

**NOMINATION OF CARL J. GILBERT TO BE SPECIAL
REPRESENTATIVE FOR TRADE NEGOTIATIONS**

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
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—————
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WEDNESDAY, JUNE 25, 1969

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee met, pursuant to call, at 10:05 a.m., in room 2221, New Senate Office Building, Senator Russell B. Long, chairman, presiding.

Present: Senators Long, Anderson, Gore, Talmadge, Ribicoff, Harris, Williams, Dirksen, Miller, Jordan, and Fannin.

Also present: Senator Hollings of South Carolina.

The CHAIRMAN. This hearing will come to order.

We are pleased to welcome before our committee today Mr. Carl J. Gilbert, nominated by the President to be Special Trade Representative, and I know he is accompanied by Senator Brooke. And I presume, Senator Brooke, you would like to introduce your constituent.

STATEMENT OF HON. EDWARD W. BROOKE, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Senator BROOKE. Very briefly, Mr. Chairman. And I certainly thank you and the distinguished members of this committee for this opportunity to present to your committee one of Massachusetts' distinguished sons. I have personally great regard and affection for Carl Gilbert. He is a man of undisputed integrity, ability, and patriotism, Mr. Chairman. He has served in the business community with distinction.

I certainly do not have time nor does the committee have time to hear me list the many boards and civic activities in which Mr. Gilbert has been engaged over the years. But I do want to say that I think the President has made a very wise choice in selecting Carl Gilbert to serve as the Special Trade Negotiator. I am sure that you will find that he is a man with unusual abilities, a man with qualities which certainly equip him well for the position for which he has been appointed. And I recommend him to you, Mr. Chairman and members of the committee, and say to you that in giving Carl Gilbert to the Federal Government, that Massachusetts has given one for whom they have the highest respect and admiration. I might add my own personal recommendation, for I have the greatest affection for Mr. Gilbert. I thank you, Mr. Chairman and members of the committee.

The CHAIRMAN. Thank you very much, Senator, for your eloquent statement on behalf of Mr. Gilbert. Mr. Gilbert, as you know, this position to which you have been nominated is very important. For

many years trade has been the chief component of our balance-of-payments accounts. We are the largest trading nation in the world. For 18 out of the last 19 years, we have had deficits in our balance of payments. In the last several years our balance of trade has turned unfavorable. Our trade policies seem to have contributed to this sad state of affairs.

In many instances trade policies and negotiations have been subordinated to foreign policy and other political motivations, rather than based on hardheaded business judgment.

Today, it seems to us that we really have no trade policy. The Kennedy round is over. The basic provisions of the Trade Expansion Act of 1962 have expired. And you, as the President's Chief Negotiator, presumably will be advising him on what his recommendations for a new trade policy will be.

At this time, when we are groping for ways to regain a trade surplus in our international accounts, it is particularly appropriate that this committee learn firsthand what your views are with regard to this important post to which you are nominated.

After years of negotiations, it is disturbing to find that American commerce is often at a competitive disadvantage because we have permitted the rules of trade to be stacked against us. We find that as other countries have lowered their tariffs with us, they have substituted nontariff barriers in their place. In many instances, in fact in most cases, we have not raised a finger in protest. The European community and Japan have increased their protection through nontariff barriers and restrictions on investments at the very time that we have been giving them freer access to our own lush U.S. market. And we have come away from the episode praising ourselves for a victory. With that sort of bargaining, there is little wonder that some would call us either "Uncle Sugar" or "Uncle Sucker."

There are indications that Mr. Stans, in his beleaguered effort to help the textile industry, has failed so far because foreigners in some instances seem to look upon the President's textile policy and his declared intentions with some doubt. And to be frank about it, Mr. Gilbert, some seem to feel that you would be a person they would rather negotiate with than Secretary Stans.

I would appreciate it if you would state very firmly what your attitude is on this position that you have been nominated to and what you intend to do to correct our faltering trade position if confirmed by the Senate.

STATEMENT OF CARL J. GILBERT, NOMINEE, TO BE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Mr. GILBERT. Thank you very much, Senator.

In the first place, of course, I am not here to defend what this office has done in the past or previous administrations have done in trade policy. I think it is a new ballgame, in part because of the very change in the trade surplus turning into a trade deficit that you mentioned a moment ago. But fundamentally what we have seen around the world is an increased industrialization in all of our trading partners. They are getting stronger and we relatively weaker, and this to my mind clearly calls for a new approach, a much firmer and tougher approach both in future negotiations and in the current

activities, which you might describe as policing existing trade agreements.

It seems to me that the office to which I have been nominated will call for very, very strong, tough actions on the part of its incumbent. And if confirmed, it would certainly be my intention to do so.

The CHAIRMAN. Now, would you describe for us the purpose and function of the Office of Special Trade Representative.

Mr. GILBERT. It has a variety of responsibilities, Senator. For example—a minor technical difference with your earlier statement—the Trade Expansion Act has not expired. The negotiating authority on tariffs has expired, but the other provisions of the act fortunately continue in full force, such as the powers to retaliate against other governments who impose illegal barriers to our trade, the continuing power to, so to speak, police the existing trade agreements. The whole structure, the interdepartmental structure for advice to the President on policy and advice in execution of the powers of the President to enforce existing trade agreements all centers in this office.

The CHAIRMAN. How many employees does the office have?

Mr. GILBERT. Subject to hearing from Mr. Rooney, who has the current budget, the fiscal 1970 budget in his hands now, the total number of employees is now 21 including secretaries. So it is a very small office.

The CHAIRMAN. And how many—

Mr. GILBERT. And by statute and regulation it is directed to make maximum use of the facilities of other existing branches of the Government rather than setting up a vast supplemental bureaucracy.

The CHAIRMAN. How many employees did it have during the Kennedy round negotiations?

Mr. GILBERT. I am not certain, Senator. It had a good many people on detail from other departments. And I am under the impression that at the height of the Kennedy round negotiations there were some 50-odd people in Geneva. I may be wrong, and if it is important to you—

The CHAIRMAN. I would be happy for you to provide that to us, and, insofar as you know to which agencies they were assigned.

Mr. GILBERT. Yes.

The CHAIRMAN. I am sure you can get it.

Mr. GILBERT. Yes.

(Mr. Gilbert subsequently submitted the following information:)

In addition to STR personnel, the following officers, by government agency, were assigned (but not all at the same time) to the U.S. Delegation in Geneva during the course of the Kennedy Round negotiations: State, 18; Tariff Commission, 12; Commerce, 10; Agriculture, 8; Labor, 2; and Interior, 1.

The CHAIRMAN. Frankly, what happens oftentimes depends on where you borrow these people from, and sometimes one outfit or the other is the winner or loser based on where you borrow your people from.

Mr. GILBERT. I do know enough about the history to know that they came from a variety of sources. There were men from Agriculture, from Commerce, and not predominantly from State.

The CHAIRMAN. Do you have any plans to either increase or reduce the number of people in that office?

Mr. GILBERT. No; I would like to see the office go back up to about the 28 level.

The CHAIRMAN. Right.

Now, you were the president, were you not, or at least a chief executive officer of the Committee for a National Trade Policy?

Mr. GILBERT. That is right.

The CHAIRMAN. How would you say that that organization is oriented as far as trade is concerned?

Mr. GILBERT. I didn't quite hear you.

The CHAIRMAN. How would you say that that organization is oriented insofar as trade is concerned?

Mr. GILBERT. It is oriented certainly toward freer trade, toward liberal trade. As all organizations, I suppose, of this sort are, it is looking for the long run, pushing with almost, at times almost an academic approach to what the desirabilities are.

The CHAIRMAN. Now, is it not fair to say that generally speaking the membership of that organization is corporations which have investments abroad as well as here and which tend to benefit by a general lowering of tariff barriers?

Mr. GILBERT. Well, certainly its membership is predominantly corporations, and I presume they probably would be—most large successful corporations do have an extensive interest in activities abroad, both in the form of export and in the form of investment. So your statement is probably correct, sir.

The CHAIRMAN. In other words, it seems to me that when we look at trade policy, complete free trade might be in the national interest if everybody were engaging in complete free trade.

Mr. GILBERT. I have never been a proponent of free trade myself, sir.

The CHAIRMAN. But generally speaking my impression is most people favor a trade policy that best suits their problem. For example, if I am in an industry where foreign wages give my competitors such an advantage that I cannot compete, would not I want trade barriers to come down if that means I would be put out of business. Now, if I were in one where I could manufacture the parts over there and I have the plants over there to do it with, it might be advantageous for me to be in favor of lowering the tariff barriers, if I am so organized that I can adjust myself in that fashion.

We have people on both ends of it, and it seems to me that we have responsibility here on this committee, and I would think that you would have that responsibility, to look at both sides of it, both those who get hurt and those who are helped when we take down trade barriers.

Mr. GILBERT. We agree completely.

The CHAIRMAN. Now, with regard to that particular organization, it seemed to me that, generally speaking, its members are fairly well oriented to where they would tend to be benefited rather than hurt by a general reduction of tariff barriers.

Mr. GILBERT. I do not think I could agree or disagree with that. I think they are people who, in general, believe that their own interests and the long-run future of the country would be benefited by our trade policy.

The CHAIRMAN. Well, some people have looked upon those people as being strongly oriented in favor of free trade as any group we know of in this country. Do you know of anybody who is more strongly in favor of free trade than that organization?

Mr. GILBERT. Well, if we could talk of freer trade rather than free trade we won't have to disagree.

The CHAIRMAN. Let's say freer trade then.

Mr. GILBERT. I would think that's probably true. Of course, there is another organization called the ECAT that seems to be just as vocal on the subject. But I think as you indicated earlier, the proponents and opponents of legislation and points of view, generally speaking, are people who do have a slant in one direction or the other.

The CHAIRMAN. Now do you have any plans to bring a considerable number of the people from that organization staff over to the group that you will be heading?

Mr. GILBERT. I should think the possibility of bringing any over would be almost impossible; they have a staff of only two people, and I would have absolutely no thought of bringing any of them over.

The CHAIRMAN. All right. Now, the European Economic Community has been preaching discipline to the United States for the past 8 or 10 years to get our balance of payments in order. The Wall Street Journal of last Monday quoted a key European financial official as saying, "You are going to need a big trade surplus to protect your gold." It seems to me that those people like to keep us on the defensive on this issue.

Now, why can we not tell those countries of Europe that if they want us to get our balance of payments in order and have a big trade surplus that they should remove their variable levies, their border taxes, their discriminatory procurement policies, their export subsidies and all those other devices which they have ingeniously employed to perpetuate their own balance-of-payments surpluses.

Mr. GILBERT. Well, in general I could not agree with you more. I would think that was one of the functions of this office, to press very hard to remove disadvantages to our trade, deterrents to our trade, and try to open up new opportunities.

The CHAIRMAN. Now, I am sure you are familiar with the European practice of rebating indirect taxes on exports.

Mr. GILBERT. That is correct.

The CHAIRMAN. That is in effect a subsidy for their own exports, and it has the same effect as discriminating in favor of their own manufacturers; does it not?

Mr. GILBERT. It certainly has—my hesitation was merely that I think this is an enormous problem, the border tax adjustments both on the in and out, on both import and export, and I am hesitant—I don't feel I know as much about it as I ought to or will, and therefore—

The CHAIRMAN. If you rebate the tax, let us say you rebate the sales tax, that in effect amounts to a subsidy for the export.

Mr. GILBERT. I think this is certainly true, sir.

The CHAIRMAN. And that is their prevailing practice there.

Now, can you tell me why the countervailing duty statute, which is directed against all forms of subsidy on exports is not invoked against the European export rebate practice?

Mr. GILBERT. It is invoked, as you know, on a fraction of this problem. There are a number of countervailing duty cases, particularly on what I think is law 639 of the Italians in which they are

rebating on export taxes which are pretty far from being included, being directly on the product.

And so that there is that group of cases in which the Treasury has been moving very strongly. I think I ought to say that I really do not think I should comment on what the Treasury policy is. They have this problem of whether to countervail or not both on the law 639 type of rebates and the broader part of the export side of the border tax adjustment problem.

The CHAIRMAN. They ought to read the law, its legislative history, and the court cases on this issue. Now, where those countries are subsidizing their exports by rebating their indirect taxes which—in other words, they are taxes on value added, sales taxes, and things of that sort which is their big means of taxation—why should we not be permitted to offset that by rebating some of the income taxes that corporations pay—that is the big tax we pay in this country—to help our exports get into their markets?

Mr. GILBERT. I suppose if one had the, had had 20/20 foresight in 1947 when the GATT agreements were prepared, one would have provided for this. But the GATT agreements do authorize and permit the practices of Europeans at the moment if they were to be changed so as to authorize the inclusion of direct taxes in the form of income taxes, we might find this situation not improved a great deal, because most of these countries also assess an income tax, that is in proportion to their—

The CHAIRMAN. Is it not correct to say though that they do not assess nearly as much, relatively speaking, in terms of income taxes as we do? Our income tax is a big tax.

Mr. GILBERT. That is right. Not as much relatively, but the published percentage rates in a good many countries in Europe are pretty high.

The CHAIRMAN. But they don't apply to the same base. For the most part the apparently high European corporate income tax rates do not apply to distributed earnings. As a percent of their GNP their direct corporate income tax is much smaller than ours. Why should we agree to some kind of an arrangement whereby they can subsidize to any greater extent than we can?

Mr. GILBERT. If we were talking about signing a new agreement right now, I would agree with you a thousand percent. It is something that we have got to find a way to negotiate ourselves out of as time goes on.

The CHAIRMAN. Well, frankly, my understanding about this matter is that those countries insisted on interpreting the GATT, the General Agreement on Tariff and Trade, in such a way that they can rebate indirect taxes which is completely to our disadvantage. And it would seem to me that our negotiators, those looking after American interests, should insist that if you are going to rebate taxes, it means all taxes. You can rebate any tax you want to keep us on the same basis with them rather than let them pick out their big tax and permit them to rebate that one, while we are getting rid of that same type of tax. We have taken most of our excise taxes off but they have proceeded to construe the agreement to say we cannot rebate our big tax which is the income tax. Some have suggested that we ought to put on some kind of a value-added tax so we could rebate it on exports.

Mr. GILBERT. Right.

The CHAIRMAN. It would seem to me we would be much better off to insist that the erroneous construction in the GATT be changed, and that we were not going to do business on any other basis except to recognize that we can rebate taxes just as they can. In other words you can rebate all taxes if necessary to stand on equal footing instead of letting them subsidize and leaving us so we cannot. It seems to us we ought to both be on the same basis.

