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GOVERNMENT REORGANIZATION

Observations About Creating a U.S. Trade Administration

Statement of Allan I. Mendelowitz, Managing Director
International Trade, Finance, and Competitiveness Issues
General Government Division

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GOVERNMENT REORGANIZATION:
OBSERVATIONS ABOUT CREATING A U.S. TRADE ADMINISTRATION

SUMMARY OF STATEMENT BY ALLAN I. MENDELOWITZ, MANAGING DIRECTOR
INTERNATIONAL TRADE, FINANCE, AND COMPETITIVENESS ISSUES
GENERAL GOVERNMENT DIVISION

To assist Congress in its deliberations on the Trade Reorganization Act of 1995 (H.R. 2124), GAO reviewed the potential effects of certain provisions on federal trade-related activities. The act would merge the Office of the U.S. Trade Representative (USTR) with several Department of Commerce offices and the U.S. Trade and Development Agency to create a U.S. Trade Administration (USTA).

The proposal addresses many of the issues GAO raised about earlier legislative proposals. However, GAO discusses several issues for consideration about how some provisions, in their present form, could affect the conduct of certain trade responsibilities.

- In light of the importance that Congress has attached to trade, an issue for consideration is whether creating a trade "administration" that lacks cabinet-level department status could lead to a perception that the new agency does not have the status of either USTR or the Department of Commerce. The same issue arises with respect to the proposed role and title of the head of the agency, "U.S. Trade Representative/Administrator."

- The proposed legislation combines the trade functions of only three U.S. government agencies and does not address opportunities for consolidating the functions of other U.S. government agencies that carry out significant trade responsibilities. One approach Congress could use to explore other opportunities would be to task the President to report to Congress on opportunities to improve the cost-effectiveness of federal programs and achieve budgetary savings through additional consolidation.

- The proposed legislation appears to eliminate Commerce's U.S. Commercial Service's domestic network, which would have the effect of severing the link between U.S. businesses and commercial officers overseas without creating an alternative mechanism to provide this function.

- Placement of Commerce's Bureau of Export Administration in the new entity would diminish the office's status relative to the Departments of Defense and State for purposes of interagency coordination of export control issues. Administering the export licensing of dual-use commercial products has always involved a careful balancing of national security, foreign policy, and commercial interests. This raises the issue of whether placing this authority at a lower level would alter the necessary balancing of these interests.

GAO makes several other additional observations about this proposal as well.

Mr. Chairman and Members of the Committee:

I am pleased to be here today to discuss a proposal to establish a U.S. Trade Administration (USTA) by combining the Office of the U.S. Trade Representative (USTR), various offices in the Department of Commerce, and the U.S. Trade and Development Agency (TDA).

My testimony today will address several broad trade-related issues. The first part of my statement will provide some context by discussing (1) the basis for the federal role in international trade, (2) the various roles that USTR and Commerce play in international trade activities, and (3) the interagency mechanisms that help integrate federal trade activities. I will then address issues related to the current proposal in H.R. 2124, "The Trade Reorganization Act of 1995," to create a U.S. Trade Administration.

My remarks today are based on over a decade of our work covering a wide variety of trade-related issues. These involved export promotion, including the programs of the Commerce Department, as well as the U.S. Department of Agriculture (USDA), the U.S. Export-Import Bank (Eximbank), the Small Business Administration (SBA), and TDA; major trade negotiations and agreements, such as the North American Free Trade Agreement (NAFTA) and the General Agreement on Tariffs and Trade (GATT); trade regulation, including antidumping and countervailing duty matters; export licensing; and other issues.

THE FEDERAL GOVERNMENT'S ROLE IN INTERNATIONAL TRADE

The role of the federal government in international trade originates from the U.S. Constitution, which grants to Congress broad, comprehensive, and exclusive authority to regulate commerce with foreign nations. Article I, section 8, of the Constitution lists specific powers of Congress, including the power to "lay and collect taxes, duties, imposts and excises . . . [and] to regulate commerce with foreign nations." While Congress has clearly retained a prime role in international trade policy, it has delegated significant authority to the executive branch. For example, since 1934, Congress has delegated to the President authority to negotiate international trade agreements for the reduction of tariffs. In further delegation of their responsibilities, Congress and the President have tasked numerous federal agencies with administering a wide variety of trade laws and programs.

Federal activities in international trade can be divided into four major areas: trade policy; export promotion; trade regulation; and trade data collection, analysis, and dissemination. (See app. I for a discussion of federal trade responsibilities.) The number of agencies involved and the need for and use of interagency coordination mechanisms differ among the four areas. (See app. II for a list of federal agencies significantly involved in international trade.)

USTR AND COMMERCE ARE AT THE CENTER OF FEDERAL TRADE ACTIVITIES

USTR and Commerce share major responsibilities in U.S. government efforts to formulate, coordinate, and implement U.S. trade policy and programs in all four areas. Roles and responsibilities vary depending on the area and the particular circumstances involved.

