A G E N D A

CMA EXECUTIVE COMMITTEE MEETING
8:30 a.m., Tuesday, April 5, 1983
CMA Executive Conference Room
Washington, D. C.

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1.	Call to Order and Approval of Minutes of Meeting, March 8, 1983 -- Chairman Fernandez	1
2.	Treasurer's Report -- G. C. Herrman	2
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4.	Report of Membership Committee -- C. G. Caldwell Novacor Chemicals Ltd. Sodyeco Division, Martin Marietta Chemicals	
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6.	Report of the President -- R. A. Roland	
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13.	New Business	
14.	Adjournment	

SCHEDULE OF EVENTS FOR REMAINDER OF TUESDAY, APRIL 5, 1983:

10:30 a.m.	Meeting of Board of Directors CMA Board Conference Room
12 Noon	CHEMICAL FORUM Luncheon Dolley Madison Ballroom, The Madison 15th & M Streets, N.W. Note: Transportation to The Madison and return to CMA will be provided.
2:00 p.m.	Board Meeting - continued

CMA 064784

MINUTES OF MEETING
CMA EXECUTIVE COMMITTEE
8:30 a.m., Tuesday, April 5, 1983
CMA Headquarters, Washington, D. C.

1. The meeting was called to order at 8:30 a.m. by Chairman Fernandez. There were present:

Louis Fernandez, Chairman	Edwin C. Holmer
Dexter F. Baker	A. Clark Johnson
Harry W. Buchanan	Robert A. Roland
Alec Flamm	David L. Rooke
Alexander F. Giacco	George J. Sella, Jr.
James B. Henderson	William G. Simeral

Bruce M. Barackman, Secretary
Gary C. Herrman, Treasurer
David F. Zoll, General Counsel

By Invitation:
David L. Baird, Jr., Exxon Chemical Company
Geraldine V. Cox, CMA
John E. Dull, E. I. du Pont de Nemours & Company
Robert C. Forney, E. I. du Pont de Nemours & Company
Myron T. Foveaux, CMA
Jon C. Holtzman, CMA
Victor H. Peterson, CMA
James B. Senger, Monsanto Company
William M. Stover, CMA
Glenn W. White, The Dow Chemical Company

2. Minutes of the Last Meeting The minutes of the March 8, 1983 meeting were approved as distributed.

3. Treasurer's Report Mr. Herrman's report is attached as Exhibit A. Additionally he advised that:

- Current year revenue and expenses continue to track closely to the amounts as projected in the budget with an anticipated positive contribution to reserves of somewhat over $1 million.

- Budget changes as discussed at the last Finance and Executive Committee meetings have been incorporated in the proposed budget mailed to the Board of Directors who will be asked to approve it later today. Total expenses of $12,535,200 are projected. Funding will be provided by the fee schedule as increased by 26%. A deficit of $465,900 is anticipated.

- Attention was invited to a correction to the budget document. Under tab 13, page 60, the first sentence following Incinerator Regulations Comments should read, "Incinerators are becoming an increasingly important disposal option."

4. Report of Nominating Committee Reporting as Chairman of the Nominating Committee, on which Messrs. Fernandez and Holmer also served, Mr. Simeral presented the slate in Exhibit B. This was approved for presentation to the Board. As a matter of information, Mr. Simeral reviewed the composition of the Executive Committee and Finance Committee, Exhibit C, which will be presented for approval at the Organizational Meeting of the new Board on June 9 at The Greenbrier.

5. Report of Membership Committee In the absence of Chairman Caldwell, Mr. Barackman advised that Novacor Chemicals Ltd.; Sodyeco Division, Martin Marietta Chemicals; and Nuodex Inc., following approval by the Membership Committee, will be recommended for election to membership in the Association at the Board meeting later today.

6. Committee Appointments The committee appointments listed in Exhibit D were approved.

7. Report of the President

- Mr. Roland distributed Exhibit E to those present. This summary of what is happening at the state level in the area of public compensation was requested at the last Executive Committee meeting.

- A visit to the White House by the CEOs of certain companies on behalf of the chemical industry has been in the planning stage for some time. The purpose would be to enhance the understanding of the chemical industry and its relevance to the nation's economic strength. This will proceed at the appropriate time.

8. Hazardous Waste Management During the discussion of this issue the question was raised as to whether CMA should try to take a more active role and whether such a role could be defined. It was noted that, being a consensus group, there are limitations as to what the Association can do. Meanwhile, there is much that member companies are doing and can do in regard to waste site cleanup. A sharing through CMA of the intelligence which individual companies severally develop could prove helpful, leading perhaps to something more formal. The view was expressed that programs undertaken must be coordinated with EPA.

An effort to establish a dialogue with EPA pointing toward the cleanup of waste sites at reasonable cost would be constructive. This would be a private sector initiative which would enhance the credibility of both EPA and the chemical industry.

9. Public Compensation Chairman Fernandez reviewed the activities of the Strategic Options Work Group, suggested it was time to move toward developing an action program, and requested comments on how best to proceed.

Following discussion it was agreed that:

- Since the Strategic Options Work Group has completed its analytical assignment, and the information is in the hands of the Executive Committee for further action, the group is disbanded. However, tasks in progress by sub-groups will be pursued to completion and, to the fullest extent possible, folded into standing committees as appropriate.
- CMA's officers will meet to consider the hazardous waste management and public compensation issues. Specific recommendations will then be presented to the Executive Committee for review.

10. Industry Grass-roots Network Mr. Rooke's report is attached as Exhibit F. Its work having been completed, the "committee of one" was discharged with appreciation for its efforts in initiating the ongoing development of a coordinated grass-roots federal legislative communications system for CMA.

11. CMA Position re Administration's Budget for Fiscal Year 1984 Following presentation by Mr. White and discussion by the Executive Committee, Exhibit G was approved by voice vote with Mr. Henderson recorded as opposed.

