A G E N D A

MEETING OF THE CMA BOARD OF DIRECTORS
5:30 p.m., Wednesday, June 8, 1983
The Greenbrier, Eisenhower C Room
White Sulphur Springs, West Virginia

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1.	Call to Order and Approval of Minutes of April 5, 1983, Meeting -- Chairman Simeral	
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5.	Report of the President -- R. A. Roland	
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12.	Report of General Counsel -- D. F. Zoll	8
13.	New Business	
14.	Adjournment	

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A brief organizational meeting of the 1983-84 Board of Directors will be held immediately following the Annual Business Meeting on Thursday, June 9, 1983, in the Eisenhower C Room.

Next Director's Meeting: Monday and Tuesday, September 12-13, 1983, The Cloister, Sea Island, Georgia

MINUTES of the two-hundred ninety-third meeting of the Board of Directors of the Chemical Manufacturers Association, Inc., held in the Eisenhower C Room, The Greenbrier, White Sulphur Springs, West Virginia, on Wednesday, June 8, 1983, at 5:30 p.m.

Directors:

William G. Simeral, Chairman
Edwin C. Holmer, Vice Chairman
Richard G. Askew
Dexter F. Baker
Charles E. Brookes
Harry W. Buchanan
A. A. Burris, Jr.
Carlyle G. Caldwell
Charles R. Carson
W. H. Clark
Harry Corless
Robert S. Dudley
Carl R. Eckardt
Louis Fernandez
John T. Files
Alec Flamm
Joseph P. Flannery
Arthur L. Goeschel
F. D. Gottwald, Jr.
Vincent L. Gregory, Jr.
Robert W. Gutheil
Ben C. Hayton
Paul F. Hoffman
Ray R. Irani
A. Clark Johnson
John S. Ludington
Dwight C. Minton
Fred W. Montanari
John D. Ong
Toy F. Reid
Robert A. Roland
David L. Rooke
M. Whitson Sadler
Vincent A. Sarni
James F. Schorr
George J. Sella, Jr.
Edward A. Von Doersten
Konrad M. Weis
William G. West

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

By Invitation:

Stuart T. Allen, SOCMA, E. I. du Pont de Nemours & Company
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
Jon C. Holtzman, CMA
Richard H. Leet, Amoco Chemicals Corporation
Charles S. Locke, Morton Thiokol, Inc.
Victor H. Peterson, CMA
James H. Senger, Monsanto Company
William M. Stover, CMA
J. R. Street, Shell Chemical Company, A Division of Shell Oil Company

1. The meeting was called to order by Chairman Simeral.

2. MINUTES OF THE LAST MEETING

The minutes of the April 5, 1983 meeting were approved, as distributed.

3. TREASURER'S REPORT

Expanding on his report, Exhibit A, Mr. Herrman advised:

CMA ended the past fiscal year on May 31 in excellent financial condition. While still in the process of closing the books, it appears we will conclude the year with overall favorable variances in expenses. It is anticipated that CMA reserves will be slightly over $6 million, representing approximately 48.8% of our operating budget. Our goal, traditionally, has been 50%. The full treasurer's report will be mailed in the next several weeks. This will analyze the variances and present the complete year-end results. The billing for CMA dues will be mailed June 9.

4. REPORT OF THE NOMINATING COMMITTEE

Chairman Simeral, as a matter of information, reviewed the slate of Directors, Exhibit B, which would be presented to the membership for election at the Annual Meeting.

5. REPORT OF EXECUTIVE COMMITTEE

Chairman Fernandez reported the following actions taken by the Executive Committee earlier in the day:

- Approved a study to be undertaken by Universities Associated for Research and Education in Pathology (UAREP) which would assess the potential health hazards of waste deposit sites within the United States. The UAREP study is estimated to take 10 months and will cost $972,532. CMA will allot $500,000 for the study and attempt to develop a consortium of interested industry, environmental and governmental groups to fund the balance and lend credibility to the effort. A copy of the report on the feasibility of such a study will be mailed to the members of the Board.

- Approved a CMA position paper on investment policy prepared by the Investment Policy Task Group of the International Trade Committee, Exhibit C.

- Agreed that CMA should have a Statement of Principles but took no action on the one sent to the Board of Directors in advance of the meeting because there had been insufficient time to contemplate it. The members of the Board were requested to submit to Mr. Roland substantive comments which will be considered in redrafting the statement.

6. REPORT OF THE PRESIDENT

Mr. Roland briefly described the developments which not only have brought the Association to its presently healthy position financially but also have molded our advocacy posture in terms of issue identification and action plans.

7. OFFICERS' REPORT

Chairman Simeral alluded to the two all-day planning sessions held by the officers in May and reviewed proposed objectives and action plans which were developed from a consensus as to what are the major issues confronting the Association. From this will materialize specific objectives to be brought forward for approval in the fall. He also discussed the concept of assigning a project manager from a member company to certain objectives.

8. HAZARDOUS WASTE MANAGEMENT

Mr. Roland, on behalf of the Hazardous Waste Strategy Group, reported on six programs supportive of the objectives of the hazardous waste management plan previously approved by the Executive Committee. Following discussion,

ON MOTION, duly made and seconded, it was

VOTED: To approve the six programs as set fourth in Exhibit D.

9. GRASSROOTS NETWORK

In presenting his report, Exhibit E, Mr. Stover urged all companies which have not yet done so, to designate a grassroots manager and also to return the information CMA has requested on company presence in top priority congressional districts.

10. REPORT OF TECHNICAL DIRECTOR

Dr. Cox's report is attached as Exhibit F. Additionally she advised that the seventh Hazardous Material Spills Conference, which for the second time is cosponsored by CMA, Bureau of Explosives, United States Coast Guard, and EPA, will be held in Nashville, Tennessee, April 9-12, 1984.

11. REPORT OF DIRECTOR OF COMMUNICATIONS

Mr. Holtzman expanded on his report, Exhibit G, by describing a reorganization of the Communications Committee wherein all the subcommittees and task groups, previously structured along functional lines, were disbanded. They will be replaced by working groups oriented along issue lines. He also solicited input from members to help CMA in building a library of material to actively communicate positive information about waste disposal practices. This will be indexed and made available to help those with communication problems.

12. <u>REPORT OF DIRECTOR OF GOVERNMENT RELATIONS</u>

Mr. Stover's report is attached as Exhibit H.

13. <u>REPORT OF GENERAL COUNSEL</u>

Mr. Zoll's report is attached as Exhibit I.

Bruce M. Barackman
Vice President-Secretary

Certified correct:

William G. Simeral
Chairman of the Board

CMA 074099

EXHIBIT A

TREASURER'S REPORT

Twelve Months Ending May 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.

A summary of the budget and revised fee schedule for the fiscal year which begins June 1, 1983 has been mailed to the full membership with the announcement of the annual meeting. The budget, as approved by the Board of Directors at the April meeting, will be presented to the full membership at the Annual Business Session.

CMA
EC - 06/08/83
BD - 06/08/83

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

	Original 1982-83 Annual Budget	Amended 1982-83 Annual Budget
REVENUE:		
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

CMA 074102

EXHIBIT B

NEW DIRECTORS

Three-Year 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, Industrial Chemicals Division, Allied Corporation
Sidney M. Leahy, Group Vice President, Chemicals, Film and Allied Products, 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.
Robert H. Malott, Chairman of the Board and Chief Executive Officer, FMC Corporation
Robert L. Mitchell, Vice Chairman, Celanese 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, Industrial Chemicals Division, The Procter & Gamble Company

One-Year Term ending May 31, 1984

W. H. Clark, Jr., President and Chief Executive Officer, Nalco Chemical Company
Ralph S. Cunningham, Chairman of the Board, President, and Chief Executive Officer, Tenneco Polymers, Inc.
Charles A. Stewart, President-Chemical Unit, Diamond Shamrock Corporation

CMA
BD-6/8/83

EXHIBIT C

Recommended CMA Position on International Investment Policy

The U.S. chemical industry and the CMA membership include a significant number of large multi-national firms which have made foreign investments of over $20 billion over the years. As a result, our industry has a major stake in U.S. international investment policy which will protect such investment. The Investment Policy Task Group was formed by CMA's International Trade Committee to address these issues. Based on the results of a questionnaire sent to all CMA member firms last October, the Investment Policy Task Group has prepared the attached position paper on investment policy.

The paper provides a review of investment restrictions in 13 countries which were deemed by the Task Group to be likely locations of significant U.S. investment capital. Among the difficulties reported are: restrictions or prohibitions on foreign investment in specific economic sectors (e.g., oil production); limitations on the amount or percentage of equity the foreign investor can hold in the enterprise and requirements that the foreign investor purchase some or all of its capital equipment or raw materials from within the country.

The paper next discusses a number of options available to the U.S. Government to reduce or eliminate the distorting effects of foreign investment restrictions. They range from taking no initiatives at all to pursuing a full-blown amendment of the General Agreement on Tariffs and Trade (GATT) to include investment restrictions.

Lastly, the paper recommends that a global rollback of adverse foreign investment decisions be achieved through the following staged mechanisms:

- Initiate bilateral investment treaties first with those countries which practice the most harmful investment restrictions;
- Use these bilateral treaties as a framework to incorporate a multilateral investment agreement into GATT;
- Provide the President greater flexibility to respond to investment restrictions imposed by our trading partners.

Action Required: Approval

CMA
EC/6-8-83
BD/6-8-83

TABLE OF CONTENTS

EXECUTIVE SUMMARY

The U.S. chemical industry has a major stake in international trade and international investment policy. The most recent available statistics show that the chemical industry contributed an $11 billion trade surplus to the U.S. balanced payments and has invested $20 billion in foreign countries, yielding $2.2 billion to the U.S. export account. From its extensive experience in foreign trade and investment, the chemical industry concludes that free international movement of capital and fair, nondiscriminatory treatment of foreign investment in all countries is in the best interest of the U.S. Government and the U.S. economy. We firmly believe such open policies will also benefit foreign countries, including the developing countries in which much U.S. investment occurs.

The attached position paper of the Chemical Manufacturers Association (CMA) on foreign investment policy has three major components:

- A review of foreign investment restrictions, based in part on an extensive survey of CMA member companies; investment experience in 13 countries.
- A description of 11 policy options that the United States Government could pursue.
- CMA's recommendations on the policy options the United States should pursue.

Foreign Investment Restrictions

CMA's survey of its members revealed a broad array of investment restrictions that foreign governments impose on capital investment within their countries. These restrictions fall into six major groups:

1. restrictions or prohibitions on foreign investment in specific economic sectors (e.g., oil production);
2. screening of all foreign investment by government agencies holding the authority to restrict or prohibit specific investment proposals;
3. limitations on the amount or percentage of equity the foreign investor can hold in the enterprise;
4. requirements that the foreign investor purchase some or all of its capital equipment or raw materials from within the country;
5. restrictions on royalty or licensing payments from the domestic partners to the foreign entity supplying the technology; and
6. restrictions on the remittance of earnings to the foreign investor or on the investor's ability to repatriate its capital.

CMA's survey shows that a removal of these restrictions would substantially enhance the flow of capital to foreign countries, with corresponding benefits to those countries and to U.S. export trade and employment. The open policy of the United States toward foreign investment here has produced significant benefits in employment, capital development, and transfer of technology. CMA concurs with the discussion of the benefits of international investment contained in the January 26, 1983, Draft International Investment Policy of the U.S. Government. CMA urges the U.S. Government to pursue free investment principles and practices internationally.

U.S. Policy Options

The paper discusses a number of options available to the U.S. Government to reduce or eliminate the distorting effects of foreign investment restrictions. They range from taking no initiatives at all to pursuing a full-blown amendment of the General Agreement on Tariffs and Trade (GATT) to include investment restrictions as well as trade restrictions. Other options include stepped-up negotiations of bilateral investment treaties, imposing "mirror image" restrictions in the United States, selective retaliating, denial of Export-Import Bank financing, or withdrawal of trade benefits from countries imposing investment restrictions. Many of the options could be pursued in conjunction with each other as part of an overall strategy.

CMA's Recommendations

Based on its experiences and its analysis of the options available, CMA recommends a three-part strategy to achieve a global rollback of foreign investment restrictions. First, the United States should focus a bilateral investment treaty program on countries with the most harmful investment restrictions, as part of a broader trade policy program. Second, the United States should utilize the pattern of the bilateral investment treaties it negotiates as a framework for incorporating a multilateral investment agreement into the GATT. Third, the President should have greater flexibility to respond to unfair trade practices and investment restrictions imposed by our trading partners. In keeping with the positive nature of this three-part strategy, CMA urges the U.S. Government to resist adoption of investment restrictions in the United States that might subject U.S. investors to foreign retaliation.

I. INTRODUCTION

This paper is submitted on behalf of the Chemical Manufacturers Association (CMA). CMA is a nonprofit trade association whose company members represent more than 90 percent of the productive capacity of basic industrial chemicals within this country.

The U.S. chemical industry contributed an $11 billion trade surplus to the U.S. export account position in 1981. As of the end of 1977, the most recent year for which such figures are available, 194 U.S. chemical and pharmaceutical companies had 3,494 foreign affiliates. The industry's $20 billion total foreign direct investment position at the end of 1981 represented 22 percent of the total overseas investment by the U.S. manufacturing sector. Such foreign investment by the chemical industry was productive, adding $2.2 billion in income to the U.S. balance of payments account in 1981, an amount equal to 26 percent of all U.S. manufacturing overseas direct investment income. Overseas chemical royalties and licensing fees added another $1 billion to the U.S. export account. Finally, the average U.S. chemical industry employment was 1,079,000, or just less than 1 percent of the total civilian workforce.

From these statistics, it is apparent that the U.S. chemical industry makes a significant positive contribution to the U.S. balance of payments and, as a major foreign investor, has a critical stake in an open international investment climate. In this regard, CMA believes that free capital movement internationally and fair and nondiscriminatory treatment of foreign investment is in the interest of the U.S. industry and government as well as in the interest of foreign countries, including developing ones in which much U.S. investment occurs.

Regrettably, however, many foreign governments manipulate foreign-sourced investments to further narrow national economic goals. These forms of intervention are broadly termed "investment restrictions." They include sector restrictions, foreign-based investment screening, equity limitations, licensing and royalty restrictions, minimum local content requirements, and restrictions on remittances of earnings or repatriation of capital.

The lingering global recession has increased pressure on governments to expand protectionist measures, including restrictions on foreign-sourced investment. In addition to the loss of profits from export sales and remitted earnings from foreign affiliates, a continuing increase in investment protectionism could spread into the general trade area.

Most major trading partners of the United States are signatories of the General Agreement on Tariffs and Trade (GATT). However, the GATT presently governs only trade in materials, and there has been little progress toward expanding the GATT to deal with investment matters as well. Other existing international legal instruments have also proven inadequate to date in handling the problem of foreign investment restrictions.

This paper contains a discussion of the benefits of open, nondiscriminatory international investment rules, a summary of types of governmental foreign investment restrictions now in effect around the world, and an overview of some U.S. policy options to reduce these restrictions. The fifth section of the paper presents CMA's recommendations for promoting a more open system for foreign investment. These recommendations are based in large part on the results of a questionnaire CMA sent to member companies on the subject of foreign investment restrictions. [A summary of the responses to this questionnaire is attached as Appendices A and B.]

II. THE NEED FOR OPEN, NONDISCRIMINATORY INTERNATIONAL INVESTMENT RULES

CMA believes that foreign investment should receive fair, equitable and nondiscriminatory treatment in host countries. International investment plays a significant role in global economic growth and prosperity. Principles of an open, nondiscriminatory pattern of international investment that responds to market forces benefit developed and developing countries alike. Therefore, we urge the U.S. Government to pursue free investment principles and practices internationally.

In this regard, CMA concurs with the discussion of the benefits of international direct private investment contained in the January 26, 1983, Draft International Investment Policy Statement of the U.S. Government. Specifically, we believe that unhampered international investment facilitates the transfer of technology and the introduction of new management techniques, increases employment opportunities, improves productivity, expands trade, and spurs economic growth and development. These benefits accrue to all parties -- the United States and its industry and host countries.

Foreign investment benefits the United States through remittance from foreign subsidiaries' earnings, exports to foreign affiliates, royalties and licensing fees, new technical capabilities through reverse technology flow, and increased domestic employment. Studies performed by Business International during the 1970s[1] have repeatedly shown that, in comparison with companies that did not invest signficantly overseas, manufacturing companies that had higher than average foreign investment levels tended to increase their domestic employment more rapidly, increase their non-U.S. sales more rapidly, and return a balance of trade surplus at a time when all U.S. manufacturing companies, in aggregate, were recording a balance of trade deficit.

The United States also benefits from its unrestricted inward investment policy through the inflow of foreign capital, technology, and management techniques. In 1979, U.S. chemical industry affiliates of foreign parents accounted for approximately 15 percent of the domestic industry's total assets and sales and 21 percent of total employment.

A free foreign investment climate also plays a significant positive role in the development process of developing countries and benefits developed host countries as well. In developing countries, foreign investment is a critical source of technology, trade and employment opportunities, and managerial skills. Developed countries benefit from strengthen-

[1]The Effects of U.S. Corporations Foreign Investment 1970-1978: Business International Corporation Copyright May 1980.

ing of capital markets, introduction of new production techniques and new product lines, increased employment, and transfer of technology.

Conversely, interference by governments in the allocation of international investment resources is detrimental to global economic growth. Such interference is an increasing phenomenon around the world (Indeed, a recent report by Price Waterhouse & Co. demonstrates the widespread use of foreign investment restrictions [See Appendix C].) It takes the form of measures such as trade (or nontrade) related performance requirements, outright prohibition of foreign participation in select industry sectors, and a myriad of other restrictions discussed in the following section of this paper. CMA opposes such governmental measures because they distort and restrict investment flows and because they violate free and fair international trading principles.

III. FOREIGN INVESTMENT RESTRICTIONS

Foreign investment restrictions take a number of forms of varying severity. In their most severe form, governments may impose sector restrictions which prohibit any foreign participation in selected industry sectors. In milder forms, restrictions may take the form of performance requirements, which require an investor to agree to certain conditions prior to investment. The following discussion shows types of foreign investment around the world, with illustrative examples.

A. Restricted Sectors

Some countries restrict certain industrial sectors by allowing only state- or locally-owned companies to participate in selected industries. Foreign investors are simply not permitted to participate.

Mexico's reservation of primary and secondary petrochemicals for development by Petroleos Mexicanos (PEMEX) is a case in point. Many countries, including Indonesia, the Republic of China (Taiwan), Malaysia, and Saudi Arabia, prohibit foreign ownership of petroleum exploration or resources. Other countries (including, to some degree, the United States) traditionally restrict control of communications, transportation, and shipping to state or local ownership.

B. Foreign Investment Screening

A review agency may exist within a government to examine all proposed investments by foreign interests with the authority to reject any proposal the agency considers not to be in the national interest. The criteria of this review are often subjective, with little indication of what will, or will not, be approved.

Canada's Foreign Investment Review Agency (FIRA) is illustrative of this type of mechanism. Under FIRA, even the acquisition of a Canadian business as a result of purchase of its non-Canadian parent is subject to Canadian governmental review.