While USTR and Commerce are at the center of federal trade activities, they have different characteristics as organizations. USTR is a relatively small agency located in the Executive Office of the President. USTR had a 1994 budget of about $22 million and a staff of about 170 people. The office is led by the U.S. Trade Representative, a cabinet-level official with the rank of ambassador. The U.S. Trade Representative acts as the principal trade adviser, negotiator, and spokesperson for the President on trade and related investment matters. USTR is responsible for developing and coordinating U.S. international trade, commodity, and direct investment policy, and leading or directing negotiations with other countries on such matters.

On the other hand, Commerce is a much larger and more complex organization, led by a cabinet secretary with a variety of responsibilities. The activities of several agencies within Commerce focus on international trade matters.[1] Together, these trade-related Commerce agencies had a 1994 budget of about $350 million and a staff of around 2,800 people.

Formulating Trade Policy

USTR shepherds the formulation of U.S. trade policy through an interagency process from its location in the Executive Office of the President. Trade policy deliberations largely take place in the cabinet-level National Economic Council (NEC), sub-cabinet-level Trade Policy Review Group (TPRG), and staff-level Trade Policy Staff Committee (TPSC). These interagency forums have a combined membership of 24 agencies and other members. They are supported by a congressionally mandated private sector advisory system of about 1,000 advisers organized into about 40 committees that provide the U.S. government with advice from the private sector on international trade matters. Through these forums, USTR seeks to blend their many views into one coherent policy and implementation strategy. (See apps. III and IV for lists of member agencies to NEC, and TPRG and TPSC, respectively.)

As an advocate for commercial interests, with which it interacts on a daily basis as part of its broad trade responsibilities, Commerce participates in federal trade policy deliberations, trade negotiations, and monitoring implementation of trade agreements. Staff of Commerce's International Trade Administration (ITA) provide much of the information and analysis that support the formulation of trade policy and the U.S. strategy for trade negotiations. For example, USTR relied heavily on Commerce's country desk

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[1]These specific activities are discussed in the following sections.

officers to provide region-specific analysis for use in negotiating NAFTA. Commerce staff also work with the advisory committees representing exporter and industry sector concerns that contribute to the formulation of trade policy. In addition, Commerce staff participate in some negotiations and help to monitor other countries' compliance with trade agreements.

Promoting U.S. Exports

The Commerce Department does not finance exports but plays a lead role in federal efforts to promote exports. Commerce's ITA had a 1994 budget of about $287 million and a staff of around 2,400 people. Three of ITA's four organizational units–the U.S. Commercial Service (USCS),[2] International Economic Policy ("country desks"), and Trade Development ("industry desks")–provide a variety of export information and facilitation services for exporters of manufactured goods and services.[3] In particular, USCS is composed of overseas and domestic offices. Its worldwide network has 134 overseas offices in 69 countries that provide a variety of services to U.S. business. Commerce's domestic network of 73 district offices and export centers serves as a key link between U.S. businesses and the overseas offices. In addition to ITA, Commerce's U.S. Travel and Tourism Administration is involved in a specific type of export promotion activity–promoting foreign tourism in the United States, with a budget of about $20 million and staff of about 90 people.

The Secretary of Commerce chairs the Trade Promotion Coordinating Committee (TPCC), an interagency group that, since 1992, has been required by statute to develop a governmentwide strategy for rationalizing the federal government's nearly $3 billion in federal export programs. (See app. V for a list of TPCC member agencies, which includes USTR). These programs involve efforts to provide export financing; export-related information, such as market research and trade leads; export "facilitation" services, such as business counseling; and other support services, such as trade missions and advocacy (i.e., support by top-level federal officials) on behalf of U.S. exporters.

In May 1995 testimony,[4] we reviewed various rationales that have been put forward as a basis for the federal government's role in promoting the sale of U.S. exports. Supporters of government assistance to exporters hold that "real world" deviations from the conditions necessary to make markets work efficiently (i.e., "market failures") provide a strong justification for such programs. Supporters also cite trade policy objectives, such as combating foreign export price subsidies, as justification for government support for

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[2]Formerly the U.S. and Foreign Commercial Service.

[3]Commerce's export promotion programs involve offering business counseling, training, and help with finding overseas representation, as well as providing market research information, trade mission, and trade fair opportunities.

[4]See Export Promotion: Rationales for and Against Government Programs and Expenditures (GAO/T-GGD-95-169, May 23, 1995).

exporters. Opponents hold that the government cannot do better than the market and that government intervention can make a bad situation even worse.

Of TPCC's 19 members, 3 agencies–USDA, Commerce, and the Eximbank–represented over 90 percent of federal spending on export promotion in fiscal year 1994. USDA is the most prominent of the export promotion agencies, having spent about $2 billion in fiscal year 1994 for export information and export facilitation services and financing exports of agricultural products. The Eximbank obligated about $980 million during fiscal year 1994 for its export loan, loan guarantee, and insurance programs, and related administrative costs. Commerce spent the least of the three agencies–about $233 million in fiscal year 1994–on export promotion-related activities, mostly through ITA.

