BEYOND RECIPROCITY: THE NEED FOR A NEW U.S. TRADE POLICY

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INTRODUCTION

In 1960, approximately twenty-five percent of the goods produced in America were subject to competition from imports. Today, seventy-five percent of U.S. goods are subject to international competition.[1] Imports now claim more than twenty-five percent of the U.S. market for automobiles, steel, and machine tools.[2] Japan alone holds seventy-four percent of the U.S. market for highly sophisticated, numerically-controlled machine tools.[3] Imports also dominate the domestic consumer electronics market.[4]

Meanwhile, the performance of American exports has declined. In the 1970's, the U.S. share of world markets fell in almost every capital goods and high techology industry.[5] The U.S. share of the world aircraft market fell from 67% to 52%;[6] its share of the world machine tool market fell from 18% to 11%;[7] and its share of the world semiconductor market dropped from 40% to 23%.[8]

The increasing competition from imports coupled with the declining U.S. share of world merchandise markets has resulted in record-breaking trade deficits for the past two years.[9] In 1982, the U.S. merchandise trade deficit was $42.7 billion.[10] In 1983, it was $70 billion.[11] This year, it is expected to exceed $100 billion.[12]

This dismal performance has serious repercussions for domestic firms and their workers.[13] As exports decline and imports cut further

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1. STAFF OF HOUSE COMM. ON BANKING, FINANCING AND URBAN AFFAIRS, 98TH CONG., 1ST SESS., FORGING AN INDUSTRIAL COMPETITIVENESS STRATEGY 5 (Comm. Print 1983) [hereinafter cited as FORGING AN INDUSTRIAL COMPETITIVENESS STRATEGY].
2. *Id.*
3. *Id.* at 5, 6.
4. *Id.* at 5.
5. *Id.* at 6.
6. *Id.*
7. *Id.*
8. *Id.*
9. *Id.*
10. Bureau of the Census, U.S. Dep't. of Commerce, Press Release, Summary of U.S. Export and Import Merchandise Trade (Jan. 31, 1984) [hereinafter cited as Summary of U.S. Trade].
11. *Id.*
12. *Id.*
13. *The U.S. Trade Outlook and its Implications: Hearings Before the Subcomm. on Commerce,*

into domestic sales, a $100 billion trade deficit will deprive more than two and a half million Americans of their jobs.[14]

These alarming trends clearly indicate that the United States must develop a comprehensive international trade policy in order to improve the competitiveness of American business in foreign and domestic markets.[15] This trade policy should encompass tax, monetary, education, and research and development policies—all of which vitally affect the ability of American industry to compete in the world marketplace.[16] It should foster a positive, supportive relationship between the public and private sectors and serve as a mechanism to create internal cooperation and a national commitment to revitalizing American industry.[17] In addition, the United States must strengthen its existing reciprocity legislation in order to improve its ability to respond effectively to unfair trade practices.[18] Only by developing a comprehensive international trade policy in conjunction with the upgrading of reciprocity legislation will American business be restored to its former market competitiveness.[19]

This article will examine the causes of the decline of the competitiveness of American business in the world marketplace. First, it will review the development of reciprocity—the historical guiding principle behind U.S. trade policy. Second, it will examine the tremendous growth of foreign competition in the past decade and the concurrent decline of U.S. competitiveness. Third, it will recommend the creation of an Advisory Council on International Trade Competitiveness to assist in the development and coordination of specific policies and programs to improve the competitiveness of American business. Last, it will detail necessary steps which the United States must take now to increase the competitiveness of U.S. industries in the world marketplace.

THE PRINCIPLE OF RECIPROCITY

The United States' Evolving Relationship with Reciprocity

The United States first began to deal seriously with its trade relationships in the late 1800's. During that period, the principle of reciprocity was strictly applied. The United States granted concessions only to those countries which offered reciprocal concessions to the U.S.[20] Tariff legislation permitted the President to condition the access of foreign firms to the U.S. market on the favorable treatment of Amer-

Transportation, and Tourism, 98th Cong., 2d Sess. 5 (1984) (statement of C. Fred Bergsten, Director of the Institute for International Economics, Washington, D.C.).

14. *Id.*
15. FORGING AN INDUSTRIAL COMPETITIVENESS STRATEGY, *supra* note 1, at 21.
16. *Id.*
17. *Id.* at 27.
18. *See infra* notes 29, 36 and accompanying text.
19. *See generally* FORGING AN INDUSTRIAL COMPETIVENESSES STRATEGY, *supra* note 1, at 6.
20. *See* TARBELL, THE TARIFF IN OUR TIMES 2 (1912).

ican businesses in foreign markets.[21] If favorable treatment was not granted, U.S. trade laws authorized the President to impose restrictive duties on the products of the uncooperative countries.[22]

Early in this century, the United States grew more liberal in its application of reciprocity. Reciprocal concessions by foreign countries were no longer a condition of access to the U.S. market.[23] Reflecting this change, the Trade Agreements Act of 1934[24] (Trade Act) permitted the President to modify duties for all foreign nations on an unconditional basis.[25] Underlying this approach was the belief that open access to the U.S. market would generate healthy commercial relationships between domestic and foreign firms. These relationships would, in turn, promote foreign market opportunities for American firms.[26] It is this notion of reciprocity that has governed United States trade policy for the past fifty years.[27]

Proponents of reciprocity legislation[28] today encourage the use of direct Presidential action to achieve what has been called the "level playing field" of equivalent competitive opportunities on which foreign and American firms compete.[29] Current reciprocity proposals[30] do not change the Presidential trade remedies[31] which are already provided

21. Act of July 24, 1897, ch. 11, 30 Stat. 151; Act of Sept. 21, 1922, ch. 356, 42 Stat. 858 (current version at 19 U.S.C. § 1337(a)-(g) (1982)). *See generally* KAYE, PLAIA & HERTZBERG, INTERNATIONAL TRADE PRACTICE (1983).

22. Act of Sept. 21, 1922, ch. 356, § 317, 42 Stat. 858 (current version at 19 U.S.C. § 1337(a)-(g) (1982)). *See* KAYE, PLAIA & HERTZBERG, *supra* note 21, § 2.07.

> In order to obtain the desired flexibility the [Tariff] commission suggested that Congress define in general terms the kind and degree of treatment which was to be penalized, but that it leave to the President the application of such law to particular cases. The mere threat of imposing maximum or penalty duties, it was thought, should result in equal treatment for the United States and its products without formal action.

Id.

23. Act of Sept. 21, 1922, ch. 356, § 316, 42 Stat. 858, 943 (current version at 19 U.S.C. § 1337(a)-(g) (1982)). *See* KAYE, PLAIA & HERTZBERG, *supra* note 21, § 4.04.

