumer goods is precisely what the state says it will be and is not dictated by consumer preferences or by consumer demand. For all practical purposes market research in the Eastern European countries focuses upon potential markets for capital goods. If a company takes the time to study the published materials from Eastern Europe, understands the interlocking nature of a given economy, and has earned the trust of that economy's decision makers, then that company can obtain a fairly accurate reading of the potential market for its products. Once the host ministerial and production officials have built up trust in the company, rather specific and detailed questions may be asked and will frequently--though not always--be answered.

American companies, once they establish their purely commercial motives, can often accomplish more than can Western governments who, Eastern governments may fear, are more interested in economic and strategic intelligence, rather than in market research. Often the best the U.S. Government and other governments can do to assist private or governmental agencies engaged in research into the needs of various sectors of centrally-planned economies (CPEs) is to strive to have the CPEs grant these agencies access to end-user ministries, institutes, and factories, rather than limiting them, as they presently too frequently do, to interviews with foreign trade organization officials.

American firms can use some traditional trade promotion activities in Eastern Europe. They may place advertisements in the local technical journals. They may send product literature and accompanying technical specifications to ministerial officials for further dissemination. Once they have established trust in their purely commercial interests, American firms can often send these materials directly to end-users. American firms participate continually in trade fairs and in seminars in Eastern Europe and find by doing so that they are in direct, personal contact with end-users and decision-makers.

In the bilateral context the U.S. Department of Commerce already has an active program of assisting American companies in their trade promotion activities.

In sum, the best way to achieve the long-term objectives of the Helsinki Agreement is for the U.S. Government to (a) encourage and assist private firms that are researching needs for only their own products/services, (b) push for greater access to end-user agencies for researchers studying the needs of various sectors of centrally planned economies for categories of goods/services to be supplied from various sources, and (c) continue to engage in an active program of assisting U.S. companies in their market development efforts.

12.

QUESTION

What are the principal cooperative ventures now in existence between American firms and Eastern European, including Yugoslav, enterprises? Among these, which ventures involve a U.S. equity investment and real joint management? What are the obstacles to ventures?

ANSWER

Legislation enacted by Eastern European governments permitting the formation of industrial cooperation ventures with Western equity participation, dates back to the late sixties in Yugoslavia, early seventies in Romania and Hungary, and to the late seventies in Poland. Coproduction arrangements, involving transfers of technology and sales of equipment and machinery partially repaid in long-term deliveries of goods resulting from the Western export but where no equity position is required of the Western party, have been encouraged by the communist countries for a number of years. To date, one U.S. equity joint venture has been established in Romania, one in Hungary and some 26 in Yugoslavia. Coproduction ventures with U.S. firms exist in Hungary, Poland, Romania and Yugoslavia.

In April of 1973, the Romanian Industrial Central of Electronics and Automatization (CIETC) and the Control Data Corporation established a limited liability joint-venture (Rom Control Data) in Romania to produce Control Data computer peripheral equipment. Ownership of the venture is 45% Control Data and 55% Romania. The venture was capitalized at 4 million dollars, with Control Data's contribution being primarily technical know-how and support. CIETC's contribution consisted primarily of buildings, facilities, and tools. Rom Control Data is a limited liability joint venture directed by the company's Managing Committee. According to the Control Data agreement, the Managing Committee has seven members, viz, three from each investing party and a Romanian General Manager. Both parties to the venture are involved in the day to day operations of the company.

In December 1975, the first American-Hungarian joint cooperation enterprise (Radelcor Instruments, Ltd.), was founded between Corning International Corporation, Hungary's Radelkis Electrochemical Instruments and the Metrimex Hungarian Trading Company for Instruments. The venture has 49% Corning Glass participation (Radelkis holds 41% and Metrimex 10% of the 26 million forint capital). Radelcor was designed as a distribution company for analytical and laboratory instruments and related products that Radelkis manufactures under license from Corning, and acts as a representative of both parties in Hungary. Radelcor may also market other Corning medical products. Radelkis has been manufacturing M-161 type blood gas analyzers since 1976. Corning supplied technological assistance, know-how and certain machinery. According to the agreement, 40% of the apparatus will be sold by Corning on its own markets, and the remainder, after fulfilling domestic requirements, will be exported by Radelcor. The company's operations are run under joint management.