12. CMA Position on the Generalized System of Preferences The proposed policy on GSP as set forth in Exhibit H was approved.

13. Amicus Participation in Waste Industries Case Amicus participation in the Waste Industries case as set forth in Exhibit I was approved.

Bruce Barackman

Bruce M. Barackman
Vice President-Secretary

Certified correct:

Louis Fernandez

Louis Fernandez, Chairman
CMA Executive Committee

EXHIBIT A

TREASURER'S REPORT

Ten Months Ending March 31, 1983

This report will be prepared and distributed following the end of the month.

For your reference, the following is provided:

- The originally approved and amended budget and funding for the fiscal year beginning June 1, 1982 and ending May 31, 1983.

- The approved budget for the separately funded Biomedical and Environmental Special Program area as amended.

Additionally, the proposed budget for fiscal year 1983/84 has been mailed under separate cover. This document presents the most recent projection of actual expenses against budget for the current fiscal year along with the proposed budget for the next fiscal year.

CMA
EC - 04/05/83
BD - 04/05/83

CHEMICAL MANUFACTURERS ASSOCIATION
ORIGINALLY APPROVED AND AMENDED BUDGET AND FUNDING FOR THE Fiscal Year Beginning June 1, 1982 and ending May 31, 1983

REVENUE:	Original 1982-83 Annual Budget	Amended 1982-83 Annual Budget
Membership Dues	$ 9,860,600	$ 9,525,000
Investment Revenue	1,050,000	1,250,000
Revenue from (or Dues Support to) Special Program Areas	(77,500)	(77,500)
Communications Program Assessment (reduced 40% to 20%)	3,746,600	1,886,100
Full Use of Previously Accumulated Communication Program Funds	20,600	581,100
Meetings (net of expenses)	209,000	147,800
TOTAL REVENUE	$14,809,300	$13,312,500

DIRECT PROGRAM ACTIVITIES:		
General Counsel	$ 971,700	$ 884,400
Government Relations	800,700	755,500
International Trade Activities	246,100	231,100
State Activities Program	251,200	333,500
Chemical Industry's Communications Program	4,963,900	3,565,900
Technical Administration	273,600	266,300
Health, Safety & Chemical Regulations	780,400	711,100
Environmental Activities	737,600	699,900
Distribution, Energy, Engineering	450,100	400,900
Chemtrec	642,500	618,000
Outside Legal Fees	1,600,000	1,600,000
Outside Consulting	795,000	795,000
TOTAL	$12,512,800	$10,861,600

UNALLOCATED MANAGEMENT AND GENERAL SUPPORT ACTIVITIES:		
Executive Department	$ 1,291,200	$ 1,254,500
Accounting & Business Services	513,100	499,300
Printing, Distribution, Computer & Information Services	492,200	452,200
TOTAL	$ 2,296,500	$ 2,206,000
TOTAL EXPENSES	$14,809,300	$13,067,600
Contribution to (Use of) Reserves	$ --	$ 244,900
AUTHORIZED PERSONNEL	147	146

Note: The above budget and funding does not include the activities and 16 staff of the separately funded Biomedical and Environmental Special Programs area.

CHEMICAL MANUFACTURERS ASSOCIATION
APPROVED BUDGET AND FUNDING FOR
BIOMEDICAL AND ENVIRONMENTAL SPECIAL PROGRAMS
Fiscal Year Beginning June 1, 1982 and ending May 31, 1983

	1982-83 Amended Annual Budget*
REVENUE:	
Overhead Reimbursement	$ 676,500
Investment Revenue	225,000
Publication Sales	1,000
TOTAL REVENUE	$ 902,500
EXPENSES:	
Salaries & Related Expense	$ 451,700
Employee Benefits	85,800
Travel & Staff Training	11,100
Dues, Subscriptions & Publications	1,700
Outside Printing & Graphics	700
Meetings & Workshops	1,100
Direct Postage, Freight & Delivery	23,500
Direct Supplies & General Office	26,200
Taxes & Insurance	80,900
Rent & Occupancy	48,100
Common Cost Expenses	74,500
Administrative Support:	
Technical Administration	32,300
Accounting	27,300
Office of General Counsel	75,000
Printing & Distribution	40,100
TOTAL	$ 980,000
EXCESS REVENUE (EXPENSES)	$ (77,500)

*At its September meeting, the Executive Committee approved an increase in authorized personnel to 16 principally because of the recently added Methylenedianiline program, the cost of which will be recovered from per hour program charges.

AUTHORIZED PERSONNEL	16

NEW DIRECTORS

Term ending May 31, 1986

Max S. Bass, President and Chief Executive Officer, M&T Chemicals Inc.
Drummond C. Bell, Chairman of the Board and Chief Executive Officer, National Distillers and Chemical Corporation
Kenneth E. Davis, President and Chief Operating Officer, Stauffer Chemical Company
Carl R. Eckardt, Senior Vice President, GAF Corporation
Robert C. Forney, Executive Vice President, E. I. du Pont de Nemours & Company
A. Clark Johnson, President, Allied Chemical Company
Sidney M. Leahy, Group Vice President, Minnesota Mining and Manufacturing Company
Richard H. Leet, President, Amoco Chemicals Corporation
Charles S. Locke, Chairman of the Board, President and Chief Executive Officer, Morton Thiokol, Inc.
John D. Macomber, Chairman of the Board and Chief Executive Officer, Celanese Corporation
Robert H. Malott, Chairman of the Board and Chief Executive Officer, FMC Corporation
C. Robert Powell, Chairman of the Board and Chief Executive Officer, Reichhold Chemicals, Inc.
Thomas E. Reilly, Jr., President, Reilly Tar & Chemical Corporation
J. R. Street, Executive Vice President, Shell Chemical Company, A Division of Shell Oil Company
Fred M. Wells, Vice President, The Procter & Gamble Company

