MS-630: Rabbi Alexander M. Schindler Digital Collection, 1961-1996.
Series B: Conference of Presidents of Major American Jewish Organizations, 1962-1996.

Box	Folder
23	3c

Task Force on Energy, 1976-1979.

3101 Clifton Ave, Cincinnati, Ohio 45220
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AmericanJewishArchives.org

February 18, 1977

Mr. Robert Jacobs
1180 Avenue of the Americas
New York, New York 10036

Dear Mr. Jacobs:

Thank you for your letter of February 15. While I share some of your apprehensions, I am reasonably confident that some of these things do not represent any kind of crystalization of view within the top ranks of the Administration. They come from thw bowels of the State Department and the Pentagon, from briefing papers - God knows when written- and from individuals of slanted views, and have achieved some prominence during this period of transition. Moreoever, they must be seen against every positive stance which has been taken by the Carter Administration vis-a-vis Israel, e.g. the PLO, and also vis-a-vis Soviet Jewry, where I expect much more progress under Carter than ever before.

I amalso heartened by the determined effort to deal with the matter of energy. I met with James Schlesinger yesterday and was dazzled by both the determination and speed with which he intends to move and here, as we agree, is the crux of the problem.

This is not to say that the apprehensions were not relayed to the foremost leadership of the Administration, privately and from several sources within the Jewish community.

As for your suggestion that a Public Relations Committee be set-up within the Presidents' Conference, you are probably not aware that with the agreement of the Israel Embassy a Task Force on Public Relations was set-up under the aegis of the NJCRAC, staffed by "experts" and reasonably well funded. It is for this reason that the Presidents' Conference has not functioned in this field. Why should two groups do the same thing, there is enough duplication in Jewish life. We had a rather desultory discussion on the subject at the Conference just the other day and some sort of ad hoc solution was proposed on which I am acting but I must note that it does not fully satisfy me.

I appreciated hearing from you. With kindest greetings, I am

Sincerely,

Alexander M. Schindler

KANAREK, JACOBS & CO.
ACCOUNTANTS AND AUDITORS
1180 AVENUE OF THE AMERICAS
NEW YORK, N.Y. 10036

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IRVING H. KANAREK, C.P.A.
ROBERT JACOBS, PUBLIC ACCOUNTANT
SEYMOUR KAYE

February 15, 1977

Rabbi Schlinder
Union of American Hebrew Congregation
838 Fifth Avenue
New York, N.Y. 10021

Dear Rabbi Schlinder:

The last time we had a discussion we discussed energy and I fully agree that this is of utmost concern to all of us. However, there were two other areas that I intended to bring up; one was a list of prominent individuals that would have access to Congressmen, the other was a mass media committee that can help mold public opinion.

At present we have seen the first few acts of the Carter administration and to say the least I am most apprehensive. One, the stopping of the sale of Kfir planes to South America and the stories about the 20 year old mystere jets. Second, of course, is the stories eminating from Washington that the sale of the concussion bombs to Israel that were promised by the Ford administration will be stopped. Of course today the news stories about the stopping of drilling for oil in the sinai is most disturbing.

Although, I have been throughout the country this past week, I have not seen one editorial or one news commontator mentioning the foolishness of not allowing Israel to re-export planes that are made in Israel just because they are using a single American component. I have also not seen one prominent politician protesting. We must face the fact that this is a trend that must be stopped or else the only thing that is going to happen is the squeese will be increased. I would once again appreciate the opportunity meeting with you to see if we can start a mass media committee within the President's Conference or eminating from the President's Conference and a public affairs committee that can do certain things that are obviously not being done. There should have been a hugh protest when the rumors about Israel not getting the bombs or at least a political outery. Our silence will only lead to a continuation of this policy.

I would appreciate meeting with you at your earliest convenience.

Very truly yours,

Robert Jacobs

P.S. Was a Senator Moynihan contacted to speak up?? or who was?

to reduce the political and social costs such as our vulnerability to the oil cartel and damage done to the environment.

We believe that about 35 Quads of "conservation energy", which equals about 16 million barrels of oil a day, can be "produced" by 1985. This would provide for an average energy growth of about 3.5 per cent per year over the next ten years.

Clearly the production of oil, gas and electricity could be held to replacement levels while providing for the energy needs of an expanding economy.

In 1976 dollars, energy will cost an average of approximately $4.50 per million BTU's in 1985. Yet "conservation energy" is estimated to have a median cost of only $2.50 per million BTU's. As a result, if "conservation energy" can replace 35 Quads of conventional energy sources, some $70 billion in 1976 dollars will be slashed from our prospective energy budget in 1985.

These 35 Quads of "conservation energy" represent the largest and least expensive source of new energy in the United States. It is time to make this a national goal, and to seek it as aggressively as we seek more expensive energy sources.

Producing 35 Quads of "conservation energy" by 1985 will require us to:

-- Create in the American people a commitment to save energy as an alternative inexpensive source of energy for every farm, office, factory and family.

-- Provide longer term financing to stimulate immediate thermal improvements to residential and commercial properties.

-- Demand strict enforcement of Federal energy efficiency standards on autos, buildings, appliances and industrial processes.

Alliance to Save Energy is a private, non-profit, non-partisan organization.

Former President Gerald Ford and Vice-President Walter Mondale will serve as Honorary Chairmen. Dr. James Schlesinger will serve as the Honorary Advisor.

The activities of ASE will be determined by a Board of Directors in consultation with an Advisory Board. The Board of Directors will elect an Executive Committee from their members to implement policy.

The Chairman and Co-Chairman of the Board of Directors are Senators Charles H. Percy and Hubert H. Humphrey.

Dr. Henry Kissinger will serve as Chairman of the Advisory Board. The

Honorary Vice-Chairpersons will be Secretary Patricia Harris for housing, Secretary Juanita Kreps for commerce and industry, Secretary Ray Marshall for labor, and Secretary Brock Adams for transportation.

The Advisory Board will be made up of individuals from all sectors of American life. It will also include 10 regional Chairpersons, coinciding with the 10 Federal regions, who will oversee the programs of the 50 State Chairpersons.

(A list of the boards to date is attached.)

Policies, positions and actions of ASE will generally constitute a consensus among its directors, advisors and members. But everyone participating in ASE reserves the right to disagree with the organization and to express individual opinions.

An Executive Director will be appointed to manage the day-to-day activities of the organization. A staff of approximately 25 professionals will be headed by Assistant Directors responsible for:

-- Commerce and industry

-- Buildings

-- Transportation

-- Utilities

-- Public education

-- Legislative affairs

This basic organizational structure will be reflected within each state. The state organizations will identify and promote projects of specific value to the states, including statewide conference on "conservation energy".

There will be a six month initial phase, funded by contributions from diverse sectors totaling about $150,000. Thereafter, activities would be budgeted at a minimum of $2 million a year to be increased as needed.

ASE will be organized as a non-profit corporation, and application will be made for Federal tax exempt status, under which donations to ASE will be tax deductible. Legislative activities will be kept at a level less than 20 per cent of the overall budget.

FOR RELEASE: February 10, 1977

ALLIANCE TO SAVE ENERGY
P. O. Box 1749
Washington, D. C. 20013

Senator Charles H. Percy

Senator Hubert H. Humphrey

Energy conservation has been called "slow-growth" economics by its critics; its supporters have hailed it as the only way to save our way of life. In fact, saving energy is the most compelling challenge for Americans today.

Record cold temperatures this winter should awaken us to the need to make saving energy the nation's top domestic priority. Because of the cold temperatures and shortage of natural gas, we have been struck with untold human hardship. Thousands are out of work. Millions are struggling to keep warm. And in January, for the first time, we imported more than 50 per cent of the oil burned in America. Not since the Arab oil embargo has the need for energy conservation been so obvious.

If we are to have an effective national energy conservation effort, there must be a different approach and a new definition, one which could capture widespread popular support.

Economic facts are a compelling argument for energy conservation. "Conservation energy"-- based on more efficient and economical use of the energy we have now -- is an enormous, untapped alternative energy source that can reduce our dependence on expensive foreign oil and dwindling domestic energy supplies.

Alliance to Save Energy, a new national organization, will promote this great energy source.

One of our chief tasks is to convince every American -- homeowners, apartment-dwellers, motorists, business leaders, labor union officials, government officials -- that it is actually far less expensive in the long run to invest to save energy than it is to purchase energy.

Alliance to Save Energy will seek to develop a broadly-based constituency for energy conservation; to ensure competitive production of "conservation energy" from investment in more efficient buildings, transportation facilities, industrial processes and electrical generation; and to ensure the production of conservation energy in the amount needed

MORE

EMBARGOED FOR USE AT 1:30 P.M. FEBRUARY 10, 1977

Office of the White House Press Secretary

THE WHITE HOUSE

Statement by President Jimmy Carter on Former President Ford's and Vice President Mondale's role as honorary chairmen of the Alliance to Save Energy:

"Saving energy must be a major national priority. It is one of America's greatest challenges.

"I want to welcome the timely creation of the private, non-profit Alliance to Save Energy which is being announced today. This organization is dedicated to the concept that there is a new, inexpensive and accessible resource: conservation energy. Conservation energy is the energy derived by replacing wasteful habits and technologies with more efficient ones. Every American can join in the effort to make conservation energy one of our chief resources. I urge them to do so.

"I have asked Vice President Mondale to serve as Honorary Co-Chairman of the Alliance to Save Energy. I am especially pleased and grateful that former President Ford will serve in this capacity also.

"As I said in my address to the nation last week, we must face the fact that the energy shortage is permanent and there is no way we can solve it quickly or easily.

"Conservation will be the centerpiece of our national energy policy. The amount of energy we waste is greater than the amount of energy we import from foreign nations. All of us must learn not to waste energy. I'm confident that the Alliance to Save Energy will play a significant role in implementing our national energy policy. It is just this kind of effort which is now required to mobilize the American people behind the critical need to use precious energy resources more wisely."

# # #

STATEMENT BY RALPH NADER ON CREATION

OF ALLIANCE TO SAVE ENERGY

February 10, 1977

Senators Percy and Humphrey should be congratulated for launching this major national effort for energy efficiency in all sectors of the economy. Energy efficiency is our greatest immediate source of energy. We can reduce inflation, diminish pollution, defend the consumer and make our economy more efficient and competitive overseas. Mobilizing the public to secure more efficient automobiles, building operation and construction, industrial processes, and consumer technologies will relieve greatly the pressures that are placed on our society by an energy scarcity based on waste. For this group to succeed requires the support and attention of many Americans.

ALLIANCE TO SAVE ENERGY

February 15, 1977

Chairman:

Senator Charles H. Percy

Co-Chairman:

Senator Hubert H. Humphrey

Honorary Chairmen:

Former President Gerald R. Ford

Vice President Walter F. Mondale

Honorary Advisor:

The Honorable James R. Schlesinger

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Dry Myron Kuropas	Supreme Advisor, Ukrainian National Association; Former Special Assistant to President Ford for Ethnic Affairs
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Joseph Sisco	President, American University
Russell Train	Former Director of Environmental Protection Agency
Rawleigh Warner, Jr.	Chairman, Mobil Oil
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Arthur Wood	Chairman & Chief Executive Officer, Sears, Roebuck & Company
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Ambassador Barbara White	President, Mills College
Frank Zarb	Former FEA Administrator

ALLIANCE TO SAVE ENERGY

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Herman E. Talmadge, Georgia
Lowell P. Weicker, Jr., Connecticut

December 15, 1976

Mr. Robert Jacobs
Sunbelt Management Associates
1180 Avenue of the Americas
New York, New York 10036

Dear Bob:

Thank you for your recent letter regarding our conversations on the problems of oil importing and Arab economical power.

I appreciate your taking the time to draft a letter and want to tell you that it will not be necessary for me to write to President-elect Carter. I have been in contact with members of his staff and in personal conversations have discussed this particular matter. I can tell you that I was heartened by the response I received as well as the positive movements in this sphere of activity which are already apparent.

With thanks for your concern and with warmest regards, I am

Sincerely,

Alexander M. Schindler

bcc: Rabbi Ephraim Sturm

Sunbelt Management Associates
1180 Avenue of the Americas
New York, New York 10036

(212) 575-5163

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GERHARD R. ANDLINGER
ROBERT H. SMITH
LIMITED PARTNERS

December 6, 1976

Rabbi Alexander Schlinder
President's Conference
515 Park Avenue
New York, N.Y.

Dear Rabbi Schlinder:

Sorry I did not get back to you sooner about our discussions regarding the oil importing problem and Arab economical power, but due to illness I was unable to do anything until last Thursday.

I have spoken to several prominent people that I thought would be capable of doing the job and heading up a National Energy Committee, as we discussed. However, they all came to the conclusion that for it to be done without governmental help would be foolhearty, instead they suggested that a letter be written to President Elect Carter informing them that the President's Conference will have a sub-committee to help the government deal with energy problems and would have a Chairman of this committee who would like to be involved somehow with the Federal Energy Administration. His job would be to coordinate the various constituent members of the President's Conference to help the government in their effort to reduce our dependence on foreign oil. This would include articles, news stories, etc. in the Jewish media and in various publications of the constituent organizations of the President's Conference. Individual members with exceptional talent would be solicited.

I have written a sample letter that I believe should be sent to President Elect Carter outlining some of the thoughts that I think should be considered.

Very truly yours,

Robert Jacobs

PROPOSED LETTER FROM PRESIDENT's CONFERENCE
TO PRESIDENT ELECT JIMMY CARTER
PLAINS, GEORGIA

As representative of many American Citizens we thank you for all your concerns in regards to solving America's need for energy independence. As Jews concerned with Israel's survival and concerned with American Freedom and economic independence from foreign energy resources, we would like to offer on behalf of our constituent organizations any help we can towards solving America's energy needs.

We have appointed a Chairman who will be in charge of energy affairs, whose goal will be to work with whatever bodies are concerned with American energy independence. His job will be to coordinate our constituant organization and as many individual members as possible who are willing to take part in all phases of energy independence.

I would like to strongly suggest that this individual, who would be highly qualified, would be able to serve besides our energy Chairman, some official capacity on a National Energy Board. Thus, he will be able to help mobilize our members and at the same time the added prestiege in being part of a National energy board would help him in his dealings with our constituent organization and members.

Therefore, we would like to submit the attached resume' of the individual concerned with a few letters of recommendation and hope that you will consider these thoughts.

With best personal regards

Rabbi Schlinder

cc: Other contacts

P.S. The above is just an idea that I believe should be considered.

December 21, 1976

Mr. Steven L. Spiegel
9701 Wilshire Blvd. #700
Beverly Hills, CA. 90212

Dear Mr. Spiegel:

Many thanks for sharing with Rabbi Schindler the two papers on Oil. He is out of the office for the next two weeks but these papers will be brought to his attention immediately on his return and he will, of course, share his comments with you.

With kindest greetings, I am

Sincerely,

Edith J. Miller
Assistant to the President

With the Compliments of

Steven L. Spiegel

We would greatly appreciate your comments on this/ese paper/s as well as on other papers you have received and not yet commented on.

Thank you !

WORLD OIL: CHALLENGES AND OPPORTUNITIES

The purpose of this paper is to suggest an alternative point of view regarding the price of oil. The conventional wisdom today is that OPEC's near-monopoly control of the world's oil markets will last well into the 1980s, if not beyond. We challenge this point of view and suggest that a more probable outcome will be a gradual erosion of the cartel's position over the next few years. We do not foresee OPEC falling apart with earthshaking events of the sort that occurred when the cartel burst onto the world scene in late 1973 in the wake of war, an oil embargo, and quadrupled prices. Rather, we believe that natural economic forces will gradually work toward a reassertion of the market power of the oil-consuming nations between now and 1980.

The policies devised by the U.S. and other Western governments to take advantage of this market shift will in large part determine the future viability of the cartel. Serious political considerations may suggest that the core Mideastern nations of OPEC may be vital to the security of the Free World, and that attempts to combat the cartel on purely economic grounds might well be contrary to our international political interests. While it is beyond the scope of this analysis to challenge that position on political grounds, we would suggest that the ability of the cartel to impose monopoly prices on the world's oil markets is an equally serious consideration on economic grounds.

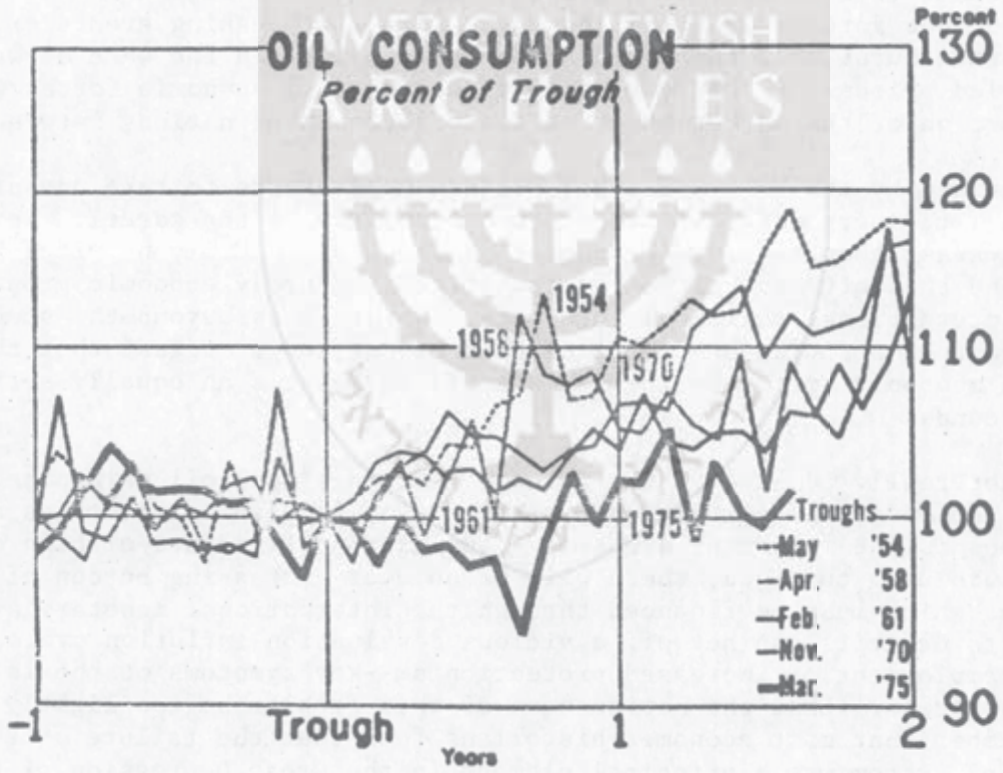
The world has not really adapted to the price of international oil maintained by the strength of the oil cartel. The mounting international debt of many developing countries and of some industrialized nations is one important symptom of the disruptive nature of high oil prices. As long as large OPEC surpluses continue, there will be an ever-increasing burden of deficits in the oil-importing nations which must be financed through the international monetary system. Chronic international payments deficits can set off a vicious devaluation-inflation cycle, which in turn brings about high unemployment or increased protectionism--key symptoms of the failure of the economic adjustment process. Lest the seriousness of this problem be too lightly dismissed, it is important to remember that most economic historians feel that the failure of the international economic and financial system was a principal element in the Great Depression of the 1930s. Measures taken in the 1930s to defend against these deficits emphasized exchange controls and protectionist trade policies which contributed to a sharp contraction in world trade, an end to economic prosperity, and the ultimate rise of a destructive economic nationalism.

While the world has learned much about economic cooperation since the 1930s, economic history should remind certain OPEC members that many of their aspirations cannot be achieved except at considerable expense to the rest of the world. The strategy of achieving economic development by imposing high oil prices upon the rest of the world contains certain risks to OPEC as well as to the oil-consuming nations, both developed and developing. The world recession of 1974-75 was in large part the result of the oil price shock; the slow recovery of the world's economy may be another. But it is precisely this slow economic recovery, with its limitations on increasing social goals, that will likely cause the gradual erosion of the strength of the cartel itself. We believe that it is important for both Western policymakers and the governments of OPEC to understand the nature of this process.