Mr. GILBERT. Right. I think my honest answer would have to be, sir, that I am not at this point an expert on the GATT. If I were in this office, I would recognize to the full the importance and significance of these border tax adjustments, and I would lend every effort to try to find some answers to the problem.

The CHAIRMAN. Well, it would seem to me that we made a mistake to conform to some outmoded interpretation of GATT which was wrong to begin with, or to try and change our way of doing business in order to conform to an erroneous tax concept in GATT, or to try to change our tax system to conform with the European tax system when the obvious answer to me would be simply to insist that the thing be construed so that you rebate taxes to whatever extent you want to in order to remain competitive with other countries. Maybe the whole question of export rebates should be related to a country's overall balance-of-payments position.

Mr. GILBERT. Well, maybe this is one answer. It will certainly be looked into very thoroughly.

The CHAIRMAN. Just so both sides could be treated the same.

Now, you are familiar with the fact that they have border taxes where we do not have them.

Mr. GILBERT. Yes, indeed.

The CHAIRMAN. Would it not seem that we ought to have some adjustment about that?

Mr. GILBERT. I think my starting point in thinking on this, both on the export subsidy and on the border tax on imports, is they should be examined to see and quantify the trade distorting effects of these taxes and then to use every means possible to try to handle them so that the trade distortion effect is removed.

The CHAIRMAN. Now, what is your attitude about these foreign nontariff barriers and their unfair trade practices?

Mr. GILBERT. Well, taking the nontariff barriers, these, of course, have become relatively more important than tariffs. I do not think there are any instances of new ones having been established in recent years. But I think they have become more visible—as the tariff barriers have come down so much, then as when the trees are cut a lot of the shrubbery, very important shrubbery of nontariff barriers come to be very significant.

Senator GORE. Would the chairman yield for a question?

The CHAIRMAN. Yes.

Senator GORE. Would you comment on the quotas in this particular regard?

Mr. GILBERT. Foreign quotas?

Senator GORE. Yes; import quotas.

Mr. GILBERT. Yes. Those that exist are relatively—they are relics of things that were set up in the past. And I believe that they should

be traded away. I think we should trade hard to get rid of them. Some of them which really are loosely referred to as illegal barriers, since they had a justification when they were put in on a necessity for balance-of-payments purposes, but now the country concerned is in surplus and there is no longer any balance-of-payments excuse for them, these should be removed as rapidly as possible from the most forceful moves from the United States possible to get them removed.

Senator GORE. Thank you, Mr. Chairman.

The CHAIRMAN. What does section 252 of the Trade Expansion Act say with regard to foreign nontariff barriers and unfair trade practices?

Mr. GILBERT. Section 252(a)(3) is an important one, but one that is directed in the current law solely to agriculture products, where people use improper import restrictions. And incidentally, while we are on the subject, my personal belief is, and I am not purporting to say what the administration will include in a new bill when one is sent up, but I think the word "agriculture" ought to be removed in the several places it appears so that there are equal rights to retaliate against improper restrictions on industrial products. But the one—

The CHAIRMAN. I can summarize that for you to this extent. What that section says is this, that the President shall withdraw tariff concessions from those countries who discriminate directly or indirectly against U.S. trade. And it seems to me that it spells out quite clearly that variable import levies and other practices currently engaged in by the European Economic Community would be negotiated in the Kennedy round. And if other countries persisted or increased their protectionism through these devices, the President shall retaliate. That is the word it uses, "shall."

Now, do you see any permissiveness in the words, "the President shall," in the Trade Expansion Act?

In other words, it seems to me that the law says if they discriminate through these nontariff devices, we shall retaliate.

Now, you suggested before the Foreign Relations Committee that "retaliation" is a strong word and should be considered only as a last resort. They have retaliated against American exports. Now, why should we do anything but retaliate where they proceed to use these discriminatory practices against us?

Mr. GILBERT. The caution with which I commented on the word "retaliation" in the Foreign Relations Committee was merely to reflect an attitude that it seems to me we should be strong and forceful in trying to accomplish the removal of these barriers to our trade of whatever sort they are, but I think we ought to do it in a way which is not belligerent or litigious, because by being too belligerent or too litigious we may slow down progress in parallel lines. But I do not think that, under any circumstances, we should follow a will-o'-the-wisp of sweetness and light instead of using the undoubted powers of the United States.

The CHAIRMAN. Well, I fought for sometime as a member of the Foreign Relations Committee and finally got it agreed to that we would cut off foreign aid when it is determined that a country is confiscating American investments. And subsequently that was improved upon and gained additional sophistication and came to be known as the Hickenlooper amendment.

Mr. GILBERT. Yes, sir.

The CHAIRMAN. Now, the way I construed that, and I helped pass it and made a fight for it down through the years—I guess I am re-

sponsible for its counterpart in the Sugar Act which we agreed to in conference—was to say that these trade advantages in the Sugar Act as well as the foreign aid that we give these people is to be terminated when we find they're confiscating American investments. I was told by people in the State Department, that they thought it was a fine thing because they would be in a position to tell these foreign governments: "when you start confiscating American investments, the aid is no longer negotiable."

Now, I know what it is to be a delegate to the U.N. and I know what it is to go to these conferences as a representative of the State Department and argue the American position against the Soviet position or some such thing as that and have these countries tell us that if they are going to vote with us on this issue or that one, we should understand their position on some program that we are at odds with them on. The amendment was aimed at curbing that sort of thing. And the State Department people that I discussed it with who have had to use it on occasion told me it was fine, that it was okay—you could tell a foreign country, now, if you insist on doing that, no aid, and presumably no more buying sugar at a favored price. We just will not buy from you, trade from you. It is in the law firmly, and we intended to be exactly that way. Apparently, President Nixon is going to take the attitude that it is negotiable, that he can negotiate with Peru about what they are doing to that subsidiary of Standard Oil down there in Peru. It seems to me if that is to be the case, that it would be most unfortunate and the Congress will have to try to strengthen that act to insist that the law means what it says. I do not know how more strongly you can say it than the way we said it in those amendments, but we will find a way. It would seem to me that for us to take the attitude that that is negotiable is only to encourage foreign countries to do that kind of thing to us and then talk about it.

And when the chicken war occurred and they proceeded to cut off our market for chickens in Europe, it seems to me that we were foolish to sit around and think about it and talk about whether we were going to retaliate. The answer should have been, "Yes, we will retaliate". And I think they thought we were foolish not to come back up and say, "Oh, I am sorry; it looks like we are going to have to do something with the automobile imports into the United States". It seems to me as though they probably thought we were foolish to sit around and wait that long.

Now, what is your reaction to that?

Mr. GILBERT. Well, I think we ought to do as much forward planning as possible so we can act promptly when things occur.

The CHAIRMAN. Well, it seems to me that the thing has to be a two-way street, and nobody has any free trade right now. There are restrictions on it. And there will have to be some.

Now, you are aware of the fact that we have certain quotas.

What is your view on the defense amendment which is a part of the trade laws we have passed?

Mr. GILBERT. Of the national security provision?

The CHAIRMAN. Yes.

Mr. GILBERT. I think it is fine.

The CHAIRMAN. Pardon me?

Mr. GILBERT. I think it is good; it belongs in there.

The CHAIRMAN. In other words, that says that when any industry is regarded as being essential—

Mr. GILBERT. That is right.

The CHAIRMAN (continuing). To the defense of this country and imports threaten the industry, that the President will maintain the industry at a level which he thinks would keep that industry in such shape that it could fulfill its requirements in terms of a national emergency.

Mr. GILBERT. Right. I have no quarrel with that provision at all.

The CHAIRMAN. Now, do you feel that there is any justification for the quotas that we presently have on oil, dairy products, textiles, meat?

Mr. GILBERT. Well, to take them in order, the oil, of course, is very clear under the national security provisions of the law. There has been a finding by the appropriate agency that it was important, and has been maintained. To that there is no question at all in my mind—

The CHAIRMAN. Now, dairy products, I take it, are probably under the Agricultural Act.

Mr. GILBERT. That is right, and it is really to protect a price-support program. And it again seems to me one that no one could quarrel about.

The CHAIRMAN. Do other countries have similar protection for their domestic agricultural industries?

Mr. GILBERT. They have tremendous—this whole variable levy program, the common agricultural policy you were referring to earlier—is a very complex and effective system of protecting local agriculture.

The CHAIRMAN. What is your attitude toward our textile problem?

Mr. GILBERT. My attitude toward the textile problem is that it seems to me that it is perfectly clear that, in the first place, there has already been a determination at the highest level that the industry, the special problems of the industry call for measures to reduce the impact of imports on the textile and apparel industry through some sort of international arrangement.

The President has made this clear and reiterated it. The administration through the Secretary of Commerce has been aggressively examining the alternatives by discussing them with our trading partners. And it is the commitment, therefore, of the administration to find the answer to this question.

The Chairman. I thank you, Mr. Gilbert. I may want to ask some further questions, but I do not want to hog all the prime time from the rest of the committee. I have done my share of that. Let me say to you that I do not think you have ever done any business with me one way or the other, so we start out on the basis where we can either agree or disagree freely.

Mr. GILBERT. I think so.

The CHAIRMAN. And I think that you have answered forthrightly the questions I have asked. I would like to ask you about some other matters, but if you had the impression from some of the stories you have read in the press that I am disposed to be against your confirmation, the answer to that question is "No."

Mr. GILBERT. I am old enough to have read the newspapers long enough to know that they are not always entirely reliable.

The CHAIRMAN. I do not want to pick a fight with them, but I will agree with that statement.

Mr. GILBERT. They do their best, but they are not always reliable.

The CHAIRMAN. Senator Gore.

Senator GORE. No questions.

The CHAIRMAN. Senator Dirksen.

Senator DIRKSEN. Mr. Gilbert, I would like to ask you a question that is world shaking but has no relationship to this hearing.

Why is it that the Gillette Co. never got into the business of manufacturing an electric razor?

Mr. GILBERT. I can give you a good answer on that, sir. The Gillette Co. did go into the business of manufacturing an electric razor back about 1934 or 1935. After tremendous effort, they finally came to the conclusion that no electric razor could be any good so they dropped it.

Senator DIRKSEN. Well—

Mr. GILBERT. Because you do have to cut the hair off through a piece of wire netting, which makes it a little farther away from the face than it otherwise would be.

Senator DIRKSEN. Well, your European sales manager gave me a different answer. I saw him in Berlin and asked him the same question. He said, "We are in the business of making razors. An electric razor is not a razor. It is a shaver." So he made that distinction.

Mr. GILBERT. That is right. As you may know, Senator, as of about a year and a half ago, because of the importance of the electric razor in Europe, Gillette did buy a German electric razor manufacturer under conditions which mean they cannot, Gillette cannot do anything in the United States with that razor but they do own now—subject to subsequent action of the Department of Justice—they own an electric razor maker in Europe.

Senator DIRKSEN. Well, I am glad we satisfactorily settled that big problem.

Mr. Gilbert, how much authority are you going to have as special Representative?

Mr. GILBERT. How much authority?

Senator DIRKSEN. How much authority?

Mr. GILBERT. Well, I suppose this is a question I would only be able to answer after I had been in the office 6 or 8 months. Of course, anyone in the executive branch is certainly under the control of the President of the United States. As you know, there are all sorts of interagency committee structures which are involved one way or another in the process of decisionmaking. So that I think I would have to answer it now, talking of it as a prospective thing. I rather suspect I would have the authority to do the job I would be sworn to accomplish or else I would get out of it.

Senator DIRKSEN. Well, you are here because they want you to be the Special Representative on trade policy, and of course you are expected to gather up a lot of special knowledge and expertise in this field, and then it is expected, I presume, that you are going to make recommendations. And the question is, To what extent do you believe those recommendations might be followed or will they be flung in the ashcan?

Mr. GILBERT. I think my answer to that, sir, would have to be that I have no reason to have anything other than confidence in the President's ability to sift the facts and come up with good answers. And if a recommendation I have made is eliminated because others have developed facts which make it look not so wise as I thought it did, I would be quite content to say, "Well, I should have done a little more work before I made the recommendation."

But it seems to me that what little I have seen of it, the structure of the executive branch is, in which I would be involved, is such that the decisionmaking ought to be good. And I would be quite happy to be a part of it.

Senator DIRKSEN. In view of the existence of the General Agreement on the Trade and Tariffs, those countries in Europe have taken the position that what they do by way of imposition of the border taxes and these other nontariff barriers are consonant with their responsibilities under GATT, and I think I take a view that they are not. What is your view?

Mr. GILBERT. I think to separate the two, the border tax adjustment problem is highly complex, and you could have a couple of tax economists, put them in a room and let them argue all day for months and they would not have agreed as to what the specific impacts of it are.

This has got to be resolved. But I am not all that confident as to exactly what the right answers are. I know it is going to take a great deal of work to find out what the answers are.

The other nontariff barriers, from what I have seen and heard, it seems to me there is a clear disposition on the part of the Europeans to be just as interested as we are in trying to get the preliminary work done to classify and quantify the effects of these nontariff barriers, looking toward a fairly early period, at you gentlemen's pleasure, for efforts, serious efforts to try to eliminate them.

Senator DIRKSEN. Well, let me take a specific example. They have been toying around with the idea of imposing a \$120 a ton tax on soybean oil.

Mr. GILBERT. Yes, sir.

Senator DIRKSEN. And \$60 on soybean meal. And the reason for it is, I presume, that they have got so much surplus butter racked up over there that by putting this tax on, it will be impossible to use these high-protein feeds, and that will reduce butter production somewhat. And, of course, as you know, it reduces butter and then the people over there buy oleomargarine, which is another funny thing. But that is a \$500 million item in our foreign trade.

Mr. GILBERT. It certainly is, and one that has been growing----

Senator DIRKSEN. Now, they have not done it yet, but they are thinking seriously about it. And then they are thinking about something that to me is absolutely hilarious. This comes from one who was over there and came back and gave us a report. He said they are even thinking of mixing this surplus butter with feed and feeding it back to the cattle. If that isn't one for the birds, I do not know what is. But I am thinking about this so-called impost that they are going to put on our soybean products. Do you think that is consonant with GATT? Can they do it?

Mr. GILBERT. Not only do I think it is not consonant, but this Government has made the strongest possible representations to the

people over there that if they do there will be hell to pay. There is a very, very strong position taken by this Government and I have seen no indication of any possibility of their weakening on it.

Senator DIRKSEN. Well, would this call for retaliation or would it not?

Mr. GILBERT. I should think it undoubtedly would.