Term ending May 31, 1984

W. H. Clark, President and Chief Executive Officer, Nalco Chemical Company

EXHIBIT C

EXECUTIVE COMMITTEE

Edwin C. Holmer, Chairman - Exxon Chemical Company
Louis Fernandez - Monsanto Company
Alec Flamm - Union Carbide Corporation
Robert C. Forney - E. I. du Pont de Nemours & Company
Ray R. Irani - Olin Corporation
A. Clark Johnson - Allied Chemical Company
John D. Macomber - Celanese Corporation
Robert H. Malott - FMC Corporation
Robert A. Roland - CMA
David L. Rooke - The Dow Chemical Company
George J. Sella, Jr. - American Cyanamid Company
Harold A. Sorgenti - ARCO Chemical Company, Division of Atlantic Richfield Company
J. R. Street - Shell Chemical Company, A Division of Shell Oil Company

FINANCE COMMITTEE

Harold A. Sorgenti, Chairman - ARCO Chemical Company, Division of Atlantic Richfield Company
W. H. Clark - Nalco Chemical Company
Kenneth E. Davis - Stauffer Chemical Company
Joseph P. Flannery - UNIROYAL, Inc.
Vincent L. Gregory, Jr. - Rohm and Haas Company
Richard H. Leet - Amoco Chemicals Corporation
John S. Ludington - Dow Corning Corporation
Raymond H. Marks - Tenneco Inc.
C. Robert Powell - Reichhold Chemicals, Inc.
Allan J. Tomlinson - Diamond Shamrock Corporation
Fred M. Wells - The Procter & Gamble Company

CMA
EC-4/5/83

EXHIBIT D

COMMITTEE NOMINEES

A. Effective June 1, 1983

1. Chemical Regulations Advisory Committee
   Chairman: J. Ronald Condray, Monsanto Company
   Vice Chairman: Anthony Di Battista, CIBA-GEIGY Corporation

   Term ending May 31, 1986:
   Georjean L. Adams, Minnesota Mining and Manufacturing Company
   Donald L. Heywood, Union Carbide Corporation
   Raymond W. Hussey, The Lubrizol Corporation
   Carl W. Umland, Exxon Chemical Americas
   A. S. West, Rohm and Haas Company

2. Communications Committee
   Chairman: John F. Hussey, Monsanto Company
   Vice Chairman: Richard F. Blewitt, Velsicol Chemical Corporation

   Term ending May 31, 1986:
   Lawrence W. Burke, Georgia-Pacific Corporation
   Joy L. Chambers, Vulcan Materials Company, Chemicals Division
   Gerald J. Hickman, Gulf Oil Chemicals Company
   Richard K. Long, Dow Chemical U.S.A.
   Michael E. Thompson, Standard Oil Company (Indiana)

3. Distribution Committee
   Chairman: Harry Shrank, FMC Corporation
   Vice Chairman: D. G. Griffin, PPG Industries, Inc.

   Term ending May 31, 1986:
   Lowell E. Anderson, Amoco Chemicals Corporation
   M. A. Crane, Ethyl Corporation
   Roland H. Dunlop, Monsanto Company
   John G. Wainwright, Exxon Chemical Americas
   O. Max Watson, Olin Corporation

4. Energy Committee
   Chairman: Thomas A. Gamble, Hercules Incorporated
   Vice Chairman: Lawrence L. Saphier, Dow Chemical U.S.A.

   Term ending May 31, 1986:
   R. David Damron, Celanese Chemical Company, Inc.
   Gary S. Furman, American Cyanamid Company
   Thomas J. Novack, ARCO Chemical Company
   George E. Knowles, Diamond Shamrock Corporation
   Walter F. Allaire, Allied Corporation

5. <u>Engineering Advisory Committee</u>
Chairman: Jack S. Bardin, Allied Chemical Company
Vice Chairman: George E. Murray, Dow Chemical U.S.A.

Term ending May 31, 1986:
William W. Crehore, Mobil Research and Development Corporation
Walter W. Young, ICI Americas Inc.
Donald J. Kirchberger, Occidental Chemical Corporation
Roger L. Sandstedt, Monsanto Company
William K. Wakefield, FMC Corporation

6. <u>Environmental Management Committee</u>
Chairman: Will D. Carpenter, Monsanto Company
Vice Chairman: Lynn D. Johnson, Rohm and Haas Company

Term ending May 31, 1986:
Paul M. King, PPG Industries, Inc.
John M. Rademacher, Velsicol Chemical Corporation
Joseph F. Terenzi, American Cyanamid Company
Anthony J. Diglio, Air Products and Chemicals, Inc.
John H. Mahon, Calgon Corporation

7. <u>Government Relations Committee</u>
Chairman: Charles T. Marck, Dow Chemical U.S.A.
Vice Chairman: (to be named)

Term ending May 31, 1986:
Robert L. Healy, Atlantic Richfield Company
Charles T. Marck, Dow Chemical U.S.A.
Harris C. Miller, Occidental Chemical Corporation
Kenneth Y. Millian, W. R. Grace & Co.
St. Clair J. Tweedie, American Cyanamid Company

8. <u>International Trade Committee</u>
Chairman: Robert E. Lory, Exxon Chemical Company
Vice Chairman: (to be named)

Term ending May 31, 1986:
Thomas W. Hall, Phillips Chemical Company
William J. Hargreaves, Dow Corning Corporation
Hedi Kinnard, Great Lakes Chemical Corporation
George W. Phillips, Union Carbide Corporation
Edward Pollack, Olin Corporation

9. Occupational Safety and Health Committee
Chairman: Charles L. Richards, Gulf Oil Chemicals Company
Vice Chairman: Harry A. Eschenbach, W. R. Grace & Co.

