HEARINGS ON INTERNATIONAL CONCENTRATION

Subcommittee on Antitrust and Monopoly
of the
Committee of the Judiciary
United States Senate

Statement by

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I have only reluctantly accepted your friendly invitation to appear before you to add a few words to your general problem: foreign concentrations and their effect on the United States. I say reluctantly because how could I hope to add anything essential to the European development of concentration, after President Guenther, this great expert and public official, has appeared before you. You also have the best possible information yourself; advised not only by most distinguished lawyers and economists on your own staff, but also by the State Department, by the Antitrust Division and by the Federal Trade Commission. And yet, there may be one field in which my special experience can bring out some additional points of importance. These points are intended to be raised in the form of an inquiry: to what extent must the systematic building and maintaining of concentration in any field of some economic impact be an international or even intercontinental occurrence; and, do the results flowing from such concentration affect international markets wherever this concentration is organized and maintained.

It may be helpful to start with three points, to be discussed in more detail later:

1. The problem of concentration is necessarily an international occurrence, and not only understandable as a national phenomenon. The factual processes leading to concentration are generally found and organized on the international level, crossing the territories and markets of different countries. It is difficult to imagine concentration affecting only one market; this effect is usually felt on international channels of trade.

2. Concentration affecting international trade does not occur without either the existence of, or newly entered, agreements in restraint of trade, or is the result of a system of regulation of trade under the control of a particular group of private individuals. Concentration as a result of acquiring an interest in another corporation or all or part of its assets, or in the form of long-term supply contracts binding the parties together, etc., whether or not within the reach of Section 7 of the Clayton Act, must be understood as one of several instruments used in the organization of a market. Concentration is assisted in this organization or "regulation" by agreements, patents, know-how or trademark licensing or any other method of

express, implied or self-evident cooperation. The inevitable result is the private regulation of international markets.

Interpretations of Sections 1 and 2 of the Sherman Act -- and of those laws of other countries which have been patterned after the Sherman Act, such as Articles 85 and 86 of the Treaty of Rome establishing the Common Market -- whether legal or economic, appear to have proceeded on the assumption that the Act's application is limited to the two alternatives of either concentration headed toward monopoly or agreements in restraint of trade.

During our discussion, however, we shall see that new forms of organizations or mixtures of old and new ones have been developed which do not fit the traditional mold of our laws.

3. The supranational character of concentration increasingly leads to political problems of the greatest magnitude. It is nothing new that "concentration" crossing political borderlines means the establishment of corporations subject to different laws and organized under different legal systems. This fact leads not only to problems of corporation and tax law, but almost necessarily to political

conflicts as soon as monetary or tariff discussions come up, or even more, should we be confronted with war or revolution. Each of the affected states is not only confronted with the existence of an economic entity, composed of many legal entities, but is also confronted with the possibility that a subsidiary concern within its borders is subjected to the political aims and purposes of the government controlling the parent concern.

As an American law school teacher, I am accustomed to demonstrate these propositions by the presentation of a particular case. Just as in my law classes, I shall do no more than to present sufficient elements of my case to demonstrate these points. As an illustration of these three statements, I am going to present some acts resulting in concentration in different countries in the field of aluminum.

I hope to make clear:

1. That the individual elements of concentration arising in one country are inseparable from similar developments in other countries and can only be understood as one economic occurrence.

2. That these elements of concentration are only understandable in their effects if studied in connection with

national and international agreements, implied or expressed, coordinated acts or a system of trade under the control of a group of private individuals.

I selected aluminum as my example first because we have here a field of increasing importance in international and especially American trade. In 1957, the world production amounted to 3.3 million tons, and the world consumption to 2.9 million tons, while in 1967 the production of raw aluminum amounts to 7.8 million and the consumption to 7.7 million. In the United States 2.9 million tons have been produced, but 3.32 million tons have been consumed on the American market, making the United States an import country. My second reason for selecting aluminum is that all experts in this field are fully acquainted with the factual basis of the opinion of the Circuit Court of New York in the case U.S. v. Aluminum Company of America (148 F. 2d 416 (2d Cir. 1945)), finding a monopoly in the United States, and because the conditions on the American market at the end of the Second World War are in part the result of this decision and its enforcement.