Likewise, Australia's Foreign Takeovers Act provides for review of acquisitions which would cause foreign interests to exercise effective control over an Australian business.

If the screening were used solely for the purpose of establishing technical competence or financial responsibility, this practice might be considered acceptable. There are instances, however, where screening has apparently been used as a technique to exclude U.S. investment.

C. Equity Limitations

Restrictions may be placed on the maximum amount of foreign ownership. These limitations often restrict foreign investors to minority ownership, even though the foreign investor's technology, manufacturing, or marketing expertise may be the most valuable contribution to the venture. Petrochemical projects in Brazil, for example, require a three-way ownership split between the foreign investor, the government, and private Brazilians.

In Mexico even if a foreign-based company owns 100 percent of a Mexican company through investments made before restrictions were imposed, new products cannot be brought in to expand the business. Expansion must be channeled through separate companies which conform to current equity restrictions. Thus, foreign owners must virtually give away part of their technology to local partners or else refrain from introducing new technology into Mexico.

Malaysia also has notable restrictions on projects utilizing nonrenewable resources. Here, ownership must include a minimum of 70 percent local participation, of which at least 30 percent of the total must be indigenous Malay.

D. Local Content or Sourcing

Governments sometimes require agreement from foreign investors that a specified minimum percentage content of a locally manufactured product be obtained from domestic suppliers, even if these local raw materials are unfavorably priced to comparable imports. These conditions are sometimes sector-specific and ordinarily do not represent a significant problem for the chemical industry.

"Local sourcing" causes greater concern. A sourcing provision generally specifies that capital investment items associated with plant and equipment must be obtained from local sources. This restriction can delay construction, inflate capital costs, or reduce plant reliability. In addition to hindering U.S. investment, sourcing restrictions reduce the potential for exports of U.S. capital goods. Brazil is noted for making some investments conditional upon the utilization of a minimum percentage of domestic raw materials or intermediary products.

E. Licensing and Royalty Restrictions

For investments that are associated with the use of a proprietary process or manufacture of a proprietary product, restrictions are sometimes placed on the amount of licensing or royalty income that can be paid. In some instances, licensing and royalty fees are limited to one investment project, with the host government maintaining that additional projects must be undertaken using the technology without further payment of licensing or royalty fees. This position has the potential of undermining the value of a company's intellectual property to such an extent that it may force a U.S. investor to forego otherwise attractive investment opportunities.

For example, Mexico generally limits technology fees to 7 percent of the earnings of the Mexican company which arise from the use of the technology. Brazilian subsidiaries may not remit royalties to a foreign parent.

F. Remittance of Earnings and Repatriation of Capital

A key element in a foreign investment decision is the ability to return income to the parent company in the form of cash. A second factor is the ability to recover capital in the event an investment is sold or liquidated. Any restrictions that limit free and complete repatriation of earnings to foreign investors, when no such restrictions apply to domestic investors, are contrary to free trade principles.

Repatriation restrictions can be a serious impediment to foreign investment. At the time of an initial investment, remittance laws are generally clearly specified. As foreign economic or political conditions change, laws or policies regarding remittances may change. These changes may force U.S. investors to reinvest or accept unfavorable exchange rates. Investors may be required to pay onerous taxes on remittances.

While it is possible that foreign reserve fluctuations may make temporary limits necessary, U.S. investors should be permitted to share in available foreign exchange resources on an equitable basis with the public and private domestic sectors. There have been too many instances in which U.S. companies have been confronted with arbitrary and unpredictable changes in remittance policies. Foreign exchange is often in short supply, and governments that establish a low priority on providing for foreign earnings remittances discriminate against U.S. investors.

The mechanism used to restrict remittances is often blatant tax discrimination. Withholding taxes on foreign dividends are sometimes more severe than taxes on local dividends. Withholding taxes may be imposed on foreign royalty and interest payments when there is no similar tax imposed on similar payments to local companies.

The list of other impediments used by governments to restrict foreign investments is extensive. Other areas where restrictions are encountered include:

- export requirements
- feedstock restrictions
- employment and training provisions
- restrictions on acquisitions
- restrictions on raising capital

Foreign investment carries with it a certain amount of business risk beyond that usually associated with domestic investments. This is well-recognized and accepted by U.S. chemical companies. In addition to standard business risks, foreign investment opportunities are often limited by governments' policies and practices that deny national treatment t U.S. investors while favoring local companies. These conditions are in marked contrast to the investment environment in the United States, where, with very few exceptions, foreign interests are afforded easy access to U.S. investment opportunities on the same basis as domestic U.S. companies.

There is considerable evidence to suggest that the denial of national treatment coupled with restrictions imposed against U.S. foreign investment are damaging to the U.S. companies directly involved, the United States' trade position, U.S. employment levels, and are contrary to the development interests of the countries imposing these restrictions. U.S. companies investing in other countries must receive the support of the U.S. Government in dealing with these other governments to ensure the right of establishment and the principle of national treatment.

IV. U.S. POLICY OPTIONS FOR REMOVING FOREIGN INVESTMENT RESTRICTIONS

For the reasons specified earlier, the United States should pursue policies which seek to reduce or eliminate the distorting effects of foreign investment restrictions. There are many policy options that may lead to this goal. The following section describes some of these options, with a brief discussion of the implications of their adoption. These are not presented in order of preference, and it is recognized that they are not mutually exclusive (i.e., two or more of these options could be used together).

A. Amendment of the GATT to Include Investment Issues

The United States could request that the GATT study investment-related policies and incorporate rules to govern these policies into the existing GATT document. The GATT appears to be the logical forum for dealing with many investment restrictions because such restrictions inevitably affect trade patterns.

While amendment of the GATT may be a viable policy objective, it must be noted that some significant countries (Mexico, for example) are not signatories and that not all investment restrictions have immediate trade-distorting effects. In addition, it would be difficult and time-consuming, if at all possible, to obtain the agreement of all GATT signatories to any such major amendment. The failure of the November 1982, GATT Ministerial Meeting to agree to study this and other problem areas emphasizes the difficulties inherent in this policy option.

B. Negotiation of a New International Treaty

Recognizing that the world has signficantly changed in the 34 years of the GATT's existence, the United States could, alternatively, enter into negotiations with GATT signatories and other interested countries for a new treaty which would govern investment policies. While this approach may be preferable to working within the existing GATT framework because the negotiators could concentrate solely on investment issues, the lengthy and cumbersome process of treaty negotiation and execution could take as long as, if not longer than, amendment of the GATT.

In the interim, foreign investment restrictions by governments would continue. Also, it is likely that the very countries which are the most ardent practitioners of such restrictions would refuse to become signatories to a new multilateral investment treaty.

C. Utilization of the Declaration of the Organization for Economic Cooperation and Development (OECD)

The 1976 OECD Declaration on International Investment and Multinational Enterprises[2] could be expanded from a set of guidelines to a treaty. The chief virtue of the OECD Declaration in dealing with investment restrictions is that it endorses the concept of national treatment for foreign investors.

The Declaration, however, does not deal with the right of OECD Member Countries to regulate the entry of foreign investment or the conditions of establishment of foreign enterprises. Moreover, the Declaration's focus is not solely on the actions of governments imposing investment restrictions, but also on the actions of multinational enterprises operating in OECD countries.

Also, to be an effective vehicle for dealing with investment requirements, this policy option would need to contain dispute settlement mechanisms. Finally, while this approach might be considered for remedying problems among the industrialized OECD Member Countries, the problem of obtaining developing country signatories would remain.

D. Negotiation of Bilaterial Treaties

The United States has developed a Model Bilaterial Investment Treaty which covers many foreign investment restrictions. The Model treaty affirms the concept of national treatment for foreign investors and provides for a dispute settlement procedure.

Thus far, such treaties have been negotiated only with Egypt and Panama, both of which are countries attracting limited amounts of foreign investment. In both cases, currently significant sectors of the signatories' economies were excluded from the provisions of the treaty, thus considerably weakening its effectiveness. While it may be possible to conclude such treaties with many of the smaller developing countries, it will be a major challenge to negotiate these treaties with countries such as Canada, France, and Mexico.

The bilateral treaty mechanism appears to be a useful policy option. However, the U.S. Government may require additional policy leverage to assure its success. Examples of such additional leverage might include granting the President the power under Section 301 of the Trade Act of

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[2]21 June 1976.

1974[3] to restrict direct investment in the United States by nationals of offending developed countries and/or the power to withdraw benefits under the Generalized System of Preferences from developing countries which discriminate against U.S. investors.

E. Section 301 Investigations

Legislation currently being discussed in the Congress would give the President broader powers to initiate investigations under Section 301 of the Trade Act of 1974. Section 301 provides for the enforcement of U.S. rights under international trade agreements and for relief from practices of foreign governments which are unjustifiable, unreasonable, discriminatory, or which burden or restrict U.S. commerce.

Amendment of Section 301 to provide the President with authority to restrict foreign direct investment in the United States by countries that are discriminating against U.S. investors abroad could provide a powerful incentive for such countries to negotiate satisfactory settlements to investment restriction problems. The effectiveness of such authority, however, is dependent upon the offending country being a capital exporting nation. Unfortunately, most of the offending developing countries do not export capital and many offending developed nations prefer that their capital remain at home, in any event. Aside from the question of effectiveness, the exercise of this authority by the President could be counterproductive to a healthy U.S. economy, which has historically benefited from infusions of foreign capital.

F. "Mirror Image" Restrictions

The United States could impose "mirror image" restrictions toward countries discriminating against U.S.-based investors. The basic advantage of this option is that it would permit a targeted response to objectionable foreign practices in the investment area.

Aside from the fundamental change in U.S. investment philosophy that adoption of this policy would signal, its effectiveness would depend on whether the offender had a signficant actual or potential investment exposure in the United States. In many instances, this is not the case.

G. Foreign Investment Screening

The United States could develop a foreign investment screening mechanism similar to the Canadian FIRA, which would have authority to restrict investments by foreign interests in the United States. Such an agency might provide U.S. Government negotiators with the leverage necessary to force governments which currently imposing foreign investment restrictions to the negotiating table.

Implementation of this option would, however, signify a major shift in U.S. policy, as the United States advocates and provides a generally open investment climate for foreign investors.

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[3] 19 USC 2411

While this approach could provide some leverage in dealing with capital exporting countries, it would not address investment problems with countries that do not export capital. Also, the very real possibility exists that such a plan could lead to retaliation against existing U.S. investment in other countries.

H. Legislation of Performance Requirements

The United States could legislate across-the-board performance requirements which foreign interests investing here must meet. This approach would represent an almost total change in U.S. policy and philosophy and would be appropriate only if the U.S. Government wanted to restrict foreign investment here. Adoption by the United States of such a plan might also accelerate the adoption of similar requirements by other countries. Moreover, such an approach could punish capital exporting nations whose markets were already relatively open to U.S. investment on a nonrestrictive basis.

I. Utilization of Export-Import Bank (Ex-Im Bank)

The President could instruct the Ex-Im Bank to withhold financing from projects that include investment restrictions. While strengthening the signal that the United States does not support investment restrictions, this approach would probably result in lost export opportunities for U.S. manufacturers due to the availability of such credit from other developed countries.

In order for this approach to be effective, agreement to adopt it would be necessary among all countries offering such financing. Given the difficulties associated with achieving harmony on interest rate levels in the recent past, the task of obtaining such agreement would be an extended one, if at all possible.

J. Generalized System of Preferences (GSP)

The United States could withdraw GSP benefits from developing countries which impose restrictions on U.S. investors. The authority to withdraw GSP privileges (i.e., duty-free access to the U.S. market for specified products from designated beneficiary developing countries)[4] on the grounds of such investment restrictions would provide the United States a powerful tool in dealing with developing nations. Obviously, however, it would not provide any leverage in dealing with developed countries.

Also, in contrast to those options which would impose reciprocal investment restrictions, this option would cause a direct and immediate increase in U.S. consumers' costs. It might also invite retaliation against existing U.S. investment in the targeted developing countries.

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[4] 19 USC 2464

K. Do Nothing

Finally, the United States could take no action against countries imposing restrictions against U.S. investments. Self-restraint on the part of the United States vis-a-vis any retaliatory action would be consistent with its position that investment restrictions are contrary to the best interests of the global community. However, given the persistence and spread of foreign investment restrictions and the probability that it would be many years before a multilaterial treaty could be implemented or amended, the option of no action at all would not solve the shorter term problems of investment and trade distortions caused by such restrictions.

V. RECOMMENDATIONS

Exchange controls, repatriation/remittance restrictions, performance requirements and more significantly limitations to foreign equity participation and restrictions against investing in some industry sectors present barriers to increased overseas investment by U.S. chemical companies. Overseas investment is an integral component of trade through sales to overseas affiliates, penetration of new markets, and repatriated earnings. Because investment is tied so closely to trade, the solution to investment problems should be achieved in the context of an overall trade improvement program. Each country's problems differ according to its trade competitiveness, scope of exportable products, and ability and interest to export capital. Other countries are unlikely to have a level of interest equal to the United States in any one policy area. Therefore, an omnibus trade policy including foreign investment restriction considerations is called for.

The Chemical Manufacturers Association supports a government initiative to achieve a global rollback of existing foreign investment restrictions and agreement by countries to avoid implementing new ones as a means of advancing narrow national interests. Historically, interest in increased trade and investment has developed in times of economic expansion. In contrast, the current global recession is fertile ground for increased protectionism. CMA urges the President and Congress to plan and manage a long-term trade policy to reverse growth in global protectionism. Within the area of foreign investment restriction policy, CMA recommends that the United States:

- Focus a bilateral investment treaty program on problem countries as part of an overall trade policy package;

- Utilize the bilateral investment treaties as a framework upon which to incorporate a multilateral investment agreement to the GATT;

- Allow the President greater flexibility to respond to unfair investment practices; and

- Resist the adoption of investment restrictions which might subject U.S. companies to foreign retaliation.

A. Bilateral Investment Treaties

As indicated, the Office of the United States Trade Representative has developed a Model Bilateral Investment Treaty Program, variations of which are being negotiated with several countries, including Panama and Egypt. CMA has reviewed these treaties and believes that similar agreements should be negotiated with as many interested countries as is feasible. However, the value of such treaties will be greatest if they can be executed with countries which have been identified as having erected the most troublesome investment restrictions. Mexico was the overwhelming first choice of the respondents to CMA's questionnaire where additional investments would have been, or could be, made if it were not for onerous investment restrictions. Brazil, Japan, India, and Indonesia also were frequently cited as countries whose investment restrictions tended to preclude chemical industry investment.

This focusing process should be part of an overall trade policy strategy. Some countries may have little interest in executing a bilateral investment treaty with the U.S. on a quid pro quo basis. To interest a country in executing a bilateral investment treaty with the United States, our trade negotiators must develop a strategy which will determine both what another country needs from the United States (e.g., continuted GSP benefits for its products, benefit of an injury test in counterveiling duty determinations, etc.) and what the United States seeks in return (e.g., decreased export subsidies, execution of a bilateral investment treaty, etc.). The Administration should apply broad pressure with its package approach to gain the other country's interest. Each country will have different priorities and vulnerabilities which must be identified to achieve the appropriate mix.

B. Multilateral Agreement

If the United States can successfully negotiate a sufficient number of bilateral investment treaties, these treaties could become the framework for a multilateral foreign investment agreement in the GATT. The GATT framework is now restricted to merchandise trade. Even if a multilateral agreement can be successfully negotiated, CMA recommends that the bilateral agreements already in place be policed and maintained and that additional bilateral agreements be negotiated with countries that do not belong to the GATT.

C. Presidential Action

The Chemical Manufacturers Association recommends that the President be allowed to impose investment (or trade) restrictions as he deems appropriate against countries that apply investment (or trade) restrictions against U.S. companies. Such response should be selected to be consistent with the Admininistration's goals directed toward a particular country.

The President also should be permitted to initiate unfair trade practice petitions under Section 301 of the Trade Act of 1974. Such Presidential action could relieve injured companies from the burden of possible retaliation by target host countries by allowing such companies to maintain anonymity. The International Trade and Investment Act, S. 144,[5] sponsored by Senator Danforth in the Ninety-eighth Congress would bestow this authority on the President. In addition, it would broaden the scope of foreign unfair trade practices to include investment barriers. CMA endorsed this reciprocity legislation during the Ninety-eighth Congress provided that no amendments were made to Senator Danforth's bill.

VI. CONCLUSION

Governments are increasingly utilizing foreign direct investment restrictions as a national economic tool to the detriment of U.S. companies. For the foregoing reasons, CMA urges the Administration to pursue a long-term program to reverse this trend.

We believe that this program should consist concurrently on focusing on a bilateral investment treaty program as part of an overall trade policy package; utilizing the bilateral investment treaties as a framework upon which to incorporate a multilateral investment agreement to the GATT; allowing the President greater flexibility to respond to unfair investment practices; and resisting the adoption of investment restrictions which might subject U.S. companies to foreign retaliation. Only through efforts such as these can the U.S. Government play an effective role in reducing this injurious form of protectionism.

[5] S. Rep. No. 98-24, 1st Sess. (1983).

APPENDIX A

SUMMARY OF THE INVESTMENT QUESTIONNAIRE

The recommendations contained in Section V of this paper were derived in large part from the results of a questionnaire on foreign investment deisions and the impact of investment restrictions by foreign governments on those decisions. This questionnaire was sent by CMA to its member companies. A total of 54 companies responded to the questionnaire . (A blank copy is attached.) Even though the questions contained in the questionnaire call for responses in aggregate form (e.g., ranges for sales figures and amount of investment), because of the possibility of confidential responses being received, the questionnaires were requested to be returned to CMA anonymously. Also, the responses were seen and collated solely by CMA Staff to provide further protection from improper disclosure of any confidential information received.

The following sections provide a summary of the results of this CMA member company survey.

Introduction

The questionnaire emphasized investment information for only 13 countries: Argentina, Brazil, Canada, Colombia, France, India, Italy, Indonesia, Japan, Korea, Mexico, Saudi Arabia and Spain. The 13 countries were selected by the members of the CMA Investment Policy Task Group on the basis that they were countries likely to be the targets of significant U.S. investment capital. Respondents were allowed to write in general information regarding their investments in other countries. However, responses dealing with the investments in other than the listed 13 countries were spotty and will not be discussed here. A country-by-country analysis follows the overview of the survey.

Overview

Companies were asked to categorize themselves according to the following four levels of sales: less than $100 million, $100-$500 million, $500 million to $1 billion, and more than $1 billion. Not surprisingly, level of investment activity is directly proportional to sales level. Very few responses were received from companies with less than $100 million in annual sales. The other three categories were well represented.

The respondents were asked where their company might have made investments in the past or would likely make investments in the future if it were not for foreign governmental investment restrictions. Mexico was the overwhelming first choice as the country where additional investments could have been, or could be, made if it were not for restrictions on investments. Brazil, Japan, India, and Indonesia also received a significant number of responses as countries of possible interest from an investment standpoint if investment restrictions were reduced.