World Petroleum Demand

In 1976, world petroleum demand will probably increase some 5.5% over its 1975 level. This compares to declines of 4% in 1974 and 3% in 1975. These figures mask, however, the fact that a substantial portion of the 1976 demand increase is the result of major increases in inventories, caused by the necessity to restock oil supplies after substantial liquidation in 1975 and by the desire to purchase crude oil prior to the anticipated OPEC price hike for 1977. World oil consumption, excluding inventory changes, is rising at a rate far below its historic average. Preliminary evidence suggests that oil consumption in the major OECD countries rose about 3.5% during the first half of 1976, while industrial production was rising at better than a 10% rate. This disparity suggests that energy conservation measures, especially in industry, are in fact taking hold. In the United States, oil consumption during the first eight months of 1976 has averaged less than 3% above the first eight months of 1975. Chart I compares U.S. consumption during the present U.S. economic recovery to past postwar recoveries. It shows that oil consumption (seasonally adjusted) a year-and-a-half after the trough of the general economic recession is running only marginally above its rate at the trough. This compares to an average gain of close to 10% at the same stage of prior recoveries.

CHART I



Source: U.S. Department of Commerce and Interior, Seas. Adj.

For 1976 as a whole, we expect world oil consumption to increase about 2%, a rise which will not bring it back to its 1974 level. Because of an expected increase of 700,000 barrels per day in worldwide inventories, however, total demand for oil in 1976 is likely to surge by 5.5%.

Table I

WORLD PETROLEUM DEMAND
(MMB/D)

	1973	1974	1975	1976	1977------1980
U.S.	17.5	16.9	16.5	17.1	17.8------19.3
Canada	1.8	1.8	1.8	1.9	2.0------ 2.3
W. Europe	15.7	14.7	14.0	14.4	15.1------16.3
Japan	5.5	5.3	5.1	5.4	5.7------ 6.5
Other	8.8	8.7	8.6	8.6	8.8------ 9.6
Total Consumption:	49.3	47.4	46.0	46.9	48.3------53.0
Change in Inventory:	--	+1.0	-0.9	+.7	-- --
Total Demand:	49.3	48.4	45.1	47.6	48.3------53.0

DEMAND GROWTH RATES

Historical		Projected	
1955-70	6.8%	1975-76	5.5%
1970-73	7.3%	1976-77	1.5%
1973-74	-3.9%	1977-80	3.2%
1974-75	-2.9%	1975-80	3.5%

Table I shows our forecast of about 3% growth in world oil consumption in 1977. Nevertheless, total demand, which includes the change in worldwide inventories, is expected to grow by only 1.5%. This difference may be accounted for by our assumption that there will not be any increase in inventory levels during 1977 beyond those reached in late 1976.

We are, therefore, suggesting that 1977 world oil demand will still not attain the peak level reached in 1973. This forecast is based upon a structural change in the relation between economic growth and oil consumption. Whereas in the past worldwide oil consumption grew at rates equal to or greater than overall economic activity, we are assuming that worldwide oil demand will grow in the future at a rate of around two-thirds the gain in the world economy as a whole.

Our forecast also takes account of the widespread slowing of the world's economies in the latter half of 1976. Although the decline in the rate of real growth does not, in our judgement, foretell another worldwide recession, it does mean that oil consumption will be even further depressed than might have been the case without the current economic pause.

As a result of these considerations, we are projecting a 3.5% average annual growth in world oil demand over the 1975-80 period. (This works out to a 3.2% growth over the 1977-80 period.) This forecast is consistent with the expected 5% average annual growth in real economic activity projected for the OECD countries.

World Petroleum Supply: Non-OPEC Sources

Table II shows that between 1973 and 1976 non-OPEC oil sources as a whole have experienced only a minor production decline, although there has been some shift away from North America to other parts of the world. In particular, the approximately 1.5 MMB/D decline in North America has been offset for the most part by small gains in Latin America, Europe and Asia. Sino-Soviet exports to the noncommunist world have also increased. With the advent of Alaskan and North Sea oil we believe that non-OPEC sources of petroleum will grow by close to 1 MMB/D in 1977. This will just about meet the likely increment in 1977 world demand. Beyond 1977, it is likely that non-OPEC oil sources will be coming on stream even more rapidly. We expect an increase of over 6 MMB/D between 1977 and 1980 in oil production outside of OPEC.

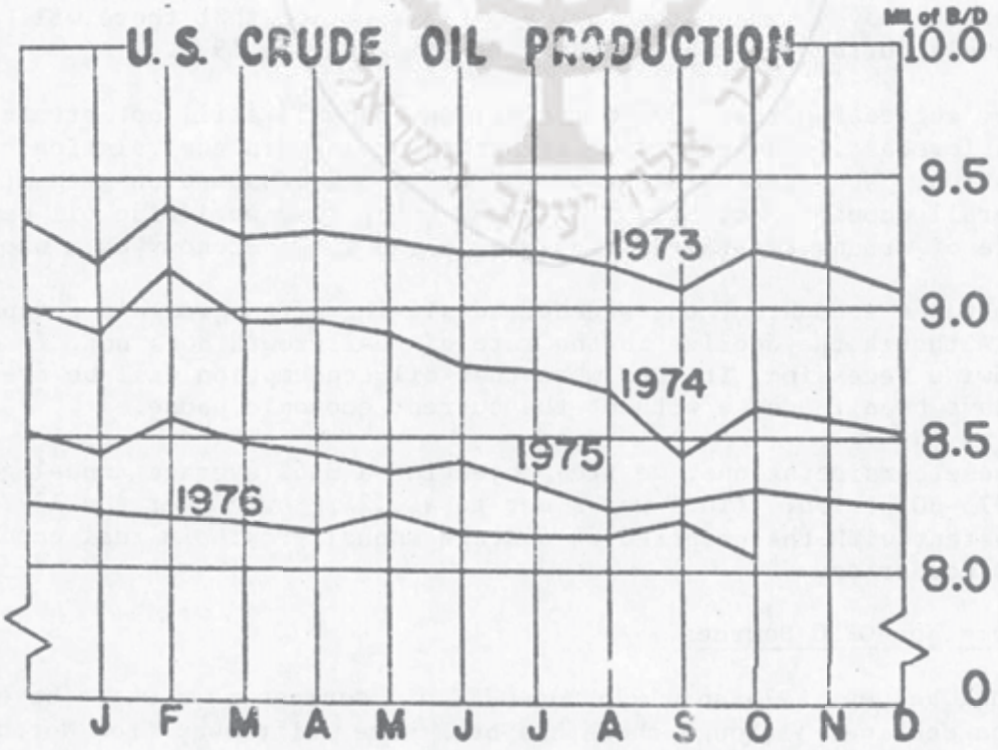
Table II
WORLD PETROLEUM SUPPLY: NON-OPEC SOURCES
(MMB/D)

	1973	1974	1975	1976	1977-----1980
U.S.	11.4	11.0	10.5	10.2	10.4-----12.3
Canada	2.1	2.0	1.9	1.8	1.7----- 1.7
Europe	.3	.4	.6	.8	1.4----- 3.6
Rest of World	3.6	3.7	4.0	4.2	4.4----- 6.6
Sino-Soviet	.8	.9	1.0	1.0	1.0----- 1.4
Total:	18.2	18.0	18.0	18.0	18.9-----25.5
World Demand:	49.3	48.4	45.1	47.6	48.3-----53.0
Required from OPEC:	31.1	30.4	27.1	29.6	29.4-----27.5

*Non-OPEC sources exclude Communist bloc oil production, but include net exports by Russia and China to the non-Communist world.

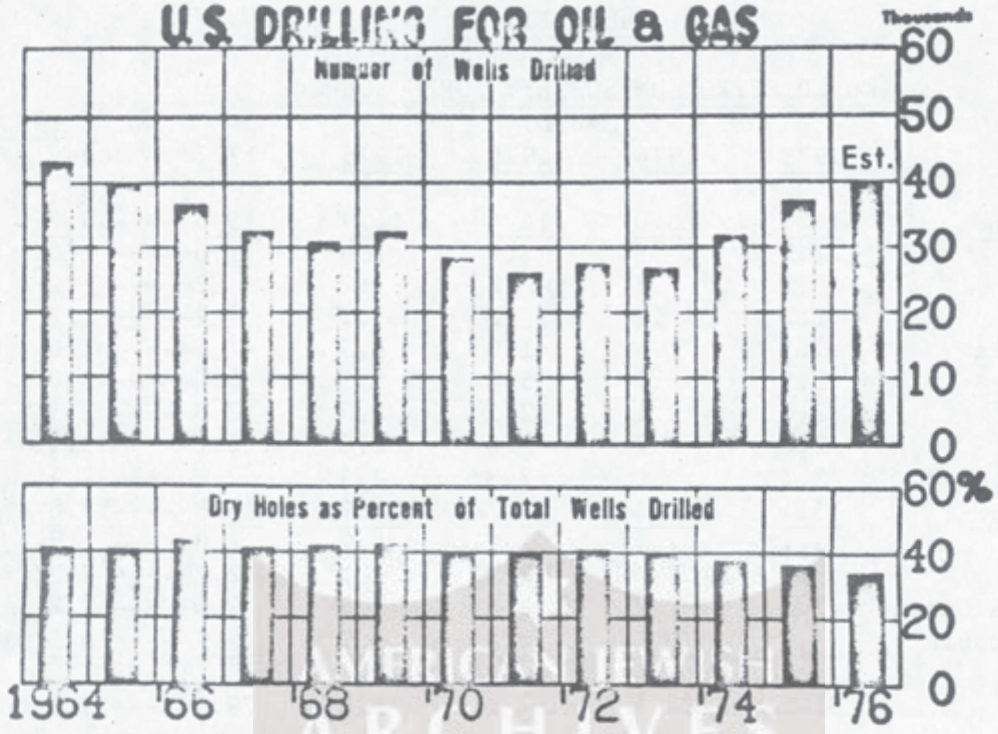
Table II projects an increase of 2.1 MMB/D of U.S. production between 1976 and 1980, primarily because of the Alaskan pipeline. It assumes that oil production in the lower 48 states remains constant at a level of 10.2 MMB/D. These figures include natural gas liquids and refinery processing gains, as well as crude oil production. With the opening of the Elk Hills Naval Reserve and the deregulation of prices for secondary and tertiary oil production, we believe that the U.S. can at least arrest its past declines in mainland oil production. Chart II below shows that U.S. crude production has been declining at a decelerating pace for the past three years, while Chart III shows the marked increase in U.S. drilling since 1974.

CHART II



Source: U.S. Dept. of Interior, Bureau of Mines.

CHART III



Source: American Petroleum Institute

Additional large sources of new oil production will be the British and Norwegian North Sea with a gain of almost 2.5 MMB/D between 1977 and 1980. Other parts of the world with significant new oil gains include Mexico, Brazil and Southeast Asia. Smaller new areas of increased oil output are in Africa, the Far East and other parts of Latin America. We also expect Sino-Soviet exports of oil to the West to continue to increase, especially as hard currency financing of Soviet deficits become more difficult and as the Chinese gradually move toward a more pragmatic management of their economy.

World Petroleum Supply: OPEC

OPEC oil production reached its peak in 1973 at more than 31 MMB/D. By 1975, it had fallen to around 27 MMB/D. The economic recovery during the first half of 1976 spurred OPEC production to a six-month average rate of 28.6 MMB/D; in June the rate was almost 30 MMB/D, and by September it had exceeded 30.5 MMB/D. A major reason for this sharp increase in OPEC production has been the inventory buildup by consumers seeking to purchase oil prior to the anticipated price increase likely to take effect in January 1977. We are estimating 1976 OPEC production to average 29.6 MMB/D, more than 7% above the 1975 level.

Table III divides the OPEC countries into two groups. First is the group of large population countries that presumably would need a minimum level of oil exports to sustain their plans for rapid economic development. Despite the fact that both Venezuela and Nigeria have stated plans to limit production in order to conserve their oil for the longer run, neither country would choose to produce less than 2 MMB/D, and each would likely opt for something closer to 2.5 MMB/D as a long-term target. The rest of the large population countries are maximum producers that generally produce oil to the physical limits of their capacity.

Table III

WORLD PETROLEUM SUPPLY: OPEC SOURCES

(MMB/D)

	1973	1974	1975	1976	1977	1980 Case A	1980 Case B
Large Population Group:	16.0	16.0	14.4	14.9	15.4	14.7	18.8
Algeria	1.1	.9	.9	1.0	1.0	1.0	1.1
Ecuador	.2	.2	.2	.2	.2	.2	.5
Gabon	.1	.1	.2	.2	.2	.2	.3
Indonesia	1.3	1.4	1.3	1.5	1.5	1.6	1.9
Iran	5.9	6.1	5.4	5.7	6.0	5.0	6.5
Iraq	2.0	2.1	2.3	2.0	2.3	2.5	3.5
Nigeria	2.0	2.2	1.8	2.0	2.1	2.1	2.5
Venezuela	3.4	3.0	2.3	2.3	2.1	2.1	2.5
Small Population Group:	15.1	14.4	12.7	14.7	14.0	12.8	8.7
Libya	2.2	1.7	1.5	1.9	2.0	1.9	1.7
Kuwait	3.0	2.5	2.1	1.8	2.2	2.2	1.9
U.A.E. & Quatar	2.2	2.2	2.1	2.5	2.5	2.2	2.1
Saudi Arabia	7.7	8.0	7.0	8.5	7.5	6.5	3.0
Total OPEC:	31.1	30.4	27.1	29.6	29.4	27.5	27.5

Case A: Assumes each major OPEC group produces approximately in proportion to the 1975 allocation.

Case B: Assumes maximum production by large population OPEC members, with small population members--primarily Saudi Arabia--absorbing the production declines between 1977 and 1980

The small population OPEC members consist of Libya and the Arab Gulf Coast states. These countries have the option of producing more or less oil depending upon what they perceive to be their own self-interest. Because of its immense oil reserves, Saudi Arabia is the leading country in this group. At the present time, Saudi Arabia could produce as little as 3 to 4 MMB/D, while still maintaining a high standard of living and meeting a practical set of development goals. Yet Saudi Arabia has the capacity to produce 11.5 MMB/D today; by 1980, its productive capacity will likely rise to 14-15 MMB/D. As a result, Saudi Arabia is the acknowledged focal point of the OPEC cartel and can act much as the Texas Railroad Commission once did in prorationing oil output.

Table III shows that the 3.3 MMB/D decline in OPEC oil output between 1974 and 1975 was divided about equally between the large population OPEC members and the small population group. In 1976, the large population group increased its production by only 500,000 barrels per day, while the small population group gained 2 MMB/D, with Saudi Arabia accounting for three-quarters of the increase. There is likely to be strong pressure, therefore, to increase production in the large population OPEC countries in 1977, to some extent at the expense of the smaller population countries. As a result, we expect Saudi production to fall 1 MMB/D in 1977, while the larger population group, especially Iran, will attempt to increase production as much as possible.

OPEC production is probably now reaching its peak level for this decade. Table III shows our forecast of a decline in OPEC production to 27.5 MMB/D by 1980, primarily because increases in non-OPEC production will more than match the expected increase in demand. This decline in OPEC production over the 1977-80 period will put a severe strain on the cohesion of the cartel. We have projected two contrasting scenarios for the allocation of OPEC production in 1980. We expect

neither of these polar cases to occur. The most likely outcome will be a negotiated settlement somewhere between the two extremes.

In Case A, we assume that each major OPEC group produces approximately in proportion to the allocations of 1975, a year of depressed OPEC output. As noted in Table III, OPEC output has expanded sharply in 1976 and is likely to continue at this high production rate in 1977. Yet, by 1980 we expect OPEC's production to decline once again. In projecting the allocation of 1980 OPEC oil output among the cartel members, Case A assumes that the larger population OPEC members would suffer only a marginal decline in their production between 1976 and 1980, while over the same period the smaller population members will experience a sharper decline of around 2.5 MMB/D. This scenario suggests that Iran would be content with a declining level of output and that Iraq would achieve only moderate output gains. Potential friction is inherent in this case, since it assumes that Saudi Arabia would be unwilling to cut back enough to enable Iran and Iraq to expand production to the extent that would meet their desires for growth.

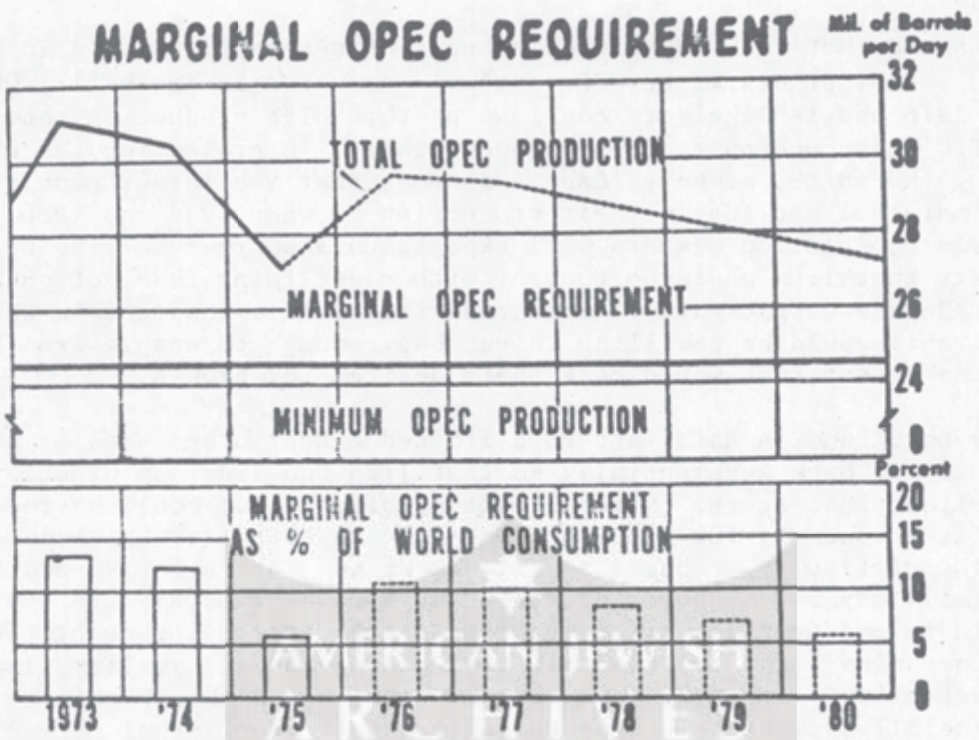
Case B assumes that Saudi Arabia (and to a limited extent other smaller population OPEC members) is willing to cut back substantially so that Iran and Iraq can produce to the maximum. In particular, we believe that at the extreme Saudi Arabian output could be reduced to a level of 3 MMB/D by 1980, if it chooses to fully accommodate its neighbors' aspirations. The instability in this extreme is the difficulty of Saudi acceptance of two increasingly powerful states in the Persian Gulf, whose military and economic growth would rapidly outstrip its own. In this scenario, pressure would be put upon the oil companies to take increasing quantities of Iranian and Iraqi crudes. The companies might be reluctant to do so because of quality, logistic, and profitability considerations. Finally, the Saudis themselves, although able to afford the production cutback financially, might be averse to seeing their traditional market shares so severely eroded.

Conclusions

In a prior study we argued that over the 1975-80 period OPEC's minimum production level required to sustain its member countries' respective development objectives was in the 24-25 MMB/D range.* This estimate was based on a detailed assessment of each country's oil-producing capacity in comparison with its foreign exchange needs to import Western goods and services. We continue to believe that the general conclusions of that study remain valid, although the non-OPEC sources of supply have not materialized to the extent which we thought possible two years ago. As a result, our current projection of total OPEC production in 1980 is about 3 MMB/D higher than in our previous study. Nevertheless, if our projection of a 27.5 MMB/D rate for 1980 OPEC production is at all realistic, the world would need only around 3 MMB/D more from OPEC than its minimum production levels. Chart IV shows that this marginal OPEC requirement in 1980 would represent only around 6% of world oil consumption, down from almost 15% in 1973-74. International energy policy should recognize that this developing trend will create a situation where a modest program of energy conservation could be highly successful in coping with the cartel. Reducing world oil demand by 3 MMB/D in 1980 seems a reasonable target for an effective international energy conservation policy and would make it difficult for OPEC to determine oil prices unilaterally.