Term ending May 31, 1986:
Harry A. Eschenbach, W. R. Grace & Co.
Thomas F. Evans, Monsanto Company
James Filan, M.D., The Procter & Gamble Company
Gary A. Sunshine, ICI Americas Inc.
Brad T. Garber, Olin Corporation

10. Patent and Trademark Committee
Chairman: Richard C. Witte, The Procter & Gamble Company
Vice Chairman: John E. Maurer, Monsanto Company

Term ending May 31, 1986:
Jordan J. Driks, Rohm and Haas Company
Louis N. French, Phillips Petroleum Company
Gene Harsh, Mobay Chemical Corporation
Thomas I. O'Brien, Union Carbide Corporation
Frank A. Sinnock, Exxon Chemical Company

11. Tax Policy Committee
Chairman: Glenn M. White, The Dow Chemical Company
Vice Chairman: William M. Bellamy, Jr., Union Carbide Corporation

Term ending May 31, 1986:
William M. Bellamy, Jr., Union Carbide Corporation
Richard W. Brust, Minnesota Mining and Manufacturing Company
Robert J. Moody, FMC Corporation
Richard A. Overton, Monsanto Company
Richard S. Payne, Celanese Corporation
John W. Rakow, Stauffer Chemical Company
Paul E. Sullivan, Exxon Chemical Company

12. Special Programs Advisory Committee
Chairman: Gary A. Sunshine, ICI Americas Inc.
Frank A. Bower, E. I. du Pont de Nemours & Company
Harry Hunter, Jr., Exxon Chemical Americas
Charles L. Sercu, Dow Chemical U.S.A.

13. State Affairs Special Committee
Chairman: James V. Murray, Union Carbide Corporation

B. Effective April 5, 1983

1. Chemical Regulations Advisory Committee
   Ellen W. Spitz, Mallinckrodt, Inc. -- Term ending May 31, 1984
   (replacing Hal K. Latourette, FMC Corporation)

2. International Trade Committee
   G. Montgomery Spindler, UNIROYAL, Inc. -- Term ending May 31, 1984
   (replacing Edward H. Boll, Carus Corporation)

3. Patent and Trademark Committee
   Robert Sullivan, Stauffer Chemical Company -- Term ending May 31, 1984
   (replacing Lloyd L. Mahone, same company)
   Michael J. McGreal, W. R. Grace & Co. -- Term ending May 31, 1985
   (filling vacancy in Class of 1985)

4. State Affairs Special Committee
   George A. Rodenhausen, Celanese Corporation

5. Tax Policy Committee
   James D. Knox, Hercules Incorporated -- Term ending May 31, 1983
   (replacing Eldin H. Glanz, same company)

CMA
EC-4/5/83
BD-4/5/83

STATE PUBLIC COMPENSATIONS PROPOSALS

Several states have initiated public compensation proposals during the early stages of the 1983/1984 legislative sessions. These proposals can be divided into two categories. In the first are comprehensive proposals that encompass the central public compensation issues such as strict, joint and several liability for personal injuries; changes in the rules of causation and burden of proof; and creation of industry financed funds to pay personal injury claims. In the second category are proposals that impact the public compensation issue but are not comprehensive in nature and do not address the central issues such as funds, liability and causation.

States which are considering comprehensive approaches include:

Minnesota. Both the House and the Senate have passed out of committee bills that would impose retroactive strict, joint and several liability for personal injuries alleged to be caused by the release of hazardous substances. These bills were modeled after the original federal Superfund proposals and are very broad in scope. They also include provisions changing the rules of causation and easing the burden of proof. Access to the jury would also be made easier. These bills are being amended on an almost weekly basis so it is impossible at this point to predict exactly how they will turn out. However, it is almost a certainty that some type of legislation will be passed in Minnesota well before the end of the year.

Missouri. The Missouri House passed Superfund legislation on March 3 and that legislation is now being considered in Senate committee. The current version contains provisions for payments from an industry financed fund for medical expenses (physical and psychological) for alleged victims of hazardous waste exposure. Although earlier versions contained strict, joint and several liability, those provisions have been deleted in the current draft.

Wisconsin. The Assembly Environmental Resources Committee has been working on drafts of various proposals to address groundwater contamination allegedly caused by pesticide applications. Although the original proposals were limited to pesticide problems, subsequent discussions have encompassed hazardous wastes and/or substances as well. Major provisions include creation of a fund financed by an excise tax on pesticide sales that would be used to provide alternative drinking water supplies and payments for all types of personal injuries except emotional damages. In addition, strict, joint and several liability would be imposed with a

Sindell market share scheme for allocating that liability. Committee hearings were held throughout March and will conclude on April 18.

Iowa. A Senate Bill has been introduced (SF 129) that would provide diagnostic testing for "toxic chemical victims" and would impose strict liability for both property and personal injury damages. The costs of the diagnostic testing program would be paid for though an industry financed state fund.

Tennessee. Although the present version of the State Superfund legislation has deleted all liability and compensation language, an earlier version had contained provisions incorporating a California type compensation fund for hazardous waste injuries.

In addition to these major proposals, other states are considering legislation that would impact on the public compensation issue. These bills relate to statutes of limitation/repose for toxic substance injuries; birth defect and cancer registries; changes in occupational disease laws for asbestos victims; agent orange studies and compensation; and creation of statutory presumptions in workers compensation/occupational disease laws where toxic substances are involved. States with these type of proposals include New Jersey, Massachusetts, Connecticut, Oregon, Virginia, New York, Indiana and Rhode Island. In and of themselves, most of these bills present no major threat. However, they are indicative of possible trends beginning in these states to take up the broader issues involved in public compensation.

Finally, there are a number of states which do not have comprehensive legislation yet this session but which are likely to address this issue before the year is out. Paramount among these is California. The state Hazardous Waste Management Council has commissioned studies on both the status of liability law in California and on possible compensation schemes. Another state with a significant likelihood of surfacing a proposal before the session is out is New York.

CMA
EC-4/5/83

EXHIBIT F

STATUS REPORT:

DEVELOPMENT OF CMA GRASSROOTS PROGRAM

At the March 8 Executive Committee meeting Mr. David Rooke and Mr. Robert Dupree of Dow reported on progress toward the development of a coordinated grassroots federal legislative communications system for CMA.