It is interesting to note that Judge Learned Hand, in his opinion, found the existence of a monopoly -- the highest degree of concentration -- but only within the United States, with only minor influences from Aluminum Ltd. of Canada and

its international contacts. As a matter of fact, however, already before the war there was an international division of markets in which the United States market was assigned to the Alcoa Corporation. The assignment of the U.S. market was executed and assured by two steps:

1. All technological information and all patents developed anywhere, especially by Pechiney of France and the Vereinigte Aluminium-Werke of Germany, came under the exclusive control of Alcoa in the United States.

2. All access to raw material in foreign countries, especially bauxite, came exclusively to Alcoa in the United States.

The international private regulation system of the pre-war period was formulated by agreements between the principal producers and in the corporation charter of a Swiss corporation. This corporation, the Alliance Aluminum Co., was formed by Alcan, Pechiney, Alusuisse, British Aluminum, and Vereinigte Aluminium-Werke.

Around 1955, after the shock of World War II was overcome, a new system of market influences seemed to come into existence. The most important differences from the pre-war period were:

1. The weakening of the German producers as a result of the temporary division of Germany into two parts;

2. The appearance of new aluminum producers in the United States: Anaconda, Reynolds, Kaiser, Ormet, and Harvey.

A tendency to a perfectly stable international market -- in effect between 1919 and 1939 -- came into existence once more. But around September 1961 the national and international market became unstable -- for instance, in the United States and in England. In September 1961 the price went down from 26 cents per pound to 24 cents per pound, and in December 1962 even to 22.5 cents. In a market famous for its stability during the First and Second World Wars and later, such a change indicated serious problems from the point of view of planned market regulation. Step by step, however, concentration connected with certain cooperative practices has once again entirely overcome this instability.

Concentration plays an important role in the new private system of regulation of the aluminum market.

A. Acts leading toward increased concentration.

1. Outside of the United States the acquisition of 50 percent of Ardal, formerly a corporation owned 100 percent by

the Norwegian Government, by the Aluminum Ltd. of Canada is a pertinent event.

2. In the United States the establishment of the Intalco Aluminum Corporation with 50 percent participation of the American Metal Climax, known as Amax, and with 25 percent participation by the famous French aluminum producer Pechiney, and participation by the Howmet Corporation with the last 25 percent.

B. Vertical integration subjecting the consumers and users of aluminum to the management of one aluminum producer.

1. Vertical integration in Europe. Vertical integration of consumers and users of a raw material into the organization of the raw material producers is a well-known method leading to concentration. The copper industry in the United States is an example. In Europe, however, aluminum was practically the first case in which this development could be observed. For instance, the German aluminum market is now vertically integrated to almost the same extent as the market in the United States. An especially interesting form of concentration is the establishment of a joint corporation called Norf Corporation, owned and controlled by the Canadian Alcan and the German domestic raw material producer Vereinigte Aluminium-Werke.

The interdependency of vertical integration and concentration of aluminum producers in the international market comes clearly into focus by virtue of the following example: Ardal, the Norwegian government-controlled producer, tried to avoid vertical integration which resulted in the loss of its markets in Europe. This fact was one of the decisive reasons for the Norwegian government decision to sell 50 percent of Ardal to Alcan of Canada.

2. In the United States, Alcoa, Reynolds, and Kaiser, controlling 81 percent of the American production, are fully integrated today. Until recently the non-integrated users of aluminum were supplied by Alcan. The disappearance of independent producers of materials made from aluminum as a result of this development made it necessary for Alcan to accept integration also. Today Alcan is an integrated organization within the United States.

My suggestions on the necessary interdependence of the various steps leading toward concentration in different countries, between each other and with contractual or semi-contractual private regulation, can be observed in our case. The close interdependence only makes it difficult to choose which one of the steps should be described first.

The interdependence of the vertical integration in Europe and here forces each aluminum producer in Europe and here to accept this method of controlling customers or go out of business.

The parallel effect of vertical integration and of concerted action on prices leads to concentration of the aluminum producers.

Thus, as already mentioned, under this pressure Norway sells 50 percent of Ardal to Alcan of Canada with important effects in the United States and Europe.

In the United States the large French producer joins with the powerful domestic group in the establishment of Intalco and thereby becomes an American co-producer itself.

Indeed, the world market in aluminum, as in many other products, is so much one that a look at the United States market is at the same time a look at the international market and vice versa.

The disturbance of 1962 most probably would not have developed if the American had been self-sufficient in aluminum. However, the United States, as already pointed out, must import. In 1967 it imported 1.7 million tons, 75 percent of which was imported from Canada, or, better, the Aluminum Ltd.

of Canada, while the other Canadian firms producing aluminum just do not sell on the American market. Alcan, between 1962 and 1966, supplied approximately 8.5 to 10.4 percent of the total needs of the U.S. market each year. Imports are thus a necessary link between the international market and the United States market.