*See Outlook for World Oil: Prices & Petrodollars, View From One Wall Street, Irving Trust Company, March 1975. Also published in Business Economics, September 1975.

CHART IV



Source: Historical Data by American Petroleum Institute
Projections by Irving Trust Co.

The preceding analysis suggests that during the next few years efforts to contain the continuing rise in international oil prices may prove more successful than in the past. A slowing in the growth of world oil demand and the expected rapid increase in non-OPEC oil sources imply that OPEC production should peak late in 1976 and then gradually decline to 1980. OPEC will be most vulnerable to consumer pressures during this period, since a number of the more heavily populated OPEC member nations will have an incentive to expand oil production at a time when world demand for total OPEC oil will be gradually declining. They can only expand output at the expense of the more sparsely populated OPEC countries. If Saudi Arabia alone reduces output to offset increased production by the populous OPEC nations, it could be reduced to production levels by 1980 which even it might find intolerably low. As another alternative, if Saudi Arabian production in 1980 were held near current levels, other OPEC members would be forced to cut oil production below levels which would permit the planned implementation of economic development programs already in progress.

U.S. international oil policy should recognize the likelihood of this natural friction within OPEC. The period ahead offers the opportunity to limit the cartel's power over the world oil market and to reach a more healthy accommodation with the legitimate aspirations of its member governments.

The North-South dialogue now going on in Paris among representatives of the OECD countries, OPEC, and the non-oil developing countries offers a useful form in which to discuss the issues surrounding the price of international oil. We have argued before that some kind of market exchange system would be a better mechanism for determining the price of oil than an international treaty based upon political perceptions of a "fair" price.* We do not accept the replacement

*See, View From One Wall Street, International Commodity Issues, November, 1975, and

cost of synthetic energy sources as a realistic basis for oil pricing; nor is the indexing of oil prices to world inflation a useful departure point for international oil negotiations. Both pricing approaches make little economic sense in the long run and would simply add to the misallocation of the world's resources, both physical and financial. A market exchange system for oil, possibly regulated by representatives of both consuming and producing nations, would be a more useful approach. And it is over the next few years, when the consuming nations may well be able to exercise significant market influence over the OPEC states, that this approach might be successfully applied.

Arnold E. Safer

An Antitrust Approach To Oil Problems

The basic thrust of this paper is that high OPEC crude oil prices, which are very harmful to Israel, could be reduced by actions of the United States government. High oil prices provide Arab countries with the wherewithal to acquire immense quantities of arms, and to acquire political influence directly and through purcheses. High oil prices strengthen the economic power of the major oil firms who have an interest in helping the Arab countries obtain friendly receptions here, and who have an interest in keeping production centered in the OPEC resources they control. General action to reduce the price of oil would involve regulation and restriction of the relationships among major oil companies, and among the OPEC states. The actions would also involve restructuring the petroleum industry to eliminate the major companies market dominance and their incentives to cooperate with one another and with OPEC. Restructuring actions should include legislatively mandated divestiture by the eight largest petroleum companies and their holdings in alternative fuel sources, and like separation of control of crude production, crude and product pipelining, and refining-vertical divestiture. It should also involve reorganization of the government agencies currently regulating energy matters to alter the consistent course of pro-OPEC, anticompetitive action that has characterized government action in areas such as FEA regulation, and the "International Energy Agreement."

A pro-competitive policy is needed in petroleum if the OPEC-major oil company relationship is to be broken. Unless the

relationship is broken, the economic power of OPEC countries is likely to continue to grow with concomitent increases in their political power, and increased pressure for a "more evenhanded" U.S. policy in the Middle East.

Many of the "legislative tools for a pro-competitive policy are available today, if the government has the will to use them." Legislation would only be required for longer-term solutions. For short-term, pro-competitive approaches, present legislation is sufficient.

A pro-competitive policy could proceed with some rapidity to deal with matters such as agreements among major oil companies and OPEC countries (such as the proposed ARAMCO Agreement), with the International Energy Agreement, with disposal of the federal domain, and with the marketing of oil from the North Slope.[1] In this way, beneficial results could be achieved in a few years. Measures such as conservation or the development of new fuel sources are unlikely to show resutls until ten or more years are past.

OPEC and THE MAJOR OIL COMPANIES

The Organization of Petroluem Exporting Countries has sought to raise prices of crude oil from member states. To do this, the output from OPEC countries must not be so great as to exceed the demand for petroleum at a given price level and members of OPEC must not 'cheat' on their cartel partners by selling more oil at discounted prices. If "cheating" starts it is likely to spread rapidly as individual OPEC countries

1. Similarly, a properly procured strategic petroleum reserve could provide near-term production against boycotts and enhance

scramble to maintain incoming revenues.

When an effort is made to raise prices, demand, being somewhat elastic, declines and some producible capacity must be shut-in. Elsewise, the opportunity and incentive to sell crude at lower prices becomes quite strong. Then other parties begin meeting competition, distrust grows among cartel partners, and the unused production capacity is opened up in an effort to capture sales and revenues. To raise and maintain prices, production by OPEC contries must be controled-prorationed. The OPEC countries have never been able to prorate production or to set price difficulties among different crude oils. OPEC relies upon the major oil companies for its proration.[2]

Currently, ARAMCO production in Saudi Arabia is the principle swing unit in the OPEC cartel. This production is moderated or increased so as to follow market demand while permitting other OPEC'ers to maintain production and to not cut prices.

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2. Supply restructions to maintain prices have a very long history. For many years, the Texas Railroad Commission would receive nominations from oil companies indicating the size of their markets (at prices reflecting Railroad Commission Control) and would then issue pro-rationing orders determining allowed production levels. The pro-rationing system involved, and still involves, commissions in a number of oil producing states, operating together through the Interstate Oil Compact Commission.

Statutory authority for the IOCC recently lapsed after its anti-competitive role had been criticized by reports of a long series of Attorneys General serving under every President since, and including, Eisenhower.

ARAMCO, like the Texan Railroad Commission domestically, receives periodic nominations from its member companies: Exxon, Mobil, Texaco, Standard Oil of California. The off-takes permitted Gulf, Shell and BP from Kuwait are publically known; and the ARAMCO partners, who are also the major operators of production in Iran and Indonesia, set ARAMCO production levels so as to maintain OPEC prices while moderating their off-take elsewhere. In keeping with this swing unit role, for some years ARAMCO partners who took more than their forecasted amount of curde were penalized.

Saudi petroleum production can be employed as the swing unit whose output follows demand because of the volume of Saudi production and because reductions in Saudi production do not have the negative effects that reductions would have in populous countries such as Iran, Indonesia or Nigeria (to a point). Saudi production must however pay for the rapidly increasing costs of that nation's arms and development programs. This places a floor on the Saudis ability to cut back on sales. The minimum production level the Saudis require is unclear. Based on estimates made by Theodore H. Moran of Johns Hopkins, this level is between seven and eight million barrels a day.

The Saudi government, and other oil producing nations, recognize that OPEC's ability to raise prices is dependent upon the cooperation of the major oil companies acting as pro-rationing agents. Only these firms have the network of production and marketing facilities required to pro-ration supply production and to prevent use of excess supply capacity to undercut present prices.

Petroleum can not be extensively marketed unless use is made of a crude pipeline, a refinery, or a product transportation facility of a major company, or an exchange with such a company, and often times a major company participates in the crudes' production. The major pipelines are usually jointly owned by a syndicate involving one or more majors.

The major petroleum companies are vertically integrated into each of the phases of petroleum production and they are diagonally integrated among themselves through an extensive metwork of direct and indirect interlocks among boards of directors, common large security holders, joint enterprises in large projects such as ARAMCO, TAPS, the Colonial-Plantation product pipeline systems, the Explorer pipeline, Capline, the interconnected private pipeline system in California, Santa Ynez, the LOOP and SEADOCK deepwater port proposals, and through an extensive system for the exhange, rather than purchase and sale, of crude oil and products. These large projects both control a large absolute portion of oil supply, and are the key sources of large incremental supplies.

With this range of control, the majors can move to support and make OPEC price decisions practicable , confident they will not be undercut by others.

The major oil companies recognize OPEC's dependency upon them and the benefits they receive from high prices. The arrangements among major oil companies and OPEC countries provide that a portion of the benefits of high prices go to the companies, and that the companies receive preferred access to crude production at prices less than those charged others. Moreover, high OPEC prices and restricted supply enhance the value of the major's assets outside

of OPEC.

The ability of the major petroleum companies - particularly the Seven Sisters'- to proration arises out of their control of petroleum transportation and refining facilities, and their extensive positions in non-OPEC energy resources.

Historically, anti-competitive conditions in one market can only drive prices up to the point where buyers substitute an alternative product or service (or do without). Needs for energy are such as to greatly limit the ability of many buyers to do without - many energy demands are derived.

The principal class of buyers who can sometimes substitute one fuel for another are electric utilities and larger industrial boilers. Because of space and pollution control requirements, the greater part of this inter-fuel competition is for service to new units, under large quantity long-term contracts. The very large petroleum companies have acquired substantial holdings in the coal, uranium, and geothermal industries. These large blocks of holdings must often be used to supply large utility fuel contracts. The large oil companies, by refusing to produce alternative fuels at prices less than those for oil (or for lesser returns including opportunity costs) limit the availability of substitute fuels.

The nuclear fuels industry is highly concentrated in its various phrases - and a substantial portion is controlled by petroleum companies.

Major and other large coal companies have acquired, often by merger or federal lease, very extensive holdings of low-sulfur, cheaply mineable western coal.

Besides these companies only a few western utilities and large still-independent coal companies have resources large enough to support utility fuel contracts.

Petroleum companies such as ARCO, Mobil, Exxon and Gulf Oil are not likely to develop their coal resources for production at prices returning on investments less than that available to petroleum: the profits must, furthermore, be net of any lost petroleum or uranium sales.

Moreover, the provisions of federal coal leases are such that holding costs are quite low so that coal can be held upon speculation of rising prices. A similar situation pertains in geothermal energy.[1]

The high profits of petroleum place the major petroleum companies in a position to outbid others to acquire energy resources.

The non-competitive conditions in energy supply are the product of prior government actions.

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1. Geothermal leases on prime prospects are largely held by petroleum companies or enterprises which function as service firms for petroleum companies.

Government Action

Possessing a different attitude toward competition, the federal government could take steps to impair the sweetheart arrangements among major oil companies and OPEC. The government could accomplish this by prohibiting the types of arrangements now entered into among those parties and by interposing itself as a direct purchaser of imported petroleum.

Under present law, the President is authorized to interpose the United States as sole importer of oil to this country. Moreover, on a more limited basis, the United States purchases oil for the Strategic reserve and for the Defense Department.[1] These purchases could be arranged so as to by-pass participation agreements.

As an importer, the United States could encourage secret bidding by independent and national overseas sources. Such secret bidding would encourage national companies having shut-in capacity to discretely shave cartel prices. The profit incentive found in participation agreements could be regulated away.

FEA legislation instructs that agency to seek to countermand the effects of cartelization (15USC 753(b)(1)(D) and (F) and (I); 15USC 764(b)(5)) That agency has authority to require disclosure of and control participation agreements and to redistribute to others economic rents obtained under participation agreements through its price controls.

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1. Section 13(a) of the Emergency Petroleum Allocation Act authorized the United States to exercise an exclusive right to import and purchase all or any part of foreign origin crude oil imported to the U.S. This section was enacted as Section 456 of the Energy Aid Policy Conservation Act, P.L. 94-163, 15USCA760(b), 89 STAT 956-58. It is appended.

TECHNICAL AUTHORITY to CONTROL IMPORTS

The authority given the President to exclusively import some or all petroleum from abroad is found in the Energy Petroleum Allocation Act. This authority could be exercised to disrupt company-OPEC relationships, and induce cheating by OPEC countries; it would be best exercised if directed to creating a commodity-type market in which importers would be required to offer their oil.

Creation of a crude oil commodity market in which crude oil could be anonymously offered and acquired would disrupt the chain of downstream control exercised by major oil companies. It would also permit OPEC countries and their national oil companies to secretly sell below cartel set prices. In an active commodity market, anonymity would not depend on government's ability to keep a secret but rather could be achieved by use of straw-men trading limited lots in an overall higher volume of trading.

To create a commodity market, oil imported by others could be required to be transfered to the government for resale by it; thus oil and oil purchased abroad by the government could be offered for sale by the government in regular sized lots that would be sized so as to promote a volume of trading and a number of traders. The government could immediately resell oil it acquired, so as to stimulate a commodity market, with the prior government purchases and volume providing anonymity. Floating and on-shore storage facilities required for such a market would provide both an "overhang" and a part of the strategic reserve.

The market would give all firms access to important crude. By direct purchases from national companies, the government would be by-passing participation agreements and their mark-ups. By combining direct purchases with competitively actioned sales, the respective advantages of negotiated acquisitions and secret bidding would be secured.

In support of the commodity market, the government could require importing firms (or their affiliates) holding foreign participation or conversion agreements to submit existing agreements for approval, and could prohibit further such agreements sans prior approval. It could require such firms to submit delivery plans - which it would not disclose, and it could engage in direct purchases and tanker charters to assure continuous trading.

Government could thereby create (and as necessary intervene to maintain) a commodity market. The ability of oil companies to be "tax collectors" for OPEC would be disrupted and unlike a system in which petroleum exporting countries merely bid for tickets to import oil into this country, as has been proposed, OPEC's prices are likely to be reduced.

Strategic Reserves

The Emergency Petroleum Allocation Act, as amended, seeks to protect the United States against the effects of interruptions of oil imports and to lessen or avoid effects of oil price increases.

To that end, a strategic petroleum reserve is authorized (Energy Policy and Conservation Act) which is planned to be developed in the following increments:[1]

40 million barrels	October	1977
150 million barrels	December	1978
325 million barrels	December	1980
500 million barrels	December	1982

FEA plans to spend $440 million in FY 1976 to procure such oil. This oil could be produced in ways that would encourage price cutting by OPEC'ers.

FEA Regulation to Capture Rents from Holders of Participation Agreements

Crude oil prices are subject to control pursuant to Section 4 of the EPAA, 87 STAT. 628. Pursuant to Section 4(b)(1)D controls over prices and quantities are to be exercised so as to preserve an economically sound and competitive petroleum industry. Section 4(b)(1)F requires that regulation seek to equitably distribute crude oil at equitable prices among the sectors of the petroleum industry.

This use of FEA regulation would be fully consonant with a basic purpose of economic regulation: the redistribution of profits resulting from non-competitive markets.

If holders of participation oil were required to offer this oil for sale at acquisition prices, net of participation contract profits over a specified rate of return on investment, the incentive to pro-ration for OPEC would be gone.

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1. Section 15 of the EPAA authorizes imposition of storage requirements on importers and refiners.

It should be noted that FEA also has unused authority to require that participation agreements be submitted. It also has authority to require the reporting of divisional results on the basis of uniform accounting. These authorities are unused.

It is arguable that the present authority conferred by the EPAA authorizes the banning or restriction of participation agreements by firms doing business in this country. Such restriction is based on the inequitable and anti-competitive consequences of such agreements and their tendency to uphold the cause of the emergency sought to be alleviated.

International Energy Agreement

Currently, rather than seeking to loosen the ties that bind OPEC countries and major petroleum companies, the present Administration has fostered such links. A principal action to this end is the International Energy Agreement.

The IEA is supposed to be an international consumers union for petroleum importing countries. A major part of its work is supposed to be the fair allocation of oil in the event of a supply curtailment. This allocation process just happens to be delegated to a group of supply experts who are employees of large oil companies "and who will be at the heart of the allocation process in the event of an actual emergency".[1]

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1. Federal Trade Commission, Report to the Congress and to the Presicent Pursuant to the Energy Policy and Conservation Act of 1975, September 21, 1976, page 7.

Planning for such emergencies involves a number of meetings among these experts. It was foreseen prior to IEA that such meetings might raise antitrust problems. The Energy Policy and Conservation Act, Section 252(f) (89 STAT. 871) provides for a limited immunity from the antitrust laws for actions taken in the course of developing or carrying out the Voluntary Agreement and Plans of Action to Implement the International Energy Agreement.

To reduce the anti-competitive potential of such meetings, Congress provided for a number of safeguards (EPCA §251-255 inclusive). Operations were to be done in a manner subject to scrutiny by the public and by federal intitrust agencies.

Federal Energy Administration and the State Department, however, have insisted that all meetings be completely closed, that no representatives of consumers be allowed to be present, that the 'representation' of independent oil companies be by integrated majors. The whole procedure is being cloaked by an apparent abuse of authority to classify records by the Department of State. The antitrust agencies -- FTC and Antitrust Division -- have given only the most cursory attention to the operation and no substantial regular staff assignment commensurate with the size and importance of the operations involved.

In short, the arrangements intended for an emergency are apparently being perverted to establish immediately an operating cartel immune from any litigated challenge by an outsider; this organization has at least planning control over international oil movements now and will have full responsibility for

allocation and price control, domestically as well as internationally, should an embargo occur.

To date, beginning with the old Voluntary Agreement of April 1975 (under the Defense Production Act) and continuing through the EPCA Voluntary Agreement - there has been an average of two to three meetings per month of either the Agreement group, or related advisory groups, but with:

1. No open meeting of the Voluntary Agreement group, or any of the advisory groups associated with it;

2. No constitution of such Agreement or Advisory group to represent either industrial or private consumers, or in actual fact to represent independent sectors of the industry;

3. No specific findings as to the reasons for closing meetings;

4. Only perfunctory reports by either Justice or Federal Trade Commission as to actions taken under the voluntary agreement or of the agreement in their impact on competition or small business, although EPCA 252(i) requires such a report each six months by each agency.

5. No full surveillance by Justice or Federal Trade Commission, with only a few of the formal meetings actually attended by either, and with no sufficient staff by either agency for the required regulatory analysis.

In short, while the IEA has proceeded, through the voluntary agreement and through advisory committees, to prepare a detailed contingency allocation plan to be actually carried out on a voluntary basis by the international majors, there has been allowed no outside intrusion which might lessen its competitive impact. Since the contingency plan is now reaching the stage of an actual allocations test, during which the "safeguards" will be still further loosened to permit flexibility of company action, it is imparative that there be some understanding outside the company-FEA-State group as to just what is taking place.

Finally, although the EPCA provisions relating to freedon of information disclosure were intended to be considerably broader than the Freedom of Information Act itself (see EOCA,§252(c)), there has as yet been no disclosure of any information concerning this operation. Particularly, on August 4, 1976, Executive Order No. 11932 was issued to authorize the Secretary of State to classify under the basic classification order (Exec. Ord. 11652 of March 6, 1972) all material acquired by the "Government" under the IEA operation. Significantly, however, that material, while "classified", may be disclosed to persons who do not qualify to receive such information under the basic classification rules. In short, it is apparently being deliberately classified to prevent its disclosure as required under the EPCA.

The effort at concealment corresponds in time to recently "dry runs" of the IEA allocation systems. During these runs the participating companies will meet and exchange information rules requiring verbatim transcripts and communication will be made without the presence of government representatives.

Emergency planning should be by government. IEA antitrust exemptions should be revoked.

-/See, FEA Meeting and Approvals by Administrator and the Attorney General, Voluntary Agreement and Plan of Action To Implement the International Energy Program. 41 FR 41459 et seq. (September 22, 1976).

Leases

The government has the largely unused authority to grant and regulate federal leases for energy resources so that these leases will be developed and not held for speculation. This is the case for OCS petroleum as well as for coal and geothermal energy.

Investigation of the Geological Survey management of leases has indicated poor information on values, disorganization, and a general failure to require production or,where production occurred,to require that it be done at full throttle.