Since 1967, about 26 firms have entered into equity joint venture agreements with Yugoslavian enterprises. The combined investment of U.S. firms amounted at the end of 1978, to about \$170 million, which accounted for about one half of the total foreign joint venture investment. Among the principal U.S.-Yugoslav joint ventures are those of General Motors Corporation with Liunica Zelezara

i Tempera involving a 49% U.S. participation in the manufacturing of automotive castings (1974); Gillette Co. with Yugoslavia-Commerce involving a 38% U.S. participation in the manufacturing of razor blades (1973); Eaton Corp. with Rudi Cajavec involving a 41.6% U.S. participation in the manufacturing of electronic components (1972); Dow Chemical Co. with OKI involving a 49% U.S. participation in the production of polystyrene (1971) and with INA involving a 49% U.S. participation for the construction and operation of a petro-chemical complex (1976). The above joint ventures involve U.S. equity investments and joint management.

Noteworthy coproduction arrangements are those signed in 1972 by International Harvester with the Polish enterprise Bumar for the manufacture of crawler tractors based on IH design; by Steiger Tractor Co. with the Hungarian enterprise Raba to manufacture tractors of Steiger design; by Eaton Corp., also with Raba, for the manufacture of axles; and by Corn Production Systems with the Hungarian Babolna Agricultural Combine on the development of corn growing. Romania's only existing coproduction arrangement with an American firm involves a contract with Lipe-Rollway for the production of industrial bearings. No operational coproduction arrangements with U.S. companies have been established in the German Democratic Republic, Czechoslovakia or Bulgaria.

The East European countries have recognized the importance of international economic and industrial cooperation as a means to expand their markets and secure needed technology in light of possibly tightening credit markets. Yet, the basic prerequisite for a successful transnational cooperation effort, i.e., the profit-oriented free flow of capital and goods, is limited in the East-West context by two factors: the nonconvertibility of CMEA currencies and the centrally programmed development of the markets in these countries. Nonconvertibility limits the Western partner's motivation to earn profits in local currencies, while central control restricts Eastern markets to specific categories of goods, usually non-consumer goods.

The disappointingly moderate response of Western firms to the opportunity to invest in centrally planned economies reflects the above limitations. Also, expectations nurtured when Hungarian and Romanian joint venture legislation was promulgated in the early '70s suffered a setback in the mid '70s due to the cautious capital investment policies practiced by Western firms during those energy crisis years. What were thought by the Eastern planners to provide attractive investment incentives at the beginning of the '70's turned out to be insufficient a few years later, when the attention of many Western companies was directed to the Middle-East (OPEC) markets. Some of the more commonly expressed reasons that have contributed to the hesitancy of Western firms to enter into joint ventures in Romania and Hungary are described below.

A primary concern of a joint venture's partners is gaining access to each other's markets without compromising established positions or contractual obligations in their own markets. However, the

East European emphasis on penetrating convertible currency markets through exports of the joint venture's production is not usually balanced by a capability to foster export expansion to their own trading partners' markets.

While the joint company has as a stated aim the attainment of profits, differing concepts of return on investment in the centrally-planned and Western economic systems appear to be a main source of difficulty. In centrally-planned economies, return on investment is viewed as mainly a return on capital investment, while the Western view also includes returns on such committed resources as management, technical services, marketing, and a return for the adjustment necessary in relocating production facilities, as well as a return for assuming the risk inherent in any ownership-type venture.