In subsequent weeks, additional steps have been taken. The first meeting of an "ad hoc" advisory group took place April 4. This group consists of government relations and public affairs professionals who will advise the association on the development and operation of the grassroots system. CMA staff have collated and organized the facilities inventories submitted so far, and the ad hoc group is reviewing this information.

A more detailed update will be presented during the CMA Board of Directors meeting today.

ACTION NEEDED: None - Information Only

CMA
EC - 4/5/83

PROPOSAL FOR A CMA POSITION ON PRESIDENT REAGAN'S
BUDGET FOR THE FISCAL YEAR 1984

At the March 8 meeting of the Executive Committee, Tax Policy Committee Chairman Glenn W. White presented the Committee's proposal for a CMA position on President Reagan's budget for the Fiscal Year 1984. After Mr. White's presentation and a general discussion, the Executive Committee remanded this matter with instructions to:

1. separately and strongly state our opposition to energy taxes;

2. show more certainty in the view that tax increases will be needed.

The revised position of the Tax Policy Committee is summarized below:

POSITION:

1. CMA agrees with the underlying assumption of the Budget that there is a compelling need to balance Federal spending and revenue policies. In the first instance, this should be accomplished by reducing Federal expenditures in accordance with the first concurrent resolutions on the budget for Fiscal Years 1982 and 1983. We note that in these Budget Resolutions, Congress made a commitment to reduce outlays by $53.55 billion in Fiscal 1983, and by $65.07 billion in Fiscal 1984. In contrast, the Congressional Budget Office estimates that the savings in spending outlays realized from Congressional action through February 3, 1983, will fall approximately $16 billion short of the promised reductions.

2. We do not support the adoption of a standby or contingent tax increase on incomes. A contingent tax increase makes sound investment planning difficult and may impede early economic recovery.

3. We strongly oppose the concept of an energy tax. Energy taxes present serious problems with respect to foreign competition for U.S. industry, and particularly the chemical industry. Increased energy taxes would make it difficult for U.S. industry to compete against foreign producers both in the domestic and export markets. The chemical industry would be particularly injured by increased energy taxes due to its heavy dependence on oil and gas for both feedstock and fuel purposes.

4. A major tax increase was enacted in 1982. Even if the spending cuts promised in the 1982 and 1983 Budget Resolutions are adopted, further revenues will be needed. We believe that further spending reductions should be adopted to help meet the revenue shortfall. After these reductions are appropriately identified and committed to, tax increases should then be considered. We recommend that the initial steps of those increases be effected through deferral of tax cuts already scheduled for the future. However, these deferrals should not include deferral of the tax rate cut for individuals scheduled to take effect in 1983. If additional revenues are needed, they should be raised through a broad-based consumption tax.

5. We believe that the long-term growth and recovery of the economy are dependent upon the continued willingness of the Federal Government to eliminate waste and unnecessary spending.

ACTION REQUIRED: Approval

CMA
EC 4/5/83

GENERALIZED SYSTEM OF PREFERENCES

The Generalized System of Preferences (GSP) provides duty-free treatment for imports into the United States of a wide variety of products, including chemicals, from some 140 of the world's developing countries. The program has been in effect since 1976 and is scheduled to expire on January 3, 1985. Legislation to reauthorize the program is likely to be introduced very soon. In order to draft a bill which will have broad support of the business community, the Office of the U.S. Trade Representative will hold public hearings on GSP during the month of April in Washington, DC, New York, NY, and San Francisco, CA.

The following proposal for a CMA policy on GSP was developed jointly by CMA, the Synthetic Organic Chemicals Manufacturers Association, and the Society of the Plastics Industries. If approved by the three organizations, it will be a policy of the Office of the Chemical Industry Trade Advisory (OCITA), a coalition of the three trade associations staffed and managed by CMA.

The chemical industry favors the reauthorization of the Generalized System of Preferences (GSP), but feels some revisions are needed to correct flaws in the program. The attached position statement outlines these specific problem areas and offers appropriate remedial actions. These recommendations include the following:

- devise a graduation procedure which is automatic rather than allowing administrative discretion;
- lower the requirements necessary to satisfy the competitive need limit (the competitive need limit automatically provides a one-year suspension of duty-free treatment for products which exceed specified levels of importation);
- institute new requirements for identifying individual compounds classified in so-called "basket" categories;
- provide for more timely review of GSP imports to insure that harm is not occurring to domestic industry;
- deny GSP benefits to countries who violate intellectual property rights or engage in fraud or trade in counterfeit goods.

The CMA International Trade Committee has approved the policy and recommends it for approval by the Executive Committee.

The proposal follows.

ACTION REQUIRED: Approval

CMA
EC 4/5/83
BD 4/5/83

DRAFT -- March 17, 1983

GENERALIZED SYSTEM OF PREFERENCES

BACKGROUND

The Generalized System of Preferences (GSP) was created by the Trade Act of 1974[1/] (the Trade Act). It provides duty-free treatment to a large number of imported articles from specifically designated countries.[2/] The program is due to expire on January 3, 1985, unless reauthorized by Congress.

The GSP grew out of a recognition by industrialized countries of an imbalance in the relative wealth of the countries of the world, many of which had gained independence for the first time in the wake of World War II. This imbalance threatened to worsen unless the industrially developed countries adopted certain programs which would enable their less fortunate neighbors to raise their level of economic activity and enter the world markets with a growing variety of manufactured goods. The proceeds from such accelerated trade could lessen the need for external assistance, raise the developing countries' internal standards of living, and create a better economic balance among developed and developing countries.