Federal leasing, with its reliance on cash bonus bidding, and lack of real due diligence requirements and delay penalties has created a situation ideal for large firms engaged in speculative withholding of supply while it has diverted large sums into cash bonuses and away from drilling while creating major entry barriers.

Similarly, the Interior Department has permitted offshore oil lines to be private carriers, not available to all would-be shippers.

Production in the OCS is heavily dominated by the very largest oil companies. One case has come to light where control of pipelining gave Mobil access to information and control over production by other shippers on its "MCN" line.

The coal leasing bill, recently enacted over President Ford's veto, seeks to require more competitive coal leasing and due diligence requirements. (Public Law 94-377) A bill to improve OCS leasing was killed very late in the last session and will undoubtedly be revived in the new Congress.

Current Interior Department authority to restrict or open up to others the large firm joint ventures in production or pipelining are unused (except for limits on future joint bidding by the eight largest firms). The authority found in the Mineral Leasing Act pertaining to limitations on acreage holdings by a lessee is not enforced. The provision, 30 USC §187, authorizing lease provisions "to insure the sale of production of such leased lands...at reasonable prices, for the protection of the interests of the United States, for the prevention of monopoly, and for the safeguarding of the public welfare" has been disregarded by the Interior Department.

Coal, and Alaskan and OCS oil are the only domestic energy sources that could provide general competition for OPEC oil. The leasing practices of the Interior Department place these resources and related pipelines and water rights in the hands of the large oil companies who would anticipate user costs from their development.[1]

The largest new source of oil - the Alaskan North Slope - is scheduled to be available in initial quantities in 1977. Hearings held in September, 1976, by the Senate Interior Committee indicated that TAPS through-put would be in excess of the West Coast's refining ability, and that the destination of North Slope oil was unclear.

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1. See Testimony of Paul Davidson, Hearings on Interfuel Competition, Senate Antitrust Subcommittee, 94th Contress, 1st Session, and Davidson, Oil: Its Time Allocation and Project Independence 2, Brookings Papers on Economic Activity 410, 425-26 (1974).

Suggestions have been made for crude oil exchanges involving shipments to Japan from Alaska, and shipments of OPEC oil to this country.

Also, SOHIO/BP proposes to reduce the natural gas line capacity into California by using part of such a line to ship oil east from southern California to Texas and from there to the Middle West. Both proposals might leave SOCAL importing OPEC oil to California. The proposals, particularly that for exchanges, would carefully avoid disrupting world oil marketing patterns.

The prospective West Coast surplus might, however, be used to lower West Coast prices, and to disrupt the OPEC-Major Oil market pattern. This could be sought by (a) denying the Presidential authorization needed for overseas exchanges of North Slope oil, and (b) by seeking by litigation or statute to reorganize the TAPS ownership eliminating the TAPS present contractual provisions requiring agreement among co-owners in regard to both the amount of terminal storage an owner may have at the outlet of the line, and the through-put capacity.

Longer range solutions to the problem of non-competitive petroleum supply are found in federal research programs, anti-trust action, and industrial reorganization. Some increased competition and supply could be derived by overhauling FEA and its regulations which are very burdensome to smaller enterprises and which encourage in-field drilling rather than exploration.[1]

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1. New wells in old fields are considered to produce new oil for which a higher price than "old oil" is permitted.

Research

The federal energy research program should be directed toward encouraging innovation and innovative enterprises. Unfortunately, a great deal of it has focused on raising entry barriers and seeking subsidies for expensive projects that would divert capital (and public attention) from projects or approaches (eg: antitrust) far more likely to lead to the production of economic energy in the next decade.[1]

A non-political independent overview of federal research programs is badly required.

Antitrust

Antitrust enforcement in the area of petroleum industrial structure (as opposed to industrial behavior) is notoriously weak. The government has allowed a major merger movement to roll along, has taken no action even in the face of Antitrust Division staff recommendations regarding major joint venture pipelines such as Colonial, or in regard to OCS joint endeavors among major firms, and, as noted heretofore, has failed to enforce provisions regarding the IEA. The Federal Trade Commission's proceeding regarding refining in the Eastern part of the country, In re Exxon, has been allowed to become hopelessly entangled in procedural complexities. It is now, and has been for months, relegated to the agency's back burner.

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1. The quest for solar energy may yet prove to be a model of the problems of politics in technology. For electric power production, firm power is required if value is to be given to capacity (kilowatts) and not just energy (kilowatt-hours). This leads to a requirement for back-up capacity for interruptible solar generation.

When the per-kilowatt costs of interruptible solar power are added to those for a storage system, the cost per kilowatt is far above that for alternatives. See (as an example) Pollard, The Long Range Prospects for Solar Energy, 64 Smerican Scientist 424 (July-August 1976)

The private meetings between ARAMCO members and the Saudi government are a splendid example of the "now is not the time" attitude at Justice that seems to have stayed when John Mitchell left. Similarly, the SOCAL acquisition of a controlling interest in AMAX, a large holder of western coal and uranium, went unchallenged.

With IEA, FEA, and joint enterprises, the tendency to cooperation, no competition, is strong in the energy industry. A revived Antitrust Division is necessary.

Vertical Divestiture

The market portion of the major oil companies enables them to act as pro-rationing agents for OPEC. This market position is based on their simultaneous control of oil production, transportation, and refining, vertical integration.

So long as the majors are vertically integrated, they will have the incentive and ability to pro-ration through participation agreements or some new means.

If the segments of the petroleum industry were under separate ownership, large scale purchasers of crude or of product would have the incentive to shop. Sellers would be trading at arms length in a market that could not be kept "orderly" by the actions of eight or ten major integrated forms.

In such a market of buyers and sellers, the prospects for sales by entrant national companies would be another factor tending to disrupt the OPEC cartel. These national companies now sell to independents making the majors' pro-rationing more difficult. With divestiture, every purchaser would be an independent refiner

opening wider trade opportunities for national companies, eg: Iraq.

Divestiture, or the semi-divestiture envisioned in the authority for the government to purchase imports[1] would interrupt the majors' chain of communications and control, and permit price-cutting arrangements among suppliers and purchasers as the Iraqi appear to already be doing. No holders of a participation agreement would have the assured downstream market enabling them to promise the Saudis that their liftings would never fall below the minimum quantity required to finance Saudi development plans.

Unlike short-term efforts such as participation agreements, divestiture legislation goes to the heart of the problem - industry structure - and does not rely solely on administrative regulation.

Divested segments would not be dependent on government to arrange secret deals cutting oil prices. Nor would they rely on government policy in reselling imports. They would not be bound by erratic FEA pricing policy.

As with divestiture, "chaotic" trading--that is, trading at arms-length--could be furthered by requiring TAPS oil to be sold at the dock in Alaska. The resulting "disruption" could be made general to OPEC's sever detriment. Forbidding marketing of Alaskan oil by exchanges would mitigate vertical integration.

Horizontal Competition

Development of coal resources in the eastern and the western United States as well as uranium resources could reduce oil imports expansion and could induce greater competition in utility and industrial fuel markets.

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1. The Energy Policy and Conservation Act, §456, 89Stat. 952-53, 15 USCA 760(b)

The development of domestic coal reserves would be furthered if the conditions for mine safety and surface reclamation were matters of greater public confidence. So long as a substantial portion of the public believes, with a basis in fact, that mining will not be controlled so as to protect the environment and the miner, delays will be incurred in obtaining permission to mine, and there will be problems in attracting technically skilled productive personnel to the industry. As long as the government's policy on environmental protection and mine safety are wishy-washy, industry will, often times, procrastinate in safety and pollution control efforts. Likewise, in air pollution control a determined effort to mandate flue-gas cleaning and, lesserly, better coal preparation is needed if coal use is to expand.

Coal reserves must be developed and not speculatively sat upon if coal is to compete. Petroleum companies have obtained but not mined extensive coal reserves as is also the case with geothermal energy. These reserves are on private as well as publically leased land; they should be diverted into the hands of companies who must mine to make money and can not use cash flows derived elsewhere to support speculative withholding or efforts to raise coal prices toward those for oil. Management intent upon mining may be expected to solve production problems faster than otherwise will occur.

Separate coal management would not be concerned about reducing oil markets or prices.

The uranium industry is one of concentrated ownership. Serious allegations have been made about an international uranium cartel, Westinghouse has failed to provide substantial quantities of fuel, and the assumptions about reprocessing and enrichment raised by utilities planning nuclear units are in question.

The lack of reprocessing capacity and Westinghouse non-delivery puts great pressure on uranium markets. Uranium spot prices have soared and lower cost resources are often times located in areas allegedly controlled by a cartel.

Rising prices and supply uncertainties have encouraged utilities, already hardpressed for capital and management time, to seek to enter the coal and uranium markets.

The burden on these utilities of running coal or uranium projects is superimposed on rising costs for nuclear and coal-fired capacity. It denotes problems in coal and uranium supply. A competitive industry supplying utility needs is required; to this end, ownership of coal, oil and uranium should be separated. Horizontal divestiture would reduce speculation and, in uranium, could introduce ownership by firms not heavily engaged in petroleum enterprises in the countries participating in the Uranium Institute "efforts for orderly markets".

Divestiture Would Encompass Foreign Activity

Divestiture efforts proposed in Congress encompass both domestic and foreign operations. In the past, antitrust law

has on a number of occasions dealt with overseas operations. From an initial hands-off attitude, the courts have in present times become willing to direct the overseas activities of American and other firms affecting U.S. foreign or internal commerce.

While courts have declined to require overseas subsidiaries to violate the requirements of the country they operate in, a legislative requirement for divestiture (or emergency petroleum regulation) would provide grounds for mandating dissolution or spin-offs of foreign subsidiaries and affiliates, or alterations in domestic activity to remove anti-competitive effects. Choice-of-law rules can be legislated; in the event that foreign requirements might work a loss of assets, this loss might be avoided by use of new managements as trustees for old owners.

Should push come to shove, the interests of this country regarding its national security and economy are paramount to the interests of petroleum companies' foreign subsidiaries.[1]

Information

Public policy regarding petroleum can not be properly formed in vacuo. Since I believe in competition, I believe that the government should seek to further informed markets and to compete with the Petroleum Intelligance Weekly. So, I suggest that the government require the submission of participation (eg: concession, off-take, operating) agreements among energy

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1. A further discussion of antitrust law in foreign commerce is appended.

companies and foreign states, major joint venture and unitization agreements. To further antitrust policy and other economic regulation, and improve capital allocation practices, the financial results of major firms should be reported by separate functions (eg: crude lines, refining, product transport) and geographic locations on a basis that is consistent among firms. Current financial reporting practices vary widely among oil companies. Public regulation, or monitoring, requires more uniform accounting.[2]

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2. Section 503 of the 1975 Energy Policy and Conservation Act, 42 USCA, 638 provides:

(a) For purposes of developing a reliable energy data base related to the production of crude oil and natural gas, the Securities and Exchange Commission shall take such steps as may be necessary to assure the development and observance of accounting practices to be followed in the preparation of accounts by persons engaged, in whole or in part, in the production of crude oil or natural gas in the months after the date of enactment of this Act and shall take effect with respect to the fiscal year of each such person which begins 3 months after the date on which such practices are prescribed or made effective under authority of subsection (b)(2).

(b) In carrying out its responsibilities under subsection (a), the Securities and Exchange Commission shall -

(1) consult with the Federal Energy Administration, the General Accounting Office, and the Federal Power Commission with respect to accounting practices to be developed under subsection (a), and,

(2) have authority to prescribe rules applicable to persons engaged in the production of crude oil or natural gas, or make effective by recognition or by other appropriate means indicating a determination to rely on, accounting practices developed by the Financial Accounting Standards Board, if the Securities and Exchange Commission is assured that such practice will be observed by persons (continued on page 27)

engaged in the production of crude oil or natural gas to the same extent as would result if the Securities and Exchange Commission had prescribed such practices by rule. The Securities and Exchange Commission shall afford interested persons an opportunity to submit written comment with respect to whether it should exercise its discretion to recognize or otherwise rely on such accounting practice in lieu of prescribing such practices by rule and may extend the 24-month period referred to in subsection (a) as it determines may be necessary to allow fora meaningful comment period with respect to such determination.

(c) The Securities and Exchange Commission shall assure that accounting practices developed pursuant to this section to the greatest extent practicable, permit the compilation, treating domestic and foreign operations as separate categories, of an energy data base consisting of:

(1) The separate calculation of capital, revenue, and operating cost information pertaining to-

(A) prospecting,
(B) acquisition,
(C) exploration,
(D) development, and
(E) production,

including geological and geophysical costs, carrying costs, unsuccessful exploratory drilling costs, intangible drilling and development costs on productive wells, the cost of unsuccessful development wells, and the cost of acquiring oil and gas reserves by menas other than development. Any such calculation shall take into account disposition of capitalized costs, contractual arrangments involving special conveyance of rights and joint operations, differences between book and tax income, and prices used in the transfer of products or other assets from one person to any other person, including a person controlled by controlling or under common control with such person.

(2) The full presentation of the financial information of persons engaged in the production of crude oil or natural gas, including-

(A) disclosure of reserves and operating activities, both domestic and foreign, to facilitate evaluation of financial effort and result; and

(B) classification of financial information by function to facilitate correlation with reserve and operating statistics, both domestic and foreign.

(3) Such other information, projections, and relationships of collected data as shall be necessary to facilitate the compilation of such data base.

Part V of the Hearings of the Special Subcommittee on Integrated Oil Operations, Sen. Interior Comm. on Market Performance and Competition in the Petroleum Industry reviews accounting problems in petroleum. Serial No. 93-24 (92-59) (93rd Cong., 2d Sess., 1974).

PROPRIETARY ACTIVITY

Federal research programs might in a decade or two have significant effects on energy supply markets. The operations of federal power marketing agencies - the Bureau of Reclamation, the Southeastern and the Southwestern Power Administration - significantly affect the efficiency of utility power pool operations and the opportunities for small power systems to develop smaller new forms of generation, such as geothermal energy.

The General Accounting Office has issued several reports discussing how the Bureau of Reclamation has failed to efficiently integrate its hydro-projects into western power supply, and how the Bureau has essentially become as adjunct of the pool of private utilities in California. Effects of these actions are to pass up opportunities to replace the No. 2 oil used for peaking and on small systems for all (diesel) generation, and to waste an opportunity to open up Western power grids so that smaller systems could acquire bulk power from the lowest cost generation rather than being forced to purchase from their adjacent, often oil burning large utility.

Active monitoring by antitrust enforcement agencies of the actions of federal power marketing and federal energy research programs is called for to see that programs are directed toward innovation and efficient energy generation and use, and not conducted just to buttress existing industry structures.

Those managing public lands are in an excellent position to encourage rapid price-competitive development of resources, and competitive practices in regard to the development of power transmission and generation facilities. People should be in those positions who intend to do just that.

Conclusion

Domestic inflation and unemployment can only be controlled by an Administration that brings the large international oil companies under control. Unless they are curbed, the flow of dollars and arms to OPEC countries will continue unabated, and American foreign policy will follow these transfers.

In the short run, use of authority to purchase imports, and to recapture participation-agreement-derived excess profits could slow the majors and OPEC down. Refusing to allow the exchange and shipment of Alaskian oil to Japan, while requiring this oil to be sold rather than exchanges, would similarly help.

In the longer run, OPEC and high energy prices can only be curbed by breaking up big oil. Only in this way will control of energy resources be diversified and will the structually derived incentive to drive up the price of crude be removed.

Divestiture legislation (vertical) was voted out of the Senate Judiciary Committee in the last session of Congress. A divestiture amendment to another bill had earlier received 45 Senate votes.

President-elect Carter, while not supporting vertical divestiture, has clearly indicated an interest in horizontal divestiture.

Recent amendments to the Internal Revenue Code reduce the incentive previously given to petroleum companies to produce oil overseas instead of in this country.[1] These amendments reflect, I believe, a growing national understanding about the need to limit the large international petroleum companies. That is the goal I espouse.

Sheldon Bierman

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[1] Public Law 94-455, Section 1031-37 90 STAT 1520 - 1620 (1976)
An excess profits tax, or recapture by regulation, would be difficult to administer because of the lack of uniform petroleum accounting standards and because of the lack of competent personnel in government agencies.

SUBJECT: U.S. Antitrust Law and Foreign Commerce

United States antitrust law is concerned with the characteristics of a restraint of trade and with the competitive impact of acquisitions and mergers.

Subject Matter Jurisdiction

Jurisdiction is asserted over the subject matter where the domestic or foreign commerce of the United States is substantially affected. 1/

Actions attacked may occur outside of the United States, 2/ may involve foreign as well as domestic firms or associations, 3/ and may be entered into here 4/ or abroad. 5/

Most cases have involved restrictions on exports, 6/and their marketing. 7/ Others have dealt with restraints on transportation. 8/ The courts have been more likely to find an effect on U.S. domestic or foreign commerce if a U.S. firm is involved. 9/

1/ The farthest statement of the point is found in the Alcoa case. "It is settled law that any state may impose liabilities, even upon persons not within it allegiance, for conduct outside its borders that has consequences within its borders which the state apprehends. United States v. Aluminum Co. of America, 148 F.2d 416 (CA2, 1945).

2/ Continental Ore Co. v. Union Carbide and Carbon Corp., 370 U.S. 69, 1962 Trade Cases 70362 (1962).

3/ United States v. Watchmakers of Switzerland Information Center, 63 Trade Cases 70600, (D.C.N.Y. (1962)); OCCF, FTC Docket 6106 (exclusive supply contract between domestic scrap dealers and office for European steel mills.

4/ Timken Roller Bearing Co. v. United States, 341 U.S. 593, 1950-51 Trade Cases 62837 (1951).

5/ Hazeltine Research, Inc. v. Zenith Corp., 239 F. Supp. 51 (N.D., Ill., 1965), 65 Trade Cases 713 55; rev'd on other grounds, 388 F.2d 25 (CA 7, 1967),1967 Trade Cases 72310, rev'd 395 U.S. 100, 1969 Trade Cases 72800 (1969); vacated 418 F.2d 212, 1969 Trade Cases 72849 (CA 7, 1969).

6/ Hazeltine, supra.

7/ United States v. Minnesota Mining and Manufacturing Co., 92 F. Supp. 942, 1950-51 Trade Cases 62687 (D. Mass., 1950); United States v. Gulf Oil Co., 1960 Trade Case, 69851 (D.C.N.Y., 1950); and, United States v. Anthracite Export Ass'n., 1970 Trade Cases 73348 (D.C. P.A., 1970).

8/ United States v. Pacific and Artic Railway and Navigation Co., 228 U.S. 87 (1913); and, Pacific Seafarers, Inc. v. Pacific Far East Line, Inc., 404 F.2d 804 (D.C. Cir., 1968), cert. denied, 393 U.S. 1093 (1969).

9/ Fugate, Foreign Commerce and the Antitrust Laws (rev'd ed. 1973). A foreign firm only needs a general intent to act so as to effect U.S. commerce, if effects occur.

A foreign company may be a party to a restraint of trade by a United States company by virtue of its contractual relationships with other U.S. firms where the foreign company knew or should have known that its activities were a substantial contribution to an illegal plan in the U.S. markets and that its activities had a direct and substantial effect upon trade. 10/

Personal Jurisdiction

For a court to have jurisdiction over a person, that person must be amenable to service and service must in fact be made.

A foreign firm is amenable to service if it is carrying on business of any substantial character in a judicial district into which the U.S. is divided up. 11/

If found in this country, a defendant may be served at its home office abroad. 12/

Special Defenses

In foreign trade matters, special problems arise in regard to participation by governments in business ventures and in regard to conflicting mandates of foreign law.

A foreign sovereign is generally immune from suit, without its consent, in U.S. courts. 13/ Generally, where a foreign government participates in a business venture on a commercial basis the defense of sovereign immunity does not apply. 14/ An exception to this general rule may be found where a foreign government participates in a commercial venture for national security purposes. 15/

10/ United States v. General Electric Co., 82 F. Supp. 753 (D.C.N.J., 1949) 1948-49 Trade Cases 62353.