24. Act of June 12, 1934, ch. 474, 48 Stat. 943, 944-45 (current version at 19 U.S.C. § 1351(a) (1982)).

25. *See* KAYE, PLAIA & HERTZBERG, *supra* note 21, § 2.10. "The Trade Agreements Act of 1934 changed the method of varying tariffs by providing the President with authority over a three-year period to negotiate reciprocal trade agreements with other countries." *Id.*

26. KAYE, PLAIA & HERTZBERG, *supra* note 21, § 2.10.

27. *Id.*

28. Principal proponents include: Rep. James J. Florio, D-N.J., author of H.R. 794, 98th Cong., 1st Sess., 129 CONG. REC. H135 (daily ed. Jan. 25, 1983); H.R. 2848, 98th Cong., 1st Sess., 129 CONG. REC. H2529 (daily ed. May 2, 1983); H.R. 3804, 98th Cong., 1st Sess., 129 CONG. REC. H6606 (daily ed. Aug. 4, 1983); Rep. James R. Jones, D-Okla., author of H.R. 1571, 98th Cong., 1st Sess., 129 CONG. REC. H598 (daily ed. Feb. 22, 1983); and Sen. John C. Danforth, R-Mo., author of S. 144, 98th Cong., 1st Sess., 129 CONG. REC. S93 (daily ed. Jan. 26, 1983).

29. *See Hearings on General Trade Policy Before the Subcomm. on Commerce, Transportation, and Tourism of the House Comm. on Energy and Commerce*, 98th Cong., 1st Sess. 649 (1983) (statement of Rep. James J. Florio, D-N.J.) [hereinafter cited as *Hearings on General Trade Policy*].

30. *See, e.g.*, H.R. 794, 98th Cong., 1st Sess., 129 CONG. REC. H135 (daily ed. Jan. 25, 1983); H.R. 1571, 98th Cong., 1st Sess., 129 CONG. REC. H598 (daily ed. Feb. 22, 1983); H.R. 2203, 98th Cong., 1st Sess., 129 CONG. REC. H1462 (daily ed. Mar 21, 1983).

31. *See Hearings on General Trade Policy*, *supra* note 29, at 740 (statement of Sen. John C. Danforth, R-Mo.).

under section 301 of the Trade Act.[32] Instead, the new proposals would make it easier[33] for the President to use these remedies to respond to the unfair trade practices of other countries. The Trade Act already permits the President to deny the benefits of trade agreements and to impose duties or other restrictions on the goods and services of an offending government.[34] Furthermore, the President is required to take "all appropriate and feasible action within his power to enforce such rights or to obtain the elimination" of such practices.[35] Many proponents of reciprocity legislation believe that a more imposing threat of presidential retaliation will strengthen America's position to negotiate equivalent competitive opportunities for U.S. firms.[36]

The Limits of Reciprocity

The goal of "equivalent competitive opportunity" means different things to the various interests that support reciprocity legislation.[37] Consequently, reciprocity, as embodied in the new proposals,[38] will not by itself adequately establish equivalent competitive opportunities for all U.S. businesses.[39]

For example, the major concerns of high technology and service industries are market access and right of establishment.[40] Since these concerns have traditionally been subject to trade negotiation,[41] strengthening the President's bargaining position through reciprocity legislation may prove effective.

However, other U.S. industries face problems that are seldom resolved through negotiation or corrected by retaliation. The agricultural industry's primary trade problem is not access to markets or restrictive quotas and tariffs. Instead, it is the overvaluation of the U.S. dollar in the international market.[42] This type of trade problem stems from international trade and investment patterns that are far more complex

32. *Id.* at 729 (statement of Alan Wolff, counsel, Semiconductor Industry Association).
33. *See* H.R. 2848, 98th Cong., 1st Sess. § 4, 129 CONG. REC. 2529 (daily ed. May 2, 1983) (commonly referred to as the Service Industries Commerce Development Act of 1983). "Notwithstanding any other provisions of the law, the President may impose, in accordance with subsections (b), (c), (d), (e), (f) of this section, such terms, conditions or limitations, as he deems appropriate, under which foreign suppliers shall be eligible to engage in interstate commerce in the United States." *See also* H.R. 3804, 98th Cong., 1st Sess. § 6, 129 CONG. REC. H6606 (daily ed. Aug. 4, 1983) (commonly referred to as the Foreign Commerce Development Act).
34. *See Hearings on General Trade Policy*, *supra* note 29, at 505 (statement of Alan Wolff, counsel, Semiconductor Industry Association).
35. 19 U.S.C. § 2411 (1982).
36. *See Hearings on General Trade Policy*, *supra* note 29, at 749 (statement of Rep. James R. Jones, D-Okla.).
37. *Id.* at 497 (statement of Alan Wolff, counsel Semiconductor Industry Association).
38. *See* H.R. 794, 98th Cong., 1st Sess., 129 CONG. REC. H135 (daily ed. Jan. 25, 1983).
39. *See Hearings on General Trade Policy*, *supra* note 29, at 740 (statement of Sen. Danforth, D-Mo.).
40. *Id.* at 749 (statement of Rep. James R. Jones, D-Okla.).
41. *Id.* at 49 (statement of Lionel H. Olmer, Under Secretary of Commerce for International Trade, U.S. Department of Commerce).
42. *See* Williams, *Farmers Wary on Export Outlook*, N.Y. Times, Aug. 8, 1983, at A15, col. 1.

and difficult with which to deal than traditional foreign protection. Advantages that accrue to foreign competitors through currency imbalances are not easily quantified or offset.

Similarly, many foreign competitors benefit from a number of government practices which can distort international competitiveness. Cooperative relationships reflect a fundamental transformation of government's role in the private economies of our strongest trade competitors.[43] In many countries, business no longer considers government intervention in the marketplace to be necessarily harmful.[44] In the interest of ensuring international competitive ability and a long-term comparative advantage, the private sector has gone so far as to seek government intervention.[45]

Such intervention may take many forms, including contributions to basic research and development;[46] establishment of special educational programs;[47] financial incentives for individuals who study engineering, science, math or other fields for which there is demand in the private sector;[48] social welfare and job programs which make efficient transition in the economy possible;[49] exemptions from antitrust restrictions;[50] aggressive export finance programs;[51] and the manipulation of monetary policy to create competitive advantages for business and industry in the international marketplace.[52]

In international trade negotiations, it may not be possible for a trading partner to make concessions on these policies. A nation cannot offer reforms in its own educational system as a concession in a trade negotiation. Similarly, monetary policy, research and development policies, social welfare and employment policies are not normally subject to negotiation. Increasingly, however, these programs and policies are providing foreign firms with a competitive advantage over American firms in domestic and foreign commerce.