The respondents were asked to select from a list of investment restrictions and identify those restrictions applicable to each country. (A provision was also made for write-in choices if the list of restrictions provided for by CMA was not sufficient.) Furthermore, these restrictions were to be provided so that CMA could determine which were the more onerous. In compiling the results, CMA gave most weight to those restrictions which had been identified as having a priority of "1" or "2" and least weight to the restrictions categorized as "4" or "5" (See attached questionnaire).

Respondents were asked to offer suggestions for U.S. policies or laws that would offer equitable treatment for foreign investors.

The option that received most responses was the negotiation of bilateral investment treaties with other countries. Running an extremely close second and third were the options, respectively, which would 1) allow the President to impose trade or investment restrictions on countries that apply onerous investment restrictions against U.S. companies, and 2) allow for the extension of the General Agreement on Tariffs and Trade (GATT) directly to address investment-related policies. The next most selected policy option was that of the imposition of "mirror image" investment restrictions against countries that discriminate against U.S.-based investors. The next highest chosen option was the negotiation of a new investment treaty under the GATT which would first freeze existing trad distorting investment policies and then be followed by a rollback of those policies.

The options which proposed outright protectionist measures failed to receive a high number of responses. No respondents favored the legislation of investment restrictions such as local content laws. Only two respondents felt that a screening mechanism for foreign investment should be developed. Also not particularly popular with the respondents were the options of withholding financing by the Ex-Im Bank for projects linked with investment restrictions or the withdrawal of GSP benefits from developing countries which imposed restrictions on U.S. investors. The majority of the respondents did feel that some action on investment restrictions should be taken, as shown by only three responses that the United States should do nothing because increased U.S. restrictions might jeopardize the huge U.S. overseas investment.

Because the questionnaire did not require respondents to prioritize their answers, those respondents who provided multiple choices likely believed that a variety of remedies should be attempted. Hence, while some of the responses might appear to be contradictory, it is likely that the respondents were thinking that their suggestions would occur in stages, rather than simultaneously.

The remaining discussion gives a country-by-country analysis of the questionnaire responses. The discussion covers only a summary of the responses. A more detailed listing of responses appears in the Appendix B.

ARGENTINA

A total of 15 respondents indicated investment in Argentina. Four respondents indicated that investments would have been made in the past had it not been for restrictions. Three indicated that they would consider future investments but restrictions were prohibiting those investments. On a weighted average basis, the restriction for investment which was mentioned most often for Argentina was that of remittance of earnings and repatriation of capital.

Argentina ranked eighth among the 13 countries as far as the number of respondents which had investments located in that country. It ranked seventh in total number of responses that detailed impediments to investment.

BRAZIL

A total of 26 respondents to the questionnaire have made investments in Brazil. This ranks fourth out of the 13 countries surveyed. The majority of the respondents classified their investment as moderate. Brazil ranks second overall in the number of respondents who felt that they would have made additional investment had it not been for restrictions or were likely to make additional investment except for the restrictions.

Brazil ranked second overall in the listing of specifically named impediments to investment. The impediment mentioned most was restrictions on remittance of earnings/repatriation of capital. Four other restrictions were all mentioned to a lesser degree, but with equal frequency relative to each other. Those were: 1) restrictions on royalty payments to U.S. parent, 2) excessive withholding taxes on dividend royalty and loan interest payments, 3) restrictions on management fee payments to U.S. parent, and 4) export requirements.

CANADA

Canada came in first in the number of respondents that had investments in the country. A total of 30 respondents indicated that they had investments in Canada, with the majority of those respondents classifying their investments as significant.

There appears to be concern over future investments in Canada, since almost all responses to the question whether or not additional investments would be made replied that in the future they would not be made unless restrictions were lifted. The restriction which discouraged investment the m st was that of maximum foreign ownership restrictions. The second most often mentioned restriction was the restriction on acquisition of existing businesses. Both of these comments relate to the Canadian Government's Foreign Investment Review Act. Although a variety of other restrictions were listed, they received much less attention.

COLOMBIA

Investment in Colombia by U.S. chemical firms, as indicated by this survey, appears to be very light. Of the 12 respondents which identified investment in Colombia, the majority of them classified their investment as slight. There appeared to be little interest in investing in Colombia in the future, nor was there much indication that investments would have been greater in the past.

No single impediment to investment stood out for the respondents in the case of Colombia. There were four that had almost equal mention: 1) remittance of earnings/repatriation of capital; 2) maximum foreign ownership restrictions; 3) restrictions on royalty payments to the U.S. parent; and 4) restrictions on management fee payments to U.S. parent.

FRANCE

Current investments in France were reported by 20 of the respondents. The level of investment was relatively equally split among the slight, moderate, and significant categories. As in the case of Canada, there appears to be a great deal of concern among the respondents over future investment in France.

There was very little mention of specific restrictions of foreign investment in the case of France. The most commonly mentioned restriction to foreign investment was that of industrial restrictions. Also receiving mention were restrictions on acquisitions of existing businesses and minimum capital and employment restrictions.

INDIA

Of the 13 countries surveyed, India ranked only ninth in terms of total number of respondents having investments, but third in the number of restrictions to investment mentioned. None of the respondents classified their investments in India as significant. The respondents to the survey also indicated that their concerns over increased investment would be about the same in the future as they had been in the past.

Two restrictions to foreign investment received almost the same mention by the respondents. These were foreign ownership restrictions and restrictions on remittance of earnings/repatriation of capital. Although numerous other restrictions were listed, they received much less attention than the preceding two.

ITALY

According to survey responses, Italy had the least number of restrictions to foreign investment listed of the 13 countries. Sixteen of the respondents indicated that they had investments in Italy.

Levels of investment were equally distributed between the slight, moderate, and signficant categories. Few responded that there would have been additional investment in the past or that there would likely be more in the future.

The lack of intellectual property rights protection the only situation listed more than once by respondents as a restriction to foreign investment.

INDONESIA

Indonesia had less foreign investment than any of the 13 countries. It ranked fifth out of 13 in the number of countries in which the respondents would have invested had it not been for restrictions. Responses were equally divided between increased investment in the past or more investment in the future in the absence of restrictions.

The restriction on maximum foreign ownership received an overwhelming number of responses when compared with all of the other restrictions listed.

JAPAN

Japan was ranked third, behind Canada and Mexico, as the country in which the respondents had invested. Most of the investment was classified as either moderate or significant. It was also the country which ranked third in terms of number of companies who would have invested more in the past or are likely to in the future if it were not for restrictions of foreign investment.

Although many respondents commented that much more investment would be likely in the absence of restrictions, few mentioned specific restrictions they found to be objectionable. Of the restrictions listed, three received almost the same amount of attention: 1) maximum foreign ownership restrictions; 2) industrial sector restrictions; and 3) restrictions on acquisitions of existing businesses.

KOREA

Only ten of the respondents indicated investment in Korea. There did not seem to be any great interest for investing more in Korea in the past or in the future.

Maximum foreign ownership restrictions appeared as the main barrier to investment in Korea.

MEXICO

Mexico came a close second to Canada in the number of respondents which already have investment in place in that country. The categorization of the vast majority of those investments fell into the slight and moderate areas. In the absence of restrictions the number of respondents who indicated that investment would have been greater in the past was equal to those who would like to make it in the future.

Mexico came in first of the 13 countries in terms of responses on restrictions to foreign investment. The restriction which was listed as most onerous by far was that of maximum foreign ownership restrictions. This refers to the Mexican Government rule that PEMEX, the government-owned petroleum monopoly, must own all primary petrochemical production in the country. Furthermore, secondary petrochemical production requires a joint venture in which greater than 50% ownership is by a Mexican concern.

Additional restrictions listed included those of remittance of earnings/repatriation of capital, restrictions on royalty payments to U.S. parent, and industrial sector restrictions. While other restrictions were also listed by the respondents, they received much less attention than the preceding four.

SAUDI ARABIA

In general, the respondents to the survey have very little investment in Saudi Arabia. In the absence of investment restrictions, most would not have invested more in the past, nor would they make future investments.

Furthermore, very few comments with regard to restrictions to foreign investment were offered. The restriction most often listed was that of maximum foreign ownership requirements.

SPAIN

There was little mention of restrictions to foreign investment with regard to Spain. The restriction most often mentioned was that of disallowed management fee payments to the U.S. parent. The respondents to the survey did not seem to think that the lifting of restrictions to investment would have altered their investments either in the past or in the future.

There are significant U.S. chemical investments in Spain, but the majority of these were categorized as being either slight or moderate.

APPENDIX B

CMA QUESTIONNAIRE
RESTRICTIONS TO FOREIGN INVESTMENT
(Ranked by numbers of responses)

1. ARGENTINA

- Remittance of earnings/repatriation of capital restrictions
- Excessive withholding taxes on dividend, royalty and loan interest payments.
- Restrictions on management fee payments to U.S. parent
- Lack of intellectual property rights protection
- Restrictions on royalty payments to U.S. parent
- Employment of local nationals requirement
- Industrial sector restrictions
- Export requirements
- Maximum foreign ownership restrictions

2. BRAZIL

- Remittance of earnings/repatriation of capital restrictions
- Restrictions on royalty payments to U.S. parent
- Excessive withholding taxes on dividend, royalty and loan interest payments
- Export requirements
- Restrictions on management fee payments to U.S. parent
- Maximum foreign ownership restrictions
- Lack of intellectual property rights protection
- Employment of local nationals requirements
- Minimum local content requirements
- Feedstock restrictions
- Industrial sector restrictions

3. CANADA

- Maximum foreign ownership restrictions
- Restrictions on acquisitions of existing businesses
- Location restrictions
- Industrial sector restrictions
- Lack of intellectual property rights protection
- Excessive withholding taxes on dividend, royalty and loan interest payments
- Export requirements
- Restrictions on royalty payments to U.S. parent

4. COLOMBIA

- Remittance of earnings/repatriation of capital restrictions
- Maximum foreign ownership restrictions
- Restrictions on royalty payments to U.S. parent
- Lack of intellectual property rights protection
- Industrial sector restrictions
- Export requirements

5. FRANCE

- Industrial sector restrictions
- Restrictions on acquisitions of existing businesses
- Minimum capital invested or employment level requirements
- Maximum foreign ownership restrictions
- Minimum local content requirements

6. INDIA

- Maximum foreign ownership restrictions
- Remittance of earnings/repatriation of capital restrictions
- Restrictions on royalty payments to U.S. parent
- Excessive withholding taxes on dividend, royalty and loan interest payments
- Export requirements
- Restrictions on management fee payments to U.S. parent
- Industrial sector restrictions
- Minimum local content requirements
- Lack of intellectual property rights protection

7. ITALY

- Lack of intellectual property rights protection
- Minimum capital invested or employment level requirements
- Remittance of earnings/repatriation of capital restrictions

8. INDONESIA

- Maximum foreign ownership restrictions
- Remittance of earnings/repatriation of capital restrictions
- Restrictions on management fee payments to U.S. parent
- Industrial sector restrictions
- Export requirements
- Employment of local nationals requirements

9. JAPAN

- Industrial sector restrictions
- Maximum foreign ownership restrictions
- Restrictions on acquisitions of existing businesses
- Location restrictions
- Restrictions on royalty payments to U.S. parent
- Requirements concerning the introduction of new products and technology
- Lack of intellectual property rights protection

10. KOREA

- Maximum foreign ownership restrictions
- Industrial sector restrictions
- Remittance of earnings/repatriation of capital restrictions
- Lack of intellectial property rights protection
- Location requirements
- Requirements concerning the introduction of new products and technology

11. MEXICO

- Maximum foreign ownership restrictions
- Remittance of earnings/repatriation of capital restrictions
- Industrial sector restrictions
- Restrictions on royalty payments to U.S. parent
- Restrictions on acquisitions of existing businesses
- Excessive withholding taxes on dividend, royalty and loan interest payments
- Export requirements
- Employment of local nationals requirements
- Location restrictions
- Requirements concerning the introduction of new products and technology
- Feedstock restrictions

12. SAUDI ARABIA

- Maximum foreign ownership restrictions
- Employment of local nationals requirement
- Excessive withholding taxes on dividend, royalty and loan interest payments
- Restrictions on acquisitions of existing businesses

13. SPAIN

- Restrictions on management fee payments to U.S. parent
- Industrial sector restrictions
- Restrictions on acquisitions of existing businesses
- Lack of intellectual property rights protection
- Export requirements
- Maximum foreign ownership restrictions

APPENDIX C

A Summary of a Survey
of
Worldwide Investment Policies

by
Price Waterhouse
November 18, 1982

This report presents the results of the second annual 73-nation survey by Price Waterhouse of nontax restrictions on inflowing foreign direct investment in the following categories:

- Ownership restrictions
- Exchange controls
- Repatriation or remittance restrictions
- Employment restrictions
- Local material content requirements
- Other restrictions

In addition, the report presents information on subsidies and other incentives to foreign investment, if any, for each country.

The report is based on data supplied by Price Waterhouse offices located in the 73 countries covered by the survey, in response to a request made to them by the U.S. firm of Price Waterhouse. It is effective as of June 30, 1982, except that because of the major developments in Mexico, its report has been updated to September 30, 1982.

This report, like the 1981 report, indicates strong nontax and nontariff restrictions on foreign investment. Of the 73 countries surveyed, 58 impose ownership restrictions (same as 1981), 53 have exchange controls (52 in 1981), 46 impose restrictions on repatriation or remittances (same as 1981), 71 have employment restrictions (same as 1981), and 30 have local material content requirements (29 in 1981).

Of the 58 countries considered to have ownership restrictions, 33 are considered to have harsh restrictions. These include all those where foreign ownership must be limited to a minority interest or where the list of excluded industries is extensive. If a country excludes only areas that are directly related with national defense, it is not considered to have an ownership restriction. If the only excluded nondefense industries are those such as banking, insurance and airlines (all of which are closed to foreigners in many countries), the country is not considered to have harsh restrictions.

Exchange controls are more difficult to classify from the survey. Of the 53 countries that have exchange controls, six appear to be mild and 14 appear to be harsh from the reports on these items. A more realistic number of harsh exchange control countries may be around 35, as that is the number of countries that have restrictive policies on repatriation or remittances (which, of course, is an element of exchange control.)

The shift of Mexico from free exchange to tight controls may foretell other countries taking similar action as a result of the continuing world-wide economic slump.

As noted, 35 of the 46 countries that impose restrictions on repatriation and remittance are considered to have harsh restrictions. These include all countries that require capital to be "registered" before either capital or profits can be remitted. A few countries limit profit remittances to a percentage of capital (20 percent being the most common) or to a percentage of the year's profits.

The statistic on employment restrictions reflects that almost all countries require foreigners to have work permits. Only two countries, Hong Kong and Japan, were counted as not having employment restrictions. Hong Kong has restrictions, but they are described as being very lax. Japan has no employment restrictions, but does have visa requirements that can be time consuming.

Of the 71 countries having employment restrictions, 24 require work permits, but the survey responses do not indicate that this is used as a harsh exclusionary tool. Thirty-one other countries have restrictive policies that generally will not permit the hiring of a foreigner if a national is available. The remaining 16 also have restrictive policies, but in addition impose quotas that limit the percentage of foreign employees a company can have. Quotas also are often stated as a percentage of total salaries.

Morocco, the new entry on the list of countries having a local material requirement, now requires a minimum value of locally manufactured material for automobile manufacture. Six other countries also impose a local material requirement only in automobile manufacture. They are Chile, Columbia, Malaysia, the Philippines, South Africa and Zambia. (Zambia has no local materials law, but the government strongly encourages it, especially in automobile manufacture.)

Comparing the 1982 Report to the 1981, the impression is that restrictions on foreign investment are growing. Certainly, they are not being relaxed. As the world recession continues, protectionist pressures mount.

CMA
EC-6/8/83

EXHIBIT D

WASTE MANAGEMENT PLAN

BACKGROUND -- In June 1982, the Environmental Management Committee (EMC) made a presentation to the Executive Committee on hazardous waste management. The EMC was directed, as part of a further consideration of the waste management issue, to develop an overall CMA management plan. As a result, a working group, comprised of the committee chairmen of the Environmental Management, Government Relations, and Communications Committees, one additional member from each committee, and staff, was organized to address the issue. The Hazardous Waste Strategy Group presented a draft plan to the Executive Committee in January. Based on comments received in letters from Executive Committee members, a revised plan was presented to the Executive Committee in March. To date, the Executive Committee has approved the overall objectives, a hazardous waste survey, and the initial phase of a problem site data base development program (all are data gathering projects). The Executive Committee agreed to review additional programs as soon as details are developed and submitted for their consideration. In this regard, the Executive Committee endorsed the concept that member companies should initiate appropriate new voluntary actions selected from an approved list.

ISSUE -- The Hazardous Waste Strategy Group has developed the details on six additional programs for Executive Committee review. Two programs are data gathering projects, three programs are action programs, and one project is a communications project. The six projects are directly supportive of the three objectives of the hazardous waste management plan approved by the Executive Committee.

RESOURCES -- The six new programs primarily call for efforts by CMA on an association basis and, to a lesser extent, voluntary participation by individual member companies. The CMA activities can be carried out within the CMA budget. The member company resource impact will be company-specific depending on the programs participated in by a member company.

TIMING -- CMA could begin implementing the new programs within the next few months as soon as legal, technical, and resource considerations are resolved.

ACTION REQUIRED -- Approval for the appropriate CMA committees and task groups to commence implementing the six programs.

CMA
BD-6/8/83

THE EXTERNAL ENVIRONMENT

The key hazardous waste statutes, RCRA and CERCLA, have been in place since 1976 and 1980 respectively. For the most part we'd like to see these laws left unchanged and devote CMA's environmental management energies to helping their implementation. But we know, beyond doubt, that until Congress and the public are satisfied and current hazardous waste practices are sound and effective and remedial programs have proper direction and good momentum, our industry will continue to be a prime target for criticism. For these reasons, it is important at the outset that we understand the external environment, both legislative and regulatory, that we'll be operating in.

A. Legislative Outlook

RCRA - The House Commerce Committee has already reported out H.R. 2867, a bill to amend and reauthorize the Resource Conservation and Recovery Act. House floor action is expected by this summer and it is virtually certain that the House legislative product will provide punitive treatment for hazardous waste generators. The most troublesome sections to the chemical industry are those establishing land disposal prohibitions and increasing enforcement authorities, which include allowing citizen's suits. While the Senate may improve H.R. 2867 somewhat, there's little chance that an acceptable bill will be the final result.

CERCLA - Although this Act is not due for reauthorization until 1985, Congress has held a number of Superfund oversight hearings: seven bills to amend CERCLA have been introduced in the House -- four were introduced in the Senate. While it is not certain that the 98th Congress will complete action on CERCLA amendments, it is clear that the legislative process on this issue is about to get started. While it presents us with one attractive opportunity - replacing the feedstock tax with a waste end tax - it also presents many risks such as enlarging and extending the fund, adding a Federal toxics tort, and other adverse risks.