11/ United States v. Scophony Corp., 333 U.S. 795 (1948). Venue lies in any district, 28 U.S.C. 1391 (d); Brunette Machine Works, Ltd. v. Kockum Industries, Inc., 406 U.S. 706 (1972).

12/ International Ford Tractor Sales Co. v. Massey-Ferguson, Ltd., 210 F. Supp. 930, 939 (D.Utah, 1962), aff'd per curiam, 325 F.2d 713 (CA10, 1963); Fed. Rules of Civil Procedure 4(i).

13/ Banco Nacional de Cuba v. Sabbatino, 376 U.S. 398 (1964) (Act of State doctrine).

14/ United States v. Deutshes Kalisyndikat Gesellschaft, 31 F.2d 199 (S.D.N.Y., 1929); In re Grand Jury Investigation of the Shipping Industry, 186 F. Supp. 298 (D.D.C., 1960).

15/ In re Grand Jury Investigation of World Arrangements with Relation to Production, Transp. Ref., and Distrib. of Petroleum, 13 F.R.D. 280 (D.D.C., 1952) (subpoena quashed when Anglo-Iranian Oil Company asserted it had been ordered by British Government not to produce documents not located in U.S. and not related to business transacted in U.S.). When the successor British Petroleum Company acquired control over Standard Oil Co. (Ohio) the U.S. government resisted the mergers and a settlement requiring partial divestiture was made. United States v. Standard Oil Co., 1970 Trade Cases 72988 (N.D., Ohio, 1970).

In the event that a complained of act involves the action and motives of a foreign government acting in its sovereign capacity in its country, U.S. courts will not hear the case. 16/

This portions of complaints dealing with government actions regarding international boundaries and petroleum concessions have been dismissed. 17/ The related actions of private firms giving rise to contractual disputes or to other restraints of trade remain actionable.

Compulsion by a foreign government of a locally incorporated subsidiary constitutes a defense. 18/ Likewise, a decree will only be enforced as regards foreign matters to the extent permitted in loci forii. 19/

However, agreements made by a U.S. firm with foreign firms to restrict imports to the United States are not protected by the authorization or acquiescence of a foreign government. 20/

Similarly, the delegation of discretionary power by a foreign government is not a defense. 21/

Even in the event of actions taken pursuant to foreign government direction, actions taken in the United States commerce are not immune. 22/

16/ Occidental Petroleum Corp. v. Buttes Gas and Oil Co., 1971 Trade Cases 73525, 331 F. Supp. 92 (C.D., Ca. 1971), aff'd per curiam, 461 F.2d 1261 (CA, 9), cert. denied, 409 U.S. 950 (1972); and, Hunt v. Mobil Oil Corp., 1975-2 Trade Cases 60591 (S.D.N.Y., 1975).

17/ Hunt, supra. (The parts of the compliant pertaining to a sharing and sales agreement among Libyan producer-concessioners was not dismissed.)

18/ Interamerican Refining Corp. v. Texaco Maracaibo, Inc., 307 F. Supp. 1291, (D.Del, 1970).

19/ United States v. Imperial Chemical Industries, Ltd., 105 F. Supp. 215 (D.C.N.Y., 1952), 1952 Trade Cases 67282; United States v. General Electric, 115 F. Supp. 835 (D.C.N.Y., 1953) 1953 Trade Cases 67576; and United States v. Watchmakers of Switzerland Information Center, Inc., 1965 Trade Cases 71352 (S.D.N.Y., 1965) and 1965 T.C. 80491.

20/ United States v. R. P. Oldham Co., 152 F. Supp. 818 (N.D., Ca., 1957) 1957 Trade Cases 68790 (conspiracy in Japan among five U.S. importers of wire nails, an American subsidiary of a Japanese nail exporter, and a number of Japanese firms which was lawful in Japan).

21/ Continental Ore Co. v. Union Carbide and Carbon Corp., 370 U.S. 690 (1962).

22/ Sabre Shipping Corp. v. American President Lines, Ltd., 285 F. Supp. 949 (S.D.N.Y., 1968), 1968 Trade Cases 72493.

Joint Ventures and Mergers

Under the U.S. antitrust law mergers tending to substantially lessen competition are prohibited. These prohibitions apply to acquisitions involving foreign firms as acquiring or acquired parties. 23/ They also apply in the case of mergers of U.S. subsidiaries of foreign firms. 24/

Joint ventures among competitors or potential competitors have been a subject of concern under American antitrust law. 25/

Some joint enterprises have been attached as market division schemes. 26/

Allegations have been made that U.S. antitrust law, particularly as it pertains to joint ventures, weakens the ability of U.S. firms to trade abroad. The Justice Department which together with the Federal Trade Commission, is encharged with enforcing basic antitrust laws has denied these allegations. 27/

23/ United States v. Standard Oil (Ohio), 1970 Trade Cases 72988 (N.D. Ohio, 1969) (consent decree on British Petroleum acquisition of control of Sohio); United States v. Asiatic Petroleum Corp.; 1971 Trade Cases 73689 (D. Mass., 1971) (Royal Dutch Shell Co. subsidiaries acquisition of oil distributor: consent decree); United States v. Schlitz Brewing Co., 253 F. Supp. 129, aff'd, 385 U.S. 375 (1966), (acquisition of Canadian brewer); and In re Litton Indus, Inc., FTC Docket 8778 (April 10, 1968).

24/ U.S. v. CIBA Corp., 1970 Trade Cases 73269 (S.D.N.Y., 1970).

25/ United States v. Penn-Ohio Chemical Co., 378 U.S. 158, 12 L. Ed 2d 775 (1964); and United States v. Monsanto Co., 1967 Trade Cases 72001 (D. Pa., 1967), (divestiture ordered in joint venture of Monsanto and Bayer).

26/ Swiss Watchmakers, supra; Timken, supra; Minnesota Mining and Manufacturing, supra; and, United States v. Imperial Chemical Industries, Ltd., supra.

27/See Department of Justice letter of April 26, 1974, in Senate Judiciary Hearings on International Antitrust Law.

Conclusion

The increasing importance of international trade, and the substantial involvement of governments in such commerce may be expected to gradually lead to a balancing-of-interest test to determine the appropriate choice of laws. At present, sovereign actions a state within its borders are attackable in U.S. courts 29/ while actions of private firms are if the actions are directed to and have a substantial U.S. impact.30/

In this regard, American courts will assert jurisdiction over a firm if as a practical matter the firm carries on a business - directly, through an agent or through a closely directed subsidiary - in the United States. The U.S. government has taken an apparently lenient attitude toward overseas joint ventures. However, joint ventures allocating trade and territories may be prosecuted 31/

The International Trade Commission is authorized to issue cease and desist orders against unfair methods of competition in the importation of articles which sustain or monopolize trade (19 USC 1337 (a)).

Sheldon L. Bierman
24 November 1976

29/ Save for expropriations of property.

30/ The problem of conflicting foreign law is somewhat paralleled by problems arising when state laws conflict with the pro-competitive thrust of federal antitrust law. When State laws restrain trade, the courts have held that they are not necessarily preempted by federal antitrust law. The lead case in this regard is Parker v. Brown, 317 U. 5341, 87 L. Ed 315. The ability to raise a state law defense to a complaint grounded in the federal antitrust law has been closely limited in a recent case. Cantor v. Detroit Edison Company. ___ US ___. 49 L.Ed 2d 1143 (1976)

31/ A collection of citations to recent complaints filed by the Justice Department involving technology licensing among foreign firms is found in Wallace, Overlooked Opportunities - Making the Most Out of the United States Antitrust Limitations on International Licensery Practices, 10 International Lawyer 277 (1976). Justice has attacked license schemes going back as far as 1923. United States v. Westinghouse Electric Corporation. Civ. No. C 70-852 - SAN (N.D. Ca., complaint filed 22 April 1970) (Mitsubishi licenses).

TECHNICAL PURCHASE AUTHORITY

15 USC 751 note.

SEC. 456. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"TECHNICAL PURCHASE AUTHORITY

15 USC 760b.

"SEC. 13. (a) The President may, by amendment to the regulation under section 4(a) of this Act, provide for and implement a procedure pursuant to which the United States may exercise the exclusive right to import and purchase all or any part of the crude oil, residual fuel oil, and refined petroleum products of foreign origin for resale in the United States.

"(b) The authorities granted under this section shall not be used for the purpose, or with the effect, of providing a subsidy or preference to any importer, purchaser, or user.

"(c) In exercising any authorities granted under this section, the President shall endeavor to buy and sell without profit or loss, except that the President may, in individual cases, sell, on a competitive bid basis, crude oil, residual fuel oil, or any refined petroleum product at a price above or below the cost of such oil or product if, in the judgment of the President, such sales may result in progress toward a lower price for oil sold in international commerce.

"(d) Any amendment to the regulation proposed to be implemented under this section shall be submitted to Congress for review under section 551 of the Energy Policy and Conservation Act, together with a detailed explanation of the procedure to be employed and the need therefor and shall be supported by findings by the President that the exercise of such authority is likely to reduce prices for imported oils and products. Such amendment shall not take effect if disapproved by either House of the Congress in accordance with the procedures specified in section 551 of such Act and any authority to purchase shall be subject to appropriations Acts.

Regulation amendment, submittal to Congress.
Post, p. 965.

"(e) The President shall submit, within 90 days after the date of enactment of this section, a report which evaluates the feasibility of reducing the price of crude oil, residual fuel oil, or refined petroleum products of foreign origin for resale in the United States by providing incentives for domestic producers who also import such oils or products into the United States, to work for the reduction of the price of such oils or products. The report shall specifically discuss whether increasing aggregate old crude oil prices by an amount related to any decrease in aggregate prices for such imported oils and products would serve as an incentive for domestic producers to reduce the price of such imported oils and products.".

Price reduction, feasibility report.

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August 17, 1976

Dr. Emanuel Rosenblat
Chairman, Etosha Petroleum Co.
175 Lorraine Avenue
Mt. Vernon, New York 10553

Dear Dr. Rosenblat:

THE ETOSHA BASIN

Oil is found in traps in sedimentary rocks, but not all traps are oil-bearing.

Traps are special configurations of porosity and permeability distributions in sedimentary rocks resulting from structure, stratigraphy, or a combination of the two.

The best places to look for oil-bearing traps are in large sedimentary basins, the sedimentary fill of which exhibits substantial vertical and lateral facies variability.

Oil-bearing traps occur in sedimentary rocks of various ages ranging from Pleistocene (very young) to pre-Cambrian (very old). The greatest incidence of oil-bearing traps is in strata of Jurassic and Cretaceous age.

The essential components of traps are the reservoir, ordinarily sandstone or carbonate (limestone or dolomite); the cover or seal, commonly shale, impermeable limestone or sandstone, or evaporite (salt, gypsum, or anhydrite), and closure.

The Etosha Basin of Southwest Africa is a very large sedimentary basin (over 66,000 square miles) with a very thick sedimentary fill (over 25,000 feet).

The sedimentary fill of the Etosha Basin exhibits substantial vertical variability (dolomites, limestones, shales, sandstones) as well as substantial lateral variability (indicated reefing, pinchouts, thickness variation, etc). The age of the sedimentary fill is not well-documented, but is thought to range from pre-Cambrian to Carboniferous. Most of the stratigraphic column present is probably late pre-Cambrian, Cambrian, and Ordovician.

The Etosha Basin contains a significant number of very large traps, well mapped by seismic surveys and supported to some extent by gravity and aeromagnetics.

There are foetid dolomites, geochemical anomalies, and hydrocarbon inclusions in crystals to provide some limited evidence that there has been some generation of hydrocarbons, and therefore some potential source beds, in the basin.

The only way to determine whether or not the Etosha Basin contains important accumulations of hydrocarbons is by drilling. I am firmly of the opinion that several of the known large traps in the Etosha Basin should be drilled.

Because of the size of the traps, the reward if successful could be tremendous. Any, or conceivably most, of the 11 well-substantiated traps could easily contain over one billion barrels of oil.

Negative features related to exploration of the Etosha Basin include (a) scanty direct evidence of hydrocarbons, (b) the fact that the bulk of the sedimentary fill is old (late pre-Cambrian and/or early Paleozoic) and not optimum, and (c) the occurrence of major thermal events (metamorphism) of early Paleozoic age on the south side of the Otavi Mountains. (However I know of no unequivocal evidence of metamorphism within the sedimentary fill of the Etosha Basin.) Positive features are related above.

In summary, I believe that there is a modest chance of finding oil in the Etosha Basin and that exploratory drilling should be done. In my judgment the potential reward in case of success more than outweighs the high exploratory risk of the venture.

Yours very truly,

J. D. Moody

JDM:jf/ad
attachment

PROFESSIONAL RECORD
o f
J. D. MOODY

Business: 950 Third Avenue-18th Floor
New York, New York 10022
(212) 935-0774

Home: 400 East 56th Street-Apt. 4G
New York, New York 10022
(212) 421-5439

EXPERIENCE

Jan. 1975-	President, Moody-Robertson Consultants, Inc.
Sept 1974-	Consultant on petroleum, geology, energy, and minerals, worldwide.
Nov. 1967-Sept. 1974	Senior Vice President, Mobil Oil Corporation, New York. Overall supervision and high-level staff advice of Mobil's exploration and producing activities worldwide.
Nov. 1963-Nov. 1967	Executive Vice President for Exploration & Producing, Mobil Oil Corporation, New York. Line responsibility for Mobil's exploration and producing activities in the U.S. and Canada.
July 1962-Nov. 1963	Manager of Exploration, Socony Mobil Oil Co., New York. Staff responsibility for Socony Mobil's worldwide exploration effort.
Apr. 1960-June 1962	Manager of Exploration, Plymouth Oil Co., Houston, Texas. Directly responsible for all of Plymouth Oil Company's exploratory activities throughout the world.
July 1959-Mar. 1960	Exploration Coordinator, Pittsburgh Office, Gulf Oil Corp. Provided coordination and top management advice for all of Gulf's exploratory activities throughout the world. Additional duties: Chairman-Exploration Research Committee Member -Exploration Council Member -Well Logging Committee Member -Geophysical Operations Committee
Jan. 1958-July 1959	Exploration Advisor, Pittsburgh Office, Gulf Oil Corp.
July 1957-Jan. 1958	District Manager, Midland District, Gulf Oil Corp. Directly responsible for (a) daily average production in excess of 100,000 barrels, (b) supervision of 50 rotary rigs, and (c) administration of annual budget in excess of $100 million.
Aug. 1954-June 1957	Assistant Division Exploration Manager, Ft. Worth Division, Gulf Oil Corp.
Jan. 1954-July 1954	Division Staff Geologist, Ft. Worth Division, Gulf Oil Corp.

J. D. MOODY
PROFESSIONAL RECORD

Nov. 1951-Dec. 1953	Chief Geologist, Ft. Worth Division, Gulf Oil Corp.
July 1950-Nov. 1951	Staff Geologist, Ft. Worth Office, Gulf Oil Corp.
Mar. 1950-June 1950	Staff Geologist, Houston Office, Gulf Oil Corp.
Dec. 1949-Mar. 1950	Staff Geologist, New Orleans Office, Gulf Oil Corp.
Aug. 1949-Dec. 1949	Staff Geologist, Pittsburgh Office, Gulf Oil Corp.
July 1947-July 1949	Reservoir Geologist, Kuwait Oil Co., Kuwait
Nov. 1945-June 1946	Geologist, Shreveport Office, Gulf Oil Corp.
June 1940-Feb. 1941	Geologist, Jackson Office, Gulf Oil Corp.
July 1938-July 1939	Surveyor, Shreveport Office, Gulf Oil Corp.

Have supervised or personally conducted exploratory projects (including reconnaissance) in:

Africa
- Angola (Cabinda)
- Ethiopia
- Ghana
- Libya
- Nigeria
- Somalia

Australia
- New South Wales
- North Territory
- Queensland
- South Australia
- Victoria

Canada
- Alberta
- Arctic Islands
- British Columbia
- Maritime Provinces
- Northwest Territories
- Saskatchewan

Europe
- Austria
- Denmark
- France
- Germany
- Greece
- Italy
  - Sicily
- North Sea
- Spain
- Turkey

Indonesia
- Sumatra

Middle East
- Abu Dhabi
- Iran
- Iraq
- Kuwait
- Oman
- Qatar
- Saudi Arabia

Latin America

Caribbean
- Jamaica

Central America
- British Honduras
- Costa Rica
- Guatemala
- Honduras
- Mexico
- Nicaragua
- Panama

South America
- Bolivia
- Brazil
- Colombia
- Peru
- Venezuela

United States
- Alabama
- Alaska
- Arkansas
- California
- Colorado
- Florida
- Gulf of Mexico
- Kansas
- Louisiana
- Michigan
- Mississippi
- Nebraska
- New Mexico
- Oklahoma
- Pennsylvania
- Texas
- Utah
- West Virginia
- Wyoming

Have been personally involved in producing operations in:

- Abu Dhabi
- Canada
- Colombia
- Germany
- Indonesia
- Iran
- Kuwait
- Libya
- Nigeria
- North Sea
- Qatar
- Saudi Arabia
- United States
- Venezuela

J. D. MOODY
PROFESSIONAL RECORD

PUBLICATIONS

1. Upper Montana Group, Golden Area, Jefferson County, Colorado, Bull. AAPG, Vol. 31, No. 8, 1947

2. Wrench-Fault Tectonics, Bull. GSA, Vol. 67, Page 1207, 1956 (with M. J. Hill)

3. Wrench-Fault Tectonics: A Response, Bull. GSA, Vol. 69, pp. 929-930, July 1958 (with M. J. Hill)

4. Petroleum Developments in Africa in 1958, Bull. AAPG, Vol. 43, No. 7, 1959 (with H. D. Hedberg and L. C. Sass)

5. Petroleum Developments in Africa in 1959, Bull. AAPG, Vol. 44, No. 7, 1960 (with H. D. Hedberg)

6. Discussion of "Relationship of Primary Evaporites to Oil Accumulation" by L. R. Sloss, Proc. World Petroleum Congress, New York City, 1960

7. Comments on "The Origin of Folding in the Earth's Crust" by V. V. Beloussov, Journal of Geophysical Research, July 1961, Bull. Houston Geol. Soc., Jan. 1962

8. Wrench-Fault Tectonics, The Mines Magazine, May 1962

9. Petroleum Developments in Africa in 1961, Bull. AAPG, Vol. 46, No. 7, 1962

10. Petroleum Developments in Africa in 1962, Bull. AAPG, Vol. 47, No. 7, 1963 (with M. C. Parsons)

11. Tectonic Pattern of Middle America (abstract), Bull. AAPG, Vol. 47, No. 2, 1963

12. The Moody & Hill System of Wrench-Fault Tectonics: A Reply, Bull. AAPG, Vol. 48, No. 1, 1964 (with M. J. Hill)

13. Petroleum Developments in Africa in 1963, Bull. AAPG, Vol. 48, No. 10, October 1964

14. Geology of Central America, 1964, In Press (Columbia University)

15. Discussion of "Ozark Pre-Cambrian-Paleozoic Relations" by H. E. Wheeler, Bull. AAPG, Vol. 50, No. 5, 1966

16. Crustal Shear Patterns and Orogenesis, 1966, Tectonophysics, Vol. 3, No. 6

17. On Interpretation of Asymmetric Synclines, 1968, with John Sales (In preparation)

18. Late Cenozoic History of Texas High Plains, 1968 (In preparation)

19. Tectonic Pattern of Northeast United States, 1968, with James Skehan (In preparation)

J. D. MOODY
PROFESSIONAL RECORD

PUBLICATIONS (continued)

20. Whence the Lewis Overthrust Sheet?, 1968 (In preparation)

21. Tectonic Pattern of Western North America, 1968 (In preparation)

22. Exploration Future of the Southwest, 1968 (Presented to Southwestern Section of AAPG, Wichita Falls, Texas)

23. Restraints on Exploration, 1967, The Oil and Gas Journal, Feb. 13, 1967

24. Giant Oil Fields of North America, 1968 (Presented to the Annual Convention of the AAPG, Oklahoma City, Oklahoma) April 22-25, 1968, with J. W. Mooney, J. Spivak

25. Exploration Future of the Northeastern U.S., (Presented to Illinois State Geological Survey, October 24-25, 1968)

26. The Role of Offshore Operations in the Long-Range Free World Supply/Demand Outlook, (Presented at AAPG - SEPM Joint Meeting - Dallas, Texas) April 1969

27. Origin of Pleistocene Glaciation - 1969 (In preparation)

28. Petroleum Demands of Future Decades, 1970 (Keynote address AAPG Convention, Calgary June 1970. AAPG Bull., Vol. 54, No. 12, Dec. 1970)

29. Oil and National Security, 1969, October 17. (Presented to the Industrial College of the Armed Forces, Washington, D.C.)