Clearly, reciprocity legislation cannot offset the advantage foreign competitors gain through such public-private sector cooperation. For this reason, many members of the American business community fear that reciprocity legislation and the use of traditional trade remedies will only lead to retaliation by America's trading competitors.[53] A Price

43. *See* C. Johnson, The Japanese Policy-Making Process and the Government-Business Relationship (October 3, 1982) (unpublished paper).
44. *See generally id.* The author points out that all governments intervene in their economies for a variety of reasons.
45. *See generally id.* at 5, 6.
46. *See* FORGING AN INDUSTRIAL COMPETITIVENESS STRATEGY, *supra* note 1, at 19.
47. *Id.*
48. *Id.*
49. *Id.* at 48.
50. *Id.* at 59.
51. *Id.* at 35.
52. *See generally id.*
53. Address by Joseph E. Connor, Chairman, Price Waterhouse, "Corporate Export Strategy," at the 69th National Foreign Trade Convention of the National Foreign Trade Council, in New York City (Sept. 19, 1983).

Waterhouse survey of the *Fortune 500* service firms substantiates this point. According to the survey,

> 72% of the firms believe other countries are taking advantage of our country's open trade policies; 85% believe other countries will retaliate if the U.S. imposes restrictions on foreign firms in our marketplace . . . .[54]

Businessmen who responded to this survey said, in essence, that equivalent competitive opportunities for U.S. firms cannot always be achieved by threatening to erect barriers against foreign firms doing business in our own market.[55] Although reciprocity will promote market access and right of establishment, meeting the challenge of foreign competition will require U.S. business and U.S. government to enter into new, long-term cooperative relationships.[56]

Beyond Reciprocity: An International Trade Policy

To successfully compete with the business-government relationships its competitors use so effectively, America must formulate an effective international trade policy. Realistically, however, even these efforts will not produce a truly "level playing field." The fact is that the international trade field has never been, is not now, and can never be, perfectly level. United States trade policy should work to promote the strengths of the American private economy rather than to establish reciprocal or equivalent relationships with our trading partners. While equivalency may be an acceptable minimum standard for U.S. trade policy, it may well be too low a standard for those U.S. industries which are capable of developing an international competitive advantage.

The United States must develop a consensus among government, business, and labor about how to best foster long-term cooperation between the public and private sectors.[57] The international trade policy that emerges from this consensus should be implemented in conjunction with tax, monetary, education, and research and development policies.[58] Only such a comprehensive international trade policy will move the United States beyond retaliatory exchanges of tariffs, quotas, and other barriers and toward the successful development of supportive relationships between government and business.[59]

STRONG INTERNATIONAL COMPETITION AND DECLINING U.S. COMPETITIVENESS

In the last decade, international competition has increased greatly

54. *Id.* at 5.
55. *See id.*
56. *Id.* at 12.
57. *See* FORGING AN INDUSTRIAL COMPETITIVENESS STRATEGY, *supra* note 1, at 27.
58. *Id.* at 21.
59. *Id.* at 27.

in foreign markets and domestic U.S. markets. This strong competition has produced a trade crisis for the United States.[60] In each of the past two years, the United States has had record-breaking trade deficits.[61] These deficits, combined with the overvaluation of the American dollar, undermine U.S. competitiveness in both foreign and domestic markets.[62]

In 1970, the ratios of U.S. merchandise exports to gross national product (GNP) and foreign merchandise imports to GNP were both about four percent.[63] By 1982, the share of GNP attributable to merchandise imports had risen to eight percent,[64] double its earlier value. During that same period, however, U.S. merchandise exports rose to 6.8% of GNP, only a sixty percent increase over its 1970 value.[65]

These percentages reflect the growing merchandise trade deficits detailed in the introduction to this article. Of added concern is the concurrent decline of trade surpluses in other areas of the economy where the U.S. traditionally has had strong international advantages.

Declining Agricultural Trade Surplus

Although the United States has historically benefitted from a strong agricultural trade surplus, even that has begun to decline. The volume of U.S. agricultural exports has fallen each year since 1980.[66] The value of our farm exports also fell in both 1982 and 1983.[67] This decline represents a complete turnabout in comparison to the fivefold increase in value and three-fold increase in volume of agricultural exports during the 1970's.[68]

Agriculture remains America's primary export industry. It accounts for nearly twenty percent of all U.S. exports.[69] Yet, the overvaluation of the U.S. dollar, increased production by other farm nations, and a drop in international demand has reduced the U.S. farm trade surplus from $26.3 billion in 1981 to $18.3 billion last year.[70]

A Declining Share of Trade in Services

The U.S. dominance of world services trade, including U.S. investment abroad, has also been challenged. In 1972, the U.S. controlled twenty percent[71] of all world trade in services such as banking, tourism,

60. *Id.* at 6.
61. *Id.*
62. *See* FORGING AN INDUSTRIAL COMPETITIVENESS STRATEGY, *supra* note 1, at 27.
63. INTERNATIONAL TRADE ADMINISTRATION, U.S. DEP'T OF COMMERCE, INTERNATIONAL ECONOMIC INDUSTRIES, tables 36 & 37 (1983).
64. *Id.*
65. *Id.*
66. *See* Williams, *supra* note 42.
67. *Id.*
68. *Id.*
69. *Id.*
70. *Id.*
71. *Service Industries Commerce Development Act of 1982: Hearings on H.R. 5519 Before the*

data processing, transportation, telecommunications, and insurance.[72] By 1980, the U.S. share had fallen to fifteen percent.[73] The U.S. trade surplus in services, though declining, comfortably offset large deficits in merchandise trade in 1980 and 1981.[74] In 1983, however, the U.S. merchandise trade deficit almost doubled the previous year's level, creating a combined trade deficit for all goods and services.[75]

A poor rate of return on U.S. investments overseas has contributed to the decline in the U.S. trade surplus in services.[76] Nearly two-thirds of U.S. trade in services is attributable to earnings on U.S. investments abroad.[77] Historically, U.S. investments abroad have earned more than twice as much as foreign investments in the United States,[78] resulting in a large surplus in U.S. trade in services.[79] For the last few years, however, interest rates in this country have remained at consistently higher levels than the interest rates in foreign countries.[80] Therefore, earnings paid on foreign investments here have increased faster than earnings paid on U.S. investments abroad.[81]

As a result, the surplus in U.S. trade in services fell from $39.6 billion in 1981 to about $29 billion in 1983.[82] This turn of events has led Federal Reserve Board Governor Henry Wallich to warn that if U.S. interest rates remain high and trade deficits continue to grow, the U.S. advantage in overseas investment earnings could be eliminated in two to three years.[83]

The Currency Problem: An Overvalued Dollar

If America's investment earnings surplus vanishes, nothing will remain to offset the growing U.S. deficit in merchandise trade. The United States would then be forced to increase exports to pay for foreign purchases. However, finding markets for U.S. goods abroad would be difficult because of the high value of the dollar in international markets. Recent studies suggest that the dollar is currently 20-25% overvalued in relation to the other major currencies of the world.[84] In effect, this overvaluation of the dollar places a 20-25% tax on U.S.