In time of weak markets importers independent from American producers may disturb the stability of the American market. For years, Norwegian producers, especially the Ardal Corporation mentioned above, used to cut prices below that of the principal domestic producers following the price leadership of Alcoa. The Norwegians sold at the so-called traditional discount price, which could be up to a 10 percent discount. Furthermore, Pechiney of France had been cutting prices after it succeeded in obtaining technological advantages around 1960. The other remaining importer of primary aluminum, Alusuisse of Switzerland, did not cut prices because of their prudent business policy. However, there was a certain possibility that the Swiss might undersell the American producers in the future.

From an international point of view, having Pechiney and the Swiss as participants in the American market, removes their incentive to sell below the American price.

This development appears parallel to Pechiney's remaining out of any participation in the vertical integration in Germany, which was assigned to Alcan, Alusuisse, Kaiser, and the German Vereinigte Aluminium-Werke. Pechiney refrained from supplying the German market in spite of the fact that Germany and France, as members of the Common Market, have no tariffs between them.

As a matter of fact, after the participation of Pechiney in the American market the French no longer engaged in price cutting.

Another point to be observed when one looks at the international market is that after the acquisition of 50 percent of Ardal by Alcan, Ardal and the other Norwegian firms no longer undersold the domestic producers in the United States and in West Germany.

As a matter of fact, the full completion of vertical integration in the United States and in Europe would have been enough to reestablish a stable market, but much more was done to assure the permanent prevalence of the private international system of market regulation in which these elements in the process of concentration are but part of the total structure. Other important instruments and elements of the market regulation system in the international field exist:

C. Complementary means for coordination.

1. Joint ventures in bauxite.

No legal form of coordination creates increased "concentration" as does the acquisition and control of all available bauxite reserves by joint ventures composed of the aluminum producers. Bauxite is the only competitive raw material which for the present is not in danger of substitution. In an orderly manner, all aluminum producers participating in today's trade regulation system are members of one or more joint ventures. This has the effect of excluding all others who wish to enter the aluminum market. Here again we can see how important it is to analyze the condition throughout the whole free world. A limited inquiry into the American or the European or Australian or Japanese markets would not show this point.

Every aluminum producer is related in some manner with at least one other producer. This system of joint ventures not only excludes newcomers and assures access of the producers to future supply, but it also provides an excellent channel for information because of the interrelationship of all available producers.

2. Contracts of exclusive supply.

An aluminum producer who is a party to an exclusive supply contract for bauxite, is no less a part of the total

concentration process of the supplier than is an enterprise in which the supplier has a substantial shareholding. An example of this is the Alcan contract with the German governmental-owned Vereinigte Aluminium-Werke, which supplies about 40 percent of the West German market.

This and other long term supply contracts usually run over a considerable period of time and cover substantial quantities of material. A contract extending over a period of 10 to 20 years is by its very nature restrictive as it limits the operating freedom of the parties over the operational time of the agreement. To a certain degree these contracts give the supplier a definite influence on the business policy of the purchasing company, especially, if the raw material price is rated as a percentage of the supplier's primary aluminum price, or if the purchasing company has to pay for its raw material with primary ingots.

3. Access to technology especially in the modern forms of production and of electricity.

Prior to World War II, exclusive access to technology, patents and know-how in the transformation of bauxite into alumina and alumina into aluminum, and control over bauxite were the decisive elements of market regulation. Today, vertical integration plays a more effective part, but even

today there cannot be any aluminum production which does not use the technological experience and development, especially of Alcoa and Pechiney, at some stage of production. An additional element of Alcoa's apparent superiority is its access to the most modern processes of the production of electricity. Since even the smallest cost advantage in electricity is of decisive impact on the price and costs of the final product, this is an important element of market regulation. The method of licensing this know-how has been described as one of the elements of controlling any newcomer.

4. The Canadian export price -- a "silent regulator."

The price aspect of the trade system has been reestablished. The first principle is that in each country the price of a producer, if there is any, should never be undersold. However, short of such a price, the Canadian export price is considered as a kind of posted price comparable to a similar regulating element in international oil trade. Since November 1964, Alcan's published world export price has been 24.5 cents per pound. From November 1957 to November 1964, the price moved in the narrow range of 24.63 cents per pound to 24.0 cents per pound.