30. The "T" Theory of Oil Accumulation - 1970 - Skytop Meeting (unpublished)

31. Giant Oil Fields of the World - 1972, with H. H. Emmerich (Presented at International Geological Congress - 24th - Montreal, Canada, August 1972)

32. Distribution and Geological Characteristics of Giant Oil Fields, 1972, (Presented at "Petroleum and Global Tectonics Conference", Princeton University, March 10-11, 1972)

33. Petroleum Exploration Aspects of Wrench Fault Tectonics, 1972, Bull. AAPG, Vol. 57, No. 3, March 1973

34. Shear Patterns of Europe and Northwest Africa (In preparation)

35. Late Cretaceous Nappes in Oman Mountains and Their Geologic Evolution: Discussion, 1974, AAPG Bulletin May 1974

36. Tectonic Framework of the Pacific - AAPG Convention, Honolulu, 1974 (In press) with D. A. Holmgren and R. W. Esser

37. The Structural Setting of the Giant Oil and Gas Fields of the World (In press) Ninth World Petroleum Congress, Tokyo, May 1975, with D. A. Holmgren and H. H. Emmerich

J. D. MOODY

PUBLICATIONS (continued)

38. An Estimate of the World's Recoverable Crude Oil Resource (in press): Ninth World Petroleum Congress, Tokyo, May 1975, with R. W. Esser

39. Mineral Resources and the Environment, National Academy of Sciences Report, 1975

40. Petroleum Resources: How Much Oil and Where?, Technology Review (MIT), March/April 1975, with R. E. Geiger

J. D. MOODY
PROFESSIONAL RECORD

ORGANIZATIONS (last five years)

Alberta Society of Petroleum Geologists

American Association for the Advancement of Science

American Association of Petroleum Geologists

American Association of Petroleum Geologists/Eastern Section

American Geophysical Union

American Petroleum Institute

Corpus Christi Geological Society

Fort Worth Geological Society

Geological Association of Canada (Fellow)

Geological Society of America (Fellow)

Geological Society of London (Fellow)

Houston Geological Society

Independent Petroleum Association of America

Marine Corps Reserve Officers Association

Midland Geological Society

New Mexico Oil and Gas Association

Pittsburgh Geological Society

Texas Mid-Continent Oil and Gas Association

J. D. MOODY
PROFESSIONAL RECORD

HONORS

Matson Award, 1963, American Association of Petroleum Geologists

Distinguished Achievement Award, 1965, Colorado School of Mines

Secretary-Treasurer, 1966-67, American Association of Petroleum Geologists

Consultant to New Mexico Research Center on Geology of Mars

Departmental Advisory Council, Princeton University

Advisory Council, Colorado School of Mines Board of Trustees

Geology Foundation Advisory Council, University of Texas at Austin

Advisory Board, Department of Geological Sciences, University of Southern California

Honorary Membership, American Association of Petroleum Geologists 1972

Committee on Mineral Resources and the Environment, Division of Earth Sciences, National Research Council-National Academy of Sciences 1972-76

Consultant to Office of Technology Assessment, U.S. Congress

Exxon Visiting Professor in Environmental Management and Control, Dartmouth College 1975-76

President Elect, 1975-76, American Association of Petroleum Geologists

President, 1976-77, American Association of Petroleum Geologists

J. D. MOODY
PROFESSIONAL RECORD

EDUCATION

High School: C. E. Byrd Memorial High School, Shreveport, Louisiana

College: Colorado School of Mines, Golden, Colorado

Geological Engineer	- 1940
Master of Geological Engineering	- 1947
Petroleum Production Engineer	- 1947

Honors - Tau Beta Pi, Sigma Gamma Epsilon

Social - Beta Theta Pi

MILITARY SERVICE

Active duty in United States Marine Corps Reserve in Pacific Theatre in World War II from February 1941 to January 1946. Highest command held was battalion of four antiaircraft batteries and searchlight battery. Many staff assignments. Presently Lt. Colonel, retired.

PERSONAL

Date of Birth: December 4, 1918 - Denver, Colorado, U.S.A.

Family: Married to Enid Evelyn Wilie of Waco, Texas-February 10, 1945

Three children

	Date of Birth
John D. Moody, Jr.	5/21/49
Melissa Lynn Moody	8/21/51
Jennifer Alice Moody	10/15/52

Religion: Protestant

Deacon-Marble Collegiate Church, New York, New York 1967-1973

Social Organizations:
Manhasset Bay Yacht Club
Petroleum Club of Houston
Sky Club, New York City
25-Year Club of the Petroleum Industry

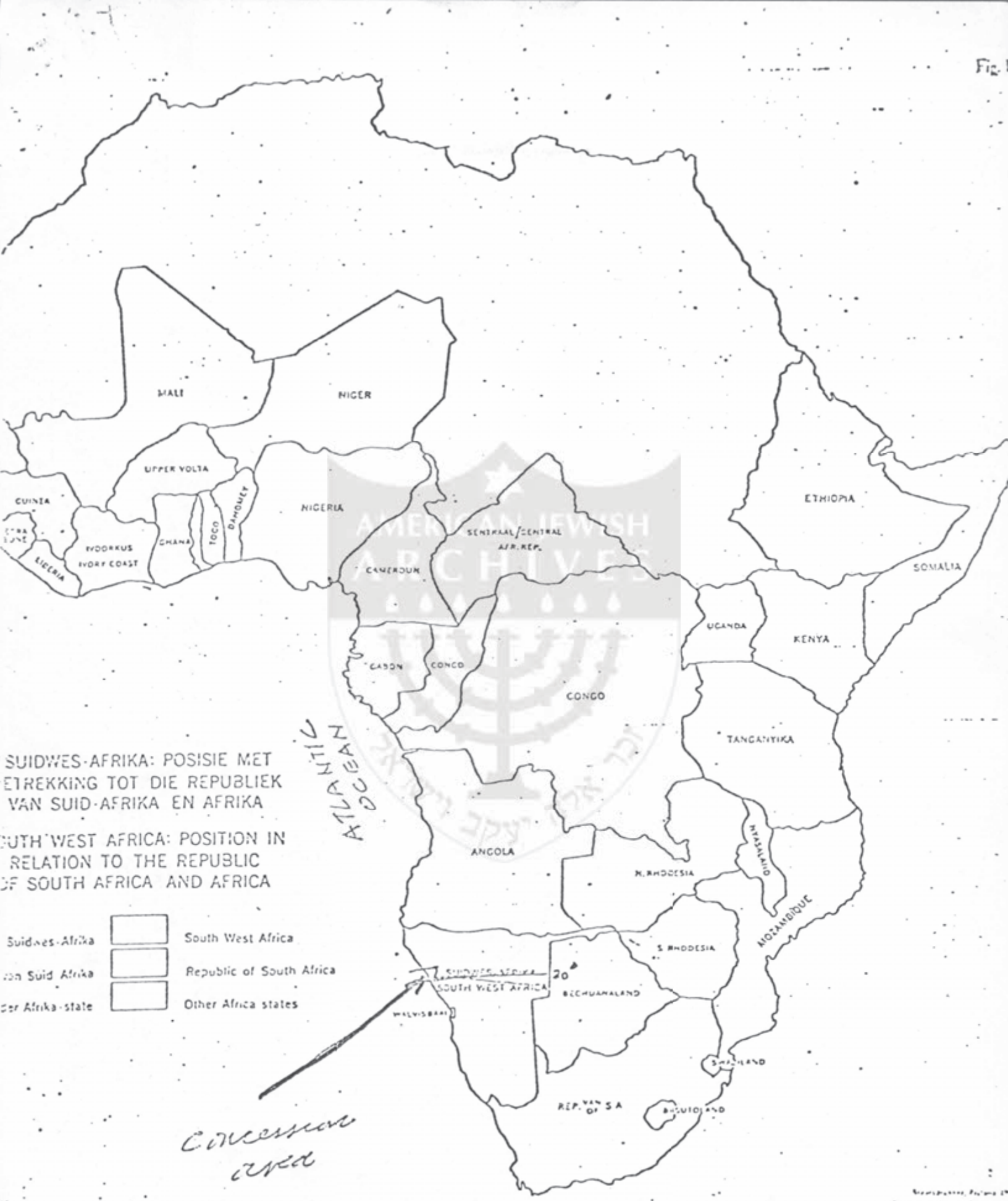

EXHIBIT-IA

PROSPECTING GRANT No. M 4/1/50

as described in the schedule attached to Deed of Grant No. M 4/1/50

GRANT LANDS

EXHIBIT I

June 25, 1976

Mr. Albert D. Chernin
NJCRAC
55 West 42nd Street
New York, N.Y. 10036

Dear Al:

In response to your letter of June 22, you ought to know that I asked for authorization for a Presidents' Conference Task Force on Energy at one of our meetings. I don't recall just which session it was, but there was full representation at the meeting and not one single agency involved in the NJCRAC voiced objection nor did anyone indicate the existence of an NJCRAC Task Force. If the leadership can't transfer information to one another, what do you want from poor little me?

With warmest regards, I am

Sincerely,

Alexander M. Schindler

cc: Mr. Yehuda Hellman

National Jewish Community Relations Advisory Council

55 West 42nd Street, New York, N. Y. 10036 (212) 564-3450

June 22, 1976

Rabbi Alexander M. Schindler
Union of American Hebrew Congregations
838 Fifth Avenue
New York, New York 10021

Dear Alex:

I note in Joe Glaser's draft on "The Deliberative Processes of the Presidents Conference" that a Task Force already has been created on energy.

Since the NJCRAC Israel Task Force has been coordinating the efforts of the community relations field in combatting Arab economic warfare, which, of course, deals with energy, I was somewhat puzzled that we hadn't been informed about this particular Task Force.

In any case, so that the Task Force will not have to engage in needless duplication of discussions already held within the NJCRAC and upon which agreement has been reached, I enclose for your information a position paper adopted by the NJCRAC on November 7, 1975 in regard to Arab economic warfare. I also should note that it is felt that, as a matter of strategy, this item should be dealt with in the context of domestic issues rather than in the context of the Arab-Israel conflict.

Warmest regards.

Cordially,

Albert D. Chernin
Executive Vice Chairman

ADC:ZC
Enc.

COMBATTING THE ARAB ECONOMIC WARFARE AGAINST ISRAEL AND JEWS

A Position Paper

AND

Guidelines for Jewish Community Relations Agencies

FROM THE

ISRAEL TASK FORCE

OF THE

NATIONAL JEWISH COMMUNITY RELATIONS ADVISORY COUNCIL

NOVEMBER 7, 1975

C O N T E N T S

ISRAEL TASK FORCE

of the

NATIONAL JEWISH COMMUNITY RELATIONS ADVISORY COUNCIL
55 West 42nd Street New York, N. Y. 10036

Task Force Chairman, Theodore R. Mann

National Jewish Community Relations Advisory Council
Israel Task Force

COMBATTING THE ARAB ECONOMIC WARFARE AGAINST ISRAEL AND JEWS

A Position Paper and Guidelines
for Jewish Community Relations Agencies

Introduction

THE ARABS have used boycott as an economic weapon in their war against Israel since before the creation of the Jewish State. With the Arab oil embargo of 1973, the Arab economic war against Israel expanded vastly in scale and scope, impinging directly and drastically on the behavior of American business and vitally affecting American Jewish interests.

Arab oil suddenly made the Arabs the possessors of enormous sums of money, available for the purchase of goods on the world's markets and for investment in foreign governmental, commercial and industrial securities and obligations. They soon made it clear that they intend to exploit their new-found wealth to further their war against Israel, not only by boycotting her but by extending their boycott to governments, firms and other establishments that trade with Israel, or trade with those that trade with Israel, or may be assumed to be sympathetic to and supportive of Israel. That means Jews everywhere; thus, the boycott has become all-out discrimination against Jews as well as against Israel and Israelis.

Much of this discrimination is stipulated by the Arabs as a condition of doing business. But much of it -- perhaps more of it -- is practiced by American firms on their own initiative in efforts to make themselves acceptable to the Arab customers for whom they vie. The volume, variety and profitability of available Arab business in a period of economic recession are powerful lures.

Combatting the Arab boycott has been a high priority of the Anti-Defamation League of B'nai B'rith for upward of a quarter century. Since the 1973 Arab oil embargo, the economic warfare waged by the Arabs has been a central priority concern of all the Jewish community relations agencies.

The NJCRAC Israel Task Force recommends that the Arab economic warfare be combatted with energy and determination by all Jewish community relations agencies, utilizing all applicable approaches and techniques, including:

(a) Invocation of law -- including demands that regulatory and other authorities vigorously enforce existing policies of government; litigation to enjoin infractions of law or require conformity with it; and the formulation and advocacy of further legislation deemed necessary.

(b) Approaches to banking, business and other firms, and to public officials, to persuade them to resist Arab threats and blandishments.

(c) Educational activities designed to raise the national awareness of the threat that the Arab economic warfare poses to American business, to the credibility of America's posture and that of all the western democracies in world politics, to the integrity of America's foreign policy, to the ethical values on which America rests, to the welfare of individual Americans.

The body of this paper sets out in greater detail the collective judgments of the NJCRAC Israel Task Force concerning the nature, magnitude and import of the Arab economic warfare; the principal actions already undertaken by the constituent agencies that have been chiefly involved in combatting that warfare; and a number of recommendations for further action by national and local constituent agencies.

1. Nature and Magnitude of the Arab Boycott

THE KEYSTONE of the Arab economic war is "blacklisting" -- i.e., the designation of specific financial institutions, business firms, etc. with which Arab governments -- or non-governmental Arab interests -- will not deal.

Among the conditions accepted by American firms or, often, self-imposed by them to "qualify" for sales, contracts or other business with an Arab government, company or national, are the following:

1. Agreement to refrain from doing business in Israel or with the government of Israel, or with Israeli companies or nationals.

2. Agreement to refrain from doing business with any American company engaged in trade in or with Israel, its companies or nationals.

3. Agreement to refrain from doing business with any company whose ownership or management is predominantly Jewish and to remove (or refrain from selecting) officers or corporate directors who are Jewish.

4. Agreement by sellers to ship products only on carriers which are not on the Arab boycott list; and by banks to honor only letters of credit that require evidence that these restrictions have been met.

5. Agreement to refrain from hiring or promoting Jewish employees or to dismiss Jewish employees.

Greatest impact of the Arab boycott is felt in the import-export field. The Export Administration Contract Act requires exporters to file reports of requests by foreign countries for compliance with restrictive trade practices. Thirty-one firms reported 10,884 such transactions in 1973; twenty-three firms reported 785 in 1974. That the later figures reflect widespread failure to report rather than a decline in boycott requests is evident: in the second quarter of 1975 alone, after public

agitation had caused the Office of Export Administration to file charges against exporters who had failed to report, some 2,112 requests were reported by 213 firms. Plainly, in 1973 (and before) the reports were regarded as formalities, to be lost in the files of the Commerce Department, and were submitted with routine honesty by at least some firms; when official scrutiny appeared threatening, reporting declined, to be resumed to a degree under threat of prosecution. Even these statistics understate the case; only twenty exporters took the regulations seriously enough to report regularly. Moreover, the regulations apply to exporters only, and not to the hundreds of other firms and institutions with which the Arabs do business.

The extent and seriousness of capitulations to Arab pressures were exposed in a series of revelations by the Anti-Defamation League of B'nai B'rith:

-- Fourteen steamship lines, including three receiving federal subsidies, routinely executed "certifications of boycott" which banks, in turn, required before honoring letters of credit -- a complete capitulation to Arab boycott regulations, resulting in "daily violation" of U. S. maritime law and other statutes.

-- The U. S. Army Corps of Engineers -- as subsequently confirmed by the Army following an independent investigation -- systematically excluded Jewish soldiers from projects undertaken by the Army in Saudi Arabia.

-- Arab blacklisting of "Jewish" banking houses in Europe from syndicates formed to finance a major Kuwaiti investment was followed by similar Arab actions against banks and businesses with Jewish owners, managers or directors. Several of the cases involving discrimination against American citizens by American corporations have been made the subjects of formal complaints (detailed later in this paper) by the Anti-Defamation League under Title VII of the U. S. Civil Rights Act.

II. U. S. Policy and the Posture of the Administration

IT IS THE POLICY of the United States, as enunciated in the Export Administration Act,

> "(a) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States, and (b) to encourage and request domestic concerns engaged in the export of articles, materials, supplies, or information, to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States."

Under Arab boycott pressures, American business firms become parties to the implementation of foreign nations' policies directly in conflict with our own national policies, participate in the secondary economic boycott of a nation with whom the government of the United States maintains friendly relations, participate in conspiracies in restraint of trade in violation of anti-trust laws, and engage in discriminatory practices against U. S. citizens in violation of civil rights laws.

> We therefore deem the Arab boycott and the Arab economic warfare it has spawned to be American issues affecting the integrity of U. S. policy and the rights of U. S. citizens; and we believe that they can and must be addressed by direct measures of the American government, grounded in the stated policies and laws of the United States.

Though President Ford, in the wake of the disclosure of discrimination against Jewish firms and individuals at the behest of or in conformity to the Arab boycott, denounced such discrimination as "totally contrary to the American tradition and repugnant to American principles" and to United States policy, neither then nor since has he said anything about the illegality and inconsistency with U. S. policy of the secondary boycott

of firms that do business with Israel. We regard both discrimination and secondary boycotts as serious and threatening to American interests.

We reject the contention of some officials of our federal government that the Arab boycott, as an aspect of the Arab-Israeli conflict, is tractable only in the context of a resolution of that conflict.

Federal administrative agencies have acted only feebly against discrimination and virtually not at all against secondary boycotts of U. S. and foreign firms; and, indeed, have acceded to and at times abetted the boycott.

The NJCRAC Israel Task Force concurs in the finding by some of its constituent organizations that the Administration has procrastinated and been evasive in enforcing laws against both boycott and discrimination. In meetings with federal officials, the agencies have made vigorous representations for firm federal governmental action and, in correspondence with such officials, have been critical of their failure to take such action. These criticisms and representations have had some limited results; e.g.,

. The Secretary of Labor issued a memorandum to the heads of all federal agencies notifying them that Executive Order 11246 and guidelines issued pursuant to it "prohibit federal contractors from discriminating on the bases of religion or national origin when hiring for work to be performed in the United States and abroad...regardless of exclusionary policies in the country where the work is to be performed or for whom it is to be performed."

. The Attorney General, in separate exchanges with the American Jewish Committee and the American Jewish Congress, gave assurances that the Anti-Trust Division of the Department of Justice would actively investigate the applicability of anti-trust legislation to restraint of trade caused by boycott practices and not only was "moving against violations of law resulting from the Arab boycott but also in developing new administrative and legislative approaches to meet those unacceptable effects of the boycott which are not now proscribed." Both agencies have responded that little concrete evidence of such activity was visible.

. The Attorney General has received evidence furnished by the Anti-Defamation League of B'nai B'rith which, if corroborated by Justice Department investigation, could result in proceedings against the firms involved for violation of U. S. anti-trust laws.