B. The Outlook at EPA

Bill Ruckelshaus was confirmed by the Senate May 17. His confirmation will greatly accelerate new direction and strength in EPA programs, especially on hazardous waste. EPA's "new initiatives" include increased delegation of authority to the field staff, use of the "removal" approach to site clean-up to let EPA take forceful action without State participation and accelerated filing of enforcement cases. While we welcome changes in CERCLA's implementation that cut the backlog of projects, it is to be expected that some of the decisions made in haste won't be the right ones.

To sum up our reading of the external environment, we see a Congress ready to punish us with damaging amendments to RCRA and CERCLA, and an EPA determined to make hasty moves on CERCLA implementation. But today's realities of hazardous waste are these: by the time we've finished the legislative cycle that's already begun, waste disposal practices that are perceived to present an unacceptable degree of risk will be programmed for prohibition and the other methods of storage and land disposal will be taxed at rates tied to the level of risks that they are perceived to present.

I. Data Collection Programs

1. Hazardous Waste Site Data Development Projects.

- Hazardous Waste Survey

On May 11, 1983, a hazardous waste survey was mailed to all CMA members. The survey also asks for information on voluntary clean-up activities. On May 16, 1983, a letter signed by the Chairman of the Board was mailed to all Executive Contacts asking that their company complete the survey. The completed surveys are due to CMA's contractor by June 24, 1983. A final contractor report is due to CMA by the end of July.

- Positive Waste Management Case Histories

A letter was mailed to CMA Communications Contacts on May 23, 1983, soliciting positive examples of how the member companies are addressing the waste management issue. The responses will be catalogued and used in articles, advertising, and to respond to media, member companies and public requests for information.

- Action

At the Annual Meeting, remind the membership to complete the hazardous waste survey and submit their positive waste management examples.

I. Data Collection Programs

2. Technical Information Pilot Program

- **Description**

More performance standards and technology requirements are being imposed on new and existing hazardous waste facilities. The technology literature on hazardous waste facilities is scattered among a wide variety of publications, making tracking difficult. In addition, research knowledge and field experiences are dispersed among many centers of research and manufacturing. Within the member companies exists the primary source of expertise concerning the best design practices for hazardous waste facilities. At this time, however, this information is not readily shared between the member companies. In order to remedy these information deficiencies, CMA proposes to conduct a pilot program to test and evaluate the concept of a much broader CMA technical collection and sharing plan that will ultimately speed the development and transfer of reliable design information among our member companies.

- **How The Program Will Operate**

The pilot project, to be managed by the EMC's Solid Waste Technology Task Group, will establish a program whereby member companies voluntarily contribute technolgy, successes and failures in burning waste in boilers, and other experiences that could yield a base for meaningful guidelines.

The waste burning in boilers' project will be implemented in the following manner:

(1) A letter will be forwarded to member company environmental contacts asking their companies to contribute information to this first pilot program only, and to designate a company contact to work with the Solid Waste Technology Task Group;

(2) The task group will classify the information received and develop guidelines describing safe methods of burning wastes in boilers; and

(3) The task group will make the information available in a form suitable for sharing with member companies and for discussions with EPA concerning guidelines or regulations.

- **Timing**

Written data collection and follow-up interviews will be completed between October 30, 1983, and April 30, 1984. The information collected will be reformatted for distribution as it is received. CMA will assess the success of the program by July 1, 1984.

- <u>Resources Needed</u>
  CMA staff will support the pilot program and assure that antitrust concerns are avoided.

  Companies will incur only minimal costs in locating and preparing the technical information.

II. Action Programs

1. Land Disposal Dependence/Alternatives

- Description

Two important themes of the Hazardous Waste Management Plan are:

(1) to use practices that do not pose a threat to public health and the environment, and

(2) to continue improving the technology used to manage hazardous waste.

Congress and EPA are asking significant questions about industry's reliance on land disposal technology and may severely limit use of certain technologies. In light of these concerns, CMA must evaluate alternative technolgies for wastes that should not be land disposed, and must ensure the continued viability of land disposal where clearly needed. The project will help member companies reduce their dependence on land disposal technologies.

To achieve this objective, CMA will conduct a program with three basic elements:

A. Identify wastes for which landfilling is the only viable disposal technology.

As part of this project five major areas of work will be studied:

(1) Examine the effects of listing wastes that must be landfilled. E.g., generic wastes: incinerator ash, inorganics, metals, elements; or specific wastes; calcium chromate, lead phosphate, incinerator ash from the burning of paint sludge.

(2) Examine the affects of specifying criteria that defines waste that must be landfilled. E.g., mobility (most important), toxicity and persistence.

(3) Examine the effects of designating wastes by technology options (e.g., wastes with no fuel value, wastes that are not chemically or biologically treatable).

(4) Determine if options other than land disposal exist for items banned from landfilling under state regulations (i.e., California) (e.g., solvent flushed PCB capacitor cases, inorganics contaminated sites, halogenated organics @ 1,000 ppm).

(5) Monitor congressional and EPA listing of wastes to be banned from land disposal.

These projects would also consider the need for variances for a waste that differs from other generic categories of banned wastes (environmental proof) lack of technology, or lack of treatment capacity.

B. Evaluate alternative technologies. Determine cost, availability, capacity, and environmental concerns.

Several contractors, have examined these factors. We will use parts of their studies to answer many of our own questions. Commercial capacity versus on-site capacity must be considered as part of this effort.

C. Define criteria for continued land disposal.

Under this project, CMA will determine the technical accuracy of the RCRA landfill standards. Also, we will consider the use of siting criteria to develop the concept of "passive remedial action", and we will examine long-term (50-1,000 years) effects of land disposal.

- How The Program Will Operate

  The EMC will establish a new work group of six to eight members to manage this project. The members would be primarily experts in the solid waste technology fields and would have some regulatory background. The work group assisted by a contractor, will complete its projects within two years.

- Additional Resources Needed

  Six to eight technical experts from member companies will be needed to conduct specific projects. Approximately $75,000 in FY 83/84 and $75,000 in FY 84/85 will be needed for contract or assistance. These projects will displace other lower priority projects.

II. Action Programs

2. Siting -- Evaluation of Regional Governmental Facilities

- Description

Under RCRA, states are given *de facto* responsibility for siting hazardous waste management facilities. During the last five years, most states have attempted to develop a legislatively mandated siting process. To date, few states have actually permitted new facilities. Because of intense local opposition, hazardous waste management firms have been unable to successfully complete the siting process. Although state legislatures recognize the need for new and technologically advanced facilities, they have been unable to draft workable procedures that meet their constituents' concerns. Although many of the state procedures have not had a full chance to work (particularly the more innovative ones passed in the last two years), a thorough assessment of alternative approaches is in order.

The objective of this project is to educate those who can overcome the barriers to siting of new treatment, storage and disposal facilities. The concept of regional, state owned facilities has been proposed in order to alleviate public fears about the operation of these facilities and to resolve questions about the long-term liability. This concept merits serious evaluation as one of the long-term solutions.

- Elements of Evaluation.

The following issues must be evaluated to determine what solutions (including regional governmental facilities) will be most effective:

- Current and projected needs for off-site treatment, storage, and disposal facilities.
- Demographics of where (regions/individual states) the need for capacity is greatest.
- Success of regional governmental facilities in Europe and Canada.
- What elements, other than the existence of the facility itself, have been the major roadblocks to successfully siting a facility.
- Existing status and history of states' direct involvement in owning and operating hazardous waste facilities.

- Desirability of state ownership and operation versus state ownership and private contractor operation of waste management facilities.

- Position of major state government groups (National Conference of State Legislatures/National Governors' Association) on regional facilities.

- Positions of other major trade associations, including those of the National Solid Waste Management Association.

- Legal issues created by state ownership and/or operation.

- Desirability of Federal legislation that mandates states to individually or collectively site hazardous waste management facilities (similar to low level radioactive waste procedure).

- Desirability of changes in state law that would authorize or facilitate state ownership/operation of facilities.

- Resources and Responsibilites.

The project requires the following types of company resources from the technical, legal and government relations communities:

- Technical resources will be needed from member companies to define needed capacity and where (by state and region) regional facilities would be most feasible.

- State government relations personnel must assess shortcomings in current siting procedures and the position of states on the concept of regional facilities. Federal government relations personnel must assess Congress' attitude toward specific changes.

- Attorneys must assess liabilities implied by switching to state ownership/operation, and must assist in drafting formal proposals.

- All Committee activities will be supported by existing CMA staff.

- Timing.

Project evaluation could be completed by the end of 1983. Advocacy could begin in 1984.

II. Action Programs

3. Hazardous Waste Response Center

- Description

To date, expertise and experience in cleaning up hazardous waste sites under Superfund is a limited, but rapidly developing activity. In this regard, industry, EPA, states and consultants are becoming more involved in these clean-ups and are proposing a variety of diverse ideas and technical remedial actions. There is a growing concern that many consultants and contractors do not have the experience to clean-up sites in an economical, technically sound and timely fashion. In light of these concerns, CMA proposes to expand the mission of the Hazardous Waste Response Center (HWRC) to evaluate remedial clean-up activities at Superfund sites. It is our objective to assure and advocate to regulatory agencies that only technically sound, expeditious, and cost effective remedial actions be conducted for Superfund sites.

The project will focus on three elements. First, the HWRC will keep records of expenditures for cleaning up sites. Second, it will inventory and evaluate the technical remedies used at Superfund sites. Third, it will advise appropriate groups (i.e., State Affairs, CICs) on the technical aspects of proposed remedial actions.

- How The Program Will Operate

The EMC's Hazardous Waste Response Center Task Group will be responsible for managing this project. The task group will continue to operate under its existing charter, which includes providing technical assistance to Federal/state/member company requests for guidance in cleaning up abandoned or failing sites. The task group will also develop a detailed program and assign responsibilities to track and evaluate Superfund site remedial actions for technical soundness and cost effectiveness. The program will include a combination of site visits, evaluations of EPA and/or state feasibility and study reports, and final site clean-up report evaluations. The task group will prepare periodic reports including an evaluation of the remedial technology used, the status of remedial clean-up actions, and the cost-effectiveness of the clean-ups. The reports will be distributed to member companies and CICs, and will possibly be used in advocating program modifications to EPA and/or the states.

- Timing

The new project should be started as soon as additional task group members are identified. The task group will prepare a quarterly report on the findings and recommendations.

- **Resources**

The Executive Committee and Board of Directors originally Committed 15 people to conduct Hazardous Wastes Response Center programs -- only eight members remain. CMA needs at least 15 response team members to conduct this program. Team members should be strategically located around the country. Ideally, we would like at least one person near each EPA regional office to monitor activities.

III. Communications

1. Congressional Communications

- Description

CMA's government relations activities have traditionally been geared towards the members of key congressional committees working on a specific topic. As a result, issues of broad application and constituency interest such as hazardous waste disposal, are not the subject of a CMA communications program with a significant majority of the members of Congress. A broader communications program with members of Congress may reduce political rhetoric on hazardous waste disposal.

CMA plans to conduct a pilot program to evaluate the effectiveness of a broader communications program on hazardous wastes. The pilot would attempt to educate members who are not on the key environmental committees. The expanded program would support CMA's routine issue specific lobbying programs.

How The Program Will Operate

CMA will conduct a six month pilot program to evaluate the effectiveness and utility of a congressional communications program. We would run the pilot for a limited number of congressmen (i.e., six to eight) from both parties. Member company volunteers, primarily from the government relations community, will educate key congressmen about the hazardous waste issue, and about what the chemical industry is doing on this matter. CMA would also inform congressmen about progress related to waste sites in their districts. Site-specific information is being entered into CMA's computer system (i.e., primarily listing EPA information) and will be updated on a routine basis using EPA and other sources of information.

- Timing

A six-month pilot program would start as soon as the necessary volunteers are recruited. A recommendation on the long-term prospects of this program would be made early in 1984.

- Resources

Existing CMA staff will support this pilot project. Six to eight member company volunteers are needed to conduct the program. The pilot program is a critical element in determining the resources that would be needed to conduct an expanded program in this or other areas.

HAZARDOUS WASTE MANAGEMENT ACCOMPLISHMENTS

- Data Collection

(1) Hazardous Waste Survey - pilot program completed, survey modified and approved, mailed to CMA membership.

(2) Problem Site Data Base - Arthur D. Little completed draft evaluation of EPA and state data on inactive problem sites.

(3) Superfund Computer Data Base - a computer program has been developed and all appropriate Superfund site data are being entered into CMA's computer.

(4) State Waste Management Data - State Affairs Division compiled a three volume report of hazardous waste management in the states.

(5) Positive Waste Management Case Histories - a letter has been sent to the membership soliciting positive examples of waste management.

Action Programs

(1) Public Compensation Initiatives - intervened in EDF lawsuit, entered into UAREP contract, and testified before Congress on public compensation issues.

(2) Conservation Foundation Siting Book - participated in/co-chaired dialogue group that developed consensus position on siting hazardous waste facilities.

(3) A Waste Site Management Plan - published and distributed greater than 2,500 copies of CMA's Waste Site Management Plan to key groups in both the public and private sectors.

(4) National Siting Conference - co-sponsored the National Siting Conference.

(5) Waste End Tax - participated in a press conference with members of Congress and environmental groups endorsing a waste end tax under Superfund.

(6) National Governors Conference - invited and participated in initial National Governors Conference discussions in their development of solid waste positions.

- Communications

(1) Telenews Conference - produced a national satellite telenews conference on hazardous waste.

(2) Groundwater Booklet - published an educational booklet on groundwater.

(3) Louisiana Chemical Association Communications Project - participated in developing and funding LCA's model communications project.

(4) Public Compensation Booklets - published and distributed industry statements on public compensation and stressed the need for scientific study (Browning and Karrh).

(5) Public Compensation Media Activities - presented industry perspectives on Public Compensation at an "Inside EPA" conference and in a "Journal of Commerce" article (Browning).

HAZARDOUS WASTE PROJECTS IN PROGRESS

- Data Collection

  (1) Hazardous Waste Survey - membership completion of surveys, and CMA contractor analysis of responses. (Final Report is due by July 31.)

  (2) Positive Waste Management Case Histories - membership submit positive examples, and CMA establish a library (categorized by type of media and by subject) and publish an index to the library for use in articles, advertising and in response to media and public requests.

  (3) Superfund Site Data Base - complete entry of site data, and update on routine basis.

- Action Programs

  (1) National Governors Conference - continue working with NGA as it develops solid waste positions.

  (2) Public Compensation Initiatives - Continue to resolve EDF/CMA lawsuit, and determine appropriate action on UAREP protocol report.

  (3) Waste End Tax - develop details of a waste end tax legislative proposal.

  (4) Groundwater Classification Manual - develop and publish a groundwater classification manual for use in the states.

- Communications

  (1) Superfund Settlement Process - continue lobbying for congressional support on the Superfund settlement process.

  (2) Louisiana Chemical Association Communications Project - continue support for the model communications project.

EXHIBIT E

STATUS REPORT:

DEVELOPMENT OF A CMA GRASSROOTS PROGRAM

At the April 5 Executive Committee and Board 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.

First, we would like to thank those of you who sent us the information we requested on your constituency in our top priority congressional districts and states. You might be interested in a few highlights from the information we have received from our member companies:

- To date, approximately 80 grassroots managers have been appointed by member companies;
- 60 grassroots managers returned the information we requested on company presence in top priority congressional districts, and we are continuing to receive responses;
- CMA staff have collated and organized the company information submitted so far - and our presence in key districts and states is very impressive;
- The ad hoc group, consisting of government relations and public affairs professionals, has continued to meet to guide our progress;
- The ad hoc group has reviewed the information submitted and has begun to accept assignments to appoint congressional liaison representatives in particular districts;
- The ad hoc group has begun planning a "grassroots seminar" to be held in Washington in early July. A letter has been sent to the grassroots managers inviting them to this seminar and soliciting their suggestions for agenda items;
- Tentative agenda items for the grassroots seminar include:
  - Results of the 97th Congress - How Effective Have We Been?
  - Review of Key Districts and Industry Presence
  - How to Focus Our Efforts Within Key Districts
  - How to Organize a Letter-Writing Capability for Employees, Stockholders, Retirees and Customers
  - Technical Resources - Computer Systems Available
  - Portrait of 98th Congress - Public Perception of the Chemical Industry - Public Compensation
  - Potential for Impact - CEEAN

The information we have complied to date has very exciting implications for our industry. If we can organize and mobilize our presence in key districts and states, we can become much more effective in our regulatory and legislative activity. We will continue to need your help and encourage your participation in our industry's effort to build an effective grassroots program.

ACTION NEEDED: None - Information Only

CMA
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EXHIBIT F

REPORT OF THE TECHNICAL DIRECTOR

The Technical Director's report highlights CMA accomplishments and activities in its advocacy of prime issues.

COMMERCIAL PRODUCTION OF CHEMICALS

On April 21, CMA's Chemical Regulations Advisory Committee (CRAC) testified before the House Subcommittee on Commerce, Transportation and Tourism, Committee on Energy and Commerce. E. Hamilton Hurst, Nalco Chemical Company and CRAC chairman, urged Congress to reauthorize TSCA without amending it.

Although several trade press articles painted a different picture, we believe the hearing went well for industry. Those groups seeking major changes to the Act (minimum testing for all new chemicals), could not justify their position under intense questioning by the minority members.

According to a memorandum to EPA regional offices, the Agency will inspect every submitter of a PMN, except those inspected in FY82, and also will conduct a special project to inspect companies submitting a large number of chemicals for the inventory but which have not submitted PMNs. EPA will conduct this special project in Federal Region II. The EPA memorandum to the regions included a list of inspection questions, many of which may not be relevant. CMA is reviewing EPA's plans to ensure consistency with TSCA, which limits the scope of inspection activities to matters concerning compliance requirements.

EPA has published three Significant New Rules (SNURS). CMA submitted formal comments on the first two and is reviewing the third. A SNUR is part of the EPA program for new chemical follow-up and is intended to prevent the use of new chemicals in a manner that will harm human health or the environment. Since SNURS published on May 6, these are the first proposed by EPA. CMA commented on the details of the proposals, as well as on the appropriateness of SNURS. The task group endorsed the general approach that EPA has taken with these rules, but commented on several specific aspects.

EPA published the final premanufacture notification (PMN) rule on May 13, which becomes effective July 12. CRAC is reviewing the detailed provisions of the rule. While EPA made substantial improvements over its two earlier proposals, our initial review finds some provisions troubling and going beyond EPA's statutory authority under TSCA. CRAC will determine what action, if any, is appropriate after further analysis of the rule and discussion among its members.

Biomedical and Environmental Special Programs

Arsenic

The American Industrial Health Council has approved a contribution of $20,000 for CMA's arsenic epidemiology study being conducted at the University of Michigan. The contribution is contingent upon matching contributions by both the American Petroleum Institute and the Electrical Power Research Institute.

Dr. William Lederer presented CMA's position on the proposed EPA regulation on arsenic under Section 112 of the Clean Air Act at the April 27, National Air Pollution Control Techniques Advisory Committee meeting. Dr. Lederer stated that in view of the recent data demonstrating that exposures to less than 500 ug/m^3 of airborne arsenic do not pose an increased cancer risk, arsenic should not be regulated under Section 112.