According to some Western businessmen, the centrally-planned production and marketing goals prescribed for plant production in Romania and Hungary often conflict with the Western party's aims of maintaining flexible production and marketing to conform to changing market conditions. A centrally planned economy's dedication to steady annual economic growth, reflected in the ever increasing production goals of individual plants and hence, of plant managers, fosters inherent resistance whenever a reduction in plant output is desirable to conform to market conditions.

It is also said that efforts by the Western party to modify and improve a joint venture's performance have often been frustrated by the difficulty with which local managers adapt to modern managerial practices and, sometimes, by official resistance from outside the joint venture. Independent decision making by local managers or other personnel has been traditionally subordinated to quota-oriented production policies, and innovative changes in established methods have been avoided for fear that they may lead to delays in meeting prescribed short-range goals.

To the above must be added the slow pace of negotiations, seen by Western parties as excessive and stemming from:

- the cautious attitude with which Eastern authorities approach the subject of foreign investment within the boundaries of their countries;
- the time needed for these countries' experts to assimilate all the commercial implications and technical aspects of the venture;
- bureaucratic delays believed to be inherent to centrally planned economic systems;
- the use of protracted negotiations and plan-revisions as a bargaining technique to reach the most favorable contract.

13.

QUESTION:

Is there some utility in an all-European energy, environmental, or transport conference?

ANSWER:

Shortly after the Helsinki conference, General Secretary Brezhnev proposed all-European "High-Level Meetings" in energy, environment and transport. The suggestions were taken up by the ECE, a UN body whose membership closely approximates the list of CSCE signatories, and which the Final Act cites frequently as an appropriate forum for work on several Basket II topics. The ECE subsequently elaborated criteria for such high level meetings, which are:

"that the subject matter should require a high level of representation,

"that such a meeting should hold promise of important decisions,

"that the topics under consideration should be of concern to the region as a whole, and not lead to unnecessary duplication of the work of other international organizations."

The Nordic countries took the initiative to make the focus of an environment meeting an international convention on air pollution. A High Level Meeting on the Environment in the ECE framework was held in November 1979 at which an International Convention on Transboundary Air Pollution was signed. We consider that the meeting and the international agreement which it produced were useful.

The issue of a High Level Meeting in the field of energy is currently being considered by the Senior Advisers to ECE Governments on Energy, a temporary ECE body. We have made clear in the Senior Energy Advisers that we consider meaningful exchange of information on national energy resources, programs, and policies among ECE governments to be necessary for the success of a European energy meeting. These concerns have lately been overshadowed by the Soviet invasion of Afghanistan, following which we informed our Allies of our opposition to any movement toward a High Level Meeting under present circumstances.

In respect to a transport conference, we do not at this time see utility in such a meeting, nor have we had demonstrated to us how such a meeting might meet the ECE's criteria for high-level meetings.

14.

QUESTION

What problems do American firms have with contract disputes in the Soviet Union and Eastern European countries? How have these been arbitrated? Have Eastern European firms become more ready to accept outside arbitration since CSCE?

ANSWER

Over the past several years there have been a number of contract disputes between American firms and their Soviet and East European trading partners. These have involved typical commercial issues, such as performance under contractual guarantees, delays in delivery, force majeure, delays in payment, etc. Considering the level of trade, there have not been an inordinate number of disputes, however.

Most such contract disputes are resolved by direct negotiation between the parties without resort to arbitration. In some cases, U.S. companies have reached compromise solutions and have been satisfied with the results. In other cases, a satisfactory solution has not been reached, but the American firm involved has decided not to pursue the matter. In at least one case, unsuccessful negotiations led the firm to actually file an arbitration claim and the dispute was settled shortly thereafter.

Arbitration clauses in U.S. contracts with the USSR and Eastern Europe generally call for arbitration in a third country, such as Sweden or Switzerland. In the few cases where during negotiations the Soviets or Eastern Europeans propose arbitration before their own arbitral tribunals, they will usually agree to third country arbitration if the American firm makes an issue of it. Nonetheless, uninformed U.S. companies occasionally still agree to arbitration of disputes in their partner's country.