Regulating Trade

Commerce's responsibilities in regulating trade include licensing exports, administering countervailing duty and antidumping laws, and implementing import restrictions, under various trade statutes. Similarly, under other trade statutes USTR investigates unfair foreign trade practices (with the help of Commerce) that can result in sanctions against foreign suppliers.

Commerce shares responsibility for export control licensing with the Department of State. Commerce's Bureau of Export Administration (BXA) licenses the export of civilian products that may have military applications (so-called "dual-use" goods), while the State Department licenses the export of military goods. For dual-use items, Commerce is responsible for receiving applications, reviewing them, referring them to other agencies when appropriate (such as the Departments of Defense and State), receiving advice back from them, and conducting dispute resolution proceedings if there is no consensus. Disagreements between agencies on export control issues are to be dealt with through an interagency process. BXA also has a staff responsible for investigating violations of export control laws. BXA had a 1994 budget of about $37 million and a staff of around 375 people.

Commerce shares responsibility with the International Trade Commission (ITC) for administering countervailing duty and antidumping laws that protect the U.S. market from unfair imports. Under these laws, the U.S. government can place a duty on imports of goods that are being unfairly subsidized or "dumped" (i.e., unfairly sold below market prices) in the United States to the detriment of U.S. firms. ITA's Import Administration[5] is responsible for determining whether subsidization or dumping has taken place while, in a parallel proceeding, ITC seeks to determine whether injury or the threat of injury has occurred to U.S. firms as a result of the subsidies or dumping. If subsidization or dumping and injury exist, then duties are to be imposed on the importers.

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[5]Commerce's Import Administration unit also administers other import programs, such as those under the machine tool and semiconductor agreements with Japan.

Another form of trade regulation is other import restrictions. For example, Commerce chairs the interagency Committee for the Implementation of Textile Agreements (CITA), which includes USTR as well as the Departments of State, the Treasury, and Labor. ITA's Office of Textiles and Apparel has a staff of about 40 that supports CITA's operations, including monitoring textile imports and domestic production data. Since its establishment in 1972, CITA has supervised the implementation of textile agreements and proposed and implemented textile and apparel import restraints. It currently is charged with overseeing the GATT Uruguay Round Agreement on Textiles and Clothing, which provides for the integration of textile and apparel products into normal trade rules by 2005 and allows the imposition of interim import restraints.

USTR has a role in regulating imports as well. USTR performs investigations into other unfair trade practices, such as those that restrict U.S. business access to foreign markets. Under section 301 of the Trade Act of 1974 (Public Law 93-618, Jan. 3, 1975), as amended, USTR can investigate alleged unfair trade practices and recommend imposing import restrictions on the goods and services of foreign countries that are using unfair practices that are found to harm U.S. interests. USTR looks to Commerce to generate much of the information and analyses that serve as the basis for these investigations and, in some cases, to administer resulting sanctions.

Trade and Investment Data Collection, Analysis, and Dissemination

Several federal agencies collect, analyze, and disseminate international trade and investment data that serve as input both for federal decisions on trade matters and business decisions on exporting and importing. The Treasury Department's Customs Service generates basic trade data from documents provided by importers and exporters. Within Commerce, the Bureau of the Census, the National Technical Information Service, and the Bureau of Economic Analysis (BEA) compile current statistics on exports, imports, shipping, and investment. Several agencies, including the Departments of Agriculture, Commerce, Labor, the Treasury, and ITC, analyze and disseminate this information. USTR issues reports that use information from these and other sources.

INTERAGENCY MECHANISMS ARE USED TO COORDINATE TRADE ACTIVITIES

Federal agencies execute U.S. trade responsibilities through an extensive network of formal and informal interagency relationships. In trade policy, federal agencies have used a long-standing interagency process to reach consensus on trade issues. In export promotion, federal agencies use a fairly new and, as a result, still evolving interagency process to integrate their export strategies and coordinate their activities. In trade regulation (e.g., antidumping and countervailing duties and export controls) and trade data collection and dissemination, fewer agencies are involved and, with regard to the former, the laws and regulations more clearly delineate responsibilities.

On the basis of recent work in three of these areas–trade policy; export promotion; and trade data collection, analysis, and dissemination–I would like to share with you our views on these interagency mechanisms.

Trade Policy

In the area of trade policy, the interagency decision-making process has evolved over a 20-year period into a sophisticated mechanism for transforming the often-disparate views of multiple agencies into a uniform U.S. trade policy. The primary agencies involved in this process are USTR, COmmerce, State, Treasury, USDA, and Labor.

Our work on international trade agreements also highlighted the importance of monitoring and enforcing foreign government compliance with their commitments in order to ensure that U.S. firms obtain anticipated benefits. Despite negotiating successes, our past work demonstrates that the federal agencies responsible for monitoring and enforcing trade agreements–primarily USTR, Commerce, and State–often experienced difficulty with their implementation, which can require substantial investments of resources and coordination among agencies. For example, we reported on monitoring and enforcement problems with respect to the GATT Tokyo Round Government Procurement Agreement, Voluntary Restraint Agreements on steel and machine tool imports, and the U.S.-European Union Civil Aircraft agreement.[6] The need to improve enforcement was recently recognized by the executive branch when earlier this year the Under Secretary of Commerce for International Trade proposed creating a new office to monitor trade agreements and strengthen this function.