Senator DIRKSEN. But if they insist on justifying this in other non-tariff barriers, have we gotten to the point where we ought to try to convene another meeting in Rome or elsewhere and think about re-vamping what we have undertaken under the General Agreement on Trade and Tariffs?

Mr. GILBERT. I think this is a possibility, sir.

Senator DIRKSEN. Is it about time that we do that?

Mr. GILBERT. My guess at this point is, it is not about time yet, but I think it is a possibility that certainly ought to be thoroughly considered.

The more that can be done—to expand on that just a little bit, Senator—the more that can be done by working within the GATT administration to make interpretations of the existing agreement to clarify these various issues rather than starting all over again to write a brandnew agreement, the better. It is like a constitutional convention; you never know what is going to come out of it. If you start to write a new one —

Senator DIRKSEN. How do you happen to think about a constitutional convention?

Mr. GILBERT. Well, some people have been advocating one in Massachusetts for sometime.

Senator DIRKSEN. Well, I have been laboring for one, and I am getting within striking distance. But you know there is a tremendous interest now in the protection of the American market——

Mr. GILBERT. Yes, sir.

Senator DIRKSEN (continuing). Because it is a protection of American jobs. And the labor elements in the country are becoming very acute and conscious about all this.

Mr. GILBERT. Right.

Senator DIRKSEN. Because I was surprised to see a vice president of the United States Steel Corp., and a vice president of the Steelworkers Union walk in my office arm in arm. You see, this has now become a matter of jobs as well as bargaining, and I suppose for the last calendar year steel imports have probably gone to 17 million tons. It could be more.

Now, that is a big slice of our market. And unless voluntarily or otherwise we can get some kind of an agreement, do you have a suggestion in mind other than imposing a quota, because everybody sort of shies at the idea of a quota.

Mr. GILBERT. It would seem that the agreement that they worked out around the turn of the year seems to have worked pretty well, and has also been, the cycle, the business cycle has been such that from what I can read in the papers steel employment is at a very good level now, actually increasing our exports for the first time in quite a long time, and it would seem as though they have worked under these economic conditions at any rate, seem to have a modus operandi that seems to work pretty well.

Senator DIRKSEN. Do you think that is true of shoes?

Mr. GILBERT. This is one that—you know there was a Tariff Commission report around the turn of the year, and from that plus published indicators the industry would appear to be basically fairly healthy. On the other hand, a very strong and representative group of Members of the House and Senate obviously have gotten different information.

To my mind this calls for a very, for an expedited and thorough examination of the facts to sift out the facts from the argument.

Senator DIRKSEN. Well, that would not console the New Englanders who will report to you that shoe factories have gone out of business. And it does not console the 42 shoe factories in Illinois who constantly point out to me that last year 175 million pairs of shoes came in here. They use skilled, some skilled, semi-skilled, a good deal of unskilled labor. I think the average wage is about \$2.23. And you cannot go anywhere in the world and approximate that because mainly whether it is in Europe, Japan, Taiwan, or wherever it is, it is a terribly low-wage rate. And their problem is how are you going to contend, or how are you going to compete and save a little of their market?

Mr. GILBERT. Well, my response was not intended to indicate that I had an opinion as to whether the shoe industry needed protection or not. It was to indicate that, on the record there are two conflicting views as to the need or lack of it. And my point was that I think this called for prompt and thorough examination of the facts to find out what the true facts are on the basis of which a judgment could be arrived at. I have no opinion on the subject at all, sir.

Senator DIRKSEN. Of course, Mr. Gilbert, it calls for something more than an investigation. It calls for some action, if what is related to me is the fact.

Mr. GILBERT. It is that "if" that we are talking about.

Senator DIRKSEN. Yes. Now, there is a gentleman sitting up here at the committee table who out of sheer dynamite managed to manuever a quota textile bill through the U.S. Senate and I salute him for the effort that he put into it. And the textile people are bleeding today—even in Appalachia, if you goover there where we are bathing in so much hay, oh, they will tell you how much textile jobs have been, forfeited. If you go to the Carolinas, they will tell you the same thing, and of course our trading partners get their hackles up whenever we even talk about a quota. I had a representative from the Orient around some months ago, and he said, "Well, what would you settle for a quota?" "Well," he said, "at long last you are beginning to talk the right kind of language because we are on the bargaining end of this matter. This is our market and not yours. And you are not going to set the base quota. We are going to set it." And jobs are involved here. And that is an important thing.

Mr. GILBERT. No question about it.

Senator DIRKSEN. I will not pursue it further. Maybe he will pursue it. But I want to ask you one or two more questions and then I guess we have got to go into executive session, Mr. Chairman.

The Federal, or the U.S. Tariff Commission is on record as saying that when you tote up our trade balances actually you have to add 10 percent to the import dollarwise because they send over here on a c.i.f. basis and we are on a f.o.b. basis, and we are behind the eight ball.

When do you think this is going to be remedied? We have carried on this struggle for sometime. And I thought at long last that out of the Department of Commerce we were going to get some change of regulations, and that these figures that are presented to us and to the country would then be a little more realistic when it comes to our trade balance. Have you any views on that subject?

Mr. GILBERT. Well, as I understand it, sir, the Bureau of the Census figures as they are prepared are prepared pursuant to instruction in the law of Congress. I do not have a citation—

Senator DIRKSEN. Where do they get their instructions?

Mr. GILBERT. I can send you a citation. I do not have it here. But as I understand it, it is pursuant to law.

(The Office of the Special Representative for Trade Negotiations subsequently submitted the following information:)

The Secretary of Commerce is authorized to collect and publish foreign commerce and trade statistics and to make such rules, regulations and orders as he deems necessary or appropriate to carry out provisions of the authorization. 13 U.S.C. §§301-307.

The basis for determining the value of imported merchandise is set forth in 19 U.S.C. 1401a and 1402 and 15 CFR 30.70(j).

The basis for determining the value of exported merchandise is set forth in 15 CFR 30.7(q) (1) (2) (3) and 30.30.

Senator DIRKSEN. Well, what do you think about this?

Mr. GILBERT. Well, of course, the trade figures, as I understand it, are set up, those particular trade figures are set up for the purpose of indicating the relative competitiveness between American industry and industry overseas, in which case I think it makes some logic to tie them in both cases to f.o.b., which is the cost—the cost on the dock. The c.i.f. figures, of course, are very significant, but if we added c.i.f. this would be throwing in other factors which do not have a bearing on the actual competitiveness of the product.

The Commerce Department, as I understand it, has been producing figures of a c.i.f. basis which they—by categories; they do not go across a whole line, and do produce those periodically.

I suppose if one wanted to call for a different setup, certainly the Department of Commerce would respond to Congressional instructions.

Senator DIRKSEN. Yes; but, Mr. Gilbert, it seems to me if you want to set it up as a syllogism, number one, they send in here under c.i.f., we send out under f.o.b. Those figures are then totaled and then we determine whether we have a trade balance or not.

Now, if that is the case, and then you add to it what the U.S. Tariff Commission said, and they are on record, that you have got to add 10 percent to make this realistic, then, of course, your figure is no good and it becomes kind of a nice, courteous fraud on the Congress and on the country, and I do not like it. If we just had the figures, the realistic figures that is all I ask, then we will know what to do.

Mr. GILBERT. Right.

Senator DIRKSEN. Well, I guess I have to quit unless I can put this one in. It seems to me that to be realistic about a trade policy, we are going to have to gird it in very lightly to foreign policy. Our great competitor in this world, not tradewise, of course, but otherwise in terms of power, is the Soviet Union, as we well know. And they are

operating all over the world. Now, they are realistic about it. When Tito got his hackles up, what did they do? They shut off his imports. That is the way they disciplined him. They made it a part of their national policy.

Do you not think we ought to do the same thing?

Well, do not answer. Do not answer it, because, look—we will pursue this another time.

Mr. GILBERT. Yes, sir.

Senator DIRKSEN. But sometime we are going to have to answer that question.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Gilbert, we have a number of Senators who want to ask some questions, but we really must hold an executive session of the Finance Committee members to discuss a very important tax measure. I think we can act promptly and be back in here in short order but Senator Hollings wants to ask you a few questions because he is very much concerned about textiles in particular. I know what he is going to ask about because I have heard him say it before this committee. If it is all the same to you, we will let Senator Hollings ask you the questions that he has in mind. And then as soon as we are through, why we will be back in the room with you.

Senator TALMADGE. Mr. Chairman, if I may, I would like to ask two or three questions before I join the committee in executive session.

The CHAIRMAN. Yes.

Senator TALMADGE (presiding). Mr. Gilbert, within the past year, President Nixon has outlined his views on the textile import problem at least six different times. The latest was just last week in a communication to the president of American Apparel Manufacturers Association during the course of that organization's 36th annual meeting.

All of these statements underscored the President's desire to moderate and bring some orderliness to the U.S. textile and import situation with reference to apparel. My question is this: Do you concur in the President's views on this subject, and will you work toward his objectives in this area?

Mr. GILBERT. I do.

Senator TALMADGE. No. 2. In a telegram to several Members of the Congress on August 21, 1968, President Nixon said with respect to textile imports—

As President my policy will be to assure prompt action to effectively administer the existing long term International Cotton Textile Agreement. Also, I will promptly take the steps necessary to extend the concept of international agreements on all other textile articles involving wool, manmade fibers and blends.

Now, were you aware of President Nixon's position on the textile import problem when you accepted his nomination as Special Representative—

Mr. GILBERT. I was.

Senator TALMADGE (continuing). for Trade Negotiations? Now, it is my understanding that the long-term cotton arrangement did not involve any compensation from the United States. Negotiated skillfully, this would now seem to be true of a mutually lateral arrangement covering woolen, manmade and blended textile imports.

Mr. GILBERT. If done in the form of a voluntary, of a voluntary international arrangement which the President has been moving.

Senator TALMADGE. Now, assuming then that they did not do it voluntarily, what would be your recommendation to the President?

Mr. GILBERT. I am not prepared to discuss now what a recommendation would be. I have every confidence that one way or another Mr. Stans is going to be successful in working out his mission for the President in this regard.

Senator TALMADGE. In other words, you would favor that objective whether we had to take unilateral action or bilateral action; is that correct?

Mr. GILBERT. You are jumping a bit ahead of me, Senator. I have not—I do not believe that I will have the responsibility of deciding whether to move in the unilateral direction or not. The only power, as I understand it, for a unilateral move in this direction would derive from a special act of Congress.

Senator TALMADGE. Unless it were in situations of the Trade Act where the President could take such authority, and textiles, as you know, have been held, second only to steel, to be the most important industry in the country for defense.

Mr. GILBERT. No question in my mind about its importance, sir, no question at all.

Senator TALMADGE. Do you think the President would have authority under the existing laws to act unilaterally?

Mr. GILBERT. I am a little doubtful without the preliminaries of an escape clause procedure. I am not trying to express an opinion, to raise any question as to his authority, but I think there is some real doubt about it.

Senator TALMADGE. Thank you very much, Mr. Gilbert. I am happy to hear you say that you are going to support these objectives wholeheartedly.

Mr. GILBERT. Yes, sir.

Senator TALMADGE. Senator Hollings.

Senator HOLLINGS. Mr. Gilbert, what is your view, sir, of a quota as an instrument of trade policy?

Mr. GILBERT. Just in general?

Senator HOLLINGS. In general.

Mr. GILBERT. Would you mind if I lit my pipe?

Senator HOLLINGS. Not at all. Make yourself comfortable.

Mr. GILBERT. Well, as I have already commented in response to Senator Long's question, the categories of quotas that fall over into the agricultural area and the national defense, I think, are separate categories. In the case of the oil quota, under national defense there is really no alternative, it seems to me, than to use quotas in that area. Likewise, on measures to protect an agricultural price support program, there is really no other suitable way of protecting the agricultural program because its headaches come out of excess quantities rather than quotas themselves.

In general, I think that attitude of the United States including that expressed by the President, who said he takes, I think his remarks were, to quote him, "A dim view of the move toward quotas," I think the reason for this dim view, which I think is in many peoples' minds, is it certainly removes price competition to a far greater degree than do tariffs, and, therefore, has a rough effect on the consumer. It certainly encourages cartels abroad. It almost forces a cartel to be formed to divide up a quota from among the supplying nations. It

certainly runs counter to all of American postwar efforts to encourage trade, and I am afraid would violate various of our commitments. So I am not dogmatically opposed to all quotas, but I do believe that a strong case must be made out for protection—not only for protection itself but also that quotas are the right form of protection.

Now, there are cases where under special circumstances volunteer restraints by exporting countries make good economic sense from the point of view of the exporter as well as from the point of view of the United States, certainly where appropriate to avoid the sudden and unexpected disruptions suffered by our own markets. And I think textiles is an ideal case in point. The extension of the long-term cotton textile agreement, if this could be negotiated, or other long term— or other international arrangement seems a highly appropriate remedy in the case of textiles.

Senator HOLLINGS. Have you not always opposed quotas? In your capacity as head of the National Committee on Trade Policy, specifically last year before the Ways and Means Committee you stated categorically you have always opposed quotas and even used the expression, "You are playing with dynamite when you start quota legislation," even went to the extent of saying that those connected with the defense of the country, that they are more or less nothing but subsidies, quotas being indirect and you would recommend that the money be appropriated to the Pentagon and the Pentagon just directly subsidize rather than going into quotas? Was that not the strength of your statement at that time?

Mr. GILBERT. The latter category was on an "if" basis because there are no national defense protection in existence except oil.

Senator HOLLINGS. Well, what do you think President Kennedy acted under when he enumerated his seven point program and then arranged quotas with LTA cotton goods?

Mr. GILBERT. I was trying to limit myself, Senator, to the national defense.

Senator HOLLINGS. Right. Did he not do that subsequent to a long series of hearings defining textiles as second most important to national defense—

Mr. GILBERT. That is correct.

Senator HOLLINGS. To steel? And then did he not act unilaterally?

Mr. GILBERT. No; he acted in an international agreement.

Senator HOLLINGS. He acted in an international agreement on the LTA, but his seven point program generally speaking was a unilateral action, made it clear that we were going to do something on the textile problem is that not right?

Mr. GILBERT. I am afraid I would have to go back and reread that.

Senator HOLLINGS. Well, did you support that program back in 1961?

Mr. GILBERT. I do not think I was involved in it.

Senator HOLLINGS. How long have you been with the National Committee on National Trade Policy?

Mr. GILBERT. 1961.

Senator HOLLINGS. You came on that that particular time?

Mr. GILBERT. The autumn of 1961.

Senator HOLLINGS. Right. And you had served prior to that time now in various capacities in trade. When were you member of the Public Advisory Committee on Trade Negotiations?