It is for this reason that the United States and several other industrialized countries adopted a preferential tariff system *vis-a-vis* imports from designated developing countries. In the United States, this system took the form of the GSP program. It was the intent of this program from the beginning, however, that economic advantages would not be offered to developing countries at the expense of established U.S. industry.[3/]

In 1980, there was a mid-term assessment of the efficacy of the GSP program, resulting in a report from the President to the Congress[4/] and changes in the administration of the GSP program. However, CMA believes that problems have arisen in the administration of the GSP program. Furthermore, we believe that the program is not fulfilling its intended goal of integrating

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1/ 19 U.S.C. § 2101, *et seq*.

2/ 19 U.S.C. § 2461.

3/ 19 U.S.C. § 2102(4); 15 C.F.R. § 2007.1(a)(5)(viii) and § 2007.2(e); S. REP. 93-1298, 93d Cong., 2d Sess., *reprinted in* [1974] U.S. CODE CONG. & AD. NEWS 7353; and PRESIDENT'S REPORT TO THE CONGRESS ON THE FIRST FIVE YEARS' OPERATION OF THE U.S. GENERALIZED SYSTEM OF PREFERENCES (GSP), 96th Cong., 2d Sess. (W.M.C.P.: 96-58, 1980) [hereinafter Five Year Report], at 64.

4/ Five Year Report.

the economies of developing countries into the global trading system without significant impact on the economy of the United States. In this regard, CMA makes the following recommendations which we believe would alleviate existing problems.

I. GRADUATION AND ELIGIBILITY

A. Problem

The GSP, as administered, does indeed provide significant benefits to some of the roughly 140 designated beneficiary countries and territories. Nevertheless, the distribution of these benefits has been highly uneven, with seven of the more advanced developing countries accounting for at least three quarters of all GSP imports.

The unevenly distributed benefits under the program gave rise to considerable criticism in industry and the Congress. There inequities also caused the Administration, as a result of the Five Year Report, to initiate a graduation program designed to remove beneficiaries which have reached a level of economic growth and industrial diversification sufficient to render them competitive in the international trading system.

Since 1981, graduation has become part of the Administration's annual review process. However, CMA believes that the graduation measures have been inadequate and far too slow to bring about the desired redistribution from the more advanced developing countries to the less advanced ones. Furthermore, CMA believes that new GSP eligibility should not be extended to countries exhibiting a recent high level of economic growth which has given them the potential to shortly achieve a highly competitive capacity within a given product sector (as defined by the 2-digit SIC "major group" code).

B. Recommendations

The graduation process should be made subject to specified standards that involve less administrative discretion. Those standards should provide generally that an article[5/] from a GSP beneficiary country would, upon petition by a U.S. company or

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[5/] "Articles" (or "products") by the practices of the Office of the U.S. Trade Representative (USTR), have been items as defined by a 5-digit classification number listed in the Tariff Schedules of the United States (Annotated) (TSUSA). This 5-digit TSUSA item could be either a single unique article or could be a "basket" category (see definition in footnote 11) containing numerous items which are similar in nature. For the purpose of discussion in this paper, "article" is defined to be a single chemical, individually and specifically provided for by a 7-digit TSUSA number.

industry producing such article, be graduated from GSP treatment when preferential access is no longer needed. More specifically, the standards should provide that a prima facie case for graduation is made in any of the three situations described below, whichever occurs first in a given calendar year. Furthermore, the standards should not require the U.S. industry to show that it has suffered injury. (The withdrawal of GSP benefits should also be available in other situations, of course, upon a showing of import sensitivity. [see p.6])

1. Graduation on a sectoral basis. When, in any one calendar year, imports of articles in a "product sector" (as defined by the 2-digit SIC "major group" code) from a country exceed a set percentage of total value of imports of articles in that product sector from all countries, or exceed a set dollar amount (indexed to the U.S. GNP), imports of all articles in that product sector from that country should be graduated from GSP treatment.

2. Graduation on a product basis.

(a) When, in any one calendar year, a beneficiary country exports to the United States a quantity of any article that exceeds a specified amount[6/] adjustable to the U.S. GNP, it should be removed from the group of eligible countries with respect to that article; or

(b) When, in any one calendar year, a beneficiary country imports into the United States quantities of a GSP-designated article sufficient to cause the import penetration ratio[7/] of such article from that country to increase by 5 percentage points or more over the import penetration ratio for either of the two preceding years, that country should be graduated from GSP treatment with respect to that article.

Moreover, if all GSP beneficiary countries export to the United States during one calendar year a quantity of any article sufficient to cause the import penetration ratio of such article from all GSP beneficiary countries to increase by 10 percentage points or more over that import penetration ratio in either of the two preceding years, all GSP beneficiary countries should be graduated from GSP treatment with respect to that article.

3. Eligibility. CMA believes that to extend beneficiary treatment to countries rich in hydrocarbons or other significant sources of raw materials used in the manufacture of chemicals would be to ignore the intent of Congress in the establishment of a GSP. Accordingly, we would recommend against extending eligibility to such countries for the chemical industry product sector as defined by SIC Code 28.

6/ This amount should be in excess of the amount specified in Recommendation 2 under competitive need on page 4.

7/ Import penetration ratio is defined as the dollar value of imports of an article as a percentage of the value of domestic production of the article.

II. COMPETITIVE NEED

A. Problem

The so-called "competitive need"[8] limits were included in the program from its inception due to an awareness that the GSP was not intended to aid imports that encountered essentially no threat from other more developed producing countries. The limits were also intended to deny GSP benefits to any article which entered the U.S. market in such large volume as to indicate by its sheer size alone that the exporting country had reached a stage of industrial development which required no further assistance through GSP.

As to the mandatory exclusion of those imports that have, within one year, exceeded the indexed upper value limit, there is a strong belief that this upper limit has risen to an excessive level. Furthermore, it seems inappropriate to apply one uniform upper value limit to all product sectors (as defined by the two-digit SIC "major group" code).

B. Recommendations

1. The "competitive need" provisions should be applied on the basis of 7-digit TSUSA items, so that when, in any one year, imports of a 7-digit item from a country exceed a set amount (indexed to the U.S. GNP) or exceed 50 percent of all imports of that 7-digit item, GSP benefits should be suspended with regard to imports of that article from that country.