Export Promotion

In export promotion, the interagency decision-making mechanism remains in its formative stages. During 1991-92, we reported that the federal export promotion effort was fragmented among numerous agencies and lacked any governmentwide strategy or priorities. We stated[7] that federal efforts in this area suffered from inefficiency, overlap, duplication, and apparent funding anomalies that increased costs and undermined the effectiveness of export promotion activities. For example, the federal government at the

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[6]See, for instance, The International Agreement on Government Procurement: An Assessment of Its Commercial Value and U.S. Government Implementation (GAO/NSIAD-84-117, July 16, 1984); International Procurement: Problems in Identifying Foreign Discrimination Against U.S. Companies (GAO/NSIAD-90-127, Apr. 5, 1990); International Trade: Administration of Short Supply in Steel Import Restraint Agreements (GAO/NSIAD-89-166, June 5, 1989); and International Trade: Long-Term Viability of U.S.-European Union Aircraft Agreement Uncertain (GAO/GGD-95-45, Dec. 19, 1994).

[7]See, for example, Export Promotion: Federal Programs Lack Organizational and Funding Cohesiveness (GAO/NSIAD-92-49, Jan. 10, 1992); and our August 1992 testimony, Export Promotion: Federal Approach Is Fragmented (GAO/GGD-92-68, Aug. 10, 1992).

time maintained a fragmented and inefficient service delivery network that likely confused and discouraged U.S. firms that were seeking export assistance.

In October 1992, Congress passed legislation to address these problems. Title II of the Export Enhancement Act of 1992 (Public Law 102-429, Oct. 21, 1992) created an interagency mechanism through which the administration, working closely with Congress, might strengthen federal efforts to promote exports. This legislation codified the interagency TPCC and tasked it to issue a report by September 30, 1993, (and annually thereafter) describing a governmentwide strategic plan for federal export promotion activities and its implementation. The strategy was to articulate governmentwide federal export promotion priorities and present a unified budget proposal to the President based on those priorities.

We have monitored TPCC activities since passage of the legislation. USDA, which commands by far the largest portion of the federal export promotion budget, at least initially withheld full participation in TPCC deliberations. Even those agencies fully participating are experiencing difficulty blending their separate views into a unified export promotion strategy. In testimony,[8] we characterized the TPCC's first annual report, issued September 30, 1993, as a work in progress. This annual report, as well as the 1994 update, did not establish governmentwide export promotion priorities nor a unified export promotion budget proposal. We believe that both are necessary to move the interagency coordination process forward as a vehicle for improving the effectiveness and efficiency of federal export promotion efforts.

Despite the absence of governmentwide priorities and a unified budget proposal, the TPCC reports contained 65 recommendations for improving federal export promotion efforts. These included several recommendations for major improvements, as well as many others that called for incremental innovations that, if taken together, would add to meaningful change. Several are well into implementation, such as (1) establishment of a federal advocacy center and network through which high-level federal officials can intercede on behalf of U.S. firms seeking export contracts and (2) creation of a network of U.S. Export Assistance Centers, which combines the domestic service delivery networks of Commerce, the Eximbank, and SBA into "one-stop shops."

Trade and Investment Data Collection, Analysis, and Dissemination

A number of federal agencies are responsible for collecting international trade and investment data. Laws and regulations to protect confidentiality restrict sharing of data, both within and among agencies. A recent initiative to create interagency ties has

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[8]See Export Promotion Strategic Plan: Will It Be a Vehicle for Change? (GAO/T-GGD-93-43, July 26, 1993); Export Promotion: Initial Assessment of Governmentwide Strategic Plan (GAO/T-GGD-93-48, Sept. 29, 1993); and Export Promotion: Governmentwide Plan Contributes to Improvements (GAO/T-GGD-94-35, Oct. 26, 1993).

improved the quality of federal information on foreign direct investment in the United States (FDIUS). Commerce is the principal federal agency responsible for collecting data on FDIUS. To improve the quality of these data and enhance analysts' ability to assess the impact of that investment on the U.S. economy, the Foreign Direct Investment and International Data Improvements Act of 1990 (Public Law 101-533, Nov. 7, 1990) was enacted. This legislation authorized Commerce's BEA to share confidential data on FDIUS with Commerce's Bureau of the Census and the Department of Labor's Bureau of Labor Statistics (BLS), and authorized Census to share data with BEA.

Without imposing any additional reporting burdens on survey respondents,[9] the agencies involved have generated new data that provide a richer description of the characteristics and operations of affiliates of foreign firms operating in the United States and should enable analysts to draw more meaningful comparisons between such affiliates' operations and those of U.S. firms. For example, by comparing the market and employment shares of foreign-owned establishments with those of U.S. establishments, Commerce has been able to respond to concerns about the possibility that foreign investors might be acquiring a disproportionate amount of ownership in certain U.S. industries.