Mr. GILBERT. That as I recall it was established by President Johnson in about the latter part of 1963.

Senator HOLLINGS. And then as a member of the Public Advisory Committee on Trade Policy at the same time, is that right?

Mr. GILBERT. That was subsequent. My recollection is it was August 1968 until January 1969.

Senator HOLLINGS. As Chairman of the Massachusetts Port Authority. When did you serve there?

Mr. GILBERT. Well, I served there from 1956 until 1963 when I was off the port authority for 3 years and then returned in 1966 until I resigned in connection with coming down here.

Senator HOLLINGS. Just prior to coming here you have been serving on the port authority?

Mr. GILBERT. Chairman of the port authority.

Senator HOLLINGS. Chairman of the Port Authority of Massachusetts. And then as a National Foreign Trade Council director and former officer. Will you tell us something about that?

Mr. GILBERT. Well, the period of time was—I am sorry I do not have the precise dates, but I must have gone on that, I suppose, about 1950 and would have gotten off it, oh, in 1960, something in that period.

Senator HOLLINGS. So for a 10-year period from 1950 to 1960 you served at least as a director?

Mr. GILBERT. Yes, sir.

Senator HOLLINGS. And at the time an officer of the Foreign Trade Council.

Mr. GILBERT. That is right, sir.

Senator HOLLINGS. And then the Committee for National Trade Policy commenced in 1961.

Mr. GILBERT. Yes. That is when I became chairman of it.

Senator HOLLINGS. And you served on the committee prior to that time.

Mr. GILBERT. Yes, I had.

Senator HOLLINGS. For how long prior thereto?

Mr. GILBERT. I am not quite sure. Three or 4 years.

Senator HOLLINGS. So after serving 3 or 4 years, then you became the chairman of the Committee for National Trade Policy?

Mr. GILBERT. Correct.

Senator HOLLINGS. And that particular committee has been vehemently opposed to quotas, has it not?

Mr. GILBERT. That is correct.

Senator HOLLINGS. In fact, last year, referring in particular to the platform of the Republican Party, and also that of the Democratic Party, your committee put out in its edition for October entitled "Trade Talk," here you put out an editorial called Warped Planks, talking about the trade policy of the two parties. Do you recall that?

Mr. GILBERT. I certainly saw it after it was published; yes.

Senator HOLLINGS. And in there you said specifically, not giving much credit to either, but you said:

The Democratic plank basically in tune with the trade policy objectives this country has been extolling for the past three decades. The Republican plank tends to return the party to a historical position on trade policy which modern republicanism was supposed to have rejected, as Charles P. Taft eloquently did in his statement before the platform committee in Miami Beach.

Where they specifically opposed quotas. Do you remember that?

Mr. GILBERT. I think so; yes.

Senator HOLLINGS. And this was in October, subsequent to candidate Nixon's statement in August of last year, and he made a very clear-cut statement with respect to textile quotas. Do you recall that in the telegram in August of 1968, on August 21?

Mr. GILBERT. No; I am afraid I do not.

Senator HOLLINGS. Quoting from the telegram:

The Johnson-Humphrey administration has failed to carry out the program initiated by President Kennedy and reaffirmed less than 4 years ago.

And then stating further:

As President, my policy will be to rectify this unfair development and to insure prompt action to promptly administer the existing long term international cotton textile arrangement. Also, I will promptly take the steps necessary to extend the concept of international trade agreements to all textile articles involving wool, manmade fibers and blends.

Of course, the LTA is a quota agreement, and this is what you were referring to as chairman of your committee, sort of turning the clock back in your editorial in Trade Talk in October and saying if there was a choice under the editorial "Warped Planks," that certainly it was a Democratic one that was going along with trade expansion and not the Republican one that you favored because it was going back to protectionism and trade quotas, is that not right?

Mr. GILBERT. I think that was the tenor.

Senator HOLLINGS. What I am trying to get at when you talk of commitment, I am trying to understand just exactly what you feel in your heart and mind is a commitment, and I am trying to find out really what the commitment is. Specifically, in what the President means. For example, again in February of this year you had another editorial in Trade Talk, "The Mire of Myopia." And you referred then to the quotas as:

Short-run political gimmicks for soundly based policy. Other countries—either their governments or their producers per se—have been persuaded to restrict shipments to the United States of steel mill products, meat, and cotton textiles. The new administration will continue the attempt of previous administrations to negotiate trade restrictions on textiles not already covered by the international cotton textile arrangements negotiated in 1962 and extended in 1967 for another 3 years. It hopes through these tactics to defuse the import controls the respective U.S. producers have been urging from Congress.

My question to you, sir, is: Are we really carrying out a commitment in genuine conviction in trying to do something, or is what we are really trying to do to defuse the Congress, which apparently was your view in February?

Mr. GILBERT. Just—not to try to disclaim responsibility because that is not my intention, but I should point out that the editorials that are in this publication are not written by me. If they were all going in a direction I didn't like, I could undoubtedly have done something about it. Basically, of course, I was responsible for what that publication said. But I see no indication, there is certainly none in my mind that the attempts of the administration to negotiate a textile agreement are motivated by an attempt to defuse congressional pressure. I believe the President must be convinced of the need for alleviating the impact of imports on the textile and apparel industries or he would not be moving in this direction. And as I already

said, I completely concur in what he is doing and have no reservations on it.

Senator HOLLINGS. Well, now you talk about alleviating the impact of imports, yet before the Foreign Relations Committee a few weeks ago you say:

The relief sought for by the textile industry will depend on the results of a further study of the textile industry.

Do you really mean that now that what we should do, or do you mean you are going to study it further?

Mr. GILBERT. No. To clarify this, in the first place the question of handling and negotiation textiles agreements has been delegated by the President to Mr. Stans, the Secretary of Commerce. I'm an observer, period, at this point. The further study that I meant and had in mind was that Mr. Stans at that moment, as I recall it, was in the Far East conducting further conversations to look into the possibility of working out an international agreement. He was not negotiating at that time. To my mind these were studies.

Senator HOLLINGS. Mr. Gilbert, you did not go to the Far East with him?

Mr. GILBERT. No; I did not.

Senator HOLLINGS. You went to the European countries with him?

Mr. GILBERT. That is correct.

Senator HOLLINGS. How many countries did you travel to?

Mr. GILBERT. I think it was seven capitals in 13 days.

Senator HOLLINGS. And you had 13 days and hours upon hours of conferences——

Mr. GILBERT. That is right.

Senator HOLLINGS (continuing). And stating the position. And you know it to be a fact that the stated position of the U.S. Government in these particular conferences is to try to bring a cutting off at the present level of imports for the guarantee of, say, 5 to 7 percent here after——

Mr. GILBERT. Yes.

Senator HOLLINGS (continuing). Of increased domestic consumption.

Do you agree with that policy?

Mr. GILBERT. Yes.

Senator HOLLINGS. Well, you say that so casually and yet in March when you talked of quotas and the overall impact, you did not talk in casual terms before the Chicago World Trade Conference. Actually, it was on February 28, 1968, a talk against quotas and these other measures in the Congress, and anything that would spiral prices, as you stated, and quotas would. You said, "We have got to fight to defend the things we believe in."

Now, what I am trying to do is find out what you believe in, and the best evidence I have had so far in about a 20-year period, you said beginning in 1950 to 1969, in studying your record is you are opposed to quotas. Did you not say quotas spiral prices?

Mr. GILBERT. Yes; I certainly did.

Senator HOLLINGS. A terrible thing. You said that they even lead to corruption. Do you remember stating that before the Ways and Means Committee, so bad it would even corrupt the Government?

Mr. GILBERT. I did not say—I do not think I said, "Would corrupt." I think I said "could," if I said would, I was certainly wrong.

Senator HOLLINGS. "The temptation"—I will just read it because we are not trying, you know, to—you could not keep—and I have been looking at the things early this morning. You could not keep up with every sentence your testimony there, and that is not the point, but you said there and I quote from page 742 of the Ways and Means Committee hearings, "The temptations to price rigging and even corruption will be great."

Mr. GILBERT. I said "temptations." I certainly did not mean to say "would."

Senator HOLLINGS. The fact of the matter is that we have had quotas in cotton textile articles, under the short-term arrangement in 1961, extended for five and now 3 years, for almost 7 or 8 years, is that not correct?

Mr. GILBERT. Right, sir.

Senator HOLLINGS. Do you know actually that the wholesale price index of the cotton products procedure to the LTA and—short-term arrangement and then procedure to LTA was 104.4? Do you realize at this particular time now it has risen the gracious amount of seven-tenths of 1 percent, or 105.1, whereas all articles have gone up 8.9 percent? So rather than corruption and spiraling of prices and everything else, the quotas in cottons has worked out pretty well for jobs, for the textile industry, and everything else, is that not right?

Mr. GILBERT. Yes. The remarks I made in Chicago were in the course of a debate with the head of the American Iron & Steel Institute and while cast perhaps in general terms, were certainly specifically directed toward steel. I have already said that I regard the textile industry as a special situation. I think there is absolutely no possibility of the United States being able to absorb all of the production, the potential productive capacity of textiles around the world, which is virtually unlimited. So that I am quite ready personally to completely concur in the fact that the textile industry is a special situation and needs special treatment.

Senator HOLLINGS. But actually last year you were against a change, and how much I welcome change.

Mr. GILBERT. I have learned quite a lot in the last couple months.

Senator HOLLINGS. Is that going to change your judgment from the last 19 years? That is my point. You were stating that what we should do is find more facts and exhaust—you even chastised in your testimony before the Ways and Means Committee the industry saying that they had not sufficiently exhausted, as you said as an attorney who uses that expression, exhausted the administrative remedies. You had not been, that the industry, rather, had not gone into the escape clause hearings, is that not correct?

Mr. GILBERT. That is correct.

Senator HOLLINGS. You felt that way very strongly last year, is that not right?

Mr. GILBERT. I know a little more now that the escape clause has got to be amended because it isn't effective enough in its present form.

Senator HOLLINGS. Well, is it not a fact that during that 10-year period when you were on the port authority and the National Port Authority and the National Foreign Trade Council that we had almost 15 to 20 some cases of escape clause proceedings and did not win on a single one? Of those let us say 15 there might have been two that we

had hearings on knit gloves, knit mittens, woolen berets, which by the way they make for the Special Forces in Vietnam now—they make them up in Canada at one end of the building and take the draft-dodgers on the other end—wool gloves, silk scarves, velveteens, cotton blouses, pillowcases, all up and down the line. Yet, last year, even when President Kennedy, who was then Senator John F. Kennedy found in August of 1960 that the escape clause provisions had been employed and pursued to a point of exhaustion, he said in his letter, you find that they hardly ever used it. Do you agree with the Kennedy seven-point program on textiles?

Mr. GILBERT. I said I am not currently familiar with that.

Senator HOLLINGS. Oh, come now, Mr. Gilbert. As profound as you are in trade matters from port authorities to the Foreign Trade Council, going from a 3-year membership to the chairmanship for the last 9 years of a committee for trade policy, you are not familiar with the Kennedy seven-point program on textiles?

Mr. GILBERT. I have got to plead guilty to not being familiar at this point.

Senator HOLLINGS. I find that hard to believe.

Let me ask you this. With respect—do you remember the time when you were also appearing and were asked a question by Mr. Landrum, the Congressman from Georgia, with respect to his 1,000-employee industry? Your answer was that losing jobs under that shirt factory and otherwise, that they possibly ought to look for a different endeavor. Do you remember that?

Mr. GILBERT. Yes.

Senator HOLLINGS. Do you think that is what the textile industry ought to, that it is expendable and it ought to start going into some of these conglomerates, the beauty parlor business or something else, get out of it?

Mr. GILBERT. I do not. I have already said, sir, that I believe the textile industry's special and unusual problems call for exactly the sort of treatment the President is trying to give it.

Senator HOLLINGS. What is the treatment the President is trying to give it, do you know?

Mr. GILBERT. He is trying to arrange for an international agreement which would have the result of limiting, as you pointed out earlier, the impact of imports into this market.

Senator HOLLINGS. But, Mr. Gilbert, over in Japan and all, you know the rebuff that Mr. Stans received there in his visit there. His words were: They with intransigence, had the adamant position of absolutely not talking whatsoever on his visit to Japan; is that not correct?

Mr. GILBERT. That is my understanding.

Senator HOLLINGS. That is my understanding, too. Well, now in order to get them to talk, what do you think about the idea of employing article 28 of the General Agreement on Tariffs and Trade where we could give notice 6 months prior to its expiration, which will be in December, give a notice here now by July 1 that we are not automatically renewing all tariff concessions under that agreement? Do you think that would be a good section to employ?

Mr. GILBERT. I would doubt that going back to the statutory tariff rates would provide enough protection to help the textile industry.

Senator HOLLINGS. Well, you say now it would not give enough protection, but would it not automatically under that section bring Japan and the United States to the table where we could talk? Is that right?

Mr. GILBERT. You have got me in a position now where I do not want to be commenting on Mr. Stans' negotiating techniques.

Senator HOLLINGS. Well, I do not want to either. I am trying——

Mr. GILBERT. He has the responsibility. I am sure he is executing it with all of the diligence and intelligence and power he has. I think the Japanese situation from what I gather was that by the time that Mr. Stans got to Japan, unfortunately the Diet has passed with only one dissenting vote an instruction to the Government not to negotiate.

Senator HOLLINGS. Right. So if you know——

Mr. GILBERT. So that the timing was such that it was pretty hard for him to negotiate at that point.

Senator HOLLINGS. Exactly. In fact, the Japanese had preceded you in a way in your European trip in almost each of those capitals. In brief, you found over there——

Mr. GILBERT. They are well represented around the world.

Senator HOLLINGS. They were well represented and they preceded you and then followed up with meetings and dinners, and so forth, to persuade their viewpoint. So the action of the Diet was actually pursuant to your European trade mission knowing what was coming.

Mr. GILBERT. I think so.

Senator HOLLINGS. So that when you see that kind of intransigence and unwillingness to even talk, when you say you make a commitment, in knowing that they will not even talk, it is not much a commitment, is it, unless you can get them to talk?

Mr. GILBERT. I think the President can get them to talk.

Senator HOLLINGS. Well, in spite of all of Mr. Stans' endeavors and everything else, what would be wrong, since article 28 is the section of an agreement that would not constitute unilateral action what would be wrong with our Government employing article 28 to get us to the table so we could talk?

Mr. GILBERT. I think it is just a question of would it get them there? Is it the most effective means of doing it? And since this, as you know, is a question that is before the President right now, I do not think I ought to be talking about what all the considerations are.