Benzene

In early April, OSHA announced its intention to open rulemaking on benzene. Soon after, the Public Citizens Health Research Group and several unions petitioned OSHA for an emergency temporary standard (ETS) of 1 ppm time weighted average (TWA_8).

In response to the petition, CMA and API wrote letters to OSHA which:

1) opposed an ETS on the basis that no "grave danger" to worker health presently exists; and

2) expressed no objection to reconsidering of the standard on a timetable agreeable to OSHA and the affected parties.

To date, OSHA has not responded to the petition; however, in anticipation of a rulemaking proceeding, the Program Panel is gathering information in several areas. These include:

1) exposure information, i.e., number of workers exposed and the level of exposure;

2) critique of risk assessments upon which the request for an ETS was made;

3) evaluation of new toxicological data;

4) close examination of the ancillary requirements in the 1978 standards; and

5) feasibility of compliance with a 1 ppm standard.

Epoxy Resins

The Epoxy Resins Panel developed a survey to gather use and exposure information on chemicals most widely used as adjuncts to epoxy resins. The survey was sent to the Society of the Plastics Industry, the National Paint and Coatings Association and the Adhesive and Sealant Council.

The Panel also is reviewing health effects information in a continuing effort to work with EPA in developing a reasonable regulatory response to the ITC recommendations on "glycidol and its derivatives."

Ethylene Oxide

The Ethylene Oxide Industry Council (EOIC) will respond to the OSHA notice of proposed rulemaking on ethylene oxide (EO). Comments are to be filed by June 17 and hearings are scheduled to begin July 19, 1983.

OSHA proposed to reduce the present EO workplace standard (50 ppm, TWA_8) to 1 ppm, with an action level of 0.5 ppm. The new standard will apply to the producer/ethoxylator industry, the medical device industry and to hospitals.

The EOIC will comment on all specifications in the standard. Although the standard is performance-based in certain areas, there are "suggested" procedures on which the EOIC will focus. The Council will not oppose the proposed permissible exposure limit if, under certain circumstances, it can be met through use of respirators.

Fluorocarbons

Members of the Fluorocarbons Program Panel recently met with representatives of the Department of State and EPA to develop a package for obtaining production and sales data on chlorofluorocarbons from companies in Eastern bloc countries. The package describes the Panel and its mission. Embassies from the USSR, China, Poland, Hungary, and Czechoslovakia have been contacted requesting their assistance in obtaining this information.

At the request of NASA, the Jet Propulsion Laboratory (JPL) has arranged to send a movie crew, photographers, and writers to Palestine, Texas, to cover the BIC II launch during May. The Panel provided funding for participants from Belgium, France, Italy, Japan, and the United Kingdom.

The use of DISC cameras on BIC I led to successful contacts with Kodak for publicity on BIC II. Kodak arranged for a television crew to film the launch from the ground, a helicopter to take pictures over the launching pad, and an airplane equipped to take movies to fly at a short distance from the balloon facility. A Kodak TV commercial could result from this filming. CMA will have access to all photos and footage from NASA (which is filming a documentary), JPL and Kodak.

Glycol Ethers

Interim results of the inhalation teratology study on ethylene glycol monobutyl ethers (EGBE) indicated that EGBE causes maternal toxicity and possible fetal toxicity. The report formed the basis of a submission to EPA by Eastman Kodak. A larger study in rats and rabbits was initiated to better define these effects.

Ketones

The Ketones Panel was informed by EPA that Federal Register notices giving final acceptance of the Panel's Voluntary Test Program will not be published until August 1983.

Methylenedianiline

On April 4, 1983, EPA announced the initiation of a 4,4'-methylene-dianiline (MDA) review under TSCA Section 4(f). EPA asked that information relevant to this chemical be subject to a Section 4(f) review. The Section 4(f) action was prompted by results from a 1982 National Toxicology Program bioassay which found MDA to be carcinogenic in both laboratory rats and mice. The Panel is developing information to submit to EPA. The Panel will meet with EPA to discuss the Agency's plans for regulatory activity.

Octylphenol

The Octylphenol Panel submitted a Voluntary Testing Proposal to EPA in response to the Interagency Testing Committee's recommendations on 4-(1,1,3,3-tetramethylbutyl) phenol. The Panel proposed to conduct acute flow-through studies in three freshwater species. Depending on the results from the acute studies, additional aquatic testing may be necessary.

Phthalate Esters

In a letter to the Consumer Product Safety Commission's (CPSC) Chairman Steorts, the Phthalate Esters Panel reiterated its position that sufficient data to perform a risk assessment on DEHP do not exist and that it would be premature to form a Chemical Hazard Advisory Committee in June. The Panel retained a consultant in risk assessment and also appealed CPSC's denial of its Freedom of Information Act request for copies of the exposure studies that will form the basis of the risk assessment. Quality assurance audits were performed on health and environmental effects studies submitted to EPA under the Voluntary Test Program.

Polychlorinated Biphenyls (PCBs)

On April 13, 1983, Representatives of the Environmental Defense Fund, the Natural Resources Defense Council and CMA's PCB Program Panel submitted a consensus proposal to EPA for a final rule on the inadvertent generation of PCBs. The effort was initiated by environmental groups and industry in light of the shared perception that their disagreements on numerous issues, relevant to inadvertently-generated PCBs, should not preclude developing of a reasonable rule. EPA has not yet responded to the proposal.

Trimellitates

The Panel submitted a proposal to EPA for a Voluntary Test Program which addresses both the ITC concerns and the issues raised by EPA at the course-setting meeting. EPA has accepted the proposal with minor changes.

EFFECTIVE WASTE HANDLING AND DISPOSAL

Superfund

Arthur D. Little has submitted its draft report that analyzes the number of inactive hazardous waste sites that may be subject to Superfund clean-up activities. This initial report is a significant data-gathering project of the Hazardous Waste Management Plan.

RCRA

In the last two months, CMA testified before the House Energy and Commerce Committee's Subcommittee on Commerce, Transportation and Tourism on RCRA reauthorization; before the House Subcommitee on Investigation and Oversight, Committee on Science and Technology on alternative technologies for the disposal of hazardous waste; and most recently on May 12, 1983, before the House Merchant Marine and Fisheries Committee on RCRA reauthorization.

The RCRA Task Group is providing the Government Relations Committee technical/policy support in evaluating proposed House amendments to the RCRA. In addition, the task group is developing alternative positions and/or legislative language as part of the mark-up process.

CMA has mailed a hazardous waste survey to member companies. The survey is a fundamental data-gathering project of the Hazardous Waste Management Plan. The completed surveys are due to CMA's contractor, ERM, Inc., by June 24, 1983. The final report is due by the end of July.

Environmental Testing and Certification Corporation, completed its final report on EPA's hazardous waste testing protocol -- SW-846. The report concludes that without substantial revision and modification, the methodology is so deficient that it is inappropriate as a compliance tool.

On May 12, 1983, CMA submitted comments to EPA on proposed RCRA "life-time" permits. Although we support the proposal, we offered several recommendations to make the regulations more viable.

Groundwater

In conjunction with the Communications Department, the Groundwater Management Task Group published a groundwater information booklet that gives basic information on groundwater, its use, and CMA positions.

INCIDENTAL CHEMICAL EXPOSURES AND PUBLIC HEALTH

The CRAC Impact Analysis Task Group (IATG) is preparing a paper on the measurement of competitiveness in the chemical industry. The paper will serve as a guide to determine how regulations affect competition and performance in the industry.

The IATG is examining a Clark University project on industrial risk management that seeks to learn how companies identify and control risks. The IATG will determine the feasibilty of chemical industry participation.

The Regulatory Impact Special Committee (RISC) is examining how regulatory agencies set their priorities, what the priorities are and how exposures and risks are estimated.

RISC has joined with the Environmental Management Committee (EMC) to examine the risk and economic analyses procedure that EPA is using to support its proposed effluent BAT guidelines for the organic chemicals and plastics/synthetic fibers industries. Findings will be used in CMA's comments on the proposed regulations.

ENERGY AND FEEDSTOCK SUPPLIES

Energy Taxes

CMA wrote the chairman and minority leaders in the House and Senate Budget Committees to oppose new energy taxes. We believe that additional energy taxes are not in the national interest because federal revenue increase will not offset the damage to the nation's economic recovery. CMA also is distributing copies of a paper entitled, "The Disasterous Impact of an Oil Import Fee", the paper highlights the serious consequences of such a tax or fee.

Reagan's Natural Gas Proposals

James D. Beatty, The Procter & Gamble Company, testified March 22 before the House Subcommittee on Fossil and Synthetic Fuels. He supported the Administration's proposed bill, Natural Gas Consumer Regulatory Reform Amendments Act of 1983. This is identical to the bill introduced in the Senate as S. 615. CMA also provided supplementary comments to questions asked at that Senate hearing.

National Energy Policy Plan IV (NEPP IV)

On March 25, CMA supported DOE plans to rely on the marketplace for efficient energy production and consumption. At an earlier public hearing, CMA supported the Administration's natural gas legislative proposals, and urged that new taxes should not be imposed on natural gas or petroleum, and that the government should rely on market forces to allocate energy resources during a declared emergency.

DOE hopes to delay submitting the NEPP IV to Congress until July 29.

CE-189 Industrial Energy Conservation Reporting Program

CMA asked DOE to revise its Energy Conservation reporting rules. Specifically, CMA urged DOE to eliminate the narrative commentary section of the report and the five-year retention requirement for supporting work papers.

SAFE AND COST-EFFECTIVE CHEMICAL PRODUCT DISTRIBUTION

CMA continues to impact maritime legislation. Our testimony on H. 1878 was well-received and the bill was modified to provide more freedom from carrier-controlled cartels. CMA's recommendations to exclude intermodal shipments from port/port loyalty contracts was adopted by the House. The bill has been referred to the House Subcommittee on Monopolies and Commercial Law. CMA will submit additional written comments.

Negotiations have started between CMA tank car providers and railroads. Joint meetings with the railroads and car builders were held on April 14 and 27, and May 26-27, 1983. The CMA Car Compensation Subgroup met several times to develop CMA positions and prepare for negotiations. CMA has petitioned for and received additional antitrust immunity for subcommittees meeting with other interested parties. The outcome of these negotiations could change the car compensation received by member companies by as much as $225 million.

The industry/state/local coalition draft legislation is proceeding with excellent cooperation from state and local members. A coalition meeting with Secretary Dole is planned for May. Continued progress may depend on the group's recommendations regarding funding for emergency response activities.

The Distribution Committee and the Legal Department prepared "pro-competition" language for an SRA Coalition proposed amendment to the Staggers Rail Act. We will continue to limit our involvement with the SRA coalition to supporting "pro-competition" as opposed to reregulating railroads.

A joint meeting on May 5, with the American Trucking Association and highway carriers established an initial program to improve hazardous material transportation safety.

CHEMTREC continues to be an important public relations activity that aids not only in reducing the impact of transportation emergencies but also in building government confidence in the chemical industry. CHEMTREC's current program to update its emergency response cards has brought together representatives of U.S. and Canadian industry groups, firefighters and the Department of Transporation to develop standard phrases for emergency response. As always, many representatives from government and private interest groups toured CHEMTREC during the past month and CHEMTREC staff actively participated in meetings on disaster control. CHEMTREC participated in the Great American Railroad Show and conducted an Emergency Team Workshop in Houston.

CMA appealed the ICC decision on market dominance in the Fifth Court on April 6, 1983.

CMA testified against proposed legislation which would require that chemical exports be carried in vessels built and flagged in the United States.

CMA filed to intervene in a complaint before the ICC which alleges that defendant railroads cancelled through routes and/or joint rates and reciprocal switching. These actions by the railroads tend to eliminate intramodal competition.

OCCUPATIONAL SAFETY AND HEALTH

In comments submitted March 31, 1983, CMA commended OSHA for drafting a separate performance standard for laboratories. CMA recommended that the draft proposed standard of October 7, 1982, should not deviate from OSHA's stated intention of developing a performance standard. This deviation is most apparent in the inclusion of a table listing substances, exposure levels and detailed guidelines for providing medical evaluation.

On May 11-12, CMA held a one-and one-half day symposium on managing reproductive hazards in the workplace. Attendees suggested that CMA should set up a network for exchanging information on reproductive hazards.

CLEAN AIR

Air Quality Standards

CMA is examining the quantitative and qualitative rationale for exploring standard-setting options for ozone. The study results will be used in commenting on EPA's revisions to the ozone criteria document and the national ambient air quality standard.

On May 4, 1983, CMA submitted comments to EPA on a proposed policy and rules for areas not in compliance with Part D of the Clean Air Act -- the so-called nonattainment sanctions policy. CMA raised significant concerns with EPA proposed sanctions policy/rules.

Representatives of EMC's Air Task Groups and the State Affairs Environmental Group are developing a CMA position on state hazardous air pollutant regulatory and statutory activities.

New Source Performance Standards

CMA testified before the National Air Pollution Control Techniques Advisory Committee on the draft proposed new source performance standard for volatile organic compound emissions from the polymer manufacturing industry.

CMA also submitted comments to EPA on the proposed new source performance standard for fugitive emissions from petroleum refineries. The comments argued that flares effectively control fugitive emissions.

CLEAN WATER

Effluent Guidelines

On April 7, 1983, CMA sponsored an information seminar on EPA's proposed effluent guidelines for the organic chemicals, plastics and synthetic fibers category. The seminar was attended by 197 individuals from 99 companies.

CMA has entered into two contracts to assist in commenting on the proposed effluent limitation guidelines. The first is with Engineering Science to review and analyze the technical aspects of the EPA proposal. The second contract is with Peat, Marwick, Mitchell & Company to review and analyze EPA's economic impact documents for the proposal.

Clean Water Act Amendments

On April 14, 1983, Robert C. Forney, E. I. du Pont de Nemours & Company, testified on behalf of CMA before the Subcommittee on Environmental Pollution of the Senate Environment and Public Works Committee on Clean Water Act Reauthorization/Amendment. The testimony concentrated on BAT modification, flexibility in the pretreatment program, compliance date extensions, and nonpoint sources pollution.

EFFECTIVE PHYSICAL PLANT MANAGEMENT AND DESIGN

National Codes and Standards

The CMA-sponsored American National Standards Committee on Aluminum Storage Tanks will be reorganized as a committee of the American Society of Mechanical Engineers.

CMA approved revisions to the American National Standard Institute Constitution, and expressed concerns about proposed revisions to ANSI/ASME B31.1 (Power Piping).

EXHIBIT G

REPORT OF THE DIRECTOR OF COMMUNICATIONS

JON HOLTZMAN

Clean Water -

The pilot targeted communications program, a cooperative effort of government relations and communications to assure that clean water issues are being tracked and evaluated at the local level, is now being conducted in nine states. The project - Citizens for Effective Environmental Action Now (CEEAN) - is supported by a broad-based group of local businesses and their employees; mayors and other local government officials; and professional and trade organizations. CEEAN is funded by CMA and staffed by John Adams Associates. It encourages more frequent communications between members of Congress and their constituents on clean water issues.

Media tours to support this effort were conducted in Minneapolis, St. Paul and Duluth, Minn.; State College and Clearfield, Pa.; and Superior, Wisc. Production of a half-hour television news piece on clean water issues -- entitled "The Living River" -- neared completion in May. The program, which is designed for use by cable and commercial television station public affairs programming, will be distributed in June.

On behalf of the Ground Water Management Task Group we produced a 16-page publication entitled Ground Water to answer basic questions about the use, management and production of the national water supply.

Effective Waste Handling and Disposal -

CMA completed its most ambitious television project in May -- a live, hour-long telenews conference on hazardous waste issues. The news conference was broadcast -- via satellite -- from the Chamber of Commerce's BizNet studios in Washington. More than 1,100 television and radio stations across the country made up the target media audience. In addition, arrangements were made for print and broadcast media in Chicago and Houston to attend special "airings" of the news conference.

CMA staff hosted nine members of the Washington area media at its headquarters where they viewed and discussed the telenews conference. Media tours on waste issues also were conducted during the period -- in Columbia and Charleston, S.C., and Boston, Mass.

We arranged print and broadcast media interviews on the public compensation issue, and coordinated -- and took part in the development of materials for -- a press conference on the Superfund "waste-end" tax issue in which CMA participated with Rep. Claudine Schneider (R.-R.I.) and Rep. Ron Wyden (D.-Ore.).

We are assisting the Conservation Foundation in promoting its new book "Siting Hazardous Waste Management Facilities," which was co-edited by Dr. Geraldine Cox and Dr. Glenn Paulson, National Audubon Society. Activities include media tours, special press releases and targeted mailings of the book.

Commercial Production of Chemicals -

A two-part radio series on advances in agricultural application of chemicals was produced during the period, as well as a five-part series on the importance of science education.

We produced a guide and glossary of chemical terms entitled "Consumer's Chemistry" for distribution to the general public.

Incidental Chemical Exposures and Public Health -

Reprints of the Jackson Browning speech on public compensation and Bruce Karrh's testimony on the need for study of health effects were published and distributed to government, business, technical and media contacts.

A leaflet focusing on chemical exposures and health, produced at American Cyanamid and designed to be mailed to shareholders has begun attracting orders. It now appears as many as half of the board member companies will use the material. It is being printed by CMA.

A television news feature on the reauthorization of the Toxic Substances Control Act was produced during the period, as well as radio news features on PCBs and epidemiology. Interviews were arranged with selected media on the industry's position on TSCA reauthorization. In addition, we produced a radio news feature on the Balloon Intercomparison Campaign (BIC), of which the CMA Chlorofluorocarbon Special Program Panel is a sponsor. We also coordinated a joint effort by the Panel and the Eastman Kodak Company to publicize BIC -- and the industry's participation in it -- through the company's advertisements for its new "disc" camera technology. The technology is used in the photographic elements of BIC's examination of the condition of the earth's ozone layer.

Occupational Safety and Health -

A television news feature on proposed OSHA labeling regulations was produced. A similar radio news feature also was produced for CMA's "The Report" radio series, as well as another dealing with the industry's general efforts to protect worker health and safety. In addition, a CMA spokesman appeared on the ABC television program "Good Morning America" to discuss the labeling issue.

Safe and Cost Effective Chemical Product Distribution -

"Accident," a half-hour news program for cable television networks and commercial stations, neared completion in May. The program deals with industry's efforts to ensure safe transportation of its products.

CMA is committing its entire advertising budget ($100,000) for the next fiscal year to produce and place advertising in connection with chemical transportation incidents. The ads will be quarter-page newspaper formats designed to appear any time there is a transportation emergency of national scope. Ads would include copy addressing the specific incident as well as general copy about CHEMTREC. Within 24-72 hours following the incident, CMA will place the ad in the local newspaper where the incident occurred, The New York Times and The Washington Post. This is to assure ongoing recognition of CHEMTREC's contribution to safety.

The communications department is assisting the technical department in support of the biennial Hazardous Material Spills Conference in Nashville, April 1984. We will work with local officials, media and the trade press to publicize safety records of various modes of transportation.

Energy and Feedstock Supplies -

We have arranged for four television and two radio interviews with Farm Broadcasters on decontrol of natural gas.