In general, Soviet and Eastern European practice in arbitration matters has not changed significantly since the early 70's and does not appear to have been affected much by CSCE. If anything, one might say that the Soviets and Eastern Europeans are slightly less likely to demand arbitration in their home tribunals since CSCE.

It should also be mentioned that the USG has in several instances raised specific contract disputes in the context of government-to-government meetings. The usual approach is to state that the USG is aware of the dispute and has an interest in having it amicably resolved by the parties, without getting into a discussion of details of the particular problem. In some cases, such a USG representation has appeared to help bring about a negotiated solution, while in other cases it has been unsuccessful.

Finally, it must be remembered that some trade disputes do not arise directly out of contractual relationships between American firms and Eastern European foreign trade organizations. For example, the patent dispute between U.S. chemical companies and several Hungarian enterprises involves, inter alia, sales of Hungarian-made products in third countries. The American firms claim that their patent rights in those countries are being violated, but arbitration is not being pursued because there are no contractual relationships on which to base such an approach. Instead, the companies are pursuing legal actions in those third countries and the USG is also making representations to the Hungarian Government on their behalf.

15.

QUESTION:

How have agreements now in existence between the U.S. and individual Eastern European countries served the interests of American business?

ANSWER:

The Romanian and Hungarian Trade Agreements contain provisions governing the expansion of trade through extension of non-discriminatory tariff treatment, facilitation of business contacts, market disruption safeguards, rights relating to financial transactions, rights relating to patents, trademarks, copyrights, and other industrial rights and processes, and settlement of trade disputes. The Long-Term Agreement on Economic, Industrial, and Technical Cooperation between the United States and Romania, implemented in 1977, contains detailed provisions governing equity investment, joint ventures, and other types of cooperation agreements. The various accords on business facilitation that we have reached with the Poles have enabled over 20 American firms to establish offices in Warsaw.

Conventions to eliminate double taxation and to lay down principles on taxation of foreign business have been concluded with Poland, Hungary, and Romania. Consular conventions have been negotiated with all the Eastern European countries. In addition, agreements relating to fisheries, textiles, copyrights, maritime affairs, and visa facilitation have been negotiated between the U.S. and some of the Eastern European countries. Taken together, all of these are designed to facilitate bilateral trade and business contacts and thereby to serve the interests of U.S. and Eastern businessmen.

16.

QUESTION:

Do Eastern European external debt levels appear to be inhibiting their demand for or ability to purchase Western goods? What is the outlook for the future? How good a credit risk is each individual Eastern European country?

ANSWER:

The seven Eastern European CMEA countries have consistently run deficits in their trade with the Industrialized West. These deficits have been financed in large part by drawing on Western credit sources, leading to a rapid build-up in hard-currency debt from \$5 billion in 1970 to an estimated \$65 billion at year-end 1979. Growth of the debt has slowed somewhat since 1976, reflecting the recognition by the Eastern Europeans that overall prospects for growth in East-West trade are increasingly dependent on Eastern capabilities for earning foreign exchange through exports.

The Eastern Europeans take pride in the excellent repayment records they have built in the post-war period. These records have undoubtedly lowered the cost of borrowing for each of them. Their credit ratings, however, and the conditions under which they can borrow, vary because of their individual economic circumstances and their previous levels of borrowing.

A default by one of these countries would not only raise the cost of funds for that country relative to the other, it would also put upward pressure on the cost of funds to other countries in the CMEA group. Thus, despite the recent downturn in US-Soviet relations, there remains a strong motivation for all Eastern countries to continue to honor their financial obligations.

It is widely believed that if one of the CMEA countries should run into serious financial problems, other assistance would be provided by the Soviet Union or through existing CMEA mechanisms.

17.

QUESTION:

What steps could be taken by both sides to facilitate or expand East-West financial relationships and trade?