ISSUES CONCERNING THE IMPACT OF CREATING A U.S. TRADE ADMINISTRATION

I would like to make a few general comments about the current process before I comment on specific provisions in the proposed bill. The system I have just described does work. For example, trade agencies have used the current interagency decision-making process to attain several major achievements. Chief among these achievements has been the successful conclusion of the negotiations leading to NAFTA and the GATT Uruguay Round agreements. We have reported[10] that, while these accords were extremely complex and difficult to negotiate, both can be expected to benefit the United States.

Recent proposals calling for the elimination of the Commerce Department and creating a U.S. Trade Administration provide Congress and the administration with both a challenge and an opportunity. The challenge is to determine if the programs and activities can be reorganized in a manner that does not harm the government's ability to carry out necessary functions and achieve congressionally mandated policy goals. The opportunity lies in the chance to take a fresh look at all of the government's trade programs and activities and to enhance their efficiency and cost-effectiveness.

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[9]Data provided by Commerce and BLS officials show that from 1991 to 1995, the BEA-Census and BEA-BLS data link projects have been conducted at an average annual cost of about $1.2 million.

[10]See North American Free Trade Agreement: A Focus on the Substantive Issues (GAO/T-GGD-93-44, Sept. 21, 1993); and International Trade: Observations on the Uruguay Round Agreement (GAO/T-GGD-94-98, Feb. 22, 1994).

We have previously raised issues for consideration about how some provisions of other legislation could affect the conduct of certain trade responsibilities. For example, we raised the issue about how the Department of Commerce Dismantling Act (H.R. 1756, 104th Cong.) would affect trade policy-making and negotiating by eliminating a part of Commerce that helps USTR. It would deprive USTR of much of the analytic support that it needs to formulate trade policy and negotiating strategies.[11] Similarly, we raised the issue about how that proposed legislation could alter the current balance between foreign policy, national security, and commercial interests in the administration of export controls for dual-use civilian products.

H.R. 2124
Presents Opportunities

The Trade Reorganization Act of 1995, introduced by Congressman John Mica, addresses many of the issues we raised about earlier legislative proposals. The bill consolidates existing trade functions into a USTA, whose head would have cabinet-level status. The new organization would be an independent, executive branch agency but not a cabinet department. The bill combines the responsibilities of the Office of the U.S. Trade Representative; Commerce's ITA and BXA; functions related to the National Trade Data Bank (from the Economic and Statistical Administration); and the now-independent TDA.

The proposal presents new opportunities for managing U.S. government trade responsibilities more efficiently. Combining the trade functions of three existing agencies (USTR, parts of Commerce, and TDA) under one new organization could help rationalize the current fragmented organizational approach and may reduce the difficulties associated with establishing and implementing uniform policies across different U.S. government organizations. For example, under the current system Commerce's overseas commercial officers provide most of the field support for TDA (which has no overseas staff) and USTR (which only has staff in two overseas posts). Furthermore, Commerce's staff in the Office of International Economic Policy and Office of Trade Development devote nearly one half of their time to supporting USTR's trade policy activities, according to a 1993 report by Commerce's Inspector General.[12] In addition, Commerce helps administer the private-sector industry advisory groups that are part of the trade policy process. In sum, combining Commerce, TDA, and USTR within a single organization could yield benefits from the closer integration of the staff currently responsible for trade policy and trade promotion.

Some policymakers have expressed concern about combining disparate functions of USTR and Commerce in one agency. Specifically, they are concerned about whether one agency

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[11]See Commence's Trade Functions (GAO/GGD-95-195R, June 26, 1995).

[12]Assessment of Commerce's Efforts in Helping U.S. Firms Meet the Export Challenges of the 1990s, U.S. Department of Commerce, Office of Inspector General, IRM-4523 (Washington, D.C.: U.S. Government Printing Office, Mar. 17, 1993), pp. 31-7.

can both negotiate trade agreements and promote U.S. exports without detriment from competing and conflicting interests. Past experience has shown that one agency can successfully do both. Commerce and Agriculture currently promote U.S. exports and participate in, and even lead, trade negotiations. However, the new organization would change how policy differences between interests currently represented by USTR and Commerce would be resolved in the future. Some differences that have been addressed in <u>inter</u>-agency forums in the past would now be addressed in an <u>intra</u>-agency forum. However, where responsibilities and policies conflict, as they have in the past, we see no reason these could not be resolved within USTA.

<u>H.R. 2124 Also Raises Issues</u>

While we believe that H.R. 2124 addresses many of the issues we identified in earlier proposals, some issues still remain. First, in light of the importance that Congress has attached to trade, Congress may wish to consider whether the new agency should be a cabinet-level department. Creation of a trade "administration" could lead to a perception that the new agency does not have the status of either USTR, which is in the Executive Office of the President, nor of the cabinet-level Department of Commerce. Similarly, the same issue arises with respect to the proposed position and title of the head of the agency, "U.S. Trade Representative/Administrator." This title may create a perception among foreign officials that the head of the new agency does not have the same clout as either the current U.S. Trade Representative (because he/she would no longer be part of the Executive Office of the President) or the Secretary of Commerce. Furthermore, carrying over the title of the U.S. Trade Representative from the former office to the new organization does not convey the full range of responsibilities with which the new position has been charged, including those related to export promotion, export controls, and import administration programs and issues.