Once more it should be noted that the elements of parallel concentration in different segments of the world are

part of a total private trade regulation system in aluminum. The more we recognize how powerful and closed this system is, the more important the observation of each of the elements, such as the process of concentration, becomes.

Despite these steps which re-created a stable market, two possible sources of disturbance remained: the U.S. stockpile, and the economic planners in the Soviet Union. In 1965, the United States Secretary of Defense threatened to release quantities of aluminum from the United States stockpile to counteract a price increase planned by the industry. In 1965, an agreement was reached between the stockpile administrator and the American producers of aluminum, except Intalco, Conaco and Anaconda, on one hand, and the Canadian producer, Alcan, on the other. Under this agreement, each of the participating aluminum producers in the United States, with the exception of Alcan, agreed to take a quantity of the eventual stockpile releases, proportionate to its production capacity in relation to the capacity of each of the other firms. Alcan's proportionate share was based on its 1965 imports to the United States.

These agreements not only informed each of the producers of their competitor's relative capacity, but it in effect

recognized and sanctioned the existence of a clearly organized and carefully regulated market.

A parallel in Europe to the American stockpile agreement is a gentlemen's agreement with the Soviet Union. The Soviet Union offered aluminum of 15 cents per pound at a time when the Canadian world price was 24 cents. Under this gentlemen's agreement the European group agreed to take the Soviet Russian aluminum supply in return for the promise of Soviet Russia not to supply Japan and to refrain from any disturbance of the group's trade with Japan. As a matter of fact, the Soviet Russian aluminum was supplied to Japan by the European group. It is interesting to note that soon after this agreement Japan ceased to be a purchaser in the European market and appeared instead in the U.S. market.

The law school case method has been used to show through a review of international developments in the aluminum market that each individual step of concentration, from whatever point of view, can only be evaluated if understood in light of its interdependence with other national or international steps of concentration or with market regulation agreements of a private system of trade.

One loose end in our description of the aluminum industry remains -- the Alcoa/Alcan relationship. This point is not new

to American students of trade regulation. Judge Learned Hand had difficulties with this particular problem in the Alcoa case, U.S. v. Aluminum Co. of America, 148 F.2d 416 (2d Cir. 1955). He knew that neither Alcan nor Alcoa was controlled by the other. The same shareholder groups had a decisive interest in both. Therefore it is understandable that he and other courts dealing with the enforcement of the decree believed that an effective change in the market power of the Alcoa/Alcan family could be accomplished by compelling big shareholders having shares in both corporations to divest themselves of their interests in Alcan. No one doubts that the decree has been obeyed. However, the Alcoa/Alcan relationship, both before the war and even more today, is quite different from the one envisioned by the courts. It is not important how many shares A or B have, or whether there is an agreement as to the trade system between them. There has been, and is, a division of functions within the aluminum market system between these two firms, whether on basis of an agreement or tradition. Alcan, for whatever reasons, became one of the important regulators on behalf of Alcoa and other American firms in the international arrangements, while at the same time Alcan did business independently. It is not at all impossible that the corporations served these two functions: both as an independent

competitor and as the regulator of the international market on behalf of itself and of another corporation. This relationship which existed before the war appears to exist today.

The observer of the international market has to present coordinated functions in which Alcan acts as an international regulator:

(a) In the relationship between Canada and the United States.

(1) From 1962 to 1966 the import of metal and alloys crude from Canada into the United States fluctuated only between a narrow range of 8.5 and 10.4 percent of the net shipments of aluminum wrought and cast products by U.S. producers. In 1965 and 1966, the percentage was 9.7 and 9.5, respectively. Alcan did not use any temporary or more permanent chance of underselling the American price even if the difference between Canadian export price and the American price would have invited such action.

(2) Alcan remained, as long as there were enough non-integrated consumers in the United States, the exclusive supplier of the non-integrated firms. It is interesting that Ardal was exactly in the parallel position in Europe. In the moment in which the integration process in the vertical

field was sufficiently completed, Alcan and Ardal became also integrated.

(b) In the relationship between the United States, Canada and other countries.

(1) The purchase of 50 percent of Ardal shares from the Norwegian Government by Alcan led to an immediate increase of the import prices from Norway to the United States and excluded this underselling competitor from the American market.

(2) In other parts of the world one can see no real disturbance of the regulated and divided market by any competitive act on the side of Alcan in the relationship to Alcoa. Certainly Alcoa has a more powerful position in technology including electricity technology and in capital.