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[8] The GSP statute stipulates that the competitive need limit on any imported item is exceeded when either of two conditions occur during a calendar year. The first condition is met any time the dollar amount of any given 5-digit TSUSA item exceeds a value which bears the same relation to $25 million as the GNP of the United States for the preceding calendar year bears to the GNP of the United States for the calendar year 1974. This value for 1983 is $53.65 million. The second, and more commonly used, condition is met when any one country accounts for more than 50 percent of the dollar value of the imports of any given 5-digit TSUSA item. If either condition occurs, GSP benefits are suspended on all imports from the given country for the specific 5-digit TSUSA item for the following calendar year. During the one-year suspension, if the competitive need limit is not exceeded, GSP benefits can be reinstated. Permanent graduation occurs only at the discretion of the USTR. While some items have been graduated since 1981, the vast majority continue to be reinstated. As stated herein, CMA favors the removal of discretionary authority toward graduation.

2. In addition, the current dollar amounts applicable under both the $25 million "cap" (indexed to the U.S. GNP)[9/] and the $1 million "de minimis" exception (also indexed to the U.S. GNP)[10/] included in the GSP "competitive need" limitation provisions should be revised downward to reflect the change from 5-digit to 7-digit analysis.

3. Moreover, the reinstatement procedures applicable after suspension under the competitive need limitations should be modified so that a country can be reinstated to GSP treatment only at an intermediate tariff level (for example, one-half of most-favored nation (MFN) rate). If a country does exceed the limitation for a second year (consecutively or not), that country should permanently be graduated from GSP treatment with respect to that article. All of the above criteria for activating the competitive need provisions are to be superseded by any applicable graduation provisions.

III. BASKET CATEGORIES

A. Problem

The competitive need limits frequently fail to function. The major reason is the existence within the TSUSA of "basket"[11/] categories which usually contain a large number of different articles. Many of these articles account for a significant amount of trade and would, if separately classified, likely trigger the 50 percent competitive need limit, thereby removing that article from the list of eligible articles for at least one year. Because there exists no mechanisms to easily remove articles from basket categories, the competitive need limits are effectively bypassed. Moreover, it is difficult for the domestic industry to petition for graduation of an article in a basket because of the lack of data on imports. Accordingly, some method of breaking out significant products from baskets should be included in renewal legislation.

9/ 19 U.S.C. § 2464(c)(1)(A).

10/ 19 U.S.C. § 2462(d).

11/ "Basket" categories are those classifications within the TSUSA in which multiple items which have similar chemical characteristics are listed. In general, there is insufficient trade in any one item to warrant its being specifically provided for. An example is a class of organic compounds called ketones. The TSUSA provides specifically for four ketones: acetone (#427.6000), ethyl methyl ketone (#427.6200), isopherone (#427.6410) and methyl isobutyl ketone (#427.6420). All other ketones are classified in the "basket" of TSUSA #427.6430.

B. Recommendation

Upon the request of a representative of an interested domestic industry, the U.S. Government should break out of a basket category and give a separate 7-digit TSUSA numerical designation to any article in that basket category.

IV. TIMELINESS OF RESPONSE TO INTERESTS AND CONCERNS OF U.S. INDUSTRY

A. Problem

There is a need for greater and more timely responsiveness to the interests of domestic producers. Although the GSP program was designed to ensure that granting of GSP duty-free status to articles would have no adverse effect on U.S. producers of competitive items, there are at present no sufficiently explicit criteria to safeguard those interests.

B. Recommendations

(1) The Administration should be obliged to judge import sensitivity by specific criteria. Administrative discretion should be reduced in the review procedure. Instead, the Administration should have clearly defined, specific criteria to judge import sensitivity (e.g. an increase in the import penetration ratio measured by the relationship of imports to domestic production, the decline of employment in the United States, and other equally relevant criteria).

(2) The GSP procedures should provide for emergency-basis consideration by the USTR of petitions to suspend or eliminate GSP benefits. In this regard, a provision should be included in the GSP rules under which a petition by a representative of a domestic industry seeking to have GSP treatment withdrawn from an article will be given immediate "fast- track" consideration by the USTR upon a showing that conditions exist that warrant such treatement.

RELATED ISSUES

V. UNFAIR TRADE PRACTICES

A. Problem

There is growing concern within the chemical industry and in other industries that duty-free access to the U.S. market benefits countries which do not adhere to the internationally recognized trading rules set forth by the General Agreement on Tariffs and Trade (GATT).

B. Recommendation

Any beneficiary country which violates internationally recognized intellectual or industrial property rights, commits fraud (or sanctions fraud by its resident companies) in the conduct of its trade relations with the United States, or trades in counterfeit goods (or sanctions such trade by its resident companies) should be denied GSP benefits for all articles imported from that country into the United States.

VI. RECIPROCITY

A. Problem

A question has arisen as to whether the Administration should be granted authority to negotiate bilateral reciprocity agreements with developing countries by which the United States would refrain from graduating a developing country for GSP benefits if that country lifted barriers to U.S. exports.

B. Recommendation

The basic concept of GSP should be to encourage developing countries to industrialize by giving them preferential access to the U.S. market. The Administration should not be given authority to negotiate reciprocity agreements pursuant to which the United States would refrain from graduating a country found no longer to need preferential access to the U.S. market in exchange for certain other concessions.

CMA
EC-4/5/83
BD-4/5/83

CMA's *Amicus* Participation in *Waste Industries*

In *United States v. Waste Industries*, No. 80-04-Civ-7 (E.D.N.C. Jan. 3, 1983), the district court held that the injunctive provisions of RCRA could not be applied retroactively to force responsible parties to clean up hazardous waste sites. The government has already informally indicated that it will appeal the decision. The holding in the *Waste Industries* is nearly identical to the favorable holding in the *Wade* case, except that the *Waste* holding only addresses RCRA and not CERCLA. CMA's amicus participation has already been authorized in *Wade*. Preparation of the *Waste Industries amicus* brief would be handled primarily by CMA staff counsel, with outside counsel participation limited to some editing and review of the draft brief.