Second, the proposal combines the trade functions of only three U.S. government agencies–Commerce, USTR, and TDA–and does not address opportunities for consolidating the functions of the other U.S. government agencies that carry out significant trade responsibilities. One approach Congress might consider for exploring such opportunities would be to task the President to report to the Congress on opportunities to improve the cost-effectiveness of federal government trade programs through further consolidation of trade agencies and programs, such as those of USDA, SBA, and State.

For example, such a report could address the following questions:

– Can the overseas operations of the USDA's Foreign Agricultural Service and Commerce's USCS, both of which promote U.S. exports, be combined into a single service that would be more cost-effective?

- - Can the U.S. government's various international credit, insurance, and guarantee programs be consolidated into one agency? Currently these services are provided by several agencies (the Eximbank, SBA, USDA's Commodity Credit Corporation, and the Overseas Private Investment Corporation).

- - To what extent do the activities of the State Department's Bureau of Economic and Business Affairs overlap and duplicate USCS activities, and how can any identified duplication be eliminated?

- - Are there opportunities to improve the effectiveness of the congressionally mandated public and private sector advisory committees?

Third, sec. 222(1)(A) of the bill transfers those functions exercised by USCS in foreign nations from Commerce to USTR but does not transfer the functions of the USCS' domestic network. An issue for consideration raised by this provision stems from the fact that the domestic office staff serve as an important link between U.S. businesses seeking information and analysis on foreign country markets and overseas Commerce posts. Domestic offices (as well as the country and industry experts in Washington) also help organize and recruit companies for overseas trade missions and trade events. Thus, by not transferring the USCS' domestic network to the new agency, the bill appears to sever the link between U.S. businesses and Commerce's foreign posts without providing an alternative mechanism for performing these functions.

<u>Additional Observations</u>

Finally, we have several additional observations about the organizational structure that would be created under H.R. 2124. The bill (sec. 211(c)) creates a Deputy Administrator responsible for all USTA functions except for those exercised by the Deputy U.S. Trade Representatives, the Inspector General, and the General Counsel. We interpret this to mean that the Deputy Administrator and the Deputy U.S. Trade Representatives would have direct access to the head of the agency. Furthermore, the bill (sec. 213) provides for three Assistant Administrators reporting to the Deputy Administrator. Thus, the Deputy Administrator would supervise many of the current functions performed by the Under Secretary for International Trade. These changes prompt the following issues.

- - The bill would demote the head of BXA from the current Under Secretary level by making the position one of the three Assistant Administrators. This would diminish the office's status relative to the Departments of Defense and State for purposes of interagency coordination of export control issues. Administering the export licensing of dual-use commercial products has always involved a careful balancing of national security, foreign policy, and commercial interests. Therefore, an issue for consideration is whether placing this authority at a lower level would alter the necessary balancing of interests. In the Export Administration Amendments Act of 1985 (50 U.S.C. app. 2401), Congress sought to increase the competitiveness of U.S. exports and to lessen the burden from export licensing on U.S. business. As part of this effort, BXA was removed from ITA, and its chief was elevated to the level of Commerce Department Under Secretary.

- - The role and responsibilities of the Deputy Administrator position are unclear. The Deputy Administrator position could have responsibilities largely management in nature, serving as a "Chief Operating Officer" for USTA; this would allow the U.S. Trade Representative to continue to focus on policy issues.[13] However, if the Deputy Administrator is to be the Chief Operating Officer, he/she does not appear to have clear authority over and responsibility for the staff of the Deputy U.S. Trade Representatives. Alternatively, if the Deputy Administrator is to be primarily in a policy-making role, the position may be redundant. Options for consideration include clarifying the Deputy Administrator's responsibilities or making the planned organizational structure flatter by eliminating the Deputy Administrator position and having the Assistant Administrators for Export Administration, Import Administration, and Trade Policy and Analysis, and the Director General for Export Promotion[14] all report directly to the U.S. Trade Representative/Administrator.

- - The bill (sec 202(f)) would make the U.S. Trade Representative chairperson of TPCC. Thus, Congress could, if it so chooses, use this legislation to strengthen the TPCC interagency process we discussed earlier. For example, the authority given the new USTA could be made stronger to help ensure that all members fully participate and that the committee establishes a set of governmentwide priorities and a unified export promotion budget proposal.