State Level Communications and Coordination -

The Louisiana Chemical Association's media survey has uncovered a large credibility gap between the media and the industry. A public relations counsel has been retained and is preparing members for a series of media visits to address the problem. The effort spreads across all issues but concentrates on clean air and water, waste handling, chemical exposure and public health and occupational health and safety. CMA funding and counsel for the program continues.

CMA
BD - 6/8/83

EXHIBIT H

REPORT OF THE DIRECTOR OF GOVERNMENT RELATIONS

WILLIAM M. STOVER

NATIONAL ECONOMIC POLICIES: BUDGET AND TAX LEGISLATION

On April 21, the Senate Budget Committee reported a budget resolution for Fiscal 1984 which would require more than $30 billion in new taxes. In May, the debate shifted to the Senate Floor and prospects for early enactment of a compromise resolution are remote. Senators who will seek re-election next year cannot accept the prospect that the Federal deficits may exceed $200 billion in Fiscal 1984 and succeeding years.

There is little agreement forming on how to reduce the size of the deficits. The immediate issue is whether it will be necessary to raise taxes to reduce these deficits, and the Senate is closely divided on this point. President Reagan has strongly opposed tax increases, especially any attempt to delay the third year of the individual tax cut or indexing. The Senate Republican leadership has urged the President to take a more active and flexible role in resolving the budget impasse.

House Ways and Means Committee Chairman Dan Rostenkowski (D-IL) was unable to delay legislation to repeal withholding on dividends and interest. By voice vote, the Committee favorably reported this legislation to the House and it is anticipated that it will be adopted by an overwhelming majority.

The outlook for a budget compromise is still very much in question. The likelihood that Congress would initiate large tax increase legislation in the absence of a clear budget mandate is very small. There is growing doubt that the Congress will adopt a joint budget resolution this year. If so, Congressional Federal spending would depend on the appropriations process as was the case prior to 1974.

At its April meeting, the CMA Board of Directors adopted a position on the Administration's budget for Fiscal 1984. It stresses the need to balance the Federal budget through reductions in government spending. It opposes new taxes on energy, but recognizes that it may be necessary to adopt selected tax increases to obtain a balanced budget. This should be accomplished by deferring previously enacted tax reductions other than the 10 percent individual income tax rates. This position provides guidelines for CMA's budget and tax efforts with the Congress and in Washington business coalitions.

NATIONAL ECONOMIC POLICIES: DOMESTIC INTERNATIONAL SALES CORPORATIONS (DISC)

With the strong support of the business community, the Administration continues to develop an alternative tax incentive for exports equivalent to the DISC provisions of the Internal Revenue Code.

In general, the Administration's proposal would adopt a territorial tax system to replace DISC. Under the proposal, the new sales entity would be based abroad and would not be subject to current U.S. income taxes. Favorable pricing rules, similar to those developed under DISC, would apply to sales between the manufacturing parent and the foreign sales entity. Several options for handling DISC deferrals are being studied including re-investment on a tax-free basis in the new export sales entity.

Business response to the Administration proposal continues to be favorable. Congressional staff sources have indicated that they will begin drafting legislative language in May. In addition, the Senate Finance Committee may hold hearings on the Administration proposal before June.

The Joint Committee on Taxation has estimated that the chemical industry annual deferred taxes under DISC are about $300 million. Cumulative deferred taxes for the industry are estimated to exceed $2 billion.

CMA is closely monitoring all developments with respect to DISC and is coordinating its efforts with allied trade associations and related groups.

ENERGY AND FEEDSTOCK SUPPLIES: NATURAL GAS DEREGULATION

The Senate Energy and Natural Resources Committee will begin its second month of reviewing natural gas legislation with consideration of an old gas decontrol compromise proposal that may be offered by Chairman James A. McClure (R-ID). The three-part proposal would alter the Administration's bill (S. 615), which is being used as the markup vehicle. Major changes would assure continued service, prevent "shutting-in" gas supplies, and avoid a substantial price impact during the heating season. Provisions of the Administration bill may be amended only with a majority vote of the Committee and will remain in the bill in the case of a tie vote. Chairman McClure has indicated, however, that a majority vote is required to uphold the most controversial aspect of S. 615, which would decontrol the price of "old" gas.

Three key votes have occurred. Proposals that would have procedurally deleted the subject of "old" gas and the contract "market-out" provisions from the measure were not adopted. Amendments passed affecting gas purchasing and distribution practices. An affirmative vote on the "old" gas decontrol issue may be required in addition to the proposal expected to be offered by Chairman McClure. Ranking Minority Member J. Bennett Johnston (D-LA) may offer a substitute version to the markup vehicle.

In the House, the Energy and Commerce Subcommittee on Fossil and Synthetic Fuels is expected to hold two days of markup on May 25 and 26. Chairman Philip R. Sharp (D-IN-10) intends to compile his own markup vehicle and is now discussing what should be in a consensus committee print. It appears that the markup vehicle will be close to H.R. 2508, introduced by Representatives James G. Slattery (D-KA-2) and Daniel R. Coats (R-IN-4) and supported by the

American Gas Association. Old gas decontrol is not provided for in that proposal.

CMA views H.R. 2508 as a piecemeal, one-sided approach to problems created by existing law and not in the best interest of consumers. CMA strongly supports the comprehensive and balanced Administration approach to a phased deregulation of all gas (H.R. 1760). Coalition efforts continue urging that old gas decontrol be retained as the essential element of any bill and participation continues in the activities of the Natural Gas Consumer Information Center (NGCIC).

SAFE AND COST EFFECTIVE CHEMICAL PRODUCT DISTRIBUTION: MARITIME REFORM

The Monopolies and Commercial Law Subcommittee of the House Judiciary Committee held hearings on maritime regulatory reform (H.R. 1878) May 18 and 19. CMA testimony was presented on May 18 by Richard E. Bailey, Transportation Manager-International of Monsanto Company. A statement and a detailed package of suggested amendments has been provided to Committee Members and extensive meetings have been held with Committee staff.

The CMA viewpoint was also provided to the House Merchant Marine and Fisheries Committee during testimony on March 22. The following day, markup of H.R. 1878 occurred.

Assurances have been received that many of the chemical industry proposals will be favorably considered. Further pro-competition language is being sought by CMA to offset greater carrier anti-trust immunity and to provide for the right of independent rate-making authority.

SAFE AND COST EFFECTIVE CHEMICAL PRODUCT DISTRIBUTION: CARGO RESERVATION

On May 5, the House Subcommittee on Merchant Marine held a hearing on a cargo reservation bill (H.R. 1242) that would require a certain percentage of bulk shipments be transported in U.S. flag vessels. CMA testimony in opposition to the bill was presented by H. George Miller, Director Distribution for The Lubrizol Corporation. The CMA viewpoint is that such legislation would make U.S. exporters of chemicals and other products less competitive in world markets. Our testimony was part of a coalition panel opposing any bill that would in essence create a subsidy in the form of guaranteed cargo. Decreased exports, a reduction in manufacturing jobs, and increased import prices for U.S. consumers were also emphasized by the panel as negative results of such legislation.

Additional hearings scheduled in the House are limited to proposals that would require government cargoes to be transported on U.S. flag vessels. Similar legislative proposals have not been introduced in the Senate.

ESTABLISH AND MAINTAIN SAFE DISPOSAL FACILITIES AND PRACTICES: R.C.R.A. REAUTHORIZATION

The House is moving rapidly on comprehensive amendments to the nation's hazardous waste law, the Resource Conservation and Recovery Act (RCRA). After holding hearings at which CMA testified, Commerce and Transportation Subcommittee Chairman Representative James Florio (D-NJ), introduced amendments to RCRA, H.R. 2478. The subcommittee attached a number of punitive amendments to the bill before it was unanimously approved and advanced to the full Energy and Commerce Committee. At this stage, it was reintroduced as H.R. 2867 and the members of the full committee added an additional twenty amendments. Many of these further tightened the already strict provisions of RCRA.

The bill presently contains many provisions opposed by the business community. The two most onerous for the chemical industry are restrictions on land disposal and punitive enforcement criteria. The land disposal section contains two lists of substances which must be reviewed within a specified time period to determine whether continued land disposal will be permitted. Either a negative determination or no determination would prohibit all further land disposal of these substances. The first of these is the so-called California list, on which a determination must be made within one year. The second is a requirement to review all of the Section 3001 hazardous wastes. This review must be completed within 54 months.

The enforcement section includes provisions to substantially increase penalties, to permit EPA enforcement personnel to carry firearms and serve warrants, to allow citizen's suits, to restrain persons from contributing to the endangerment of health by either present or past actions, and to create a new federal common law of nuisance. The Judiciary Committee has claimed jurisdiction over H.R. 2867 because of concern with these enforcement provisions.

H.R. 2867 is expected to be taken to the floor of the House of Representatives within the next month. Chances of the business community improving the bill through floor amendments appear extremely slim. Additionally, there is concern that a public compensation amendment might be offered on the House floor.

In the Senate, the Environment and Public Works Subcommittee on Environmental Pollution is expected to begin hearings on the reauthorization of RCRA about mid-June.

REASONABLE CLEAN AIR PERMITS: CLEAN AIR ACT AMENDMENTS

The House and Senate Committees with jurisdiction over environmental laws will probably consider reauthorization bills before taking up the Clean Air Act, thus postponing for a time the debate over modifications of the Act. However, key members of Congress continue to express an interest in amending the Act.

EPA Administrator designee William Ruckelshaus was questioned at his recent confirmation hearings by members of the Senate Environment and Public Works Committee on several clean air issues, especially acid rain. Also, Ruckelshaus was asked to reconsider the Administration's Eleven Principles for Clean Air Act Amendment of 1980. Most observers believe he will need some time to shape his own clean air program and strategy.

During this lull the CMA Clean Air Act Task Group is conducting visits with members and staff to evaluate where they stand on the hazardous air pollutants issue, (Section 112). CMA continues to argue that it would be poor public policy for the manufacturers and users of substances under study by EPA to be penalized because of Agency inaction.

In a recent regulatory development, CMA supported EPA's "Proposed Process for Evaluation and Control of Toxic Air Pollutants", in an effort to achieve the best and most expeditious administrative review of substances under Section 112. If this action is viewed as a sincere and constructive approach it could assist CMA in its efforts to convince key members of Congress that Section 112 can work and does not need amendment.

REASONABLE WATER USE PERMITS: CLEAN WATER ACT AMENDMENTS

The Senate Environment and Public Works Subcommittee on Environmental Pollution, chaired by Senator John Chafee (R-RI), has completed hearings on the reauthorization of the Clean Water Act. CMA testified at these hearings in support of a Best Available Technology (BAT) modification on a case-by-case basis. The testimony stressed that changes to the Clean Water Act must begin to reflect the success the nation has achieved in cleaning up its waterways and that industry must be granted the statutory flexibility it needs to meet the remaining clean water goals. The Senate Clean Water bill, S. 431, does not contain provisions for a BAT modification.

On the House side, Representative Robert Roe (D-NJ), chairman of the House Public Works and Transportation Subcommittee on Water Resources plans to begin hearings in June on the reauthorization of the Clean Water Act.

The CMA Clean Water Act Task Group has developed a contacts program with members of the House and Senate committees. We will continue to work for amendments on a BAT modification and the pretreatment program.

CLEAN UP OR CONTAIN OLD PROBLEM WASTE SITES: C.E.R.C.L.A.

Congress has recently focused on the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) program because of the recent Environmental Protection Agency (EPA) controversy. It now appears that Congress might not wait until 1985 to reauthorize the CERCLA program. A number of proposals have been introduced to provide additional revenue and to extend the life of the hazardous waste site clean-up program. Of interest to CMA is the fact that several proposals recommend switching the tax mechanism from feedstocks to the waste-end. The momentum for the waste-end tax is building around the desire to provide incentives to move away from land disposal of hazardous waste.

CMA has recently been approached by several members of Congress to assist in developing and gathering public support for the waste-end tax mechanism, a concept CMA has publicly advocated since 1980.

The CMA Tax Policy Committee has formed a multi-disciplinary work group to analyze these proposals and to develop an acceptable and workable waste-end mechanism. This effort is receiving priority attention.

In another CERCLA development, CMA has underway a joint legal and government relations project to educate key members of Congress and staff on the value of the negotiated settlement process for waste site clean-up. In the first phase of this project, lawyer/lobbyist CMA company teams contacted 17 key members of the House and Senate to explain their experience with negotiated settlements and to ask support for preserving that option. From these first phase contacts we read a high level of congressional support for the settlement option. Although the EPA memorandum has been rescinded, CMA plans to make further contacts with members in the hope that the negotiated settlement process can be preserved despite the currently difficult medial/political atmosphere.

INCIDENTAL CHEMICAL EXPOSURES AND PUBLIC HEALTH: PUBLIC COMPENSATION

The increased attention to EPA's management of the CERCLA and hazardous waste programs, particularly the buy-out of Times Beach, Missouri, has elevated Congressional interest in creating a trust fund to compensate people who might have been exposed to a hazardous substance or hazardous waste. This interest has resulted in a wide range of legislation being introduced in the House and Senate. Proposals include approaches to : effect the Superfund section 301(e) report; change the rules of causation for exposure to any hazardous substance; and create a new fund to compensate people who have been injured from exposure to hazardous waste sites.

Before any legislative approach is considered, CMA believes the health studies required under CERCLA should be conducted. To support this approach, CMA joined in February as a plaintiff in a lawsuit initiated by the Environmental Defense Fund (EDF) against the Environmental Protection Agency and the Department of Health and Human Services to compel both agencies to develop information on the nature and extent of potential health risks from waste sites.

Representative James Scheuer (D-NY), chairman of the House Science and Technology Subcommittee, recently held a hearing to explore with CMA and EDF the need to conduct the health studies required under CERCLA. CMA testified that additional scientific study is needed to provide a factual basis for Congressional consideration of public policy dealing with possible health risks from waste disposal sites. Our witness was Dr. Bruce W. Karrh, General Director of Medical, Safety and Fire Protection of E.I. du Pont de Nemours and Company. As a result of this hearing, Representative Scheuer's subcommittee has approved the expenditure of money in EPA's budget to conduct the required health studies.

COMMERCIAL PRODUCTION OF CHEMICALS: TSCA REAUTHORIZATION

Representative Jim Florio (D-NJ), chairman of the Energy and Commerce subcommittee on Commerce and Transportation recently held a hearing on the reauthorization of the Toxic Substances Control Act (TSCA). Mr. Florio attempted to lay the foundation for amending TSCA to require minimum testing for all new chemicals by referring to an Office of Technology Assessment (OTA) report which analyzed the kinds and amounts of test data included on the premanufacture notifications (PMN's) submitted to date. But several witnesses, including a representative from OTA, testified that they do not see the need for an amendment to require minimum testing because the PMN trends are encouraging. They also argued that for the vast majority of PMN substances the use of structure activity analysis being used by EPA is a sound approach and no cause for concern.

CMA testified at this hearing in support of reauthorizing TSCA without amendment because the Act is now being effectively administered according to Congressional Intent. Specifically, CMA made a strong case that an amendment regaining a minimum testing requirement for all new chemicals is not necessary.

Representative Florio is expected to hold subcommittee markup soon and he may offer an amendment on minimum testing. In the Senate no action on TSCA has been scheduled.

CMA's government relations TSCA task group has been actively making contacts with key Congressional members and staff to educate them on our position for a simple reauthorization of TSCA without amendment.

OCCUPATIONAL SAFETY AND HEALTH: DISEASE COMPENSATION

Representative George Miller (D-Cal.), continues to draft occupational disease compensation legislation that would provide for an administrative compensation mechanism for occupational exposure to asbestos and it would also provide a "trigger mechanism" for adding additional toxic substances. A CMA technical task group is analyzing Mr. Miller's draft bill, particularly its presumptions and the "trigger mechanism". CMA is opposed to having the "trigger mechanism" as part of Miller's proposal.

Representative Joseph Gaydos' (D-PA) Subcommittee on Health and Safety has held a series of OSHA oversight hearings in May, focusing on state plans. Representative Gaydos may hold broader OSHA oversight hearings next month.

NATIONAL ECONOMIC POLICIES: PETROCHEMICAL COMPETITIVE ASSESSMENT

There is concern in the Administration about the depressed state of the U.S. petrochemical industry. This has led to two competitive assessment studies detailing growing production of these commodity chemicals in oil and gas rich countries and the effect on the U.S. industry. It is commonly accepted that petrochemicals amount to 45 percent of total U.S. chemical sales.

The International Trade Commission just issued a report "The Probable Impact on the U.S. Petrochemical Industry of the Expanding Petrochemical Industries in the Conventional Energy Rich Countries". The Department of Commerce has prepared a similar report not yet published. Both reports provide considerable detail on the expected stagnation of the U.S. petrochemical industry. While much of the material is factual and contributes to understanding of the problem, there are negative aspects to the conclusions which CMA is working to correct. It is important that in acknowledging the present difficult circumstances, the industry must not be written off as "finished" or "smokestack".

CMA has encouraged a letter from Mr. Ted Killheffer, Chairman of the Chemical Industry Sector Advisory Committee, which comments strongly on the Department of Commerce study. It has been agreed the same action will be taken in the International Trade Commission study.

NATIONAL ECONOMIC POLICIES: REORGANIZATION OF THE U.S. GOVERNMENT'S TRADE FUNCTIONS

Senator Roth (R-DE) has introduced legislation which would create a cabinet-level position with responsibility for international trade. Until a month ago, this legislation received very little attention; and there had been a lack of interest in the previous Congress when Senator Roth introduced an identical bill.

Recently, however, the Administration has endorsed a reorganization of its international trade functions along the lines proposed by Senator Roth. The Administration proposal would abolish the Department of Commerce and replace it with a Department of International Trade. The current Office of the U.S. Trade Representative, Commerce's International Trade Administration and the Census Bureau would all be part of the new department. The Administration plans to work with Senator Roth in order to prepare a compromise bill.

In the past, CMA's International Trade Committee (ITC) has opposed th reorganization of the existing trade functions, feeling that it was already operating well. However, the ITC's Export Policy Task Group plans to reexamine the issue and provide recommendations.

NATIONAL ECONOMIC POLICIES: PATENT TERM RESTORATION

Senator Charles W. Mathias (R-MD), Chairman of the Senate Judiciary Subcommittee on Patents, Trademarks, and Copyrights, has announced that the Subcommittee will hold a public hearing June 22 on patent term restoration legislation. Although no major patent term restoration legislation has yet been introduced, Senator Mathias is committed to the passage of a strong bill in the 98th Congress. Staff sources indicate that in the very near future, he will introduce a bill substantially similar to S. 255 which passed the Senate in the 97th Congress.

The prospects for early House action are less clear. Congressman Robert Kastenmeier (D-WI), Chairman of the Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice, has said that he expects the Subcommittee to consider the Patent Term Restoration bill in the 98th Congress. Other bills, however, will receive prior attention from the Subcommittee.

CMA is active in the coalition of allied business groups supporting early enactment of patent term restoration legislation.