Senator HOLLINGS. But, you see, we are on a 10-year end of the gauntlet, so to speak. We have been trying and trying. We have got half a river dammed in May of 1961, with the LTA cotton but nothing has been done on woolens and manmade fibers. And as we come down this long road they say they are going to do these things and yet we do not want to end up here at the end of the fall period and say, well, now this involves Okinawa; this involves international State Department policy; this involves this and that. And Mr. Stans has done all he can do and given the attention and reaffirmed the commitment, but it takes two to tango. And we cannot get the Japanese to agree, and therefore we leave it to you over there while you are adjourning in a confused state knowing that nothing could pass the Congress anyway. We do not want to work our way into that particular position. That is why we are so much concerned about not your character and ability, no one questions it, but your past sentiment. You were not mild in your views——

Mr. GILBERT. I was an advocate.

Senator HOLLINGS. You have been a strong advocate and a leader as a chairman of that particular committee saying, you have got to fight to defend, we have got to fight to defend. We have not heard much talk of discipline in this Government. I welcome it. But what has happened in the last 2 months to change your mind on all these things about quotas?

Mr. GILBERT. One of the things is once you shift from an advocate to the position where if confirmed you are going to have the responsibility for execution, your point of view is somewhat different.

Senator HOLLINGS. You were not prepared to execute the policies that you have been recommending over the years as the chairman of that committee on national trade policy?

Mr. GILBERT. The supervening responsibility I will have if confirmed is to carry out the policies of the Congress and the policies of the United States.

Senator HOLLINGS. What about the State Department? Suppose the State Department has no quotas, no agreement, they say don't worry, they are not serious, as they always have done and the Congress is over here trying to pass a bill expressing its intent in the clearest form. Would you oppose, as your predecessor did in the Conference Committee of last year where the Senate had enacted a bill for textiles and textile quotas, and the House itself had some 230 cosponsors for a similar bill. Would you appear like Mr. Roth did and still oppose it?

Mr. GILBERT. I do not think I can answer a theoretical case, sir.

Senator HOLLINGS. That is a factual, actual case, That is what he did.

Mr. GILBERT. That was last year?

Senator HOLLINGS. That was last year.

Mr. GILBERT. The——

Senator HOLLINGS. The facts are the same, only worse.

Mr. GILBERT. In answer to the first part of your question, I would have respect for the State Department as I would for every other Cabinet department of this Government, but I certainly do not intend, if confirmed, to be subservient to any of them. I will be taking my orders from the President, giving the President my views for whatever they are worth. And once his decision is made I will carry it out to the best of my ability. But major policy decisions of this sort are going to be decided by the President of the United States.

Senator HOLLINGS. And you would now have heart and enthusiasm if he decided we ought to have import quotas for textiles——

Mr. GILBERT. No question about it.

Senator HOLLINGS (continuing). Where you never had it in 19 years? No question about it. You would go enthusiastically for it?

Mr. GILBERT. Yes, sir. Do not forget, I was 17 years a lawyer.

Senator HOLLINGS. Yes, sir. But I mean you were not acting as an attorney as chairman of that committee.

Mr. GILBERT. I will go with my client.

Senator HOLLINGS. Yes, sir. But then you were an administrator when you were heading the port authority which you just left. You were an administrator, or executive as chairman of the Trade Council. You were director——

Mr. GILBERT. The port authority had no specific relationship to these problems except that of trying to get some ships to move in and out of its port. It took positions occasionally on import restrictions.

Senator HOLLINGS. I have found port authorities have not always wanted trade. In fact, they opposed our textile trade business, my own port authority in South Carolina.

The particular legislation, S. 22, which is word for word the bill that was enacted, rather passed the Senate in the form of an amendment, have you read that, S. 22? Are you familiar with the textile quota bill that passed last year?

Mr. GILBERT. I am not expert on it but I have read it.

Senator HOLLINGS. And do you agree with it or object to it?

Mr. GILBERT. I would hope we could work this problem out with the textiles with an international agreement rather than by imposition of quotas, and I think there is every chance of being able to do it.

Senator HOLLINGS. Is there anything this Congress could do to assist?

Mr. GILBERT. There is nothing that occurs to me, sir; no.

Senator HOLLINGS. Well, what is the basis of your encouragement and feeling that you can accomplish an agreement when you know you have been rebuffed even by the formal action of the Japanese diet, they would not even talk to you, and they opposed you in every European capital that you have just visited? Where do you get the encouragement? Are there secret talks going on like the VC in Paris? I am trying to find out.

Mr. GILBERT. No, sir.

Senator HOLLINGS. Well, where do you get the encouragement?

Mr. GILBERT. I just believe this is sufficiently feasible that it can be done. I think it is going to be done, though, by making the minimum of public comments on the subject which just tends to make other governments intransigent.

Senator HOLLINGS. I have no further questions at this time, Mr. Gilbert. Would you like to add anything?

Mr. GILBERT. I do not think so.

Senator HOLLINGS. You see what I am trying to get at. I am trying to get you enthused.

Mr. GILBERT. Yes, sir.

Senator HOLLINGS. You have been off in the other direction. You have been opposing it anytime you have ever appeared, it was spiraling, it was corruption, it was dynamite. Everything was wrong. Now, you find it just a pleasant, wonderful little thing, a little quota that the Japanese all of a sudden will not agree on. And there has been sort of belief that we have been suffering from what you might call a credibility gap—when President Kennedy said one thing and Mr. Hickman Price, the Assistant Secretary of Commerce, got to London he found the State Department had canceled the room rent. They did not have a place to meet. He had to go rent it himself.

Now, this has been our experience over the last 8 or 9 years. Now, are we going to find you canceling room rent, or are we going to find you supporting the President?

Mr. GILBERT. With the limited budget I have, I will not be hiring rooms for anybody else.

Senator HOLLINGS. Well thank you, sir. I appreciate your—

Mr. GILBERT. Thank you, Senator.

Senator HOLLINGS. The committee will now be recessed for 15 minutes.

Thank you.

(Short recess.)

Senator TALMADGE (presiding). The committee will please come to order.

We are ready to proceed with the hearing now with reference to Mr. Gilbert who has been named by the President as his adviser in foreign trade matters.

Senator ANDERSON, do you have any questions?

Senator ANDERSON. No; I have no questions.

Senator TALMADGE. Senator Miller.

Senator MILLER. Thank you, Mr. Chairman.

Mr. Gilbert, is it true that following the Kennedy round of negotiations some of the participants in those negotiations have taken some action with respect to nontariff barriers which in effect undercut the reciprocal lowering of tariffs?

Mr. GILBERT. The only one that I know of, Senator, which could be looked at in that fashion, is the decision on the part of the European Economic Community to adopt the value added tax as the tax objective for all six members.

Senator MILLER. Well, has that substantially undercut the results of the Kennedy round with respect to those countries at least?

Mr. GILBERT. This is a matter which is under very serious study. I think it is very hard to make a categorical answer to the question, sir. It certainly needs to be investigated thoroughly, and is a subject of extremely thorough examination both by the Treasury, the Department of Commerce, and the Office of the Special Trade Representative.

Senator MILLER. Well, if it should be found that there has been a substantial undercutting of the Kennedy round reciprocal lowering of tariffs because of this action, it would certainly seem that some retaliatory action would be indicated on our part, would it not, if they persist in this?

Mr. GILBERT. Well, if this were done, if this had been done for the purpose of undercutting, I could agree with you without reservation. I think it can well be argued that any effects there are incidental to the adoption for domestic purposes of a new, not entirely new, but a broader adoption of the value added tax as a basic source of tax revenue of a country.

Senator MILLER. Well, then, let us say that this was merely an inadvertent result of such action but it can be shown very clearly to them that this has been the result, whether it was intended or not. I presume that we would give them a fair time to do something about it. But if, as a matter of fact, it has had the effect of undercutting the Kennedy round, would we just sit or—

Mr. GILBERT. I do not think there is any disposition on the part of the country to just sit about it, and that is why I emphasized the Treasury's participation in this earlier, because this obviously is one of those areas—the impact of the problem is on trade but it also has a very close relationship with monetary affairs, and it would seem to me that the best hope for solution lies in IMF or other suitable monetary sources of pressure, that countries in surplus for balance-of-payments purposes should lean over backward to make sure that they are not

accentuating the factors that lead to their surplus condition due to this border tax adjustment problem.

Senator MILLER. Now, I am sure you know that a number of quota bills have been introduced in Congress, in this session and in the last Congress. Do you think it is a fair statement to say that those quota bills for the most part represent a return, to the Smoot-Hawley tariff days.

Mr. GILBERT. No, sir; I do not.

Senator MILLER. In other words, that is a little exaggerated, as I understand it.

Mr. GILBERT. Yes, sir.

Senator MILLER. Is a quota bill necessarily protectionist in your thinking of the word "protectionist?" I say necessarily now.

Mr. GILBERT. I do not think so; no, sir.

Senator MILLER. In other words, you have to look at the setting in which it is—

Mr. GILBERT. You have to look at the setting and the changing conditions of the world. What could be described as one thing several years ago, a few years from now may be quite different.

Senator MILLER. Well, for example, if we are dealing with a country and they are trying to follow the Kennedy round results and doing it in good faith, and there has been no evidence from any of our research that they have undercut advertently or inadvertently the results of the Kennedy round, and all of a sudden we put on some kind of a quota rather arbitrarily, I suppose that could be labeled protectionist?

Mr. GILBERT. I think so.

Senator MILLER. On the other hand, if we find that some country is not following the Kennedy Round results and has advertently been undercutting the results, or if it, as a fact, put on some export subsidies and in order to counterbalance that country's action we should establish a quota, certainly this would not be protectionist in the same sense as the first example?

Mr. GILBERT. It is not as black and white as that; no, sir.

Senator MILLER. In other words, I just want to comment, Mr. Gilbert, that it has been my observation that some people perhaps in good faith but rather naively have been casting around the word "protectionism" and "protectionist" rather loosely. Has this been your observation?

Mr. GILBERT. I think the less we deal in adjectives the better we are going to think about the problem.

Senator MILLER. In other words, labels do not help us.

Mr. GILBERT. Certainly do not help anything.

Senator MILLER. Thank you. Now, I believe you made this statement. I have here the hearings of the Committee on Foreign Relations of the Senate on your nomination. You made this statement:

Our rapidly diminishing trade balance is a cause of deep concern to all of us. To a marked degree the rapid buildup of imports has been inflation-induced and can be expected to be rectified as the administration's anti-inflation actions prove effective.

I hope you would imply in that statement the fact that regardless of what the administration does, it must have the cooperation of the legislative branch—

Mr. GILBERT. Oh, certainly.

Senator MILLER (continuing). In order to do something about inflation.

Mr. GILBERT. Yes, sir.

Senator MILLER. For example, there must be a reasonable balance between taxes and spending.

Mr. GILBERT. Yes, sir.

Senator MILLER. And no matter what the administration may propose and desire to do, unless it has the cooperation of the Congress, its plans to curb inflation will not be achieved.

Mr. GILBERT. Correct. And also rereading that statement of mine, I think I would have been wiser to have said "slowed" rather than "rectified."

Senator MILLER. Well certainly slowed, you have to slow it before you can rectify it.

Mr. GILBERT. Yes, sir.

Senator MILLER. Now, this may entail a little philosophy, but, Mr. Gilbert, if those in control of the Federal Government, and particularly in control of the legislative branch of our Government, pursue inflationary policies as a result of which there is inflation which seriously harms the competitive position of our domestic industries, do you not think that there is a responsibility on the part of those who have followed those inflationary policies to take some kind of action that would provide compensating or offsetting relief to those adversely affected industries if indeed that is what has hurt their competitive position?

Mr. GILBERT. I think philosophically I agree with you. I would hope that action could be taken that would not accentuate the inflation.

Senator MILLER. Well, that is, of course, the best, and I do not know of any businessman who would not say that is what we want. But if, as a matter of fact, the managers of our Federal Government and especially those in control of the legislative branch say, nevertheless, we are going to follow the inflationary policies, it seems to me that that has an implied responsibility to take compensating or relief action with respect to those industries which have been adversely affected by those policies.

Mr. GILBERT. I think so.

Senator MILLER. Now, let me read this statement to you, and I will read it slowly. Here is a policy statement:

*** to work toward freer trade among all nations of the free world. But artificial obstacles to such trade are a serious concern. We promise hardheaded bargaining to lower the nontariff barriers against American exports and to develop a code of fair competition, including international fair labor standards, between the United States and its principal trading partners.

A sudden influx of imports can endanger many industries. These problems, differing in each industry, must be considered case by case. Our guideline will be fairness for both producers and workers, without foreclosing imports.

Thousands of jobs have been lost to foreign producers because of discriminatory and unfair trade practices.

The State Department must give closest attention to the development of agreements with exporting nations to bring about fair competition. Imports should not be permitted to capture excessive portions of the American market but should, through international agreements, be able to participate in the growth of consumption.

Should such efforts fail, specific countermeasures will have to be applied until fair competition is reestablished. Tax reforms will also be required to preserve the competitiveness of American goods.

The basis for determining the value of imports and exports must be modified to reflect true dollar value.

Not the least important aspect of this problem is the relative obsolescence of machinery in this country. An equitable tax write-off is necessary to strengthen our industrial competitiveness in the world.

May I ask your reaction to that statement?

Mr. GILBERT. It is the Republican platform.

Senator MILLER. Well, I know it is, Mr. Gilbert-----

Mr. GILBERT. I just wanted to prove I had read it.

Senator MILLER. And do you subscribe to that policy statement?

Mr. GILBERT. I have no quarrel with it. If confirmed, as a member of the Executive Office of the President, I would, of course, look to the White House for guidance and instructions as to matters of policy, and I believe that I would be correct in assuming that the President's advice and instructions have been given with the platform in mind.

Senator MILLER. But absent any instructions from the President to the contrary, does this policy statement satisfy you?

Mr. GILBERT. I have no objection to it; no, sir.

Senator MILLER. Now, Mr. Chairman, I have five questions, and I was asked to have Mr. Gilbert provide the answers for the committee record.

The Chairman (presiding). Fine.

Senator MILLER. These I think, Mr. Gilbert, may entail a little research and staff work on your part, and I would not want to belabor you with them at this time, but I will ask the chairman for permission to have these questions furnished you so that you may provide them to the committee for the hearing record.

Mr. GILBERT. I would be delighted to.

Senator MILLER. Thank you, Mr. Chairman.

(Senator Long and Senator Hartke subsequently submitted questions to Mr. Gilbert. These follow Mr. Gilbert's answers to Senator Miller's questions.)

(Mr. Gilbert's response to questions submitted by the committee follows:)

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, July 2, 1969.