Subcomm. on Commerce, Transportation and Tourism of the House Comm. on Energy and Commerce, 97th Cong., 2d Sess. 40 (1982) (statement of Geza Feketekuty, Assistant U.S. Trade Representative for Policy Development and Services).

72. *Id.* at 49-56.
73. *Id.* at 40.
74. COUNCIL OF ECONOMIC ADVISORS FOR THE JOINT ECONOMIC COMMITTEE, ECONOMIC INDICATORS 36 (1984).
75. *Id.*
76. U.S. TRADE REPRESENTATIVE, U.S. NATIONAL STUDY ON TRADE IN SERVICES (Dec. 1983) (submitted by U.S. Government to the General Agreement on Tariffs and Trade).
77. *Id.*
78. *Id.*
79. *Id.*
80. Berry, *Tide Turning Against U.S.*, Wash. Post, Dec. 18, 1983, at F1, col. 1.
81. *Id.*
82. Summary of U.S. Trade, *supra* note 10.
83. Berry, *supra* note 80.
84. J. Williamson, The Exchange Rate System (September 1983) (unpublished manuscript).

exports, a tax which does not affect our foreign competitors.[85]

Under these circumstances, the massive U.S. trade deficit could only be financed by large inflows of foreign capital seeking attractive earnings from high U.S. interest rates.[86] Martin Feldstein, Chairman of the President's Council of Economic Advisors, recently warned that it would take only a few years of large trade deficits to "reverse our usual role as a capital exporter."[87] The United States would then have to depend on foreign investments to fuel our economic expansion and growth. Reacting to this same concern, Commerce Secretary Malcolm Baldrige called for reductions in the value of the dollar so that U.S. exports can again become competitive in international trade.[88]

While the currency problem is the single most significant drawback to improved U.S. trade,[89] several other factors have also worked to undermine the competitiveness of American business in domestic and foreign markets. These factors include: an income-based tax system which taxes exports and domestic consumption equally, unlike foreign competitors' commodity-based tax systems which tax exports at a lower rate than domestic consumption;[90] a system that stresses basic research and development rather than research with commercial applications;[91] and an educational system which fails to meet the private sector's critical needs for many skills.[92]

These and other factors have begun to manifest themselves in what economist Otto Eckstein of Data Resources, Inc., has called "a decline in U.S. competitiveness."[93] In a detailed study of America's competitive position, Mr. Eckstein found that the United States faces large disadvantages in key economic factors such as capital costs, productivity, and labor costs.[94] Furthermore, Mr. Eckstein found that America's decline in competitiveness affects all industries, not just basic industries in transitional stages.[95]

RESTORING U.S. TRADE COMPETITIVENESS

The United States cannot reverse its decline in competitiveness by

85. *Id.*
86. *Id.*
87. Berry, *supra* note 80.
88. *Id.*
89. *See generally* Dowling, *The U.S. is Trying to Talk the Dollar Down*, BUS. WK., Feb. 7, 1983, at 34.
90. In Japan, "the Commodity Tax Law classifies approximately 69 commodities into three groups and levies a tax on the sale or use of the commodities. The tax on Class I commodities is levied at the retail level, and the tax on Class II and III commodities is levied at the time of shipment from the factory." ARTHUR ANDERSEN & CO., TAX AND TRADE GUIDE-JAPAN, 7.07 (1972).
91. *See generally* Norris, *Limiting Japan's Access to Our Research*, N.Y. Times, July 24, 1983, at F3, col. 1.
92. *See generally* Fiske, *Study Says Weaknesses of Schools Pose an Economic Threat*, N.Y. Times, May 5, 1983, at A1, col. 1.
93. Behr, *Competitive Gap: Reality or Rhetoric*, Wash. Post, Jan. 8, 1984, at G1, col. 5.
94. *Id.*
95. *Id.*

relying solely on traditional trade remedies such as tariffs and quotas.[96] Traditional trade remedies fail to affect the cause of our competitiveness problem. In addition, tariffs and quotas frequently provoke retaliation from foreign countries. For example, the European Economic Community recently imposed new tariffs on several U.S. products in response to the U.S. imposition of tariffs on specialty steel imported from the Common Market.[97] Only the joint efforts of government, business, and labor will overcome the problems undermining the competitiveness of U.S. firms. Business must enlist the aid of government to develop policies and practices that will enhance the international competitive advantages of U.S. industry. We need only look to the successes of Japan to see the value of such cooperation.

The Lesson From Japan: A Process Toward Understanding

Professor Chalmers Johnson of the University of California at Berkeley, one of our country's leading authorities on the Japanese economy, described the government-business relationship which has worked so successfully in Japan:

> In talking about any government-business relationship, the issue is never government intervention in the private sector. *All* governments intervene in their economies for a variety of reasons, such as consumer protection. The key consideration is the functional priorities of a government in intervening. The first priority of the Japanese government in the private sector is not protectionism or neo-mercantilism (as in France), or regulation (as in the United States, with the exceptions of the defense and agricultural sectors), or welfare (as in Sweden or the Netherlands). Japan's first priority is, above all, *developmental*—meaning the effort by the government to secure Japan's economic livelihood through public policies based on such criteria as long-term dynamic comparative advantage and international competitive ability. *The Japanese government's most important contributions to the economy are think-tank functions and supervision and coordination of the structural changes necessary to keep Japan competitive in world markets*.[98]

Professor Johnson's description of the genius behind Japan's economic success differs sharply from the common misconception about the relationship between the Japanese government and Japanese business. This misconception is that Japan's economy is effectively managed by a group of omnipotent bureaucrats in the Ministry of International Trade and Industry (MITI).[99] According to popular belief, these officials developed the "vision" plan which led to Japan's rise

96. *See generally* Weidenbaum, *Let's End Our Own Trade Barriers First*, N.Y. Times, Feb. 13, 1983, at F3, col. 1; Etzioni, *Some Protectionism*, N.Y. Times, May 29, 1983, at E15, col. 1; Munger, *America's Costly Trade Barriers*, N.Y. Times, Aug. 19, 1983, at A21, col. 1.
97. Munger, *supra* note 96.
98. C. Johnson, *supra* note 43, at 4-5 (emphasis in original supplemented by author).
99. *See generally* Mitusi, *How Tokyo Can Regain Its Credibility*, N.Y. Times, Oct. 23, 1983, at F2, col. 3.

as the world's dominant producer of consumer electronics.[100] MITI is routinely credited with unilaterally making the decisions which give birth to new industries while dealing fatal blows to others.[101]

Ironically, this mischaracterization of Japan's government-business relationship has become so popular that many Americans advocate a version of it as a remedy for American economic ills.[102] To compound the confusion, free market proponents accuse advocates of the supposed Japanese-style policies of asking the government to pick the "winners" and "losers" in the U.S. economy.[103]

This debate, unfortunately, has obscured the real lesson which the United States must learn from the Japanese experience: in cooperation with business, government involvement in the private economy is not only helpful but essential to becoming internationally competitive.[104] Even though the problems facing Japan's industry are different from the problems facing American industry, the process by which these problems are identified and through which solutions can be developed may be very similar.