PROTECTION OF INDUSTRY TECHNOLOGY: PRODUCT LIABILITY

On April 27, the Consumer Subcommittee of the Senate Commerce Committee continued hearings on S. 44, the Product Liability Risk Retention Act. S. 44, which was introduced by Subcommittee Chairman Robert W. Kasten, Jr., (R-WI), is identical to the bill reported by the Senate Commerce Committee in the 97th Congress.

Senator Ernest F. Hollings (D-SC), the Committee's ranking minority member, had requested the April 27 hearing to develop the case against S. 44. Senator Hollings, however, failed to appear at the hearing. Negotiations are underway to schedule a date for committee mark-up of S. 44.

In the House, Congressman Norman D. Shumway (R-CA) has introduced H.R. 2729, a bill which is similar to S. 44. Congressman Henry A. Waxman (D-CA), Chairman of the House Energy and Commerce Subcommittee on Health and the Environment, has stated that the subcommittee will not address product liability legislation until after the Senate acts, but will then move quickly to develop a bill.

CMA is working closely with allied trade associations and groups advocating early passage of this important legislation.

NATIONAL ECONOMIC POLICIES: GENERALIZED SYSTEM OF PREFERENCES

The Generalized System of Preferences (GSP) provides for duty free entry into the United States of imports from 140 of the world's developing nations. During 1982, 413 million dollars of chemicals were imported duty free into the United States. A number of member companies have found it necessary to take action against certain of these imports.

The GSP program was created by the Trade Act of 1974 and is due to expire on January 3, 1985. Both the Administration and the Congress believe it is necessary to reauthorize GSP in this session of Congress thus avoiding a politically sensitive issue during an election year. In recent hearings held by the Administration to hear suggestions for reauthorization of GSP, 105 organizations and individuals testified.

Leo Johnstone, the Chemical Industry Trade Advisor, appeared on behalf of CMA and SOCMA. He expressed the view that the program has been generally satisfactory but made specific suggestions for changes. Included were those relating to the graduation of products and countries from duty free eligibility, limitations of import levels, dealing with multi-product categories of chemicals, and denial of benefits to countries that fail to provide for the protection of U.S. industrial property rights.

CMA will follow closely the development of the Administration's GSP Bill before and after it is introduced.

NATIONAL ECONOMIC POLICIES: INTERNATIONAL INVESTMENT RESTRICTIONS

The CMA International Trade Committee's Investment Policy Task Group has prepared a comprehensive policy statement on future U.S. policies toward international investment decisions. It was based on the results of a questionnaire sent to all CMA members which sought their views on international investment opportunities and restrictions.

The paper, which is being presented to the Board for approval, recommends that a global rollback of foreign investment decisions be achieved through the following staged mechanisms:

- Implement bilateral investment treaties with those countries which practice the most harmful investment restrictions;
- Use these bilateral treaties as a framework to incorporate a multilateral investment agreement into GATT;
- Provide the President greater flexibility to respond to investment restrictions imposed by our trading partners.

STATE LEVEL COMMUNICATION & COORDINATION:

There are now 23 states that have adjourned their 1983 legislative sessions, but activity is continuing in many states where the chemical industry has serious concerns. Most states will adjourn by mid-summer. Budget shortfalls still remain the most widespread concern. A number of states have increased certain fees, boosted corporate income taxes, speeded up tax collections and delayed the ending of other taxes; all of these actions having an impact upon our industry.

CMA STATE AFFAIRS SPECIAL COMMITTEE: TASK GROUP ACTIVITY

The Hazardous Materials Transportation Task Group is developing issue papers on transportation restrictions, including routing, curfews and prenotification. The task group is working closely with the CMA Distribution Committee. Adoption of a State Good Samaritan statute is still an ongoing effort, working in conjunction with other national trade associations.

The Hazards Communication Task Group is developing testimony "modules" for use by state industry groups in testifying on right to know proposals. The group is gathering existing examples and will draft "model" comments on key issues that can be tailored to the particular requirements of each state.

A joint work group has been established by the Hazardous Waste Disposal and Environmental Task Groups to address the issue of state environmental permit fees. This is a growing concern as states attempt to fund their environmental programs through direct levies on the regulated community. This trend was continued in March in New York where Governor Cuomo attempted to cut all general revenue funding from a 14,000 person agency and replace it with an open ended fee scheme that could have generaged $500 million or more. The final bill was considered improved but still would generate $12 million per year.

Legislative and regulatory activities involving chronic health issues have been increasing in a number of states. The State Affairs staff recently developed a listing of the ten most active states in this area in response to a request by The American Industrial Health Council (AIHC). Included in the listing was a discussion of the states involvement in the areas of epidemiology, risk assessment, sound science and birth defects registry. The Environmental Task Group is continuing to work closely with AIHC in dealing with this issue.

In the absence of Federal action, states are continuing to develop toxic air control programs to address hazardous air pollutants. Some of the more active: California, Connecticut, Massachusetts and Texas. The Environmental Task Group is finalizing strategy papers to be utilized by member company state affairs personnel.

KEY ISSUE: RIGHT-TO-KNOW

Forty bills in at least 29 states have been introduced in right-to-know since January. It has become the most active issue in the states for the chemical industry. The industry strategy has been to oppose the bills on the grounds that comprehensive federal regulation of hazards communication is expected this year. To date, our efforts have been largely successful and no new legislation has been enacted. However, there are a number of states where bills have reached a critical stage.

New Jersey. A bill in the state Senate, which has been the focal point of right-to-know activity in the state, has now been reported out of committee and awaits floor action. In addition, a companion House bill is in similar position. Industry efforts have been coordinated through the New Jersey Chamber of Commerce with the New Jersey Chemical Industry Council playing a major role. Final action is likely during June. Two of the major areas of concern are universal labeling and trade secret protection.

Massachusetts. A series of bills are awaiting action in both the House and Senate Ways and Means Committees. The Associated Industries of Massachusetts, together with the newly formed chemical industry group, are organizing a grassroot effort to defeat these proposals which have developed considerable momentum this Spring.

Illinois. Discussions continue on a bill sponsored by the state majority leader. Chemical and petroleum industry representatives have been working to develop an acceptable solution.

Other states with active proposals include Maine, Louisiana, Minnesota, Wisconsin, Florida, Oregon, Rhode Island and Missouri. Bills have been defeated or otherwise dealt with in Arizona, Arkansas, Georgia, Indiana, Nebraska, Maryland, Montana, Delaware, North Dakota and West Virginia.

KEY ISSUE: HAZARDOUS WASTE

The most significant development has been passage of the Minnesota Superfund. This was the culmination of a two-year battle in the state over a very broad approach to hazardous substance releases. The bill has onerous liability provisions (strict, joint and several) that apply to both cleanup and personal injury damages. Significant changes to the rules of causation were also instituted. Although the bill contains no victim compensation fund, it mandates a one-year study of the need for such a fund.

Florida has been considering legislation to fund inactive waste site cleanup as part of an overall program of groundwater protection. Because Florida has a limited base to fund a waste end tax, the legislature has been searching for alternatives. House 1129 currently contains a 1½% excise tax on the sale on chemical products. The Senate is considering diverting interest from an existing oil spill fund. Resolution is likely to come in conference committee.

Both California and New York are on the verge of reopening their Superfund laws, passed in 1981 and 1982 respectively. In California, concern centers on the state's ability to move quickly and independently to clean up sites - independent of the federal program if necessary. As part of these proposed changes, strict, joint and several liability would be added for cleanup. In addition, treble damages are authorized where a responsible party does not proceed with cleanup when administratively ordered and is subsequently found liable. In New York, collections under the waste end tax are running substantially behind estimates. The legislature will be looking at schemes to increase collections to $10 million per year.

Louisiana is considering numerous proposals that would limit disposal of hazardous waste within the state. It appears that these bills will be effectively addressed.

Other states with significant activity include Missouri where Superfund is being amended in the Senate; Illinois where waste disposal fees may be quadrupled; New Jersey where amendments to the spill fund tax are still pending; Michigan where appropriations for Superfund site cleanup have been introduced; and Washington where Superfund is moving.

KEY ISSUE: ENVIRONMENT REGULATIONS/AIR

Assemblywoman Sally Tanner, Chairwoman of the California Assembly Committee on Consumer Protection and Hazardous Materials held a hearing in late April to discuss amendments to her toxic air bill. The Tanner bill spells out procedures to be used by the California Air Resources Board in implementing a toxic air emissions program, and its provisions are vastly different than those supported by industry. The bill includes a rebuttable presumption that in considering any compound/emission as a potential toxic air contaminant, the California Air Resources Board (CARB) must utilize scientific criteria which are the most protective of public health unless these is clear and convincing scientific evidence that less protective criteria are justified. This would effectively preclude the use of good science. It is anticipated that the bill will reach the floor sometime in July.

KEY ISSUE: ENVIRONMENT REGULATIONS/WATER

Many states are currently implementing and expanding their groundwater policies in anticipation of increased activity by industry due to RCRA groundwater monitoring requirements. The Environmental Task Group is working with members of CMA's Groundwater Task Group to monitor groundwater management in the states. In new York, a Senate bill would restrict or prohibit incompatible uses over primary groundwater recharge areas. Another would prohibit any new landfills and phase out existing landfills over deep flow recharge areas in Nassau and Suffolk counties. Both bills have recently moved out of committee.

KEY ISSUE: TRANSPORTATION OF HAZARDOUS MATERIALS

Currently 13 states have some form of Good Samaritan legislation. Arkansas, Georgia, New Jersey, North Carolina, Rhode Island, and Virginia have legislation that covers only compressed gases, specifically LPG and LNG.

Maine, New Hampshire, Pennsylvania, South Dakota, Tennessee, Texas, and Washington have legislation that covers hazardous materials in general. Arkansas and New Jersey have introduced additional legislation that would include them in this latter grouping. States which have introduced Good Samaritan bills include Alaska, Colorado, Connecticut, Florida, Hawaii, Illinois, Indiana, Louisiana, New Hampshire, New York, Nebraska, North Dakota, Oklahoma, and Washington.

KEY ISSUE: CHRONIC DISEASE

An increasing number of states are considering policy on the control of carcinogens. The Governor of Louisiana, David Treen, has created a task force on environmental health to review major epidemiological studies concerning environmental health factors. The task force was created because of the high incidence of cancer in the state. The conclusions of the group will be reported to the Governor by the end of 1983.

California is considering a regulatory program to precisely control levels of carcinogens in the general environment. In 1982, the California Department of Health Services issued a draft policy on carcinogen identification. The basic premise of the report was that the state should adopt a conservative policy of maximum control of every substance for which there was the slightest laboratory or epidemiological evidence of risk. One of the major criticisms of the report was the lack of independent evaluation of scientific issues. Nevertheless, in October of 1982, the California Air Resources Board adopted some of the DOHS proposed policy criteria in the form of resolutions concerning control of chemicals emitted by industrial plants. Their hearings and regulatory actions gave rise to another round of scientific criticism as did the publication of the last DOHS report in December of 1982. Although the cancer policy is not yet final, there is statutory authority for such a policy in Assemblywoman Tanner's bill (1807). Industry is currently working on a redraft of sections of the draft policy.

EXHIBIT I

GENERAL COUNSEL'S REPORT

I. CLEAN AIR

CMA v. EPA (PSD/NA Rule Litigation). A couple of recent initiatives may breathe new life into the moribund settlement of this case. EPA's settlement with industry over a year ago had two parts: one (Part A) with fugitive emissions as its central issue, the other (Part B) featuring actual vs. allowable emissions. Since some preliminary notices last July, EPA has done nothing to develop proposed rules to execute the settlement agreement. In frustration over the foot-dragging, the American Mining Congress (AMC), in April, filed with the court a motion to convene a status conference on Part A of the settlement. The Natural Resource Defense Council, Inc. (NRDC), intervenors in the case, have opposed the AMC motion. At this writing, the court has yet to declare its intentions. If the court does hold a status conference, CMA and the other parties with a stake in the Part B issues will probably piggyback our concerns onto AMC's.

Should a status conference not be held, or prove fruitless in prompting EPA activity, CMA and other parties to the Part B settlement may decide to reactivate the litigation. Counsel for the several industry groups involved have discussed this strategy in recent weeks.

NRDC v. Gorsuch (Dual Definition). The Government filed its petition for certiorari with the Supreme Court at the beginning of April. NRDC, the prevailing party below, is expected to file a response to the three cert petitions (Chevron; AISI, et al. [including CMA]; and the Government). We hope to receive a decision on the grant or denial of cert before the end of the current term, around July 1. Meanwhile, we are preparing a position paper on transition back to the dual definition should the Supreme Court deny cert.

II. CLEAN WATER

Effluent Guidelines. CMA is now in the midst of the analytical work to develop our comments on the March 21, 1983, proposed rulemaking to set effluent guidelines for organic chemicals, plastics, and synthetic fibers manufacturing. Due to the late availability of some of the supporting documentation, EPA has told us it will extend the comment period by at least 30 days, to July 19.

In addition to conducting a successful seminar for industry personnel on April 7 to brief them on the EPA proposal, CMA activities in the past two months have focused on four areas:

1. Information collection. CMA prepared and distributed limited questionnaires to help develop a data base on current control practices, levels of control, and analytical problems, and to elicit broad membership response to the EPA proposal and its expected effect on the industry. In addition, we have had several meetings with EPA to help them shape the supplemental 308 questionnaire they plan to send to over 2,000 manufacturing facilities.

2. Economic analysis. Our economics consultant (Peat, Marwick, Mitchell) has completed a preliminary review of EPA's economic analysis and has identified topics for more intensive investigation in the coming months. The major topics include costing of treatment technology, plant closure criteria, and consistency between the economic and technical phases of EPA's work. We will also comment on the glaring deficiencies in the regulatory impact analysis EPA prepared under Executive Order 12291.

3. Engineering analysis. Our technical contractor, Engineering Science, will conduct a variety of technical assessments of both the BPT guidelines for control of Biological Oxyden Demand (BOD) and Total Suspended Solids (TSS) and the BAT guidelines for toxics. The analysis will stress comparisons of the proposed control requirements and treatment effectiveness with guidelines for other industries, and the development of alternative approaches favored by CMA.

4. Legal analysis. CMA staff counsel and Covington & Burling have prepared legal memoranda on a half dozen key legal issues. These memoranda will be incorporated into our formal comments to EPA, and will also help to focus the efforts of the technical task group and its contractors. The legal issues relate mostly to BPT and pretreatment requirements, which is where EPA expects most of the compliance cost for the industry to occur.

National Association of Metal Finishers v. EPA (General Pretreatment Litigation). The third circuit has set oral argument in this case for late June. This schedule makes a decision before the court's summer recess improbable; fall of 1983 now appears to be the likely time for a ruling. Given the slow pace of Clean Water Act amendments in Congress, we may still be able to factor the results of a late decision into the legislative process.

III. COMMERCIAL PRODUCTION OF CHEMICALS

Toxic Substances Control Act (TSCA):

Section 5 PMN Rules, Forms and Exemptions. The final PMN rule and form have been approved by the Office of Management and Budget and will be published in the Federal Register. The final

PMN exemption rule is targeted for late August. Covington & Burling prepared the CMA comments on the proposed PMN rule and proposed PMN exemptions and will continue to prepare the task group's formal positions.

EPA's Existing Chemicals Program. EPA's existing chemicals program is evolving from the concept paper which was prepared by EPA in October, 1982. CMA representatives have met with EPA to offer constructive comments on the concept paper and to get additional information on EPA's approach to implementing the five phase process outlined in the concept paper. Concern regarding the Risk Management Advisories proposed by EPA and the need for good scientific input were expressed to EPA. A legal analysis of the impact of Risk Management Advisories is being prepared. The CRAC Existing Chemicals Task Group is now looking at individual phases in the program and will continue to meet with EPA as the program develops. In-house counsel has been primarily responsible for providing counsel to this task group and for preparing comments to the agency.

Section 4 - Testing. The Natural Resources Defense Council, Inc. (NRDC) sent to EPA a Notice of Intent to Sue on two issues relating to TSCA §4. On January 7, 1983, NRDC gave notice of its intent to sue EPA for failing to take action on formaldehyde under §4(f). Although CMA has not been directly involved in formaldehyde issues, there may be an important generic issue involved in this lawsuit, specifically, the scientific evidence sufficient to require action by EPA under §4(f). CRAC recommended that CMA intervene in the lawsuit if it is filed so that CMA can address the generic issue.

On February 9, 1983, another NRDC intent to sue letter was sent to EPA. The issues raised were the Agency's failure to finalize proposed rules on six chemicals, whether voluntary testing agreements satisfy statutory and judicial deadlines, and the validity of advance notices of proposed rulemaking to satisfy statutory and judicial deadlines. Since a number of CMA Special Programs Panels have entered into or are negotiating voluntary testing agreements, the validity of such agreements is an issue of primary concern to CMA. CRAC has established an ad hoc work group to develop a strategy for CMA to respond to this issue or any of the other issues raised by the NRDC, should a lawsuit be filed. CRAC recommended that CMA intervene in the lawsuit if it is filed to provide support for negotiated testing agreements.

PCB Litigation. On August 15, 1982, EPA issued its final rule regulating the use of PCBs in electrical equipment. That rule has been challenged in court by several industry trade associations and environmental groups. CMA has intervened in this proceeding. EPA has also issued the final rule on "Exclusions for Closed and Controlled Waste Processes" (47 Fed. Reg. 46980; October 21, 1982). The CMA Program Panel successfully convinced EPA to drop the requirement in this rule that would have excluded only those processes with nondetectable releases. The final rule excludes processes with nonquantifiable releases. The PCB Panel is challenging the "Exclusions" rule and has requested a stay of the court proceedings until the third and final rule is issued.

EPA has set a schedule for its final rule regarding remaining processes that inadvertently generate PCBs. A proposal for this rule is expected by December 1, 1983, and the final rule by July 1, 1984. The Agency intends to gather additional information on PCB exposure from industry to make a risk assessment of several use categories and to identify the end uses of many products. The PCB Panel, the Natural Resources Defense Council, Inc. (NRDC), Environmental Defense Fund (EDF), and other trade associations have completed a proposal for EPA consideration in developing the final rule. The proposal from this joint effort was presented to EPA in April. Kirkland & Ellis is representing the PCB Program Panel in the litigation and counseled the Panel during the development of the proposal.

IV. INCIDENTAL CHEMICAL EXPOSURES AND PUBLIC HEALTH

Invervention In EDF Suit on CERCLA Health Studies (EDF & CMA v. Heckler, D.D.C. No. 82-3514). We have related in recent General Counsel's Reports how CMA has sought intervention in the EDF v. Heckler suit to force implementation of §104(i) of CERCLA. Section 104(i) requires the government to perform various functions, all relating to assessing the health effects of exposures to hazardous substances. For instance, there is to be a "national registry" of persons exposed (Section 104(i)(1)), an "inventory" of literature and studies (Section 104(i)(2)), and there are to be "periodic survey and screening programs to determine relationships between exposure to toxic substances and illnesses" (Section 104(i)(5)). Section 104(i) requires that this work be performed by a new agency -- the "Agency for Toxic Substances and Disease Registry" ("ATSDR") -- to be created under the Public Health Service (PHS).