. The Secretary of Commerce, under pressure from many sources, and while continuing to refuse to take more effective action (see later in this paper), offered his personal good offices to seek reversals of decisions of American companies to withdraw from or refuse to do business with Israel. More recently, the Commerce Secretary has required U. S. firms to report on boycott demands and on their responses to such demands; but continues to refuse to make these reports public, or even to provide Congress with them.

. Responding to an inquiry by the American Jewish Committee, the U. S. Controller of the Currency, in a strong letter, apprized banks and lending institutions of relevant laws and policies against discrimination; however, he took no action pursuant to his authority to issue "cease and desist" orders to stop banks from requiring boycott compliance certificates before paying on letters of credit to Middle East shippers.

III. Invoking Federal Laws and Regulations

EXISTING FEDERAL LAW incorporates a battery of effective and administrative and legal weapons against the Arab economic warfare, which remain neglected by the administrative and regulatory agencies of government.

A. Demands for Vigorous Administrative Enforcement

We concur and join in representations by a number of our constituent national agencies to the Administration and to various responsible governmental officials for vigorous enforcement and imaginative application of existing federal laws. Specifically, we endorse the following recommendations incorporated in a memorandum to the President of the United States prepared by the American Jewish Congress:

1. Under the Export Administration Act

(a) Barring of exports from the U. S. by any American company that is subject to an agreement not to trade with any country friendly to the U. S., (b) requiring American exporters to give notice as to whether they intend to comply with any Arab boycott requests and (c) ending the confidential status of reports on boycott compliance by American exporters.

2. Under the Federal Trade Commission Act

(a) Imposing a penalty or additional duty on any article -- including oil and oil products -- imported into the U. S. under any agreement or condition implementing the Arab boycott, (b) denying U. S. shipping and clearance privileges to vessels of any country at war with Israel that denies facilities of commerce to American ships or American citizens, and (c) invoking against the Arab boycott those provisions prohibiting unfair competition.

3. Under the Shipping Act of 1916

Prohibiting American vessels from refusing to carry Israeli cargo or to stop at Israeli ports.

4. Under the Bank Security Act

Requiring -- and making public -- reports of the flow into the U. S. of Arab petrodollars.

5. Under the Securities Exchange Act

Monitoring efforts by Arab investors to obtain control of or substantial interests in any publicly-held American company.

6. Under the Federal Deposit Insurance Act

Prohibiting banks (a) from verifying letters of credit which contain provisions enforcing the Arab boycott and (b) from complying with discriminatory restrictions as a condition for obtaining deposits or investments.

7. Under the Foreign Investment Study Act

Reporting on the effect of the Arab boycott on American business and employment practices.

8. Under the Sherman Anti-Trust Act

Enforcing more vigorously prohibitions against restrictive trade practices.

We also recommend (as proposed by the American Jewish Committee, the American Jewish Congress and the Anti-Defamation League of B'nai B'rith in Congressional hearings and also by the American Jewish Congress in hearings conducted by the Securities and Exchange Commission) that, just as it is being recommended that SEC regulations require that the record of corporations with regard to environmental concerns be disclosed in all offerings of corporate securities, similar disclosure be required in all offerings with regard to participation in the Arab boycott.

B. Legal Actions

In the face of the laggard and evasive posture of the national Administration and the evident reluctance of federal agencies to use their statutory powers of investigation and regulation against unlawful collaboration by American companies with the Arab economic warfare, NJCRAC agencies have undertaken a variety of legal actions, which we endorse and support.

1. Complaints

Under Title VII of the Civil Rights Act, formal charges of violations have been filed with the Equal Employment Opportunity Commission by the Anti-Defamation League of B'nai B'rith against the following firms:

-- Aramco, an oil company operating in Saudi Arabia and fully aware of that country's barriers against Jews, effectively discriminates against American Jews by stating on its employment applications that "ability to obtain a visa from the Saudi Arabian Government" is a condition of hiring. (Some twenty years ago, the American Jewish Congress was successful in a similar proceeding against Aramco under the New York State anti-discrimination law.)

-- Bendix-Siyanco, a joint venture of Bendix Field Engineering Corporation and Saudi Maintenance Company, Ltd., which recruits management personnel, technicians and instructors for the Saudi Arabian Army Ordinance Corps, screens out Jewish job applicants by requesting religious information on its employment forms -- a violation not only of the Civil Rights Act but also of Presidential Executive Order 11246. (The Chairman of the Board of Bendix-Siyanco claims that the offending form had been withdrawn; but he conceded in a statement to the press that the withdrawal will not affect the composition of the work force, thus, in effect, confirming that the company's discriminatory practices continue.) In addition to the complaint filed with EEOC, ADL is calling upon the Department of Defense to conduct an equal opportunity compliance review as provided for by Executive Order 11246.

-- The Hospital Corporation of America, by asking for religious identification, screens out Jewish applicants for jobs in a Saudi Arabian hospital with which it has a contract to recruit personnel.

-- International Schools Services, a teacher recruitment agency, issues job orders in behalf of the United Arab Emirate State of Abu Dhabi which makes impossible the employment of any teacher who has "a Jewish surname, or who is an American Jew or who has Jewish ancestors." Because ISS operates under contract with the U. S. Department of Health, Education and Welfare, the Anti-Defamation League of B'nai B'rith is also asking HEW's Office for Civil Rights to conduct a compliance review of ISS discriminatory job recruitment procedures.

-- McGraw Associates, a Florida firm with contracts for construction work in Saudi Arabia, recently placed a newspaper want ad for skilled workers which explicitly states: "We trust you are aware of the discrimination policies of the Arab World before replying to this ad."

2. Litigation

The Export Administration Control Act requires "that all domestic concerns receiving requests for the furnishing of information or the signing

of agreements as specified in that section [viz., the section cited on page 7 of this paper] must report this fact to the Secretary of Commerce for such action as he may deem appropriate to carry out the purposes of that section."

In late summer, 1975, the Anti-Defamation League of B'nai B'rith revealed that the Secretary of Commerce was circulating tenders for bids from Arab nations which include boycott provisions. This is a paradox, the Commerce Department in effect facilitating acts in compliance with the Arab boycott which exporters are required to report to the Department for scrutiny as to their conformity to U. S. policy. When confronted with this inconsistency, Secretary Morton took only the inadequate step of stamping such discriminatory tenders with a statement of U. S. policy.

The Anti-Defamation League of B'nai B'rith is suing to enjoin and restrain the Secretary of Commerce from distributing tenders containing restrictive and boycott provisions. In addition, the Anti-Defamation League of B'nai B'rith and -- in a separate suit -- the American Jewish Congress, are suing under the Freedom of Information Act to gain access to the reports received by the Export Control Administration.

Secretary Morton defended his refusal to release the identities of the exporting concerns that had filed reports because disclosure "might reveal to their trade competitors valuable intelligence" and render the concerns vulnerable to "obvious countermeasures and pressures by various individuals and groups."

Secretary Morton has also refused to provide such information, even under subpoena, to the Subcommittee on Oversight and Investigations of the House Commerce Committee -- an intransigence that has provoked Congressman Lent (R-NY) to introduce a resolution requiring the Secretary to supply the information. The House Committee was conducting hearings on the issue when this paper was prepared.

The agreement between Saudi Arabia and the U. S. (June, 1974) committing our government to be "sensitive to the social, cultural, political and religious contexts of Saudi Arabia" in all programs undertaken by the joint U. S.-Saudi Commission on Economic Cooperation is being challenged in a legal action by the American Jewish Congress, as a violation of the First and Fourteenth Amendments, on the ground that is implies "U. S. willingness to accommodate the religious bias of the Saudi Arabian government and to exclude Jews from projects authorized by the Commission, thus acquiescing in Saudi Arabian discrimination against Jews."

IV. Federal Legislation

EVEN THE MOST conscientious enforcement of existing law would leave some loopholes, for no federal law presently in force covers all five forms of complicity in the Arab economic warfare delineated on page 5; nor does any of the approximately forty bills dealing with foreign investments and with one or more aspects of that warfare that have been introduced in the current session of Congress. We conclude that there is pressing need for comprehensive legislation to focus on and facilitate legal action against those who foster or collaborate in the application of boycott provisions. We call for legislation that would impose severe civil and criminal penalties in connection with the two major aspects of the Arab economic warfare -- discrimination and boycott.

A draft of such proposed legislation, prepared by the AJCongress in consultation with the AJCommittee and ADL and endorsed by the NJCRAC Israel Task Force, would make it a federal crime for any company or individual doing business in the U.S. to exclude from trade, or to require other companies or individuals to boycott, any foreign nation that maintains diplomatic relations with the U.S. It would also prohibit discrimination in the selection of boards of directors, suppliers and contractors on grounds of race, religion, sex or national origin.

Of the bills now pending, we regard the Holtzman-Rodino Bill -- HR 5246 -- to Amend Title 18 of the U.S. Code as most nearly approaching the legislation we deem necessary. That bill would impose stiff

criminal and civil sanctions against both those who initiate and those who accede to boycott pressure by practicing discrimination or engaging in secondary boycotts. A major defect in the bill is its requirement of proof that those who accede to boycott did so under coercion. We hold that a showing of a pattern of compliance with the boycott, on its face, should be sufficient to convict.

No Senate counterpart to HR 5246 has been introduced. The lack of Senate sponsors must be attributed in some part to the opposition voiced by Justice Department representatives at House Committee hearings to this or similar legislation.

Two Senate bills contain provisions that we deem helpful.

S. 953, An Amendment to the Export Administration Act of 1969, sponsored by Senator Adlai E. Stevenson, III of Illinois, Chairman of the Senate Banking Subcommittee on International Finance, would expand the scope of mandatory disclosure of any form of boycott pressure and compliance intentions, and give the President express authority to control U.S. exports, including curtailment of any exports to, investments in, or other economic transactions with countries that impose boycotts.

S. 425, the Williams Bill to Amend the Securities and Exchange Act of 1934, would circumscribe closely the extent to which foreign investors could invest in American corporations and empower the President to prohibit such investment in any case in which he deemed the national security, foreign policy or domestic economy of the United States to be adversely affected by such investment.

NOTE: As this report was being duplicated, another bill, combining provisions of the Stevenson and Williams

bills and stipulating public disclosure of boycott approaches and compliance, had passed the International Finance Subcommittee of the Senate Banking Committee. We regard the federal Administration's opposition to such legislation as indefensible; and deem the contention of Administration spokesmen that the legislation would discourage needed foreign investments and encourage other nations to restrict American investments in their jurisdictions to be without merit.

We are profoundly concerned about the seeming reluctance of the Congress to move any of the pending measures, or other proposals that we have endorsed, toward enactment.

V. Administrative, Legal and Legislative Action at the State Level

INASMUCH AS many businesses are regulated by state as well as federal law, We endorse the recommendation of the Israel Task Force Conference of March 23024 that administrative, legal and legislative measures to counter the Arab economic warfare be vigorously pursued at the state level.

A. Regulatory Agencies

As in federal law, so in many state statutes, there are provisions under which state regulatory agencies could proceed against various unlawful practices undertaken under pressure of the Arab economic warfare.

A legal memorandum prepared for the American Jewish Committee suggests, based on an analysis of relevant provisions of New York State law, the following possible grounds on which regulatory agencies in that state could act against discriminatory practices predicated on Arab demands:

-- A banking or investment banking firm or other company that complied with the demands of the Arab blacklist but withheld the information from its customers or shareholders might be charged with fraudulent misrepresentation under the General Business Law (Section 349), on the ground that many consumers would no doubt refuse to deal with a company participating in the Arab boycott and shareholders might wish to take action to change company policy to avoid loss of good will or to forestall suits against the company.

-- A banking organization that engaged in religious discrimination in connection with loans or in dealings with the State of Israel might be charged under the Banking Law (Section 9(d)), which requires the State Superintendent of Banking to enforce a section of the State Executive Law declaring it unlawful for any creditor or officer, agent or employee of such creditor to discriminate "in granting, withholding, extending or renewing, or in the fixing of rates, terms or conditions, of, any form of credit."

-- A company persuaded by Arab pressure to breach a contract could of course be sued for that breach, and a suit for conspiracy to breach the contract could also be brought against those who induced the breach.

-- Under New York's Anti-Trust statute (the Donnelly Act) a suit for restraint of trade must prove that the restraint is "unreasonable." Reasonableness is determined on a case-by-case basis. While it is

well established that companies and individuals may refuse to deal with whomever they choose, this freedom does not extend to concerted refusals to deal. The New York courts have never declared concerted refusals to deal illegal per se; they have formulated a rule whereby an 'unjustified refusal to deal with a third person becomes illegal when done in pursuance of a combination with others.' ... The standards that have evolved appear clearly to bar concerted refusals based on private political considerations or consideration of religious origin.

We recommend that local Jewish community relations agencies undertake studies of state and local laws, with a view to identifying provisions that may be applied against manifestations of the Arab economic warfare; and that they meet with key state and local officials to encourage their implementation of such laws.

We further recommend that Jewish community relations agencies urge state and city agencies, as appropriate to their jurisdictions and functions, to

-- require non-discriminatory conduct by the banks and investment banking firms with which they deal.

-- require of investment banking firms, banks and commercial establishments with which they do business, that, as a condition, they certify that they do not refuse to deal with or participate in any financial transaction with any other person or entity merely because that other person or entity does business with or hires persons of any religious affiliation, and do not refuse to do business with any country to whom our government has furnished military and/or economic assistance.

-- require similar certifications to be made by commercial enterprises with which the states or cities do business.

Requests by the American Jewish Committee and the American Jewish Congress for declarations of position on the Arab boycott by State Banking Commissioners have not only elicited such statements but resulted in communications from some Commissioners to the banks under their jurisdictions emphasizing antidiscriminatory provisions of state banking law.

The American Jewish Committee also has written to the attorneys general of all 50 states, urging them to enforce all applicable laws of their respective states against discrimination and other practices related to the Arab boycott.

In addition, national agency regional offices, together with local member agencies, have elicited resolutions from the California Fair Employment Practice Commission and the Human Rights Commission of the City of San Francisco, for example.

We recommend that communities seek similar resolutions from appropriate state and local bodies.

B. State Legislation

Two states -- New York and Illinois -- have enacted legislation aimed specifically at the Arab economic warfare, and similar legislation is pending in California and other states.

The New York law makes it unlawful "for any person to discriminate against, boycott, or blacklist, or to refuse to buy from, sell to or trade with, any person, because of the race, creed, color, national origin or sex of such person, or of such person's partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers or customers."

Apart from the prosecution of violators under this law, it will be used to compel testimony by businessmen, under subpoena by a Committee on Investigations of the State Legislature, as to approaches for compliance with Arab demands and as to their responses to such approaches. In the absence of specific outlawing of some of the kinds of discrimination detailed in the law, such testimony cannot be compelled.

We regard this New York law as a model, at this time; and recommend that Jewish community relations agencies seek the enactment of similar laws in other states.

VI. Other Community Relations Techniques

A. Public Interpretation

To increase public awareness of the nature and magnitude of the Arab economic warfare, the constituent national agencies of the NJCRAC have pursued dual goals: (1) elucidation to the broad general community of the fundamentally American, not Jewish, import of the issue in terms of economic, social, diplomatic and other consequences and (2) the alerting and preparation of Jews to be effective forwarders of this message and facilitators of exposure and counteraction.

In pursuit of the former of these objectives, backgrounders and other papers describing the Arab boycott apparatus and its operation, analyzing the financial results of the OPEC oil price gouge and projecting the possible impact of huge Arab investments in American securities and other obligations, and exposing some of the discriminatory and other adverse effects on American business and the American way of life of American capitulation to or collaboration with the Arab economic warfare have been prepared and disseminated by the American Jewish Committee, the American Jewish Congress and the Anti-Defamation League of B'nai B'rith, as well as others; the former agency being the most prolific and giving heaviest emphasis to this aspect of the total anti-boycott program.

Some of these materials are circulated generally, made available to the press and other media and, through local Jewish community relations agencies and the regional offices of the national agencies, to broad sectors of the general public. Others are differentiated for different audiences -- e.g., businessmen, academics, blacks -- and circulated among them and placed with journals and other organs that they

read. These writings are augmented by personal contacts, attendance at meetings, participation in forums and seminars and the utilization, generally, of all opportunities to convey information and interpretation by the spoken word.

Of the approaches employed vis-a-vis Jews, a notable technique is that whereby the American Jewish Committee conducted "consultations" with Jewish businessmen, to raise their own consciousness of the problem and to encourage and equip them to be a kind of watchdog group within the business community to discover, expose and use their influence to avert or to correct compliance with the Arab boycott or practices contributing toward the Arab economic warfare in other ways.

In the earlier years of the Arab boycott, the success of campaigns by the Anti-Defamation League of B'nai B'rith against the Brown and Williamson Tobacco Company, the Coca Cola Company and American Express was made possible in the last analysis by an aroused public opinion, Jewish and non-Jewish.

> We believe that Americans are fundamentally repelled by Arab boycott and other practices in furtherance of the Arab economic warfare and that its disapproval of the practices is likely to be reinforced by public rejection of such practices by corporate and university executives. We accordingly recommend that efforts be made to obtain public statements from leading corporate educational and other executives, preferably explicit against the Arab boycott, or, alternatively, in support of American democratic principles applied to business practices.

The American Jewish Committee, by such an effort, drew positive responses from a substantial number of major corporations and a

gratifyingly large number of universities and education associations. Notable among the corporations are IBM, Bank of America, General Electric, Westinghouse, Xerox, Ford, Eastman Kodak, First National City Bank, and Columbia Broadcasting.

An advertisement in Philadelphia newspapers by the First Pennsylvania Corporation stated that the bank had no intention of withdrawing from its commercial relationships with Israel, but, to the contrary, would seek to enhance them.

> This First Pennsylvania Corporation ad might well serve as a model for similar statements to be stimulated by local Jewish community relations agencies.
>
> In addition to such statements, resolutions on free trade policy by various Chambers of Commerce are to be encouraged, as are statements by state and national voluntary organizations protesting discriminatory Arab pressures (e.g., the one drafted by the American Jewish Committee for issuance by the National Association of Human Rights Workers).
>
> More intensive educational efforts both within the Jewish community and with key segments of the general community are recommended; utilizing especially special seminars and conferences for businessmen, governmental officials, and university administrators, in which the problems of the Arab economic warfare can be discussed in depth.

B. Exposure and Negotiation

Often, as the experience of the Jewish community relations field over many years attests, the simple confrontation of responsible officials of

a company or institution with evidence of unlawful or unacceptable practice is sufficient to bring about rectification. In some instances, public exposure may be deemed advisable. Such approaches have achieved satisfactory outcomes in a number of cases involving collaboration in various ways in discrimination arising out of Arab pressure.

-- After the lodging of a protest with the Secretary of Defense by the American Jewish Committee over the absence of a federally-mandated anti-discrimination clause in a contract between the Pentagon and the Vinell Corporation for the training of Saudi Arabian security forces, the contract was amended by addition of such a clause.

-- Several national and local member agencies were instrumental in causing banks in Houston, Chicago and Los Angeles, and a new banking institution in which they were principals, to issue statements of policy pledging nondiscrimination in employment. The new banking venture is the United Bank, Arab and French, New York -- controlled jointly by Arab and American interests -- giving especial significance to its public declaration.

-- The purchase of Kiawah Island, off the coast of South Carolina, by the Kuwait Investment Company led the Charleston Jewish Community Relations Committee and the regional office of the Anti-Defamation League of B'nai B'rith to launch a campaign that eventuated in a public commitment to equal opportunity and nondiscrimination by the American development company hired by the Kuwaitis.

-- The International Bank for Reconstruction and Development replied to a letter from the American Jewish Committee expressing concern about policies of the World Bank as they might affect Jewish personnel with a statement that "it is the firm policy of this organization to treat its personnel in a manner completely free from discrimination on grounds of religion, race, national origin or social condition." The statement added: "The Bank does not permit in a request for tenders of bids for contracts any condition that precludes participation by qualified suppliers because they do business with Israel or are located in a country that trades with Israel." Also that the Bank has exacted assurances from Saudi Arabia that no bar to the issuance of visas to Bank staff members will be posed on grounds of religion.