CONCLUSIONS

The Trade Reorganization Act of 1995 presents new opportunities for managing U.S. government trade responsibilities more efficiently by combining the trade functions of USTR, parts of Commerce, and TDA under one new organization. However, the proposal combines the trade functions of only three U.S. government agencies and does not address opportunities for consolidating the functions of the many other U.S. government agencies that carry out significant trade responsibilities. Congress may wish to explore

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[13]The bill does not assign administrative functions like budget, personnel, and information resource management. The bill does create a Chief Financial Officer that reports to the Deputy Administrator, but as noted previously, the Deputy Administrator appears to have no responsibilities for functions under the Deputy U.S. Trade Representatives, the Inspector General, and the General Counsel. The Assistant Administrators, Director General, and Deputy U.S. Trade Representatives would have responsibilities for budgets, staff, and field networks that currently vary significantly in size. Administrative functions could be centralized or decentralized.

[14]Sec. 211(c) places all USTA functions with the Deputy Administrator except for those exercised by the Deputy U.S. Trade Representatives, the Inspector General, and the General Counsel. Thus, the section appears to place the Director General under the Deputy Administrator. However, sec. 214(b) places the Director General for Export Promotion directly under USTR, with the status and rank of ambassador, similar to the Deputy U.S. Trade Representatives.

additional opportunities for consolidation to reduce costs and to improve the formulation and implementation of U.S. government trade programs. As one approach to this end, Congress could task the President in legislation like H.R. 2124 to report to Congress within a specified deadline on what other possible opportunities exist for further consolidation that could improve program effectiveness and achieve budgetary savings.

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Mr. Chairman, this concludes my prepared statement. I would be pleased to try to answer any questions you or other Members of the Committee may have.

TRADE-RELATED FUNCTIONS OF THE FEDERAL GOVERNMENT

One way to categorize the federal government's international trade-related activities is to divide them into four primary groups: trade policy; export promotion; trade regulation; and trade and investment data collection, analysis, and dissemination.

1. Trade Policy

Agencies involved include the U.S. Trade Representative (USTR); and the Departments of Agriculture, Commerce, Treasury, State, and Labor. Activities include the following:

A. Working through an interagency process to formulate and coordinate international trade or investment policies, and coordinating those policies with domestic policies and with U.S. business and consumer interests and state and local governments.

B. Negotiating international trade or international investment agreements.

C. Funding and representing U.S. interests in trade-related international organizations.

D. Monitoring and enforcing other countries' compliance with trade agreements.

2. Export Promotion

Agencies involved include the Departments of Agriculture (USDA), Commerce, Energy, and State; the U.S. Export-Import Bank (Eximbank), the Overseas Private Investment Corporation; the Trade and Development Agency (TDA); and the Small Business Administration (SBA). Activities include the following:

A. Formulating and coordinating export promotion policy.

B. Combating foreign export subsidies.

C. Financing and insuring U.S. trade or U.S. investments in other countries, or funding feasibility studies on major infrastructure and development projects.

D. Providing "trade facilitation" services to the public, such as export counseling, foreign market analyses, or trade missions or trade fairs.

E. Providing government-to-government advocacy on behalf of U.S. businesses.

F. Developing foreign markets for U.S. goods and services.

G. Providing tourism promotion services and formulating and coordinating tourism policy.

3. Trade and Investment Regulation

Agencies involved include USDA, Commerce, Defense, Justice, Labor, State, and the Treasury; and the International Trade Commission (ITC). Activities include the following:

A. Licensing and restricting exports, imports, or foreign investments in the United States for national security, foreign policy, or short supply reasons.

B. Inspecting exports or imports for health, safety, or certain other reasons.

C. Enforcing U.S. laws on illegal drugs, money laundering, counterfeit goods, and other cross-border activities.

D. Enforcing U.S. laws that seek to protect U.S. companies or workers from "unfair" or harmful foreign trade practices, such as antidumping and countervailing duties laws; and providing financial assistance to offset such harm, such as trade adjustment assistance.

E. Enforcing U.S. rights under trade agreements and responding to certain foreign practices (secs. 301-310 of the Trade Act of 1974, as amended.)

F. Enforcing U.S. antiboycott laws and the Foreign Corrupt Practices Act of 1977, as amended (15 U.S.C. sec. 78dd-1).

G. Administering foreigners' blocked assets in the United States or adjudicating U.S. citizens' claims against foreigners.

4. Trade and Investment Data Collection, Analysis, and Dissemination

Agencies involved include USDA, Commerce, Labor, and the Treasury; and ITC. Activities include the following:

A. Documenting and tracking trade and investment transactions and maintaining U.S. tariff schedules.

B. Analyzing or distributing trade and investment data to government decisionmakers or to the public.

5. Other Trade-Related Functions

Agencies involved include the Departments of Commerce, Justice, State, and the Treasury; and the Federal Reserve System. Activities include the following:

A. Issuing patents and registering trademarks.

B. Developing and maintaining information on U.S. product standards.

C. Regulating the banking activities of subsidiaries of foreign companies in the United States and subsidiaries of U.S. companies located abroad.