To establish a foundation for its economic and trade policies, Japan successfully built a consensus among government, business, and labor.[105] The United States, on the other hand, has never attempted to develop an economic and trade policy which responds to the changes and expansion in the international market.[106]

America's unwillingness or inability to reach an internal consensus on international economic strategy looms as the greatest obstacle to restoring U.S. competitiveness. The United States must assign the highest priority to developing an international trade policy that recognizes how competitive domestic and foreign markets have become, how important international trade is to America's economic health, and how domestic policies affect our position in the international markets.[107]

A Proposal: The Advisory Council

Legislation now pending in the United States House of Representatives, House bill 2203 (H.R. 2203),[108] proposes a mechanism to develop a new U.S. trade policy. If enacted into law, the bill would create an Advisory Council on International Trade Competitiveness.[109] The Council would be charged with the duty of forming a consensus on

100. *Id.*
101. *Id.*
102. *See generally* Zysman, *Rethink Trade Policy*, N.Y. Times, Aug. 29, 1983, at A19, col. 1.
103. *Id.*
104. *See generally* Johnson, *supra* note 43.
105. *Id.*
106. *See generally* Moynihan, *Centralized Trade Policy*, N.Y. Times, Jan. 1, 1983, at E19, col. 1.
107. *Id.*
108. H.R. 2203, 98th Cong., 1st Sess., 129 CONG. REC. H1462 (daily ed. Mar. 21, 1983).
109. *General Trade Policy: Hearings on H.R. 2203, Before the Subcomm. on Commerce, Transportation and Tourism of the House Comm. on Energy and Commerce*, 98th Cong., 1st Sess. 211 (1983).

trade policy.[110] It would function within a reorganized Commerce Department.[111] Eighteen members would sit on the Council, representing business, labor, academia, and consumers.[112] The Council would assist the Commerce Secretary in developing policies and programs to increase the competitiveness of U.S. industries in foreign and domestic markets.[113] Critical to the Council's success would be the collection and analysis of comprehensive data on the U.S. economy and trade competitor's activities.[114] To this end, the Council would be equipped with a professional staff and the authority to obtain the information it needs.[115]

The proposed joint venture between General Motors Corporation (GM) and Toyota Motor Corporation demonstrates the need for the Advisory Council.[116] Under the terms of their agreement, Toyota will build up to 200,000 small cars annually in California for a period of twelve years.[117] GM will market the cars[118] and contribute a cash investment of $20 million.[119] This proposal will greatly influence the future of small car production in the United States.[120] Chrysler Corporation and Ford Motor Company claim that they will be forced to take similar steps to remain competitive.[121]

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110. *Id.* at 228-29.
111. *Id.* at 213.
112. *Id.* at 228-29.
113. *Id.* at 229-30.
114. *Id.*
115. *Id.* at 229.
116. *FTC's Proposed Consent Order on GM-Toyota Joint Venture*, 46 ANTITRUST & TRADE REG. REP. (BNA) No. 1146, at 42 (Jan. 5, 1984) [hereinafter cited as *Consent Order*]. On February 17, 1983, Toyota Motor Corporation and General Motors Corporation (GM) executed a "memorandum of understanding" to establish a joint venture (JV) for the purpose of manufacturing a front-wheel drive subcompact automobile at GM's idle Freemont, California assembly plant. The Toyota-General Motors JV will manufacture new automobiles which will be designed by Toyota in consultation with GM and which will be sold by GM. The JV may also manufacture new automobiles which will be sold to Toyota. The JV will begin production of the vehicle as early as possible in the 1985 model year. *Id.*
117. Plegue, *GM-Toyota auto to bow as a 1985 model*, Automotive News, Feb. 21, 1983, at 1, col. 1.
118. *See Consent Order*, *supra* note 116, at 42.
119. Kelderman, *Chrysler objections to GM-Toyota deal detailed at hearing*, Automotive News, Apr. 18, 1983, at 1, col. 1.
120. *Id.* Before a House subcommittee holding hearings on proposed local content legislation, Chrysler Corp. Vice Chairman Gerald Greenwald told members that the Toyota-GM JV "holds serious ramifications for the American auto industry," and that "the sub-compact that emerges from this joint venture will supplant the Chevrolet Chevette and eliminate the jobs involved in building that car." *Id.* at 1, col. 1, 52, col. 3. Greenwold estimated that the effect of GM's overall "Japanese Strategy" could be a loss of up to 19,500 United States jobs and probably thousands more if the Chevette is discontinued. *Id.* at 52, col. 3. Chrysler Corp. Chairman Lee Iacocca, testifying at a February 8, 1984 hearing of the House Commerce, Transportation and Tourism Subcommittee on the future of the automobile industry in light of the Toyota-GM JV, stated that in order for Chrysler to survive when the JV starts producing its car, the automaker will have to either "get out of the small car business and build only gas guzzlers" or ship their cars overseas. *House Subcommittee Conducts Hearings on FTC Handling of GM-Toyota Venture*, 46 ANTITRUST & TRADE REG. REP. (BNA) No. 1151, at 225 (Feb. 9, 1984) [hereinafter cited as *House Hearings on Joint Venture*].
121. Automotive News, Aug. 1, 1983, at 1, col. 1. Following the announcement of the proposed Toyota-GM JV, foreign and domestic automakers initiated discussions on joint efforts to manufacture compact automobiles to remain competitive in the small car market. Chrysler

Chrysler Chairman Lee Iacocca has described the GM-Toyota joint venture as "industrial policy of the worst kind. It's determining the future of the American auto industry for the rest of the century, and it's being made by two men in a smoke-filled room. No one else is represented; not labor, not government, not consumers, not the public. And I just don't think that's right."[122]

The outcome of the GM-Toyota venture has enormous long-run implications for the U.S. economy. The effects of the venture should be carefully and thoroughly considered. When the Federal Trade Commission decided not to challenge the joint venture on antitrust grounds, the proposal was cleared to go forward.[123] While the venture does raise major antitrust questions,[124] no one considered the effect of this move

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has discussed the possibility of joint production of a subcompact car with Volkswagenwerk AG, *id.*, July 18, 1983, at 2, col. 1, and Mitsubishi, *id.*, Feb. 6, 1984, at 1, col. 3. Plans under active consideration may result by 1987 in the five largest Japanese automakers producing cars in the United States and leave no U.S. automaker with a self-designed small car lineup. *Id.*, Jan. 30, 1984, at 1, col. 1.