ANSWER:

This question will naturally become the focal point of our discussions on Basket II at Madrid. Basket II presents desiderata of goals and conditions as perceived by both East and West to be the essential prerequisites for the full normalization of East-West commercial and economic relations. As such, it offers rough guidelines for means of facilitating and expanding East-West cooperation, while recognizing the limitations on the extent of that cooperation imposed by the differing economic and social systems.

The Commission's recently published report on U.S. compliance with the Final Act highlights four areas in Basket II in which the U.S. has been most frequently criticized--conditions placed on the granting of MFN and official export credits, U.S. export control policy, our import protection legislation and the issuance of business visas. Steps, even modest ones, taken in some of these areas would do much to facilitate the expansion of trade and lower what the East perceives as barriers to trade. These steps, which will in some cases require Congressional initiatives in tandem with Executive branch cooperation might, as circumstances warrant, include:

- o Governmental initiatives to begin discussions with the East European countries not enjoying MFN status with a view toward removing the obstacles preventing the U.S. from granting MFN.
- o Removal of the requirement for annual waiver reviews of MFN status which, according to the East Europeans, impedes the development of viable long-term trading relationships.
- o Review of the restrictions imposed on the extension of Eximbank credits to communist countries, and consideration of expanding the financial capacity of the Eximbank to finance U.S. exports to the East.
- o Consideration of the removal of outdated legislative impediments such as the Johnson Debt Default Act, when circumstances warrant
- o Continual review of our export control policy and procedures, consistent with our national security and foreign policy interests, and reflecting changing circumstances. (We do not, however, consider this a proper subject for discussion within the context of Basket II.)

Initiatives by the East covering a wide range of Basket II issues that would do much to facilitate the expansion of trade include:

- o Provision of detailed plan information, including export and import requirements, and sectors targeted for hard currency allocations.
- o Provision of the types of detailed and timely statistical and financial information needed by U.S. business firms and banks to carry out market research and credit analysis.
- o Removal of restrictions on financial flows, leading toward convertibility of Eastern currencies.
- o Initiating or improving legislation to encourage equity type investment, thereby providing expanded opportunities for enlarging the scope of cooperative endeavors.
- o Improving the conditions under which U.S. businesses must operate in the East, e.g., housing accommodations, equipment and facilities and providing the necessary information on legislation and procedures relating to the establishment and maintenance of business representations, and;
- o Increasing the access of Western firms to officials and to end-users, in order to determine and meet the requirements of those organizations for products and technology.

18.

QUESTION:

Other than MFN, what other barriers has the U.S. erected against East European exports? Should these be eliminated? What effect on U.S. industry and employment? Balance of payments?

ANSWER:

The East has taken the United States and other Western countries to task for what the East alleges are barriers erected by the West to impede the expansion of Eastern exports. These barriers fall chiefly into two categories: our import protection laws and product quality and safety standards.

The provisions of Basket II clearly reflect the recognition of the signatories to the Final Act that their trade should be conducted in such a way as not to cause or threaten to cause serious injury or market disruption in domestic markets. To this end, the U.S. maintains laws to safeguard against market disruption, dumping and other unfair trade practices. To the extent that imports from the East, and from all other countries, compete unfairly with domestic production in the West, problems may arise which must be dealt with by means of our import regulations.

There are, admittedly, problems in applying a market economy's anti-dumping and countervailing duty laws to the exports of centrally-planned economies. Our laws rely essentially on the exporters' costs and prices as determined in a market economy to assess whether dumping or subsidization is being practiced, whereas costs and prices in most Eastern countries are, of course, normally set by central authorities. In recent years, our anti-dumping regulations as they are applied to state-controlled economies have been modified to reflect the different method of price determination in centrally-planned systems in an attempt to provide a more adequate method for determining whether or not dumping has occurred.

In part because of the difficulties in applying our anti-dumping and countervailing statutes to non-market economies, Section 406 of the Trade Act of 1974 was drafted to deal with market disruption allegedly caused by communist country exports. All other import protection legislation is non-discriminatory. There have, in fact, been very few import protection petitions filed in the U.S. against the exports of communist countries.