HON. RUSSELL B. LONG,
Chairman, Finance Committee, U.S. Senate,
Washington, D.C.

DEAR SENATOR LONG: I enclose a memorandum in answer to the questions submitted at my recent confirmation hearing.

This subject of nontariff barriers is one on which several volumes could be written—and may be before we are through. I have an enormous amount to learn on this subject personally and have the impression that the same is true of the government as a whole.

I also have the impression that a few months from now we will begin to be in a position to have an appreciation of the true significance of the problems which would make it possible to concentrate attention on the more important of them. I mention "a few months from now" because the first significant results of the efforts of the GATT working parties and the Secretariat are expected to begin to be available in late September. I look forward to sharing this information as and when it reaches a useful stage of development with the Committee on a confidential basis. An exchange of views between this office and the Committee and its staff

on this complicated problem is, I believe, an essential procedure if we are to be able to face up to these problems intelligently and responsibly.

I am optimistic that we can make real progress in this important area.

Sincerely yours,

CARL J. GILBERT,
Special Representative Designate.

1. *List of those foreign nontariff barriers and unfair trade practices which affect U.S. commerce.*

A clear-cut definition of a nontariff barrier is exceedingly difficult. One of the more useful definitions is that a nontariff barrier is any law, regulation, policy or practice of a government, other than an import duty, that restricts trade. Such a definition, however, would not include private business practices that can also restrict trade. Furthermore, it could include many legitimate government measures that should not, in fact, be regarded as nontariff barriers unless they are abused in application. For example, the application of health and sanitary standards to imports should not be considered a nontariff barrier unless they restrict trade beyond what is reasonable and necessary to accomplish their purpose. Antidumping and countervailing duties do not distort trade and actually prevent such distortion provided they do not overcompensate for foreign dumping or export subsidies. Similar qualifications apply in the case of many other measures that are potential nontariff barriers. On the other hand, there are practices that intentionally and clearly are designed to act as nontariff obstacles to the international movement of goods.

With these necessary qualifications in mind, I have listed below major categories within which the United States has complained of the practices of one or more foreign governments, with examples of some of the more important measures within each category that actually or potentially restrict or distort trade.

There is a good deal of overlap between nontariff barriers and "unfair trade practices." Many of the measures included in the following categories are both. But others, while creating unfair conditions of competition, cannot strictly be called trade barriers, as they do not restrict the volume of trade. However, they have been included if their effect is to distort trade.

Category and measures restricting or distorting trade

A. *Quantitative Controls.*—

Import quotas no longer justified on balance-of-payments grounds.
Import licensing.
Tariff quotas where the duty on over-quota amounts is prohibitive.
Mixing requirements.
Motion picture and TV screen quotas.

B. *Government Procurement.*—

Overt price preference for domestic goods.
No open bidding.
No publication of awards.
Discriminatory specifications.
Designation of chosen suppliers.

C. *Government Monopolies (State Trading).*—

Arbitrary limitation of foreign purchases.
Higher resale mark-up on imported goods.

D. *Advertising Restrictions.*—

Prohibition or limitation of right to advertise imported products.

E. *Antidumping and Countervailing Duties.*—

Compensatory duties in excess of the margin of dumping or subsidy.
Arbitrary maximum import prices for determining margins.
Unnecessarily complicated or time-consuming procedures.

F. *Customs and Entry Requirements.*—

Unnecessarily onerous consular formalities.
Arbitrary valuation for customs purposes.
Unrealistic marking requirements.
Unnecessary customs delays.
Minimum import prices.
Resale price ceilings.

G. *Health and Safety Standards.*—

Unnecessarily rigorous specifications,
Unrealistic inspection requirements.

H. *Domestic Taxation.*—

Imposition of indirect taxes on imports (border tax adjustments) in excess of the price effects of internal taxes borne by the like domestic product.

Differences in tax rates, with taxes on imported types of merchandise heavier than those imposed on domestic types.

Excessive port charges, statistical taxes, consular fees, etc.

I. *Other Financial and Fiscal Measures.*—

Discriminatory credit restrictions.

Prior import deposits.

Exchange controls and differential exchange rates.

Restrictions on investment in assembly or distribution facilities.

J. *Agricultural Price Supports.*—

Variable levies.

Import quotas.

Export subsidies, including government purchases and exports at a loss.

K. *Government Aids to Exports.*—

Rebate of internal taxes (border tax adjustments) in excess of the price effects of internal taxes on the exported goods.

Interest free (or reduced rate) financing of exports.

Tax rebates, deferred payments, etc. on export revenues.

Export subsidies.

Investment grants for export industries.

During the past year the United States has been actively engaged, both multilaterally and bilaterally, in pursuing the elimination and reduction of foreign nontariff barriers. The GATT has just concluded a series of meetings that began last December to review a comprehensive inventory of member countries' nontariff barriers on industrial products. This inventory was based on complaints submitted by governments. A comparable review relating to agricultural products will begin shortly. This summer the GATT Secretariat will prepare a report on nontariff barriers that will summarize the work so far and include suggestions for negotiations on their elimination or reduction.

Bilaterally, the United States has also taken action under GATT against Japan and France to obtain the elimination of quantitative restrictions maintained by these countries. Both of these negotiations were successful in eliminating a number of important restrictions on U.S. trade. For example, Japan eliminated restrictions on U.S. exports of color movie film, outboard motors, and bourbon whisky and France eliminated restrictions on electronic components and light aircraft.

Only last week the United States initiated GATT consultations with the European Economic Community in anticipation of its establishment under the Common Agricultural Policy of minimum import prices on canned fruits and vegetables that would restrict our exports. After a protest to Austria over an internal tax on soybean oil cake and meal earlier this year, this tax was removed. The United States has also protested to Spain over domestic production limitations on soybean oil, which could restrict our soybean exports, and over variable levies on imports of feed grains. Very recently it made representations to Norway and Sweden concerning their seasonal quotas on apples and pears.

2. *Of the above, which are in violation of international agreements or bilateral treaties?*

Whether a given category of nontariff barriers is or is not in violation of international commitments can rarely be stated without qualification. Each case normally has to be considered on its own merits and judged on the basis of all the facts involved. Considerations similar to those presented above in connection with the definition of a nontariff barrier or unfair trade practice apply as well to the question of legality.

The use of quantitative restrictions (embargoes or quotas) provides a useful illustration of the complexity of the issues of legality of a given practice. The commitment not to use quantitative restrictions is one of the most important and fundamental of the GATT obligations of member countries. Yet there are many circumstances in which this type of restriction is explicitly permitted.

A quantitative restriction may be legal, for example, if it is needed to enforce certain forms of agricultural price-support programs or if it is imposed in connection with balance-of-payments difficulties certified by the International Monetary Fund. It is also legal if it is necessary for the protection of health, safety, or morals or for a number of other salutary purposes. It may be further justified on grounds of national security. Finally, less developed countries are permitted, under certain prescribed conditions, to use quantitative restrictions for the promotion of their economic development.

A quantitative restriction—or any other nontariff barrier—can also be legal if it was imposed by mandatory legislation before the country concerned acceded to the GATT. It is this provision, for example, that now exempts the existing U.S. countervailing duty law, which does not fully comply with GATT requirements. And, finally, certain quantitative restrictions and other nontariff barriers have been legalized, for particular countries and particular purposes, by waivers granted by the Contracting Parties. A waiver granted to the United States, for example, now covers the imposition of quotas required by section 22 of the Agricultural Adjustment Act.

I have used quantitative restrictions to illustrate the point because the rules concerning this category of nontariff barriers are among the strictest in the GATT. But similar exceptions apply to most other limitations on the use of nontariff barriers.

I hope this brief discussion is sufficient to explain why the legal status of a nontariff barrier cannot usually be given an unqualified answer and is often the subject of debate. Apart from these difficulties, I do not believe that it would be desirable to classify nontariff barriers according to their legal status for the public record. Such classification could jeopardize the resolution of claims that the United States has made in the past or may make in the future.

However, I believe firmly that the question of the legality of nontariff barriers is of great importance if there is to be order and equity in international trading relations among countries. Both multilaterally and bilaterally the United States must insist that other countries eliminate all nontariff barriers that are clearly illegal. Nevertheless, I believe that the aspect of nontariff barriers that should be emphasized is their effect on trade. Therefore, the elimination of nontariff barriers should be pursued irrespective of their legality. Many nontariff barriers significantly restrict trade, even though they are technically legal. From a trader's point of view, a lost sale is a lost sale—and it makes no difference whether it results from a legal or illegal trade restriction.

3. *An assessment of which are the more important of these foreign nontariff barriers in terms of their adverse effect on U.S. commerce.*

Foreign nontariff barriers affect U.S. commerce in widely varying degrees and it is often very difficult to assess their trade importance with any degree of precision. In the case of some nontariff barriers, such as import quotas imposed on particular products, an estimate can sometimes be made of their trade effects. However, it is virtually impossible to make such an estimate for nontariff barriers that apply to all imports, such as complex customs regulations.

Another difficulty in assessing trade importance is that the principal restrictive effect of many nontariff barriers is their uncertainty. The importance of this element of uncertainty, inherent in most nontariff barriers, should not be underestimated. Traders must know where they stand. But unlike tariffs, the effects of nontariff measures on importers' and exporters' sales and profits may not be calculable. Because of such open-ended risks, the effort necessary to develop a foreign market may never be made. For example, unpublished preferences to domestic producers have discouraged many U.S. exporters from bidding on foreign government procurement contracts.

But, even though we do not usually have precise measurements, we do know that some foreign nontariff barriers are important and, as the result of the current GATT work, we hope to know much more about their trade effects. Among the foreign restrictions of clear significance to U.S. trade are quantitative and other restrictions on coal, variable levies on agricultural products, and border tax adjustments. However, I do not think that it would be appropriate to discuss publicly in any detail the importance of these and other foreign trade restrictions, because such an assessment could jeopardize any future trade negotiations. This is a matter that I would be happy to discuss with the Committee in Executive Session.

4. *An assessment of domestic statutes which would be applicable to particular foreign unfair trade practices.*

The domestic statutes that appear to be applicable to foreign unfair trade practices are as follows:

Section 252 of the Trade Expansion Act of 1962.

Section 252 authorizes the President, *inter alia*, to counter unreasonable or unjustifiable foreign import restrictions by not applying trade-agreement rates of duty to products of the foreign country concerned and to take all appropriate and feasible steps within his power to eliminate unjustifiable restrictions. The President is also directed to impose duties or other import restrictions on the products of any country establishing or maintaining unjustifiable imports restrictions against U.S. agricultural products when he deems such action necessary and appropriate to provide access for U.S. agricultural products to the markets of that country on an equitable basis.

The Antidumping Act of 1921, as amended.

The Antidumping Act provides that special dumping duties may be imposed on imported merchandise, whether normally dutiable or free, if such merchandise is being sold, or is likely to be sold, at less than its fair value and, by reason thereof, a domestic industry is being injured, or is likely to be injured, or is prevented from being established. The duty collectible is an amount equal to the difference between the purchase price or the exporter's sales price and the foreign market value.

Section 303 of the Tariff Act of 1930, as amended.

Section 303 provides that whenever the Secretary of the Treasury finds that a bounty or grant has been paid, directly or indirectly, on any dutiable imported merchandise, he shall levy a countervailing duty equal to the amount of such bounty or grant on each importation of the commodity in question. Such a countervailing duty is in addition to normal customs duties.

Section 337 of the Tariff Act of 1930, as amended.

Section 337 authorizes the Tariff Commission to investigate alleged unfair methods of competition and unfair acts in the importation of articles or in the sale of imported articles. When the effect or tendency of such methods or acts is to destroy or to substantially injure a domestic industry, or to prevent the establishment of an industry, or to restrain or monopolize trade and commerce, the articles involved may be excluded from entry by Presidential direction to the Secretary of the Treasury.

Section 338 of the Tariff Act of 1930, as amended.

Section 338 provides for additional duties or other forms of restrictions on imports from any foreign country that the President finds is discriminating against the commerce of the United States.

Antitrust legislation.

Foreign restrictive business practices that restrict our foreign commerce can be subject to U.S. antitrust legislation. The Sherman Act expressly forbids restraints upon or the monopolization of commerce between the United States and foreign countries. Congress, in the Wilson Tariff Act, emphasized the application of the Sherman Act provisions to U.S. import trade. Injunctive relief, penal sanctions, and treble damage actions are applicable remedies.

5. *How your office feels our domestic statutes can be improved or modified to meet the challenge faced by the United States in dealing with foreign unfair trade practices.*

The following comments are my initial assessment of the adequacy of domestic statutes to deal with various foreign trade practices. After an opportunity to consider this matter in greater depth I may want to present additional views to the Committee.

I believe that section 252 of the Trade Expansion Act of 1962 should be amended so that the President's power to retaliate against certain foreign restrictions should not be limited to agricultural products. This authority to retaliate should also include foreign restrictions on industrial products. Furthermore, the President's authority should be expanded so that retaliatory measures could be taken against countries that are subsidizing exports to third markets and thereby impairing U.S. trade.

On the basis of my present understanding of the matter, I believe that section 303 of the Tariff Act of 1930 should be amended so that, like the Antidumping Act, it would be applicable to duty-free as well as to dutiable products. As far as I know, there is no reason for the apparent present anomaly in U.S. law that permits antidumping duties on both dutiable and duty-free products but limits the imposition of countervailing duties on subsidized imports to dutiable products. Such amendment, however, would require other changes in the law.

In pursuing the entire question of nontariff barriers internationally, I believe it would be most helpful in the future if the Congress, by statute or by resolution, would declare its intention that the President negotiate on these restrictions.

Although not directly related to the question of unfair trade practices, I strongly believe that the Trade Expansion Act of 1962 should be amended so that adequate relief and effective procedures would be available to U.S. industries, firms, and groups of workers that are injured by foreign imports. The present escape-clause and adjustment-assistance provisions of this legislation have proved unworkable.

INFORMATION SUBMITTED FOR THE RECORD BY CARL J. GILBERT, IN RESPONSE
TO QUESTIONS OF SENATORS LONG AND HARTKE

1. *Are you opposed to any restraint on steel exports to this country, voluntary or otherwise?*

In general, I am opposed to the use of quotas—whether they are imposed on imports by the United States, or others, or are voluntarily imposed on exports by foreign countries. Normally, U.S. industries experiencing difficulties from imports should have recourse to legislation intended by the Congress to provide for relief and for effective administrative procedures to obtain it. Such relief can include tariffs or quotas. However, the escape-clause and adjustment-assistance provisions of the Trade Expansion Act of 1962 have thus far proved unworkable. I strongly favor amending this legislation so that relief can be effectively provided when this is necessary to prevent or remedy injury. In the meantime, where there are no effective legislative provisions for relief, voluntary restrictions on foreign exports may in some cases be the best alternative and are preferable to unilateral U.S. measures. As you know, such voluntary restrictions on exports of steel mill products to the United States have been imposed by the steel industries of Japan and of certain European countries. I am not opposed to them.