This decision is very important to the chemical industry because it confirms the Wade decision in another judicial district, thereby providing additional precendential support for CMA's position. The decision also limits further the government's ability to compel non-negligent off-site generators to perform remedial actions at inactive sites. Moreover, because the appeal will be heard by the Fourth Circuit Court of Appeals, it will be before a court more ideologically receptive to the positions we espouse than some other judicial circuits.

RECOMMENDATION: Because of the importance of the case to the chemical industry and the need to support our advocacy efforts in Wade, it is the recommendation that *amicus* particicipation in the appeal in *Waste Industries* be authorized.

ACTION REQUESTED: Approval of CMA's *amicus* participation in the *Waste Industries* case.

CMA
EC-4/5/83

BACKGROUND MEMORANDUM REGARDING
CMA'S AMICUS CURIAE PARTICIPATION IN
THE WASTE INDUSTRIES CASE

In United States v. Waste Industries, the court held that Section 7003 of the Resource Conservation and Recovery Act (RCRA) is not retroactive and therefore may not be used to compel responsible parties to take affirmative action to clean up an inactive hazardous waste site. That holding is consistent with the district court's decision in United States v. Wade, No. 82-1715 (3d. Cir.), currently on appeal, in which CMA has already filed an amicus curiae brief in support of the district court's opinion. The question before us is whether we should participate as an amicus in the appeal in Waste Industries. The holding in Waste Industries is very important to the chemical industry. Primary drafting responsibility for the brief would be with CMA staff counsel, with outside counsel's participation limited to an editing role, resulting in the minimization of costs. For these reasons and for the reasons discussed below, it is the recommendation of CMA's General Counsel's Office that CMA participate as amicus curiae in Waste Industries.

Section 7003 is the RCRA counterpart to Section 106 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), and provides that the Government may sue to enjoin the disposal of any solid waste or hazardous waste when such disposal may present an "imminent and substantial endangerment to health or the environment." 42 U.S.C. §6973(a) (1976).

The Waste Industries suit was filed against the site owner, the operator, and other non-generator parties not relevant here. The United States never amended its complaint to include a count under Section 106 of CERCLA. Although the government has not yet finally determined to appeal the case, that decision is all but certain. A notice of appeal was filed on March 2, 1983.

Importance of the Case. Although this case does not involve generators and does not involve CERCLA, which have been the primary focus of our advocacy efforts to date, the Waste Industries precedent has significant implications for the chemical industry. The holding that Section 7003 is not retroactive will be equally applicable to cases filed against generators. The language in the opinion is quite broad and will apply to generators as well as owners and operators. See e.g. 18 ERC at 1525.

If Section 7003 were construed to be retroactive, it would completely undercut our efforts in Wade to restrict the applicability of Section 106 of CERCLA. This is because if RCRA Section 7003 is available to order generators to clean up sites, our hoped for success in precluding use of CERCLA Section 106 for such cleanups will be nullified. Moreover, as in the case of cleanups under Section 106, any cleanup ordered under Section 7003 would not be subject to the cleanup standards of the National Contingency Plan. Cleanup may be even required to "no detectable level of any contaminant."

Likelihood of Success on Appeal. The district court opinion is exhaustive and well reasoned and stands a good chance of being affirmed. The court's discussion of the legislative history is extensive and persuasive. In addition, because the appeal will be heard by the Fourth Circuit, we will probably be before a panel of judges more ideologically receptive to the positions we espouse.

On the negative side, because this is an owner/operator case, it will be a harder case to argue than if it involved a non-negligent off-site generator. In addition, although the opinion is unclear, the operator may have violated its state waste site permit. This factor creates some negative equities in the case that may influence the court of appeals in its evaluation of the case.

CMA's Amicus Curiae Participation. If we were the party who is deciding whether or not to appeal this case, the factors mentioned above would have some bearing on whether we should file the appeal. This appeal will go forward, however, with or without us. Therefore, the only question is whether being affiliated with a case that might be decided adversely presents too great a risk to us. It is my judgment that the adverse effects, if any, would be minimal and do not justify our not participating.

Participating as an amicus curiae in the case will not have any binding effect upon us in any future litigation. The only potentially negative effect is the possible adverse reaction in the trade from our participation. This reaction would not, however, seem likely and should not be the basis for our decision not to participate.

Moreover, our participation could be very helpful for the parties involved. They are represented by local counsel with probably limited experience in national environmental issues. Our participation will also allow us to address some of the broader issues that affect the chemical industry as a whole.

Summary. In short, it appears that we stand to gain much from participating in this litigation. It addresses an issue of national scope and impact that directly affects our members. Moreover, an adverse decision has the potential for undercutting our analogous efforts in the Wade case under CERCLA. In addition, our involvement in Waste Industries would pose little or no downside risk. Accordingly, it is the recommendation of the General Counsel's Office that we participate in the appeal as an amicus curiae.

CMA
EC-4/5/83

CHEMICAL MANUFACTURERS ASSOCIATION

April 13, 1983

TO MEMBERS OF THE EXECUTIVE COMMITTEE

Gentlemen:

Please be advised that Board Chairman Simeral, following consultation with the other officers, has cancelled the Executive Committee meeting previously scheduled for Tuesday, May 3.

If an urgent matter should arise which you feel must be addressed prior to the June 8 meeting, please let me know. It can be accommodated through other procedures.

The next meeting of the Executive Committee will be at The Greenbrier on June 8, at 3:30 p.m. -- not 4:00 p.m. -- as previously announced.

Sincerely,

Bruce Barackman

Bruce M. Barackman
Vice President-Secretary

cc: Mr. Paul F. Oreffice

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