While our import protection legislation is necessary in aiding the adjustment of our domestic industries to changing economic conditions and in preventing unfair trade practices, we must be careful not to minimize the benefits from trade by promulgating excessively restrictive legislation.

The second category of obstacles identified by some Eastern states -- that of product quality and safety standards designed to protect our consumers -- is more indicative of the actual reason for the difficulties some Eastern exporters have faced in penetrating Western markets. Often products are not of an acceptable quality to meet our safety and health standards, which apply equally to imports from all of our trading partners. Improved quality of Eastern exports is one sure method of gaining increased access to Western markets.

19.

QUESTION:

If all barriers to trade were eliminated and MFN were fully extended to all East European countries, how much trade would actually be generated?

ANSWER:

As previously discussed under item 2, MFN treatment is a crucial factor in enabling an expansion of trade with individual communist countries.

The availability of U.S. official credits to Eastern buyers is also a very important factor in setting trade levels. Like MFN, it has both economic and psychological effects and is an essential precondition to establishing normalized trading relations.

Other barriers directed at the communist countries--the furskins provisions of the tariff schedules of the United States, the Johnson Debt Default Act, and the Foreign Agents Registration Act are troublesome irritants, but less important than MFN and official credits privileges in determining future levels of trade. Complete normalization would, of course, also involve reduction of barriers to trade on the Eastern side, including improved trade facilitation measures and improved economic and commercial information, which are Basket Two objectives.

We believe that significant advances in the normalization of trade relations with these countries where progress has to date been minimal could lead to substantial increases in the U.S. market share of Western exports to them, with a likely doubling of the dollar value of two-way trade within a few years.

We also expect continued increases in the levels of trade with Romania and Hungary, recent recipients of MFN and official credits privileges, commensurate with continued progress in the process of normalization of our trade relations with them.

The future of U.S.-Soviet trade is unclear at this point. However, if conditions do ultimately permit a normalization of trade relations, the U.S.S.R., the world's second largest economy, could become a large market for U.S. exports of both agricultural and manufactured goods.

20.

QUESTION:

What are the prospects for East-West trade generally and specifically? Do you believe, as some do, that certain political and economic factors (growing debt, lack of economic data, etc.) have brought that trade to its peak?

ANSWER:

The prospects are good for continued steady growth in Soviet and Eastern European trade with the West, though the next several years are unlikely to see the very rapid rates of increase experienced in many years of the 1970s.

The level of Soviet oil production will be one crucial factor in determining Eastern trading capabilities in the 1980s. Not only have Soviet oil exports to the West provided about half of Soviet hard currency export income, but Soviet oil at subsidized prices has filled most of Eastern Europe's oil requirements and held its hard currency oil purchases from non-Soviet sources to a minimum. Thus, if Soviet oil production should decline, as has been predicted by some Western analysts, the availability of hard currency for Soviet and East European imports from the Industrialized Western countries could be seriously impaired.

Much of the growth of trade with the West has been fueled by Eastern borrowing. Soviet/East European debt increased from \$5 billion in 1970 to an estimated \$65 billion at end 1979. Given the size and levels of development of the economies involved and their existing and potential export capabilities, the current level of debt is not considered inordinate. Indeed, while credit ratings vary among countries, the Soviets and most East European countries could probably further substantially expand their borrowing, but have tended to pursue relatively conservative debt policies.

Nevertheless, expanded purchasing from the West must be based primarily on increased exports to the West and Eastern export capabilities have generally not expanded rapidly. In addition to their own internal problems in developing capabilities to deal with the quality, quantity, style, servicing and marketing requirements of Western markets, Eastern exporters can expect intense competition in the 1980s from LDCs who also must export to the West to finance their imports and to service existing debts. Finally, any increase in protectionism in Western markets will tend to reduce the Eastern exports necessary to finance increased Eastern purchases.