2. *Do you think that such restraint leads to inflation? Would you please support your answer with factual evidence.*

Generally speaking, any measure that limits the supply of goods in a market is inflationary. However, it is not possible to quantify or even to isolate trade restrictions from other factors that can also lead to inflationary prices, such as increased demand resulting from larger consumer incomes. Although not solely attributable to foreign export restraints, U.S. steel producers, nevertheless, have announced higher prices since export restraints were initiated earlier this year.

3. *What evidence do you have that tariff cuts in the Kennedy Round have helped the U.S. consumer? Would you please support your answer with factual evidence?*

Tariff cuts should benefit the U.S. consumer in the form of lower prices and a greater variety of imported goods. For several reasons, however, it is not possible to determine with any precision how much the tariff cuts negotiated in the Kennedy Round have actually benefited the consumer. Only two-fifths of each reduction has so far entered into effect. In many cases reductions amount to only a few cents on the dollar. More important is the fact that a comparison of consumer prices before and after the Kennedy Round is rendered meaningless by the general price inflation that has taken place. Nevertheless, I am convinced that consumer prices would be higher today if there had been no tariff reductions, and that the prospect of increased competition has stimulated domestic industries to new efforts to improve their products and to minimize their costs.

An outstanding example of the effect of foreign competition on domestic production is automobiles. After imported cars won more than 10 percent of the U.S. market, Ford introduced the "smaller-than-compact" Maverick to compete in the foreign-dominated \$2,000 class. Corresponding General Motors and American Motors small cars are due within a year or so.

Another example appears in the May 1969 issue of *Consumer Reports* where a vice president of General Electric describes how in early 1960 GE decided to make a determined competitive effort in the six-transistor shirt-pocket radio. The retail price had been about \$36 but Japanese-made sets were selling for \$19 and were projected to sell for \$12 by 1970. This meant that in order to meet this same

retail price GE had to reduce costs by two-thirds. Not only did it meet this target, but last year got its price down to about \$7 and is now selling transistors in Japan.

The invigorating effects of competition have also been demonstrated in other industries. We owe most of the post-war improvements in sewing machines to foreign makers. The domestic watch industry, after being hard hit by foreign competition, first turned to the pin lever watch and then to the electric watch, which have won a sizable market, both here and abroad, and have benefited consumers.

4. *What policy alternative would you offer to a steel industry which is being besieged by import competition from countries where labor standards are quite different from ours?*

I have no alternatives to offer the U.S. steel industry other than those that the industry is already pursuing, but I believe some of its efforts should be intensified.

Recently the steel industry has adopted more aggressive marketing policies. But greater attention could be given to particular customer needs. In specialty steels, for example, the smaller manufacturer in an export-hungry country is often more ready to satisfy the needs of customers than is his tonnage-minded U.S. counterpart.

The U.S. industry is to be congratulated on the huge expenditures taken over the past few years in new plants and in plant modernization that have greatly increased productivity. The steel industry is also spending increased sums on research and development—but much more might be done in this area. For example, according to an OECD study some foreign steel producers are spending more for research and development per ton of steel production than are U.S. producers. Also, the aluminum, plastic, and other U.S. industries, which are as much in competition with the U.S. steel industry as are foreign steel producers, spend considerably more per sales dollar on research and development.

5. *How do you feel the steel industry should compete against cheaper Japanese steel given the facts that technology is equal, that Japanese productivity is extremely high, and that the only significant difference is in wage costs? Can you explain the principle of comparative advantage which supports the free trade theory—all the assumptions that this theory contains, etc.?*

As indicated in my response to question 4, the U.S. steel industry is already taking measure to compete more effectively against imports of steel from Japan and other countries. In fact, some representatives of the U.S. steel industry have said that the import problem is of a transitory nature until the fruits of their huge capital investments begin to materialize in the next few years. It should be pointed out, however, that the conditions of competition are not equal in everything except wage costs. U.S. steel producers have had an advantage over their foreign competitors in raw material costs, transportation costs, and capital costs. They also have the world's largest single market within our borders.

As for "the principle of comparative advantage which supports the free trade theory", let me say that I am no doctrinaire free trader nor am I a theoretical economist. I do believe that liberalization of trade on a reciprocal basis is in the U.S. national interest, because it permits U.S. producers to concentrate on the production of those goods that we produce most efficiently as compared with other countries and to export these goods in exchange for goods that they produce most efficiently. In this way we maximize our own national production and income, are able to pay the highest wages in the world, and benefit from imported goods in the form of lower prices and increased variety.

6. *In your Chicago talk, you also stated, "In fact, the steel industry, along with many others, has failed to provide specific information on the subsidies and non-tariff barriers long sought by the Herter-Roth office as background for their efforts to ameliorate the adverse effects of these practices (i.e., unfair trade practices) in our foreign trade." How did you know precisely what information the steel industry has supplied to the Herter-Roth office?*

When making this statement at the World Trade Conference in Chicago, I did not necessarily know all the information that the steel and other industries had supplied to the Herter-Roth office on subsidies and nontariff barriers. However, a great volume of material was submitted to the Trade Information Committee during prolonged public hearings in connection with the Kennedy Round negotiations. This material was a matter of public record. I found that much of it was very general in nature and lacked the specificity required for international negotiations.

7. *Are you not familiar with the voluminous materials which the Trade Information Committee has received from the steel industry and from other industries on nontariff barriers?*

As indicated in my response to question 6, I am familiar with the material submitted by the steel and other industries to the Trade Information Committee.

8. *Are you suggesting that we do not know enough about foreign nontariff barriers to negotiate their removal? If you are, how will you correct the situation if you are confirmed to the position of Special Trade Representative for negotiating these barriers?*

I am not suggesting that lack of knowledge about foreign nontariff barriers prevents negotiation for their removal. Information on such barriers, however, is far from perfect—particularly estimates of their trade effects. Such estimates are very difficult to make for the reasons outlined in my response to a previous question of the committee, which is reproduced below. Knowledge about nontariff barriers is being continually improved and I hope that we will learn a great deal more as a result of the present GATT examination of countries' nontariff barriers, which should be concluded this fall. Also, if we get to the point where serious negotiations on nontariff barriers are an imminent and realistic possibility, I would hope that U.S. industry would provide more detailed information about foreign nontariff barriers than in the past.

Problems other than lack of knowledge, however, must be overcome if we are to have international negotiations on non-tariff barriers. For example, it will probably be far more difficult to conclude a reciprocal balanced agreement on non-tariff barriers than on tariffs. Not only is it more difficult to estimate the trade importance of many nontariff barriers, but it is also more difficult to envisage a package that will contain a balance of advantages on the part of countries participating in the negotiations.

Another problem that must be overcome is the negotiating authority of the United States. Any international agreement on nontariff barriers that would require a change in U.S. law must be negotiated on an *ad referendum* basis and submitted to the Congress for approval. As I indicated in an earlier response to the committee, it would be most helpful if the Congress, by statute or by resolution, would indicate its intention that the President negotiate on nontariff barriers and that it would act favorably on any negotiated agreements that it considered to be in the national interest.

9. *There has been a sharp negative swing in American trade balance with Canada. I believe that the single biggest factor in the current deficit is the bilateral pact called the U.S. Canadian Automotive Products Agreement. Do you plan to advocate for any liberalization of the imperfectly balanced agreement?*

It is correct that the decline in the favorable U.S. balance with Canada in the automotive trade has contributed to the current deficit in our overall trade account with Canada. This has been caused primarily by an expansion in Canadian automobile production, stimulated by the United States-Canada Automotive Products Agreement, and a less than projected growth of car sales in Canada. This latter development affected the anticipated results of the agreement.

The agreement contained various transitory provisions that would permit the smaller, higher-cost Canadian industry to adjust to the enlarged market. The industry has largely made this adjustment and it does seem time for a movement toward elimination of the provisions that tend to limit the benefits of the agreement to the United States during a transitional period. I would personally advocate negotiations with the Canadian Government in the near future to work toward removing these transitory provisions and thus achieve the objectives of the agreement.

Would you agree that on the basis of private commercial exports we do not enjoy a favorable trade balance? How large was the deficit in 1967 and 1968 if the goods we sell abroad are limited to those in which we compete commercially with other countries?

If U.S. exports, other than private commercial exports, are excluded from U.S. trade statistics, and all imports, both government and private, are included, the United States did not enjoy a favorable trade balance in 1968. However, on this basis we did enjoy a favorable balance in 1967 and earlier years. The statistics for 1967, 1968 and five earlier years are attached.

U.S. failure to achieve a favorable trade balance in 1968, however, does not indicate to me that we have become permanently noncompetitive. Rather it suggests the importance of domestic inflation in our trade account and the necessity of measures to abate it. At an absolute minimum, the Administration's efforts to control inflation should receive all possible support.

U.S. EXPORTS, IMPORTS, AND TRADE BALANCE, 1962-68

[In millions]

Year:	U.S. exports, excluding military grant aid	U.S. general imports, f.o.b.	Merchandise balance	U.S. exports financed by Public Law 480, AID programs	Excluding military grant aid and exports financed by Public Law 480, AID programs	
					U.S. exports	Merchandise balance
1968.....	\$34,087	\$33,252	+835	\$2,234	\$31,853	-\$1,399
1967.....	31,030	26,889	+4,141	2,500	28,530	+1,641
1966.....	29,490	25,618	+3,872	2,484	27,006	+1,388
1965.....	26,751	21,429	+5,322	2,467	24,284	+2,855
1964.....	25,832	18,749	+7,083	2,675	23,157	+4,408
1963.....	22,467	17,207	+5,260	2,597	19,870	+2,663
1962.....	20,986	16,464	+4,522	2,278	18,708	+2,244

Source: U.S. Department of Commerce.

Mr. Gilbert, you testified before the Ways and Means Committee in support of eliminating the American Selling Price and if I am not mistaken of eliminating the so-called final list.

Did you make any assessment of the effects of removing ASP on the U.S. chemical industry, our balance of payments, and domestic employment before you made these recommendations. What were your findings?

In testifying before the Ways and Means Committee on June 11, 1968, I supported legislation that would eliminate the American selling price (ASP) but thought of the proposed action with respect to the final list as merely implementing the proposed ASP decision. As a private citizen I did not have available the resources necessary to make a detailed study of the effect of removing ASP on the U.S. chemical industry, our balance of payments, and domestic employment. However, such studies were made by others, including the U.S. chemical industry. On the basis of all that I was able to learn, it appeared to me that the Supplementary Agreement on Chemicals negotiated during the Kennedy Round was in the U.S. national interest and should be approved by the Congress. This is still my view but, of course, will have to be reassessed in the light of information that will become available to me upon confirmation.

Mr. Gilbert there is no doubt that regional trade blocs such as the EEC served as a stimulus for U.S. firms to jump the common tariff and invest in those markets.

Do you see a world developing with proliferating regional trade blocs discriminating against outside countries' exports, and the U.S. left outside in the cold?

Do you feel the adherence to unconditional most favored nation (mfn) treatment is a realistic policy as most other countries get into regional trade blocs, which by nature do not adhere to unconditional mfn treatment?

I agree that the formation of some regional trading blocs, especially the EEC, has stimulated U.S. investment abroad. I believe, however, that this was not so much because American producers were forced to protect their existing sales in the Common Market as it was a response to the opportunity created by a larger market within Europe, unimpeded by tariffs. European industry was slow to see this opportunity and to respond to it. American industry, accustomed to operating within a huge area of free trade, filled some of the vacuum.

I also agree that the proliferation of customs unions and free trade areas is likely to continue, stimulated by the success of the Common Market. Whether this will be to the disadvantage of the United States will depend largely on whether these blocs pursue a restrictive policy toward outside trade. U.S. exports to the EEC have continued to grow since its formation but we must be alert to be sure that the adoption of new restrictions is not permitted to reverse this trend.

The United States cannot very well object to countries uniting for free trade if they pursue a liberal policy toward third country trade. This country has demonstrated to the world the advantage of a tremendous market without internal trade barriers. Partly because of the example set by the original states of the United States, the creation of customs unions has been recognized for many years, in international treaties and agreements, as a legitimate exception to most-favored-nation (MFN) treatment. But there are two practices that we

should use all our influence and bargaining power to prevent—the formation of selective preferential arrangements in the guise of free trade areas or customs unions; and the erection of restrictive barriers against outsiders by legitimate trade blocs. One of the most important accomplishments of the Kennedy Round was to reduce the outside barriers of the EEC. We must make a continuing effort to extend those gains further and prevent the establishment of new barriers.

I do not believe that the situation has yet arisen that would make it profitable for the United States to abandon its general policy of unconditional MFN treatment. Even if all other countries were members of regional blocs, MFN treatment would guarantee us treatment by each bloc equal to that given to other countries outside the bloc. As the world's greatest trading nation, we would stand to lose a great deal if we had to bargain for MFN treatment with each foreign country and on each product.

On the other hand, I do believe that circumstances could arise in the future that would dictate a departure from MFN for particular purposes. For example, if one important trading country or bloc were to refuse to participate in a major round of tariff or nontariff barrier negotiations, it should not be allowed to stand in the way of the exchange of concessions by the rest of the world. In that case the most advantageous policy might be to deny the obstructing country the benefit of new concessions negotiated by the others. To this extent, I believe that the policy of unconditional MFN may at some time require modification.

Mr. Gilbert, I am worried about the effect of our trade policies on small firms and industries, and on communities, which could virtually be wiped out if one of their economic mainstays should suddenly fold because of cheap imports.

Most of these smaller businesses have enough trouble avoiding being gobbled up by one of these conglomerates, without having to worry about imports. But, if they are being attacked by both, they will succumb.

What is your view as to how we can devise a trade policy that would protect the small businesses and rural communities that depend upon them.

I agree that the present period of rapid change in the character of competition and of corporate organization puts a particularly heavy burden of adjustment on small firms and on communities that are dependent on the activities of such firms. This burden, of course, can take the form of either domestic or import competition. Its effects are and should be a concern of the government. But I do not believe that the health of either the small firm or the community that depends on it can be assured in the long run by preventing competition.