I believe our presentation of aluminum as a case study, necessarily only in the briefest form, has shown that we are confronted with a completely new system of private regulation composed of many steps: concentration, several types of contracts, or simply adoption and continuation of traditional modes of behavior.

I am inclined to believe that law, I mean every law, is here confronted with a new factual development for which we have not worked out legal answers or remedies:

(a) The factual and commercial entity under a central management but composed of many different persons, organized and established under the laws of different countries and active in more than one country.

(b) The standing of several commercial entities side by side which exercise functions of market control and market regulation as a result of agreements, tradition, or power influence.

The great difficulties arising whenever American or other antitrust legislation is sought to be applied to this new system of trade, may be the reason why even those outside of antitrust have found it difficult to analyze the new development in government or private research. All governments, business organizations and scholars should discuss the factual problem in its entire impact -- political, legal, sociological and economic -- on many aspects of the life of the United States and Europe, Japan, Latin America and other countries as well. Indeed, the management of businesses operating within the system have as much interest in reaching a new statement of the facts as any government agency. But what about the application of antitrust laws? Certainly the reader of textbooks on American antitrust law has no difficulty in reciting that if acts of

concentration or arrangements undertaken within the system of trade restrains the trade of the United States somewhere, they may fall under Section 1 of the Sherman Act if restraining agreements can actually be proven; they fall under Section 2 of the same act if there is a monopoly or an attempt to monopolize the effect of regulating the foreign trade of the United States. They may fall under Section 7 of the Clayton Act if one can show that the American market comes under the probable danger of substantial lessening of competition. But I am afraid that such a recitation is very theoretical. In fact, during the last decade or so of antitrust, the American agencies and the European agencies have refrained substantially from a study of or interference in the international development.

There may be three immediate reasons why at least during the last 10 years there have been almost no American judicial opinions affecting the international system of trade:

(1) The Canadian Government protested when the Antitrust Division and the Federal Trade Commission began to prepare a case involving agreements between subsidiaries of American corporations in Canada, which allegedly conspired with other firms to exclude another American competitor from Canada. The Canadian Government took the position that the subsidiary in Canada of an American corporation is

to be considered a national only of Canada. The Canadian Government published a very important document on the whole problem of subsidiary corporations in Canada. The problem is coming up again and again in connection with trade of U.S. subsidiaries in Canada with Communist countries.

(2) The Department of Justice agreed in consent decrees in the important oil cases (e.g., U.S. v. Standard Oil Co., 1963 CCH Trade Cases 70, 819), as well as in the banana case (U.S. v. United Fruit Co., 1958 CCH Trade Cases, 68, 941), practically regulating a substantial part of the external trade of the United States. In these decrees the position was taken that, deviating from the general American position, subsidiaries in oil and in banana should be free from application of the American antitrust legislation. The reason was that the laws of the countries where these subsidiaries are active are supposed to be different from the U.S. law, and that not only the foreign law but even the foreign declared policy, for instance, the policy of Libya, as to oil, must be given proper consideration, even if trade takes place outside of Libya.

(3) The practical enforcement of American law on international facts before American courts is very difficult

because of the rules of evidence as they are applied. It is not sufficient to show that certain results are unavoidable if certain other facts included in published reports and records in other cases have been proven. Since concentration in modern industries can only be evaluated if understood in connection with so-called foreign concentration, the practical application of the law is made more than difficult by problems of proof.

But these reasons for a lack of case material are only external and symptomatic of a more profound fact: A new system of private market regulation with national and international effects has developed which has no elements of present conspiracy or present attempts to monopolize or to abuse market dominating positions as required by the U.S. and European antitrust law. In the aluminum case I have shown elements of very different forms of market regulation standing side by side with traditional and customary practices which grow into an entire system of trade. In other cases, such as copper or many industrial fields, the system of trade is even more complex and even more remote from express agreement, conspiracy, or intended misbehavior. The wires of this system cross with the traditional elements of acts prohibited by the Sherman Act and

similar legislation, but they are not identical. This private system of trade makes use of many elements of public regulation of trade, such as tax law, import and export quotas, and many other public regulations. It is absolutely necessary to study the factual elements of these new systems of trade in all their complexity and evaluate these facts to decide whether or not the law should establish new prohibitions, limitations or general acts of control. Not only the lawyer must understand this concept, but also the economist must, too. As a matter of fact it is not enough to present an alternative between cartels, agreements in restraint of trade, monopoly or oligopoly. There are other forms or organized trade regulation, mixed private and public or exclusively private, not covered by any of these old forms.