In fact, several joint efforts are already underway between major foreign and domestic automobile manufacturers: Ford Motor Company owns 25% of Toyo Kogyo, Ltd. of Japan, which manufactures Mazda automobiles; Chrysler Corp. owns 15% of Mitsubishi Motors Corp. of Japan and sells Mitsubishi-made cars in the United States; American Motors Corp., which is 46%-owned by Renault of France, has announced plans to build vehicles in the People's Republic of China with Beijing Automotive Works; Nissan Motor Co., Ltd., of Japan owns a light truck plant in Tennessee, participates in a joint venture with Alfa Romeo of Italy, and builds a Volkswagen car in Japan; Honda Motors, Ltd. of Japan owns an Ohio automobile plant and has a joint venture with British Leyland; and Volkswagen AG sells automobile engines and transmissions to Chrysler Corp. and has a joint venture to build transmissions with Renault. *FTC Accepts Consent Order Restricting GM-Toyota Joint Venture to Produce Cars*, 46 ANTITRUST & TRADE REG. REP. (BNA) No. 1146, at 6 (Jan. 5, 1984) [hereinafter cited as *FTC Approval*].

122. *Hearings on Acquisitions and Joint Ventures Among Large Corporations Before the Subcomm. on Monopolies and Commercial Law of the House Comm. on the Judiciary*, 98th Cong., 1st Sess. (1983) (statement by Lee A. Iacocca, Chairman of the Board, Chrysler Corp.) (not yet published) (copy available at offices of *Journal of Legislation*).

123. *See FTC Approval*, *supra* note 121, at 4. On December 23, 1983, the FTC voted 3-2 to provisionally accept a consent order with General Motors and Toyota in settlement of its proposed complaint. The consent order seeks to prevent anticompetitive consequences from the joint venture through restrictions on production, duration, and exchange of information.

After a sixty day public comment period, the FTC reviewed the agreements and comments received and was to render a decision making the provisional order final. *Id.*

The FTC provisional ruling removed the major obstacle to the Toyota-GM JV, but Chrysler Corp. has challenged that decision in a suit for injunctive relief filed in a United States District Court in Washington, D.C. Chrysler Corp. v. General Motors Corp., No. 84-0115 (D.D.C. filed Jan. 12, 1984). The suit alleges that the JV will lessen competition and tend to create a monopoly in violation of section 7 of the Clayton Act, 15 U.S.C. § 18 (1982), and sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1-7 (1982). *Id.*

The Justice Department has entered the suit on the side of General Motors, arguing that Chrysler Corp. does not have standing to sue over the proposed GM-Toyota JV because Chrysler moves cars in competition with GM and Toyota and its economic interest lies in decreasing competition. A hearing on Chrysler's standing to sue was held on March 6, 1984, before Judge Thomas Hogan. *Justice Department explains stand on GM-Toyota-Chrysler*, Automotive News, Feb. 20, 1984, at 8, col. 4.

124. *See Consent Order*, *supra* note 116, at 43-44. The Federal Trade Commission analyzed the GM-Toyota JV and proposed a complaint alleging violations of section 7 of the Clayton Act, 15 U.S.C. § 18 (1982), and section 5 of the Federal Trade Commission Act, *as amended* 15 U.S.C. § 45 (1982). In pertinent part, the complaint charged as follows:

VII. *Effects of the Proposed Joint Venture*

10. The effect of the Joint Venture may be substantially to lessen competition or tend to create a monopoly in the relevant markets in violation of section 7 of the

on U.S. competitiveness in the overall international market.[125]

The proposed Advisory Council on International Trade Competitiveness would consider, among other factors: the impact of the plan on other automakers;[126] the plan's effect on the future of small car production in the United States;[127] the danger of moving small car design engineering and production capacity overseas;[128] and the repercussions of the plan on the U.S. automobile supply industry.[129]

Confronting the Currency Problem

Presidential Economic Advisor Martin Feldstein and virtually every business and labor group agree that the overvaluation of the American dollar is the fundamental cause of the decline in U.S. competitiveness.[130] Between 1980 and 1982, the value of the Japanese yen fell twenty-five percent in relation to the dollar while the West German mark fell thirty-six percent.[131] These shifts have helped make Japanese

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> Clayton Act, as amended (15 U.S.C. 18), or may be unfair methods of competition in violation of section 5 of the Federal Trade Commission Act, as amended (15 U.S.C. 45), in the following ways:
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> (a) The output of the Joint Venture is likely to be significantly expanded beyond the single module, capable of producing not more than 250,000 new automobiles per year, an expansion that would not be reasonably necessary to accomplish any of the legitimate purposes of the Joint Venture; and
>
> (b) The Joint Venture would provide no adequate safeguards against the use of the Joint Venture, or the relationships between GM and Toyota that are occasioned by the Joint Venture, for the transmission of competitively significant information beyond the minimum degree reasonably necessary to accomplish the legitimate purposes of the Joint Venture.
>
> 11. Each of the effects identified in paragraph 10, singly or in combination, would significantly increase the likelihood of noncompetitive cooperation between GM and Toyota, the effect of which may be substantially to lessen competition in the relevant markets, and would not be reasonably necessary to obtain any legitimate procompetitive benefits of the Joint Venture.

125. Federal Trade Commission Chairman James C. Miller III commented that in analyzing the GM-Toyota JV, the Commission sought to identify the potential efficiency benefits and antitrust concerns associated with the venture, and concluded that the JV would provide "the opportunity to increase GM's, and ultimately the entire U.S. automobile industry's long-term productive efficiency." *Consent Order*, *supra* note 116, at 54.

Despite the Commission's predictions, opponents of the JV argue that at least 19,000 American jobs will be lost from the world's most powerful automobile combine. Kelderman, *supra* note 119, at 1, col. 1. Chrysler Chairman Lee Iacocca believes the agreement will "create the world's most powerful automotive combine and raises grave questions about its long-term effects on the U.S. auto market." Plegue, *supra* note 117, at 1, col. 1.

126. *Consent Order*, *supra* note 116, at 54; Kelderman, *supra* note 119, at 1.
127. Kelderman, *supra* note 119, at 1; *House Hearings on Joint Venture*, *supra* note 120, at 225.
128. *See generally House Hearings on Joint Venture*, *supra* note 120, at 225.
129. Plegue, *supra* note 117, at 1, col. 1. According to Chrysler Chairman Lee Iacocca, "[t]he Toyota-GM car will have a fifty (50) percent foreign content, a situation which could eliminate 50,000 automotive and supplier jobs." *Id.*
130. Feldstein, *Adjusting The Dollar*, N.Y. Times, June 2, 1983, at A23, col. 5.

> The recent sharp rise in the international value of the dollar is the fundamental cause of the very tough competition now faced by American exporters and by American firms that compete with imports from abroad. . . . [T]he best way to solve the current intense problems of international competition is to reduce the real exchange value of the dollar.