Pressures on small firms resulting from the activities of giant companies are part of the picture. But in some cases the absorption of small firms by larger enterprises can be of positive benefit to the previous owners, to the employees, and to the community. This is frequently the case when a large company absorbs a smaller one for the purpose of devoting its superior financial and technological resources to modernizing and improving the output of the smaller firm. Thus, I do not think that consolidation, as such, is necessarily damaging to small firms or communities. I do agree, however, that not all take-over activities by big enterprises are beneficial to the firm that is absorbed or to the community in which it operates. Some, for example, are motivated primarily by the desire to inflate stock prices or to profit from other forms of financial manipulation. This may be a problem to which government policy should be addressed, but it is not a problem on which it would be proper for me to suggest what government policy should be.

Limiting myself to the commercial policy aspects of the problem you have raised, I do want to repeat my belief that there are at least three important responsibilities of the Federal Government in this field. In the first place, the government should protect small firms, as well as large ones, against unfair methods of competition, both on the part of other domestic enterprises and on the part of foreign companies. Secondly, even where competition is legitimate, it is necessary to provide time for adequate adjustment in cases where serious injury would otherwise result, and finally, even where competition is fair and reflects actual superiority in production or a more modern product, the government should help such firms and communities with the difficult job of modernization, technological improvement, or the development of new forms of production that can survive legitimate competition. These last two government responsibilities require, I believe, amendments to the present escape-clause and adjustment-assistance provisions of the present legislation as I indicated in response to an earlier question of the committee.

*Mr. Gilbert, as a former corporate executive, is it a correct assumption that corporate income taxes are never, in any part, shifted forward to the consumer?
Is that not an assumption made in the GATT which explains why we are at a disadvantage in trading with EEC countries which rebate indirect taxes on exports and impose a border tax on imports?*

How long do you feel it will take to remedy this situation?

The simple answer to the first of these questions is "no." It is certainly not correct to assume that corporate income taxes are never in any part shifted forward to the consumer. Just what part is so shifted in individual cases is virtually impossible to determine, but it is a safe general rule that the greater the degree of genuine competition the less the likelihood that such shifting will be significant.

I am not a defender of the existing GATT rules concerning border adjustments for internal taxes on domestic products. I agree with the efforts that are being made by the Administration to improve those rules and to eliminate the inequitable practices that occur under them. At the same time, if we are to be realistic, we must recognize that there are certain inherent differences, both economic and political, between taxes assessed on products and corporate income taxes. For even where we are convinced that part of an income tax is shifted forward into producers' prices, it is impossible even to approximate how much is borne by a particular product of any one producer and it is certain that the tax that can be attributed to the production of any given product will differ widely from producer to producer. This is necessarily true because the level of income tax per unit of output will differ depending upon the profit margin of the producer.

It is for such reasons that no one has yet succeeded in devising a formula for compensating at the border for corporate income taxes that is subject to objective limits or that would not be open to serious abuse by countries seeking an unfair trade advantage. Furthermore, when a country uses administrative devices for changing the tax rate applicable to different companies, as is true in some foreign countries, it would be especially difficult to enforce even arbitrary limits to the right to make border adjustments for such taxes. Thus, if it were possible to obtain a change in GATT rules that would permit border adjustments for corporate income taxes, it is far from certain that the result would be advantageous to our trading position.

The opposite extreme would be to attempt to abolish border tax adjustments for indirect taxes, i.e., taxes on products. This, of course, would be logical if it is assumed that tax shifting of product taxes is no more likely than in the case of income taxes. But there are political as well as economic reasons for believing that such a rule would not be acceptable to any country—including the United States. The fact that a domestic producer knows that he has had to absorb some part of an excise or sales tax on his product will not make him any happier if the competing imported product is exempted from the tax.

You have asked how long I think it will take to solve this very difficult and complex problem. It must be obvious that the simplest solutions, discussed above, are not practicable. This means that a tremendous number of intermediate possibilities are being explored in the GATT. This is necessarily a slow and tedious process, particularly when other countries suspect that we are seeking a rule that will work to their disadvantage. But I am hopeful that by the end of this year we can narrow down the possibilities to specific proposals on which governments will have to focus and reach a decision.

The CHAIRMAN. Mr. Gilbert, you have been interrogated by two people about this matter. May I say that I agree with their views, and I agree with the Republican platform on this issue. We held a hearing on it—I understood it a lot better when we got through with the hearing than I did when the hearing commenced. You did not hear it so you might not have gained the same impression. But when we keep tariff figures on f.o.b. basis and that is how we collect our tariffs. When someone goes to get the figures up for trade it is very easy to go pick up those f.o.b. figures that the customs collector has and simply say, all right, now here is how much came into this country.

But if you want to see whether you had a favorable balance of trade you are going to have to add the cost of handling that freight across the ocean.

Mr. GILBERT. Correct.

The CHAIRMAN. And when you put that in, you get about a 10-percent correction. So that if one country is keeping their figures on a c.i.f. basis and we are keeping ours on an f.o.b. basis and we simply take those f.o.b. figures into a trade negotiation, it puts the other fellow in a position to make it appear that we have a favorable balance of trade when, in fact, we do not. That puts him in a position to negotiate with you by saying, "Well, what are you worried about? You have a favorable balance of trade the way it is." As a practical matter you may have about a \$3 billion unfavorable balance.

Now, furthermore, it seems to me that we should not go into some trade negotiations where the other fellow is looking at figures that indicates that we have a favorable balance because of things we are giving away. We do not get anything for that. We should put our trade figures out in a way which show brutally and frankly just exactly where we stand after you calculate for the fact that here is something we do not get paid for. We ship it out but we do not get paid for it. Go ahead and tell the unhappy truth to our own people. Having done so we are in a position then to tell the foreigner what our unfortunate situation is. And it would seem to me as though we would be in a much better position to negotiate than if it looks like we have a nice big trade surplus, when in fact it does not exist.

Mr. GILBERT. I have two or three comments on it. As I understand it, the assessment of customs duties on the f.o.b. basis is as a result of existing law so that the customs collector must collect and therefore will his statistics on that basis.

The CHAIRMAN. Yes.

Mr. GILBERT. The balance-of-payments effect, the balance-of-payments statement down two or three or a third of the way down the page, two-thirds of the way down the page, has a figure which, I have forgotten what they call it, which does include the so-called invisibles of carriage and insurance and these other items so that the balance-of-payment figures come up hopefully somewhere nearly right.

I have been informed by the staff or the Office of the Special Trade Negotiator that in the negotiations which they conducted in the Kennedy round they had the actual figures stripped of the c.i.f. factors across the board on the items which were being closely negotiated on. So that they recognized this, and for their own guidance in trying to ascertain expected effects of tariff cuts, this was taken into account.

Senator MILLER. Would the Chairman yield?

The CHAIRMAN. In a moment. But you see, the kind of thing I am talking about is, mind you, I was one of the leaders and committee chairman under the previous administration where we had our own people—the Johnson administration people and Kennedy administration people—coming in here and giving us a rosy picture. But when stripped of the same items we are talking about today the trade balance was not nearly as good as it looked. Now, I am frank to tell you that I think our Secretary of Treasury well knew the situation was not nearly as good as it was being pictured. I think in the councils of that administration he was hammering the table and saying, "This is terrible. The situation is much worse than you people seem to realize." Inasmuch as that is a position that apparently the Republican Party took and the position apparently President Nixon plans

to take, I think you would find that this committee thinks that that would be just fine.

Go ahead, Senator Miller.

Senator MILLER. I just wanted to say that I think the chairman has a very valid and excellent point, but with respect to the representatives or the staff or the trade representative having such figures during the Kennedy round, it was my understanding that they did not have those figures available for months upon months during the negotiations of the Kennedy round. It was not until near the very end that they had those figures. So if they had had them earlier, as the chairman of course suggests they should have had, it might have helped.

Mr. GILBERT. Right. I am not informed on that.

The CHAIRMAN. Now, are you familiar with some of the difficulties that developed between Mr. Roth, who had this job before you, and this committee during the latter part of his regime?

Mr. GILBERT. I am not familiar in such detail as you are, sir, but I am informed on it.

The CHAIRMAN. Well, we discovered that he was yielding to foreign pressure by negotiating the American selling price and we felt he did not have that authority and so informed him and passed a resolution in the Senate saying if he negotiated on that we did not expect to agree to it. But they insisted on negotiating on it. Now, it may have been he felt he could not bring back any Kennedy round agreement without negotiating on American selling price, but when they negotiated on it I guess you will notice that it never became law.

Mr. GILBERT. Yes, sir.

The CHAIRMAN. The House did not pass it, and the probabilities are that if it had come to the Senate it would not have been agreed to here. Then they proceeded to negotiate an antidumping code which from our point of view would have changed the definition of industry and also changed the definition of injury compared to how our Anti-Dumping Act had been interpreted. Now, with regard to that one, we actually passed an amendment on a bill that the President was compelled to sign which would indicate that the definition of industry and the definition of injury would stay the same as they were. It was to require him to admit in effect that they had exceeded their authority. To a considerable degree that agreement would have meant repealing an act of Congress by executive agreement.

Now, do you think the Executive can repeal or amend an act of Congress that is on the statute books by a mere executive agreement?

Mr. GILBERT. I do not.

The CHAIRMAN. Well if we can understand that, I think we can save some difficulty that occurred in the past. Now, it also occurred to this committee that there were some factors at work on the theory that Congress might insist that the antidumping law remain exactly how it was, and so they were going to get the result they wanted by putting people on the Tariff Commission and getting the majority to read that code along with that act in such a way that there would be no conflict and thus prevent the questions from ever coming up.

Our attitude at that time was, well we just were not going to confirm enough tariff commissioners for them to tell us that. The Tariff Commission was supposed to make a determination of fact and all we wanted was an honest determination of fact. And finally, we reached

an agreement, the President can send us one man that we do not know anything about provided he will also put on one that we have some confidence in who is going to say that white is white and black is black and it is not all the same thing. I did not insist on naming who he sent but he should send up someone in whose intellectual honesty or intellectual integrity we had complete confidence. As far as this Senator was concerned he could have sent up anyone of a hundred men if he just would not send us someone who was going to do what has been seen on occasion where someone manages to read a statute where he leaves out just one word, the word "not." He just cannot find that word in the statute for some reason.

We managed to resolve all that, but it was very difficult because of conflicts that need not have existed. And I hope that when you advise the President about these matters, Mr. Gilbert, you will try to advise him in such a way and work with this committee in such a way, we will try to work together on a common trade policy, and even as a Democrat I am saying this, try to keep us in such contact—that we can work with the Executive rather than find it necessary to go against him. I do not want to go to war with the President on trade policy. I want to work with him on trade policy.

Mr. GILBERT. I agree completely. It is absolutely impossible to arrive at good solutions to these problems, and they are going to be many and complex unless the most close and intimate relationships are maintained between this committee, the House Ways and Means Committee and this office for which I have been nominated. I would hope the communications not only with the chairman and the members but with staff would be such that we would understand what each other was thinking about, and I certainly am not disposed to trying to start negotiating agreements unless I am sure I have had the blessing of the Congress before doing it.

The CHAIRMAN. Well, if you are going to do very much, it will require some legislation to authorize it.

Mr. GILBERT. Yes.

The CHAIRMAN. Or else some legislation to implement it, and in either event it would seem to me that we ought to try to be working together to consider both the problems of the domestic industry as well as the advantages of increased trade and try to work it out in such a way that no one gets hurt too badly at the same time that we try to advance the overall national interest.

Mr. GILBERT. I could not agree more. I think this is going to be, these comments you have just made are extremely pertinent to this whole question of nontariff barriers, because if there is a negotiation at some future time, obviously we are going to have to be prepared to give something on our side, and there is not anything that could be given that would not involve altering an existing law. So that this is going to require, what little I know about it now, a good deal of ingenuity and I hope I can get the benefit of advice of the people here, because there is no precedent for this.

The CHAIRMAN. Well, Mr. Gilbert, I once served on the Foreign Relations Committee and I served on the Finance Committee at the same time. There was a time when there was at least six of us on the two committees.

Mr. GILBERT. Yes, sir.

The CHAIRMAN. And you would be amazed to find the difference in mentality, the same members now. I have sat with those fellows, sat with those six men over in the Foreign Relations and watched the majority of them in some case vote to give away the dome off the Capitol and then see them walk across the Capitol to this committee room and be just as tight as Dick's hatband. They would not give anything to the same people, the reason being, I think, that on this committee we have to pay for all of that.

Now, you are going to find some people that you do business with, some of our good State Department friends who still have not traded in their Santa Claus costumes. The one thing that we would like for you to understand is that the fix in which we find ourselves now is that if we enter into a trade negotiation with somebody, we have got to get something in return. We just cannot give without getting something back.

Mr. GILBERT. And hopefully get a little more than we give.

The CHAIRMAN. Well, I hope you can proceed on that basis. If you can come in here and show us some agreements where we are going to get more than we give and then back it up with figures a year or so later that prove that we did get more, then you will have the blessing of this committee, I am sure.

Mr. GILBERT. Thank you.

The CHAIRMAN. Senator Miller?

Senator MILLER. No questions.

The CHAIRMAN. Thank you very much.

Mr. GILBERT. Thank you, Senator.

(Thereupon, at 12:30 p.m., the committee adjourned to reconvene subject to call of the Chair.)

(By direction of the Chairman, the following communication is made a part of the printed record:)

NATIONAL GRANGE,
Washington, D.C., June 23, 1969.

Hon. RUSSELL B. LONG,
Chairman, Finance Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: You and the Senate Finance Committee are to be congratulated for holding hearings on the appointment of Carl J. Gilbert to the Office of the Special Representative for Trade Negotiations in the Executive Office of the President.

We are indeed encouraged that the Senate Foreign Relations Committee and the Senate Finance Committee will have had the opportunity to discuss with Mr. Gilbert the importance of this office to future trade negotiations of the United States.

In times of great international stress, both political and economic, it is well that the Committees responsible to the American people jointly examine the qualifications of the man to whom the Executive branch of the Government will entrust the delicate balance of our international trade relationships.

We are confident that you and the Committee will find Carl Gilbert justly qualified to carry out the heavy responsibilities of the office to which he has been appointed and equally sensitive to the views of Congress, which created the office and is responsible for its definition of purpose.

The National Grange is pleased to support the appointment of Carl Gilbert and urgently requests that this Committee, after careful consideration, recommend to the Senate speedy confirmation of Mr. Gilbert. The days grow shorter and the task ahead only longer and more difficult with each day's delay.

We appreciate this opportunity to support Mr. Gilbert and urgently request that the voice of agriculture be heard.

Sincerely,

ROBERT M. FREDERICK,
Legislative Representative.