It is really symptomatic that the American legal language does not even have a clear terminus technicus for the subjecting of corporations or other business entities under the command of a central management of the "head entity." The German corporation statute in section 18 defines as "concern" the condition in which several enterprises, one of them controlling and one or more subsidiaries, stand under the general management of the controlling enterprise. It may be useful to use this concept in the United States for the main results of the process

of concentration: business entities subjected to central control. The Alcoa/Alcan case shows, however, that there is one relationship clearly not covered by this definition, and a further concept is still needed there.

In the international market regulation today we have these "concerns" composed of business entities in many different countries, subject to many different laws, which are necessarily parties to the system of market regulation.

The lawyers of all the different countries must find new ways to bring into a legal system each of these "international concerns" itself and the combination of these concerns in a market regulation system: this alone will make possible sensible and practical decisions in all countries.

Compare the different positions taken by the Government of the United States during the last two decades as to the problem of how far foreign subsidiaries of American corporations are subject to or influenced by the United States Law or the law of the country where the subsidiary is organized. You will see the need for clarification of the law in regard to international concerns especially in regard to combinations of international concerns into one system.

I believe a really dangerous recent development is that this problem does not come up as a legal problem but as a

political one. Agencies of the United States Government very recently have enacted rules on the so-called direct investor in foreign countries and ordered that the American investor prevent foreign subsidiary corporations from reinvesting their profit and repatriating from the subsidiary corporation substantial amounts to the United States. Anyone who experienced the effects of European currency regulations in the Thirties on the market of the United States as well as on markets in which the United States had a special interest, for instance, Latin America, knows how dangerous it is to subject corporations of a foreign country, even if they are subsidiary corporations, to the political interest of the parent government. Such a step takes the whole problem of concentration with its economic and commercial roots and makes it a political factum. It is obvious that other countries, especially those of the Common Market, could react to political measures by using methods equally dangerous and harmful to the international channels of trade.

I would like to conclude by submitting a number of proposals for your consideration:

I.

A systematic description and analysis of the present private system of trade regulation -- and the interdependence of private regulation with government regulation -- is perfectly possible. The work of our Institute in the preparation of the OECD Report on The Adverse Effects of Specific Restrictive Business Practices on International Trade, as well as the preparation of my recently published book, "Das Recht der Internationalen Kartelle," on the law of international cartels, has shown the extent to which analysis of private market regulation and the reasons for concentration is possible without having access to secret governmental or private information. Published information, including the public records of courts and administrative agencies, when utilized by trained scholars provides a very sound basis for reliable reports.

A. It is suggested that the Federal Trade Commission, pursuant to Section 6 of the Federal Trade Commission Act, with the cooperation of pertinent agencies of other governments, should prepare reports on selected sectors of the international economy. The Federal Trade Commission should return to the original concept of the Federal Trade Commission Act in working together with business in preparing

these reports. The Commission should work closely with the General Directorate of Competition of the Common Market Commission and those agencies of other countries having similar responsibilities.

B. It is suggested that the United States support further efforts of the OECD and other international organizations to analyze the facts regarding private regulation, its effects on international trade and legal remedies.

II.

In connection with these factual studies, this Committee should inquire how a legal study could be undertaken in cooperation with the Attorney General, the Department of State, the Federal Trade Commission, and other governmental agencies, covering the following points:

A. The different legal methods of protecting the American interests and interests of American business organizations, in free international trade, with special reference to foreign subsidiaries and affiliates.

B. Whether any additional legal remedies should be developed by courts and administrative agencies or by new legislation to protect these American interests.

C. This inquiry should also investigate the extent to which international organizations of which the United States is a member can develop new procedures within their existing authority to encourage free trade.

III.

A. Since the problem involved is an international event and can only be handled as such, these studies would be most valuable if they were undertaken in cooperation with other involved countries. Therefore, this Committee should consider means by which the factual and legal inquiries could be closely connected with similar inquiries undertaken in other countries.

B. These legal and factual inquiries should be integrated as fully as possible into a description of the new international private trade system from an American point of view as an aid to future policy formulation.

Let me end with a word of thanks and of hope. Just last spring, this Committee contributed very important material for the consideration of all interested parties. And the OECD has recently presented a broad, factual study on international trade. The continuation of such inquiry can do nothing but lead

to increased sophistication of national and international policy toward world trade.