Id. *See generally Hearings on General Trade Policy*, *supra* note 29, at 609 (statement of Rep. James J. Florio, D-N.J.). *See also* EXCHANGE RATE, *infra* note 131, at 2.

131. INTERNATIONAL ECONOMIC AFFAIRS DEPARTMENT, NATIONAL ASSOCIATION OF MANUFAC-

and German products too inexpensive for American consumers to resist.[132] Conversely, American products have become too costly for consumers in these nations to afford.[133]

One company spokesman testified before the House Energy and Commerce Committee Subcommittee on Commerce, Transportation and Tourism that exchange rate changes have made U.S. bids in one group of products fifty-eight percent higher than bids from comparable European firms.[134] Moreover, the Federal Government's failure to act means that foreign manufacturers will continue to reap huge windfall profits at the expense of American industry and workers.[135] As long as the government's monetary policies continue to focus inward at the expense of trade, no amount of capital investment or improved productivity and efficiency can eliminate the cost advantage enjoyed by foreign competitors.[136]

Business, labor, the Congress, and others have stressed the need for direct intervention by the executive branch to bring down the value of the dollar.[137] Yet the Reagan Administration has maintained that this problem is best dealt with by reducing the federal deficit which in turn will lower interest rates and reduce foreign demand for the dollar.[138] The Administration's reliance on deficit reductions as the solution to the current problem appears even less workable in light of the Presi-

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TURERS, THE DOLLAR EXCHANGE RATE, U.S. TRADE AND JOBS 2 (1983) [hereinafter cited as EXCHANGE RATE].

132. *Id.*

133. *Id.*

134. *Id.* at 621 (statement of George Liney, Ingersoll-Rand Company).

135. *Id.* at 616 (statement of Frank Southard, former Deputy Managing Director of the International Monetary Fund, currently Director of the Atlantic Council). Mr. Southard offers this example of the profits realized by Japanese manufacturers due to America's overvalued dollar:

> If an American producer of computers is able to quote a price at port of exit of $5,000, but the current exchange rate overvalues the dollar by 20 percent, the foreign power would have to pay 20 percent more for the dollars. Conversely, a Japanese exporter of the same item would have an advantage because if he offered his item at $5,000, he would receive 20 percent more undervalued yen. If competition required him to do so, he could cut his price by 20 percent, and end up as well off as the American exporter.

Id.

136. *Id.* at 609.

> In 1981, the production cost differential between an automobile manufactured in the United States and one manufactured in Japan was $1,500. Today, it has increased to $2,000. This difference in cost is due more to differences in currency values than to any other factor, including labor costs, productivity, and tax inequities.

137. *See generally id.*

138. OFFICE OF MANAGEMENT AND BUDGET, EXECUTIVE OFFICE OF THE PRESIDENT, BUDGET OF THE UNITED STATES GOVERNMENT FY 1985, at M6 (1984) [hereinafter cited as BUDGET]. In his budget message, President Reagan reaffirmed his position that reducing the Government's budget deficits is the primary weapon in his administration's fight against an overvalued dollar:

> All signs point to continued strong economic growth, vigorous investment, and rising productivity, without renewed inflation—all but one. Only the threat of indefinitely prolonged high budget deficits threatens the continuation of sustained noninflationary growth and prosperity. It raises the specter of sharply higher interest rates, choking-off investment, renewed recession and rising unemployment.

Id. N.Y. Times, Mar. 8, 1984, at A1, col. 6.

dent's fiscal 1985 budget proposal.[139] Under the best case scenario, the President's budget predicts a deficit of $180 billion in 1984, almost twice the 1983 deficit.[140] The Administration's approach to this problem has been condemned as inadequate by the National Association of Manufacturers (NAM). NAM has warned that failure to act might lead to a long-term deterioration of the U.S. industrial economy:

> Naturally, NAM favors reducing the budget deficit and has urged this repeatedly. But alone this will not solve the problem of a long and indefinite period during which the U.S. economy generally and the U.S. industrial base in particular will be handicapped by a dollar that is overvalued against the currencies of our two most important international industrial competitors, Japan and Germany. An unnecessary and possibly permanent run-down of the U.S. industrial economy may be the result.
>
> The impact will not be on traditional industries alone, important as they are to maintaining a competitive U.S. industrial base, but also—perhaps especially—on newer high-technology industries, with their large and growing requirements for new investment capital. NAM's position is that the executive branch and the Congress should seek more direct and immediate ways to help improve the operation of the floating exchange rate system in the context of more suitable exchange rate relationships of the dollar. To achieve this goal, urgent attention should be given to such alternatives as increased central bank cooperation and/or a "target zone" approach.[141]

Despite intervention during the summer of 1983,[142] the Reagan Administration has continued to avoid systematic intervention in coordination with the International Monetary Fund and our foreign trading partners.[143] Only such direct and coordinated intervention can begin to relieve U.S. industry of what the President's own chief economist has called the single greatest cause of the decline in U.S. competitiveness.[144]

Promoting Civilian Research and Development for Commercial Applications

In the past, research and development in the United States has been funded principally through two sources: the Department of Defense (DOD), which has funded defense-related research;[145] and the National Science Foundation (NSF), which has promoted civilian re-

139. BUDGET, *supra* note 138, at M6.
140. OFFICE OF MANAGEMENT AND BUDGET, EXECUTIVE OFFICE OF THE PRESIDENT, UNITED STATES BUDGET IN BRIEF FY 1985, at 23 (1984). For fiscal year 1985, the OMB projected outlays of $925 billion and receipts of $745 billion. In 1983, the actual total budget deficit was $195 billion, and the estimated 1984 deficit was $183 billion. *See* BUDGET, *supra* note 138, at 3-4.
141. EXCHANGE RATE, *supra* note 131, at 4.
142. Federal Reserve Board of New York and United States Federal Reserve Board, Treasury and Federal Reserve Foreign Exchange Operations, Press Release (Mar. 8, 1984).
143. EXCHANGE RATE, *supra* note 131, at 3-4.
144. Feldstein, *supra* note 130.
145. FORGING AN INDUSTRIAL COMPETITIVENESS STRATEGY, *supra* note 1, at 16.

search.[146] Although the research has resulted in commercial spinoffs, such spinoffs are not the principal goal of DOD and NSF-funded research.[147] In the meantime, the United States has been falling behind its major trade competitors in the performance of civilian research and development having commercial application.[148]

According to Professor Lester Thurow of M.I.T.:

> It is clear that we are now devoting a smaller fraction of our GNP to civilian research and development than our competitors. We do well in military research funded by the Defense Department or basic research funded by the National Science Foundation, but very poorly in the types of research that must be done in industry but have a 5 to 10 year payoff.[149]

The Congressional Office of Technology Assessment also came to this conclusion:

> Not only do West Germany and Japan spend much higher fractions of GNP on civilian R&D than the U.S., but for the last five years Japan's commercially-oriented R&D has been running at a level of about half that in the United States. Given that Japan's GNP remains well under half that here, the implication is plain: in the Japanese economy, R&D directed at commercial applications is given a high priority; in the United States, commercial R&D suffers by comparison. The same is true when West Germany is compared to the United States.[150]

Not surprisingly, this lack of emphasis on commercial research and development has caused the United States to lose its competitive advantage in certain industries (such as consumer electronics)[151] and face serious challenges in other industries.[152] Meanwhile, France, Great Britain, Japan, and West Germany all have government agencies which support research and development with commercial application.[153] The United States must provide similar support for its indus-

146. *Id.* at 44.