Until recently, very little had been done in this area and the ATSDR had not been established. In fact, one of CMA's main criticisms of the CERCLA Section 301(e) study (which recommends a new public compensation fund with reversed burdens of proof) is that a group of lawyers reached legal conclusions without the scientific information called for in Section 104(i). On December 10, 1982, the Environmental Defense Fund (EDF) filed suit in the District of Columbia District Court, seeking to compel the government to establish the ATSDR and to implement the Section 104(i) authorities.

Based upon discussions and consultations with the General Counsels' Group, CMA officers and the Strategic Options Work

Group on Public Compensation, we determined that CMA should intervene. On February 7, 1983, CMA in-house counsel filed the appropriate pleadings. EDF consented to our intervention in advance, and the government did not oppose our pleadings.

Since the last General Counsel's Report, there have been the following developments in the litigation:

(a) CMA Intervention Granted. On March 18, Judge Johnson signed an order granting CMA's motion to intervene as a plaintiff.

(b) ATSDR Established. On April 25, 1983, Secretary Heckler published a notice in the Federal Register formally establishing the Agency for Toxic Substances and Disease Registry. We have been told by government counsel that the ATSDR will be comprised of the 15 or so PHS employees in the Center for Disease Control (CDC) in Atlanta who had been unofficially working as the "Superfund Implementation Group" in the government's initial efforts to begin complying with §104(i). The Director of the CDC will also become the Administrator of the ATSDR, and thus wear "two hats."

(c) Dr. Karrh's Testimony. On April 27, 1983, Dr. Bruce Karrh of duPont, head of CMA's Public Compensation Data Development Group, testified before Congressman Scheuer's House Subcommittee on Natural Resources, Agriculture Research and Environment. His testimony was drafted by duPont attorneys with the assistance of the CMA Office of General Counsel and Government Relations Department staff.

In his testimony, Dr. Karrh stressed the need for valid health asessments respecting waste sites. He told the subcommittee of CMA's efforts in the EDF v. Heckler litigation and the Universities Associated for Research and Education in Pathology, Inc. (UAREP) contract.

Product Liability. In April, the Consumer Subcommittee of the Senate Commerce Committee held two days of hearings on S. 44, the comprehensive product liability bill, introduced by Senator Robert Kasten (R-Wisconsin). No further hearings on the bill are presently anticipated.

The hearings went well and served to build a strong record in support of a uniform Federal law. Senator Kasten is still eager to move a bill through committee as rapidly as possible and markup is expected sometime after May 15, 1983.

CMA is continuing to work with the Product Liability Alliance, an umbrella group of businesses and trade associations seeking product liability reform, to promote passage of the Kasten bill.

V. EFFECTIVE WASTE HANDLING AND DISPOSAL

Superfund:

Settlement Negotiations Support Documents. As we discussed in the last General Counsel's Report, the propriety of using negotiated settlements to accomplish waste site cleanups has recently come under attack in Congress and the press. Many of the allegations made by members of Congress and reporters have assumed that there is something improper about working out cleanup settlements through negotiations rather than through lawsuits.

As an outgrowth of our discussions, a group of member company Superfund attorneys and government relations personnel met in March with the CMA Office of General Counsel and Government Relations Department to develop advocacy planning for answering these unfair charges. We decided to develop various documents which provide the CMA membership with background information for each company's own Superfund advocacy.

In late April we sent to each member company the following documents for its information and use:

(a) The Important Role of Negotiated Settlement in Superfund;

(b) Outline of Discussion Points on Superfund Implementation;

(c) A Prescription for Prompt and Effective Waste Site Cleanup Under Superfund; and

(d) Brief Descriptions of Five Recent Waste Site Settlements (Chem-Dyne, Bluff Road, Wade, Seymour, and Deerfield).

These documents were drafted and revised by various company attorneys, the CMA Office of General Counsel, and Kirkland & Ellis. Special thanks go to Bud Smith of Union Carbide, David Graham of Velsicol, Bob Naidus of CIBA-GEIGY and George Pain of Olin for drafting the specific descriptions of various settlements.

FOIA Request on Times Beach. Shortly before she resigned, Mrs. Burford announced that EPA would spend more than $30 million from Superfund to relocate residents of Times Beach, Missouri. The Superfund Task Group has been quite concerned about the potential precedent-setting effect of this action and its implications for the "adequacy of the fund" issue.

The task group is planning to explore EPA's actions with respect to Times Beach in depth in order to develop advocacy with respect to EPA's use of the fund in the future. Our informal efforts to obtain documents from EPA regarding its Times Beach decision were unsuccessful, so the task group asked us to obtain this information through the Freedom of Information Act (FOIA). On April 19, 1983, the Office of General Counsel sent the FOIA request to EPA. As of this writing, we have received EPA's routine "postcard" response indicating the request has been logged-in and is being processed.

Ad Hoc Superfund Litigation Group:

(a) Bluff Road, South Carolina. We will be filing *amicus curiae* briefs on behalf of the generator defendants in *Bluff Road*. The briefs are being prepared by Kirkland & Ellis and reviewed and revised by the Office of General Counsel staff and the Ad Hoc CERCLA Litigation Steering Committee. The briefs raise issues respecting apportionment of liability; the standard of liability; the causation requirement; substantive standards under section 106 of Superfund; the liability provisions of section 107 and the constitutional implications of imposing retroactive liability with harsh results.

(b) Wade. On February 28, CMA filed an *amicus* brief prepared by Kirkland & Ellis, with drafting assistance from CMA staff and in-house counsel, in the government's appeal to the Third Circuit of the *Wade* decision. *United States v. Wade*, 546 F. Supp. 785 (E.D. PA. 1982).

The Court has announced it will hold oral argument during the week of June 13. We are now attempting to secure time to present oral argument as *amicus*.

In the district court opinion which the government is appealing, the judge interpreted CERCLA in a way which is highly favorable to off-site, non-negligent generators at waste sites. He ruled that the government could not *force* -- through administrative order or litigation -- such off-site generators to perform remedial action or to fund remedial action. He ruled instead that the government may seek to force such performance or funding from site owner/operators, and to the extent such funding is unavailable or inadequate, the government's remedy is to perform the remedial work itself using Superfund resources. Once such work is performed, it could then seek reimbursement against off-site generators and others under CERCLA's liability provisions.

CMA believes that this interpretation is correct and is in the best interests of off-site generators. We strongly supported this interpretation in CMA's six-chapter book, entitled

Superfund: Key Liability Issues, distributed to the membership on December 30, 1982. (See especially chapter 4.)

(c) Waste Industries. On April 5, 1983, CMA's Executive Committee approved our filing of an amicus curiae brief in United States v. Waste Industries, No. 80-04-Civ-7, 18 ERC 1521 (E.D.N.C. Jan. 3, 1983). We will prepare the brief in-house for review by the Ad Hoc CERCLA Litigation Steering Committee and Kirkland & Ellis. Waste Industries holds 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 cleanup inactive waste sites. The Government attempted to use Section 7003 to force the owner and the operator of an inactive waste site to pay for remedial action prior to actual cleanup operations. The court stated that RCRA was not designed for such uses, and that section 7003 could only be used to enjoin active disposal operations.

Resource Conservation and Recovery Act (RCRA):

Shell Oil Litigation. EPA published the revised definition of "solid waste" on April 4, 1983, as part of the Shell litigation. The definition was published in proposed form and allows a four-month period for comment. CMA will be filing comments which generally support the proposal.

Land Disposal Regulations Litigation. EPA and industry petitioners have held a series of meetings on all of the issues that EPA has designated as negotiable in the litigation. EPA has indicated that it intends to revise its regulations regarding several of the issues raised by CMA. In particular, EPA has indicated that it will likely revise its statistical procedure for ground water monitoring and is currently considering an industry proposal on this issue. Regarding another issue of strong concern to CMA -- screening for all Appendix VIII constituents -- EPA has indicated that it is developing an alternative procedure that should resolve industry's concerns.

EPA is required to file a report to the court on May 20, 1983, indicating a briefing schedule for non-negotiable issues and a timetable for resolution of the negotiable issues. Respondents are required to file a responsive report on June 3, 1983.

VI. SAFE AND COST EFFECTIVE CHEMICAL PRODUCT DISTRIBUTION

Rail Economic Matters:

Tank Car Allowance Agreement. CMA has begun negotiations with the railroads regarding the amount railroads pay for use of tank cars owned or leased by chemical companies. CMA staff counsel and outside counsel, Richard Hardy of Hardy & Moran, prepared and organized the CMA position papers which were presented to the railroads on April 28, 1983. CMA staff counsel also filed two requests for approval of amendments to CMA's "antitrust immunity agreement." The first request, which was approved, permits CMA tank car negotiation subcommittees to meet, subject only to minutes of the meetings being taken. The second request, which is pending, would permit CMA subcommittees to meet with representatives of other non-carrier parties in the negotiations, subject only to minutes of the meetings being taken. The next negotiating meeting is scheduled for May 26 and 27.

Market Dominance. On April 6, 1983, outside counsel, John Oberdorfer of Patton, Boggs & Blow, filed a brief on rehearing *en banc* before the U.S. Court of Appeals for the 5th Circuit. The brief seeks reversal of the Interstate Commerce Commission's determination that it should not review the reasonableness of rail rates if the customer of a captive shipper is able to obtain a substitute product (product competition) or is able to obtain the same product from another source (geographic competition). Oral argument will be held on June 6.

Ocean Economic Matters

Shipping Act Reform Legislation. On March 7, 1983, the House introduced its version of the Shipping Act of 1983 - H.R. 1878 (the Senate passed S.47). CMA staff counsel met with the staff of the House Committee on Merchant Marine and prepared comments and testimony that were presented to the Committee on March 22. As a result, a very important statement was placed in the Committee's report regarding the dissimilarity between an intermodal loyalty contract and a port-to-port loyalty contract.

The bill has now been referred to the House Judiciary Committee. CMA staff counsel met with the Judiciary Committee staff on March 31 and May 6 to discuss provisions in the bill and possible amendments thereto. CMA staff counsel also prepared comments and testimony which was presented on May 18 at a Judiciary Committee hearing on the bill. Basically, the comments and testimony suggest that in light of the broad antitrust immunity carriers will have under H.R. 1878 strong countervailing provisions to the cartel power of carrier conferences should be contained in the bill.

Philippine Cargo Preference Law. The Federal Maritime Commission has instituted a formal investigation in connection with the Philippine laws which reserve 80 percent of the cargo transported between the U.S. and the Philippines to vessels of those two nations. Since this will lead to substantially higher freight rates and poorer service, CMA is participating in the proceeding. CMA staff counsel will attend a prehearing conference on May 24, 1983, and respond to motions to suspend the investigation.

CMA staff counsel has also organized a broad-based group of shippers that will designate a shipper observer to the current U.S./Philippine government-to-government negotiations. This observer will insure that a shippers' perspective is made known at these negotiations which are likely to set the course of future "bilateralization" of ocean transportation.

User Fees for Inland Waterways and Ports. Several bills have been introduced that would, in varying ways, require users of inland waterways and ports to pay for the cost of maintaining and improving the facilities. CMA staff counsel prepared comments and testimony that was presented to the Committee on Environment and Public Works on May 17, 1983. Basically, CMA does not object to users paying for maintenance and improvements of waterways and ports since they are vital to the safe and cost-efficient transportation of chemical cargo. The fees, however, should be assessed against all beneficiaries of the waterways and ports (e.g. commercial, recreational, electrical, flood control, military, etc.) in proportion to the benefits derived.

Transportation Safety:

Hazardous Materials Transportation Act (HMTA) Amendments of 1983. In April 1983, amendments to the HMTA were introduced by Senator Danforth (R-MO). Basically, the bill would recognize the role of the states and localities to regulate and enforce hazardous material transportation, consistent with and in conjuction with the Department of Transportation and the Federal Emergency Management Agency. The amendments would require the federal government to review and coordinate emergency response programs. Federal grants of 50 percent of the cost could be made to states that have approved plans for enforcement and training. The federal government is specifically authorized to promulgate rules regarding prenotification and routing, consistent with goals of safety and commercial considerations. CMA staff counsel will work with CMA Technical and Government Relations Departments in formulating a CMA position on this bill.

VII. NATIONAL ECONOMIC POLICIES

Generalized System of Preferences. Mr. Leo Johnstone, Chemical Industry Trade Advisor and a member of the CMA Board of Directors, testified on behalf of CMA on April 14, before the Office of the U.S. Trade Representative in New York City on reauthorization of the Generalized System of Preferences (GSP).

The GSP was created by the Trade Act of 1974. It is scheduled to expire, unless reauthorized, on January 3, 1985. The GSP program grants duty-free entry into the United States of a large number of products from designated beneficiary countries.

These countries are supposed to be developing countries which are not internationally competitive and which need such preferential benefits to build up their industries.

However, in reality, the bulk of GSP benefits have been used by countries and territories such as Taiwan, South Korea, Mexico, Brazil, Hong Kong, and Singapore, which are already competitive internationally, at least in certain product sectors. Also, a number of procedural changes must be made in the application of the GSP program to ensure that its goals are met without injuring U.S. industry.

Foreign Investment Policy. The Investment Policy Task Group of the CMA International Trade Committee prepared, with the assistance of the Office of General Counsel, a draft position paper on the need for an open foreign direct investment climate internationally and suggestions for U.S. Government action to help ensure it. The paper will be reviewed by the full Committee on May 10, after which it will be sent to the Board for its approval. The final paper will be used to advocate CMA's positions on this matter with the U.S. Government.

VIII. PROTECTION OF INDUSTRY TECHNOLOGY

Patent Term Restoration Legislation. Senator Charles Mathias (R-MD), Chairman of the Senate Judiciary Subcommittee on Patents, Trademarks, and Copyrights, has announced a public hearing later this month on the patent term restoration legislation. Although no bill has been introduced yet, Senator Mathias appears committed to passage of such legislation in the 98th Congress. It is anticipated that Senator Mathias will introduce a bill substantially similar to S.255, which passed the Senate in the 97th Congress, but which would also contain some technical amendments. The prospects for House action this year are less clear.

The inter-association group comprised of representatives of CMA, the Pharmaceutical Manufacturers Association (PMA) and the National Agricultural Chemicals Association (NACA) continues to meet regularly to coordinate positions on this matter. The CMA Patent and Trademark Committee, with assistance from the Office of General Counsel, is preparing a written CMA statement to be submitted to Senator Mathias in conjunction with his hearing. However, CMA is not expected to submit oral testimony at the hearing.

IX. INTERNATIONAL HEALTH AND ENVIRONMENTAL MATTERS

European Economic Community (EEC)/Confidentiality. The EEC Sixth Amendment (to the Council Directive on the Approximation of the Laws, Regulations, and Administrative Provisions Relating to the Classification, Packaging and Labeling of Dangerous

Substances) requires premarket notifications for substances not contained on the European Inventory of Commercial Chemical Substances (EINECS) and not subject to the exemptions from notification. The Commission is directed to "keep a list of all substances notified" under the Directive. Article 11(3) provides that the "name" of a substance appearing on this list may be included in encoded form for no longer than three years, provided two conditions are met: (1) the competent authority to which the notification was submitted must request such encoding because of confidentiality problems to which publication of the names of the substance would give rise and (2) the substance must not be classified as "dangerous" according to the criteria delineated in Article 2(2) of the Directive.

One of the possible interpretations of these provisions of the Sixth Amendment currently under consideration by the Commission Staff is that this list will identify the substances notified by specific chemical identities, with the exception of "dangerous" substances, whose identities may be encoded for up to three years. Further, in regard to the disposition of the list by the Commission, some thought has been given to the possible publication of the list in the Official Journal of the European Communities.

On April 20, 1983, CMA, through the International Affairs Group (IAG), finalized its position paper on this subject. This paper maintains that interpretations of the Sixth Amendment which would require listing of substances notified by specific chemical identities and publication of such a list are (1) incorrect and (2) would harm both EEC and U.S. industries significantly. Instead, we believe that the Commission has flexibility under the Sixth Amendment not to publish the list and, if the list is published, to identify chemical substances on the list by something short of specific chemical identity (i.e., generic and/or trade name, at the option of the notifier).

This position paper has been sent to the U.S. Governmental agencies involved for their use with the European Commission and individual EEC Member State governments and to CMA industry contacts in the EEC to mobilize their support.

EEC/Labeling. CMA/IAG, with assistance of the Office of General Counsel, prepared a position paper on the upcoming EEC rules for classifying and labeling chemicals for chronic hazards. This position was forwarded in an April 15, 1983, cable from Robert Roland to Hugo Lever, Director General of the Council of European Chemical Industry Federations (CEFIC).

In the United States and in Europe, systems for classifying chemicals that may present chronic health hazards (e.g., carcinogens, mutagens, and teratogens), and for hazard warnings to be used on labels for these concerns, are under rapid development. There are fundamental differences of approach in both the classification and the labeling of such materials between the EEC and the United States. The export of such materials may require that risk labels be changed at the point of embarkation to comply with local classification and labeling requirements in the receiving country.

These differences in the presently proposed classification and labeling systems in the EEC and the United States will become firm during 1983. (The EEC system is expected to go into effect in September, 1983, and the ANSI standard has now been revised.) These differences could well create a non-tariff trade barrier, unless efforts are made by the United States and EEC to find a common approach that is based on good science and the need to provide workers with prudent safety information.

CMA's cable emphasizes the importance of having the U.S. and EEC rules on this subject be as compatible as possible. Specifically in regard to the EEC rules, CMA recommends that the classification and labeling section dealing with mutagenic risk be deleted at this time, given the current early stage of that science. Other technical suggestions are also contained in the cable.

<u>United Nations List of "Banned, Withdrawn, Severely Restricted, And Nonapproved" Products.</u> Pursuant to a December 8, 1982, U.N. General Assembly Resolution, the Secretariat has undertaken the compilation of a list of banned, withdrawn, severely restricted, and nonapproved products. There are serious problems with this list, which has been made available to industry in draft form. For example, there are no distinctions between types of chemicals and types of restrictions relating to chemicals on the list. Also, questions remain as to the relationship between this list of chemicals and the list being prepared by the U.N. Centre for Transnational Corporations.

The draft Secretariat list is being sent to all U.N. Member Country Governments for their early review. The CMA Office of General Counsel is preparing a letter to be sent to the State Department and U.S. Mission to the U.N. which will discuss our above-highlighted problems with the draft list.

X. <u>FEDERAL ADVISORY COMMITTEE ACT</u>

On April 28, 1983, the General Services Administration (GSA) published interim final rules that contain administrative and interpretive guidelines and management controls concerning implementation of the Federal Advisory Committee Act (FACA). 5 U.S.C. App. I. FACA provides that where a federal agency organizes a committee to obtain the advice or recommendation of the committee, the committee's meetings must be announced in the Federal Register and open to the public. Recent case law had defined very broadly the reach of FACA, making nearly any meeting with a federal official subject to a charge that it violated FACA. These regulations attempt to clarify this problem by permitting meetings between groups of individuals and federal officials unless the federal agency intends to use the group as a preferred source of advice and recommendations.

CMA
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