D. Enforcing U.S. antitrust laws that affect U.S. companies' ability to trade or invest abroad.

E. Adjudicating disputes over traded goods (e.g., ITC's "section 337" cases).

F. Collecting customs duties and fees.

G. Taxing U.S. persons or corporations overseas or foreign persons or corporations that owe U.S. taxes.

Sources: Budget of the U.S. Government for Fiscal Year 1996 (Washington, D.C.: U.S. Government Printing Office, 1995); Federal Staff Directory 1993/1 (Mount Vernon, Virginia: Staff Directories, Ltd., 1993); Export Programs: A Business Directory of U.S. Government Services, Trade Promotion Coordinating Committee (Washington, D.C.: U.S. Government Printing Office, 1995).

OTHER U.S. GOVERNMENT AGENCIES INVOLVED IN INTERNATIONAL TRADE

We discuss in the following paragraphs the major trade agencies other than USTR and Commerce, and some of their responsibilities. We have not undertaken to catalogue the tasks or offices within each agency that deal in some way with international trade issues.

1. USDA administers a number of trade programs that are intended to enhance the competitiveness of U.S. exporters of agricultural products. These programs include the concessional (i.e., below market interest rate) sales program, export credit guarantee programs, and export promotion programs. The agency also provides input and expertise to U.S. negotiators and policymakers on matters of agricultural trade.

2. The Department of State participates in the formulation of U.S. trade policy by bringing its foreign policy perspective to bear on trade issues. The State Department also licenses the export of military goods.

3. The Department of the Treasury has responsibility for international monetary affairs, international finance and investment, and coordination of U.S. policies regarding international financial institutions such as the International Monetary Fund and the World Bank. Within the Department, the U.S. Customs Service is charged with collecting import duties and enforcing the hundreds of laws or regulations relating to international trade.

4. The Departments of Labor, Defense, Transportation, Energy, and Justice, and the Environmental Protection Agency offer support and expertise that are used to formulate and coordinate international trade policies or negotiations. For example, the Department of Labor conducts research on trade-related employment issues. A provision of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418, Aug. 23, 1988) requires the Secretary of Commerce, in consultation with the Secretary of Energy, to undertake a comprehensive review to assess whether existing statutory restrictions on the export of crude oil produced in the United States are adequate to protect the energy and national security interests of the United States.

5. Eximbank is an export credit agency responsible for promoting and facilitating U.S. exports. Eximbank provides financing assistance for exporters through direct loans, loan guarantees, and export insurance. In addition, the agency administers a tied-aid capital projects fund to match export subsidies provided for foreign competitors.

6. ITC conducts studies and investigations relating to international trade, including determining whether U.S. industries have been injured or threatened with injury by reason of imports alleged to have been supported by subsidies or to have been "dumped" on the U.S. market. ITC determinations parallel the subsidies or dumping investigations conducted by the Department of Commerce.

7. The Overseas Private Investment Corporation was created to mobilize and facilitate the participation of U.S. private capital and skills in the economic and social development of developing countries, thereby complementing the development assistance objectives of the United States. The agency indirectly promotes U.S. exports by providing insurance and guarantees for U.S. investment in the markets of developing countries.

8. SBA, in cooperation with the Department of Commerce and other relevant federal agencies, engages in export promotion on behalf of small businesses. SBA provides export-financing assistance to small businesses.

9. TDA was established as a separate agency in 1988 to promote U.S. private sector participation in development projects in developing and middle-income countries. TDA provides grants for U.S. firms to prepare engineering and design studies of bilateral and multilateral development projects in foreign markets.

 APPENDIX III

MEMBERS OF THE NATIONAL ECONOMIC COUNCIL

The President, Chair
The Vice President
Secretary of Agriculture
Secretary of Commerce
Secretary of Energy
Secretary of Housing and Urban Development
Secretary of Labor
Secretary of State
Secretary of Transportation
Secretary of the Treasury
Administrator, Environmental Protection Agency
Chair, Council of Economic Advisers
Director, Office of Management and Budget
USTR
Assistant to the President for Domestic Policy
Assistant to the President for Economic Policy
Assistant to the President for Science and Technology Policy
National Security Advisers

MEMBERS OF THE TRADE POLICY REVIEW GROUP (TPRG) AND TRADE POLICY STAFF COMMITTEE (TPSC)

Office of the U.S. Trade Representative, Chair
Department of Agriculture
Department of Commerce
Department of Defense
Department of Energy
Department of Health and Human Services
Department of the Interior
Department of Justice
Department of Labor
Department of State
Department of Transportation
Department of the Treasury
Council of Economic Advisers
Environmental Protection Agency
International Development Cooperation Agency
National Economic Council/National Security Council
Office of Management and Budget
U.S. ITC (as an observer at TPRG
 meetings and a nonvoting member of TPSC)

 APPENDIX V

MEMBERS OF THE TRADE PROMOTION COORDINATING COMMITTEE

Department of Commerce, Chair
Department of State
Department of the Treasury
Department of Defense
Department of the Interior
Department of Agriculture
Department of Labor
Department of Transportation
Department of Energy
Office of Management and Budget
Office of the U.S. Trade Representative
Council of Economic Advisers
Environmental Protection Agency
SBA
Agency for International Development
Eximbank
Overseas Private Investment Corporation
U.S. TDA
U.S. Information Agency

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