-- The Advest Company, responding to a protest by the American Jewish Committee about an invitation that it had issued to clients inviting participation in a trip to the Middle East which asked them to supply "a signed statement by a clergyman attesting that the participant is a Christian," expressed "regret," disclaimed any discriminatory intent, and pledged "to make trips open to all" and to "make no attempt to have people participate under false colors."

-- Challenges, demands and representations by the American Jewish Congress elicited the following actions:

The executive vice president of AT&T wrote that its $100 million loan from Saudi Arabia (announced in July 1975) "in no way compromises AT&T's commitment to recruit and promote the most qualified candidates into its jobs, including Jewish men and women. We clearly will not be governed by any blacklist or other restrictions that would require us to discriminate in any aspect of our business."

The New York Times apologized for running a help-wanted ad for employment in Kuwait specifying "Arab-American only," and promised to tighten its procedures covering the acceptability of advertising and to display prominently and at intervals in the newspaper a statement of its nondiscriminatory policy regarding ads.

The Secretary of Defense, asked for assurances that the Department would accept bids for manufacture of uniforms for the Saudi Arabian army -- which the Department had solicited -- without regard to Saudi Arabia's blacklisting of Israel and of Jewish firms, responded that "no discrimination is tolerated in the solicitation, the award or the performance of these or any other Department of Defense procurements."

Educational Institutions

Among the most important resources the Arab oil states seek in the United States are educational, technological and training services. Universities, as well as technical service and training companies of all kinds, no less than industry, have eagerly pursued contracts to perform such services. In a number of notable instances, educational institutions have declined or withdrawn from undertakings because the Arabs sought to impose terms requiring discriminatory practices.

-- Following representations by faculty and graduate students, which include many Jews, President Jerome Wiesner of the Massachusetts Institute of Technology addressed a letter to the Saudis stating that any act of racial or religious discrimination toward an M.I.T. participant in a project for which a contract was being negotiated would be cause for cancelation of the contract. The negotiations were suspended.

-- Through efforts of national and local member agencies, the Midwest Universities Consortium for International Activity suspended its relationship with the University of Riyadh in Saudi Arabia because Michigan State University Dean Ralph Smuckler, an officer of MUCIA and a Jew, was denied a visa to Saudi Arabia.

-- Jewish faculty members of Temple University in Philadelphia, which was negotiating a contract for a special graduate program for students from the University of Riyadh, expressed concern about Saudi Arabia'a policy against issuing visas to Jews and also about clauses in the contract that would allow the Saudis to set standards of admission and instruction for the program. They brought their concerns to the Philadelphia JCRC, which was able to persuade Temple to quietly drop the program.

C. Fact Finding

Successful use of any of the techniques and approaches thus far discussed requires the meticulous marshaling of carefully verified facts. Success in litigations under existing laws may depend on the establishment of facts to prove guilt. The enactment of specific further legislation requires support, advocacy and interpretation of such legislation by an informed electorate. Approaches calculated to dissuade companies from complying with or otherwise collaborating in the Arab economic warfare must be predicated on facts about the companies' practices.

Only the Arabs proclaim their warfare publicly; the American companies that, for the most part, implement it do so quietly and generally in a way calculated to escape public notice.

Accordingly, we recommend that member agencies give major priority to fact-finding on the national, state and local levels.

While recognizing that the Anti-Defamation League of B'nai B'rith places greater emphasis on the use of investigative techniques than do the other national agencies of NJCRAC, all pursue efforts to discover and expose instances of discriminatory and other unlawful or blameworthy practices in furtherance of the Arab economic warfare; and we recommend that these efforts be continued and intensified by national and local member agencies.

Discovery and exposure of compliance with or participation in the Arab economic warfare is likely to be enhanced by raising the Jewish community's level of awareness of its scope and impact.

Accordingly, we recommend special efforts to inform and heighten the sensitivities of Jewish businessmen, employees, executives and directors of banks and corporations, stock brokers, and academicians to the Arab economic warfare.

Such persons, so sensitized, may be expected to discover or detect evidence of complicity in the Arab campaign through their own business associations and their reading of business news in the general press and from specialized journals in their respective businesses or professions.

We recommend the cultivation of contacts with banks, corporations and universities at the local level and the utilization of such contacts, on an informal basis, to discuss with executives and administrators their experience with the Arab economic warfare, in the absence of any evidence or suspicion of their involvement in it.

In the absence of personal relationships, requests for meetings with executive officers or administrators for the purpose of such discussion may be made formally in writing.

We recommend that, in all cases, assurances of non-participation in the Arab economic warfare be requested in writing and for the record.

D. Stockholder Actions

It has been found that corporate management, while sensitive to charges of complicity in furthering the Arab economic warfare, often is reluctant to declare publicly and forthrightly its determination not to comply with or participate in boycott or allied discriminatory practices, and ingenious in concealing such compliance or participation. Questions by stockholders at stockholders meetings have proven effective in eliciting information about approaches to corporate officials for compliance with the boycott or other

Arab demands as a condition of obtaining Arab business, or obtaining public declarations of adherence to nondiscrimination, and may on occasion prevent a company from agreeing to Arab demands. Such a question asked at a stockholders' meeting of IBM, pursuant to an American Jewish Committee program to promote corporate responsibility elicited from the Chairman of IBM the statement that the corporation "has not been blacklisted in any country... not received any such pressures...not aware of any such pressures. Should we receive any, we will resist them."

The American Jewish Congress has prepared and disseminated a memorandum embodying suggested questions to be raised by stockholders and a model resolution to be proposed for adoption.

> We recommend that stockholders in corporations be encouraged and helped to raise questions about the experience of corporate officials with Arab demands and to propose the issuance of public statements affirming the corporation's policy of nondiscrimination and non-participation in boycott.

A Caveat

Before undertaking any representations or taking any action implying or charging complicity in the Arab economic warfare, the facts should be scrupulously checked. The dropping of a firm from the Arab League boycott list, for example, does not invariably signify that the firm does not continue to do business with Israel. Therefore, we strongly recommend that, besides investigating and confirming all facts before taking action, community agencies consult with the NJCRAC Israel Task Force and its national member agencies for evaluation of the facts and determination of action to be taken, based on previous experience.

EXHIBITS

A. Letters of State Banking Commissioners to Financial Institutions Under Their Jurisdiction

From Banking Dept., State of New York

As you are no doubt aware, there have been recent reports of alleged involvement by banks in discriminatory practices against American citizens or American business firms, particularly as related to the Arab boycott. It has also been reported that banks may be offered substantial deposit or loan business from Arab countries, subject to the condition that no member of the Jewish faith sit on the bank's board of directors or control any significant amount of the bank's stock.

I wish to emphasize that all financial institutions subject to the jurisdiction of this Department must scrupulously avoid any practices or policies that are based upon considerations of race or religion of any customer, stockholder, officer, director or employee of a bank.....

By means of its bank examinations, this Department will ensure adherence of all institutions to a policy of non-discrimination.

From Commissioner of Banks, Commonwealth of Massachusetts

One of the major responsibilities of this Office is to insure that each bank meets the needs of the community it was chartered to serve. While observing those credit and risk factors inherent to the banking business, all the activities of all banks must be performed with this overriding principle of service to the public in mind. Discrimination based on religious affiliation or racial heritage is incompatible with the public service function of a banking institution in this Commonwealth.

By means of its regular examination function, this Office will assure the adherence of banks to a nondiscriminatory policy in the circumstances mentioned, as well as in any other respect where racial or religious background might similarly be placed in issue.

From Commissioner of Banks and Trust Companies, State of Illinois

The Commissioner of Banks and Trust Companies is issuing this memorandum to remind Illinois state chartered banks that they must avoid any discriminatory practices or policies based upon consideration of the race or religious beliefs of the customers, stockholders, officers or directors of the bank. For example, this agency would consider it a discriminatory practice to accept any offering of large deposits and loans by agents of foreign investors on the condition that no member of the Jewish faith sit on the bank's board of directors or control any significant amount of the bank's outstanding stock.

B. Resolution of the California Fair Employment Practice Commission

WHEREAS, it is the public policy of the State of California, as enunciated in the Fair Employment Practice Act and as evidenced in the charge placed upon the Fair Employment Practice Commission, to prevent discrimination in the State; and

WHEREAS, there is evidence, which may affect employment in the State, that Arab investment groups have indicated that as a condition of investment or trade they will require American business firms to discriminate in the employment of Jews; and

WHEREAS, President Ford has characterized such a practice as "totally contrary to the American tradition and repugnant to American principles;" and

WHEREAS, such religious or ethnic discrimination, whether imposed on employers or voluntarily adopted by them in anticipation of such foreign investment or trade, is directly contrary to provisions of the California Fair Employment Practice Act; now therefore

BE IT RESOLVED, that if such violation of the law become manifest in this State, this Commission will take necessary and appropriate steps to correct them, and will use its authority and good offices wherever possible to prevent such practices from occurring.

C. Resolution of the Human Rights Commission of the City of San Francisco

WHEREAS, there is evidence that some foreign investment groups have indicated that, as a condition of investment, American business firms will be required to discriminate in matters of employment on religious and ethnic grounds;

WHEREAS, such discrimination, whether imposed on American business firms or adopted voluntarily by American business firms in anticipation of such foreign investment, is contrary to American laws and mores; therefore

BE IT RESOLVED, that the state and federal agencies concerned with the enforcement of civil rights laws be urged to take necessary steps to prosecute and forestall this special violation of the law; and

BE IT RESOLVED, that the Human Rights Commission of the City and County of San Francisco take whatever steps may be appropriate and feasible to correct and prevent such abhorrent practices within the City and County of San Francisco.

D. New York State Anti-Boycott Law

Following is the operative clause of this law, which is (as of November, 1975) regarded a model for other states:

> It shall be an unlawful discriminatory practice (i) for any person to discriminate against, boycott or blacklist, or to refuse to buy from, sell to or trade with, any person, because of the race, creed, color, national origin or sex of such person, or of such person's partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers or customers, or (ii) for any person wilfully to do any act or refrain from doing any act which enables any such person to take such action.

(Other sections extend coverage of the law to acts committed outside the state against resident persons or corporations; prohibits nonresidents or foreign corporations violating the law from doing business in the state; and sets forth procedures to be followed in serving complaints, holding hearings and issuing cease and desist orders.)

E. Specimen Declarations by Firms and Banks

The advertisement of the First Pennsylvania Corporation is reproduced on the reverse side of this page.

Following is an exchange of letters between the Jewish Federation Council of Greater Los Angeles and the Irving Trust Company of New York.

From the Jewish Federation Council of L. A., May 8, 1975, to Irving A. Rice, President, Irving Trust Company:

"Following the publication of stories in the major news media, that a number of major corporations and banks, including The Irving Trust Company, had allegedly capitulated to the Arab Boycott, the Officers and members of the Board of Directors of the Jewish Federation Council of Greater Los Angeles have been questioned by many in our community regarding our financial relationship with your bank.

"The Jewish Federation Council of Greater Los Angeles, which includes in its membership more than 500 affiliated organizations, (religious, educational, philanthropic, welfare and human relations agencies), has the primary responsibility in this community for raising and making funds available for local, national, and overseas humanitarian services. The Jewish Federation Council has the responsibility of administering these funds in such a way as to be sure they serve the best interest of the Jewish community of Greater Los Angeles.

"In view of this responsibility, and the fact that the Jewish Federation Council has been purchasing your Bankers Acceptances and Certificates of Deposit, we respectfully request that you inform us of your policy, or any agreements or understandings with individuals, organizations, or countries: 1) to withhold in any way, or refrain from commercial or trade relations with the State of Israel, as a result of pressure from Arab countries or from businesses related to the Arab countries; 2) to honor letters of credit only when seller furnishes proof that seller is not on Arab Boycott blacklist; and 3) to open branch offices or any other banking affiliation in Israel.

"In view of the charges made in the media, and the questions they have engendered, our Board of Directors has instructed us to request this information from you. Your response will make it possible for us to give our Board the full facts of the situation."

Reply by Joseph A. Rice for Irving Trust, May 20, 1975:

"In response to yourletter of May 8, I would like to assure you that this bank is opposed to any black list or restrictive trade practices, and any suggestions that we have 'capitulated' to any form of boycott against Israel or anyone else is wholly unfounded. Moreover, I would hope that the Jewish Federation Council will continue to purchase our acceptances and certificates of deposit as long as it serves your purposes to do so.

We are happy with our investment in Israel. We are proud of the people who work with us there. We plan to continue working with them.

I have just returned from an out-of-state trip and was surprised to hear there had been a newspaper article about "First Pennsylvania retreating from Israel."

Nothing could be farther from the truth. But rather than my telling you about First Pennsylvania's relations with Israel, I believe you'll agree that our actions speak much more forcibly than an anonymous quote in a newspaper article.

The fact is that we have increased our investment in FIBI, the Israeli Bank, on three separate occasions in 1974. This increase totalled 50%. Our investment now exceeds $13,000,000 and will be increased again, within a year.

We have excellent relations with our Israeli subsidiary, in fact, the president of FIBI attended a conference of our top officials within the last month. And First Pennsylvania's President is scheduled to visit Israel this spring.

I would like to repeat in the strongest way that I can: We are happy with our investment in Israel. We are proud of the people who work with us there. We plan to continue working with them.

John R Bunting

John R. Bunting
Chairman of the Board, First Pennsylvania Corporation

FIRST PENNSYLVANIA CORPORATION

"With respect to the particular questions you have raised:

"1. It is not our policy, nor do we have any agreements or understandings with individuals, organizations or countries, to withhold in any way or refrain from commercial or trade relations with the State of Israel.

"2. As regards letters of credit, the function which an international bank has is simply to receive instructions from a foreign correspondent bank or firm to make payments against certain documents, and its duties are limited to making such payments when the documents called for are presented. The bank does not suggest that any particular document or any particular provision be part of the export agreement - it merely receives instructions regarding payments and carries them out. This practice is, I believe, followed by every bank in the United States involved in the international letter of credit business.

"3. We have no policy, agreement or understanding that would preclude us from establishing a branch office or any other banking affiliation in Israel. I might add that any decision to establish a branch or other facility, whether in Israel or any other country, would be based on a careful consideration of economic feasibility."

Following are excerpts from letters responding to inquiries by the American Jewish Committee:

From Republic Steel Corporation

"... Republic Steel was one of the companies named on the blacklist by certain Arab countries which was made public some months ago. Previously, we had been aware that such a blacklist existed and that our company name was on it, but we were not informed as to why this action was taken. This blacklist included also six Republic subsidiaries and affiliated companies and three Republic trademarks, none of which, to our knowledge, have ever had any connection with business in Arab countries. Upon inquiry to the Arab boycott office we were advised that Republic and its affiliated companies had been blacklisted as a result of Republic's investment in an Israeli manufacturing firm which went out of business several years ago.

"We concur wholeheartedly in your statement that the American business community should demonstrate unswerving adherence to the concept of fairness and equity that has always been the traditional way of doing business in this country.

"It is, and shall continue to be, our company's policy that race, religion or national origin have no place in our business decisions. Pressures such as a blacklist tries to impose are certainly not going to cause us to sway from such policies."

F. Statements by Universities

The following are excerpts from replies to inquiries by the American Jewish Committee.

By Princeton University:

"Our policy is not to enter into any agreement involving any government or its agencies if doing so would require the University to discriminate against any member of the University on grounds of race, religion, sex, or political belief.

"I might add that the same policy applies to agreements with non-governmental organizations as well. Moreover, we would not seek funds for the University under conditions which would violate our independence with respect to educational or scholarly matters, institutional policy, or personnel decisions."

By University of Denver:

"I can think of no circumstance under which the University of Denver would accept assignments in which discriminatory hiring practices were a condition.

"We have also alerted the Director of the University's Affirmative Action Office, which is likely to be aware of such circumstances, and feel that the situation is therefore unlikely to be a problem here."

By Villanova University:

"Villanova University has a rather large foreign student contingent that it is not averse to expanding in these times of diminishing applications. Frankly, the danger that you mention never crossed my mind. Please be assured that, now aware of the possibility, we shall be extremely cautious in entering into contracts involving foreign students, lest inadvertently some discriminatory practice be introduced."

By Syracuse University:

"For 105 years, Syracuse University has had a clear, open record in regard to discrimination. I cannot see any departure from that policy.

"Officials of Syracuse University have said that no Arab petro dollars would be accepted for research projects if Jewish faculty and staff members at Syracuse University were excluded from the projects."

G. Resolutions by Chambers of Commerce

1. Greater Philadelphia Chamber of Commerce

American business has always welcomed foreign investments. America is an open society which does not put unreasonable restrictions on foreign investment. This is to its credit and to its benefit.

Likewise, American businessmen buy and sell, trade, invest and lend all over the world. We offer our industrial products, our skills and our know-how, our financial capital and investment facilities on the open market. We stand ready to be judged by the quality of our goods and services, the ability of our staffs and the dependability of our contracts.

We are not prepared to be judged on religious tests applied to our directors, our management, our employes, our customers or our clients, either here or abroad.

The Chamber of Commerce of Greater Philadelphia calls on President Ford and the Congress to consider appropriate legislation which will protect all Americans from discrimination and unfair competitive practices resulting from conditions imposed by foreign investors.

2. Metropolitan Milwaukee Association of Commerce (excerpts)

Recent disclosures in the press and in Congress indicate that Arab governments have undertaken to boycott United States industrial, commercial and financial firms owned or managed by persons of the Jewish faith.

In addition, there is evidence that this boycott is being extended to firms which have done business with the government of Israel or companies in Israel, and to pressuring firms doing business with Arabian concerns to exclude Jewish persons from their employ.

This type of discrimination certainly has no proper place in the practice of free commerce in America and should have no place in international business, either. Free trade and foreign investment have been encouraged by the United States government, as they should be. Restrictive practices on the basis of religious or ethnic considerations are inimical to free trade and detrimental to the long-term best interests of this country.

The Board of Directors of the Metropolitan Milwaukee Association of Commerce, therefore, reiterates its support of the principle of free trade and urges its members to oppose, in any way they can, such a boycott based upon ethnic or religious prejudice.

H. Statement of National Association of Human Rights Workers

(The following statement was released by NAHRW and copies sent to the governors of the 50 states asking each to "publicly call upon your anti-discrimination agency, and the agency which governs commerce, to be fully cognizant of their responsibilities under American law, and aware of the ramifications of a threatened boycott.")

"A serious challenge is facing civil rights enforcement agencies throughout the United States. American-owned businesses are being not-so-subtly threatened with loss of business if they deal with, or hire, those of the Jewish faith. This challenges not only the strengths of American business but also the strength of American laws prohibiting discrimination because of race, color, creed, religion, national origin, ancestry or sex.

"For many years American Jews have been prominent in the struggle for civil rights, for the passage of laws prohibiting discrimination, and for the establishment of human rights agencies to enforce the laws. Jewish names and Jewish agencies are evident throughout the history of this struggle.

"The National Association of Human Rights Workers, formed in 1946, owes its life to that struggle, its history and tradition are born of that struggle and its membership extends throughout the U.S., and into Canada and Puerto Rico.

"NAHRW views the threat of boycott with dismay. It looks upon this attempt to pressure Americans into accepting the political and economic mores of foreign nationals, whose avowed, publicly stated goal is the alienation and isolation, politically, economically and socially, the State of Israel, and being carried over to affect American citizens, as antithetical to the principles upon which NAHRW and anti-discrimination laws are based.

"Implicit in the threat of boycott is the seed of outright discrimination against Jews. But, such discrimination is intolerable in this country. NAHRW's position is consistent, as illustrated by its call to American businesses to review their policies in Rhodesia and South Africa, which countries continue to restrict, officially, Blacks and persons of color. We are categorically opposed to all such discrimination.

"NAHRW has called upon its membership, and every human rights agency in the United States and Puerto Rico, to stand firm in the enforcement of anti-discrimination laws, and calls as well upon American business to take a firm stand against being party to violation of American law."