147. *Id.* "In the defense sector, government-sponsored research is designed to win firms access to the defense procurement market, not to develop products or technologies which can compete in commercial markets. Commercial spin-offs do frequently occur, but they are not the principal goal of DOD supported research." *Id.* The primary mission of the National Science Foundation "is the funding of basic research, with little concern for its commercialization or applicability to current production. NSF has the mandate to produce scientific insight, not commercial technology. . . . [A]pplied research with a commercial or industrial focus is clearly a secondary, low-status activity for NSF." *Id.*

148. Johnson, *supra* note 43, at 12-13.

149. FORGING AN INDUSTRIAL COMPETITIVENESS STRATEGY, *supra* note 1, at 16.

150. *Id.* at 17.

151. *Id.* at 5. "[B]y 1982, over 25 percent of the American market for steel and autos and machine tools consisted of imports, while our consumer electronics industry has been basically wiped-out by our competitors from Europe and the Far East." *Id.*

152. *Id.* at 6. For example, between 1970 and 1980, the U.S. share of the world's exports of aircraft fell from 67% to 52%, its share in machine tools dropped from 18% to 11%, and in semiconductors the U.S. fell from 40% to 32%. During the 1970's the United States lost world market shares in almost every capital goods and high-tech industry.

153. *Id.* at 44. "The German BMFT, the British National Research and Development Corporation, the Japanese Agency for Industrial Science and Technology, and the French ANVAR

tries to compete effectively.

Deemphasizing Tax Policy

The cornerstone of the Reagan Administration's economic recovery program is the largest series of tax cuts in history.[154] A large number of the cuts already made have been in business taxes.[155] The intent of the Administration was to provide industry with the capital it needed to improve plant and equipment.[156] Industry was then expected to promote its own recovery. Industrial recovery, in turn, was supposed to increase tax revenues and thus replenish the public treasury.

In contrast to the Administration's proposals, many U.S. corporations have used their tax savings to acquire other companies instead of trying to improve their own competitiveness.[157] In addition, the recovery thus far has not produced increased tax revenue sufficient to offset the tax cuts granted.[158] The President's tax cuts have actually hurt some U.S. industries that face the strongest foreign competition (automobiles, pharmaceuticals, and electronics) while helping others (utilities, commerical banks, paper and wood suppliers) without any particular reason or justification.[159]

The results of the Administration's economic recovery program in-

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program all help to underwrite with public money the process of developing new products and reducing costs in existing industries." *Id.*

154. 1982 CONG. Q. ALMANAC 32. "In 1982, President Reagan scored a legislative coup with the passage of the largest tax deduction bill in history *see*, Pub. L. No. 97-34. The bill scheduled tax reductions totalling $749 billion over five years." *Id.*

155. S. REP. NO. 144, 97th Cong., 1st Sess. 2, *reprinted in* 1981 U.S. CODE CONG. & AD. NEWS 105.

The Economic Recovery Tax Act of 1981 included major tax cuts to stimulate economic growth. Key provisions included:

> A complete revision of rules recovering the cost of depreciable assets, called the Accelerated Cost Recovery System (ACRS), under which equipment will be written off over either 3, 5, 10, or 15 years and most structures will be written off over 15 years.
>
> Replacement of the existing 10-percent investment credit for rehabilitating industrial and commercial buildings with a credit of 15 percent for 30-to 39-year-old commercial or industrial buildings, 20 percent for such buildings at least 40 years old, and 25 percent for certified historic structures.
>
> A restructuring of the tax credit for employer contributions to employee stock ownership plans (ESOP's).
>
> A reduction from 30 percent to 15 percent in the windfall profit tax rate on newly discovered oil, phased in over a 4-year period.
>
> A 25 percent tax credit for incremental expenditures for wages paid for services performed in conducting research and experimentation.

Id.

156. 1981 CONG. Q. ALMANAC 96.

> The President said the change (tax cuts) would "provide the new investment which is needed to create millions of new jobs between now and 1986 and to make America competitive once again in world markets." *Id.* The effects of the President's faster and simpler depreciation schedule would be to provide business with $9.7 billion for investment in fiscal 1982, rising to $44.2 billion in fiscal 1985.

See also S. REP. NO. 144, *supra* note 155, at 12-13.

157. FORGING AN INDUSTRIAL COMPETITIVENESS STRATEGY, *supra* note 1, at 56.

158. *See* Views of Martin Feldstein, Chairman of the President's Council of Economic Advisors, FACTS ON FILE 906-07 (1983).

159. FORGING AN INDUSTRIAL COMPETITIVENESS STRATEGY, *supra* note 1, at 56.

dicate that the tax system is not the best means by which to finance U.S. industrial revitalization.[160] Instead, a mix of tax policy and industrial policy initiatives is needed.

Educational Emphasis

In its 1983 report, the National Commission on Excellence in Education[161] described the United States as "A Nation at Risk."[162] The Commission's findings included the following:

> The U.S. now ranks fourth in the world in scientific literacy, behind the Soviet Union, West Germany, and Japan;
>
> The Soviet Union graduates three times as many engineers as we do from a population only slightly larger than ours. Japan, with a population half the size of ours, graduates 5,000 more electrical engineers that [sic] we do each year;
>
> Functional illiteracy continues to be a serious social problem in the U.S. As many as one in five American adults remains functionally illiterate—unable to read, write and count and, therefore, unable to participate in even entry-level training.[163]

Productivity and competitiveness depend fundamentally on the capabilities of a nation's workers. Not surprisingly, American industry is beginning to encounter shortages in workers with critical skills such as engineering and computer science.[164] Despite these problems, the Reagan Administration has requested cuts in educational programs in each of the last three fiscal years.[165] Unless the Administration demonstrates more of a commitment to education, the United States can ex-

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160. *Id.* It was reported to the committee that:

> Tax policies can have some limited usefulness, but they generally do not provide the best solution to the problems of economic renewal and international competitiveness. To the contrary, our current system of tax preferences and tax penalties provides a badly-targeted, poorly coordinated set of "industrial policy" incentives, which are both excessively costly to the Treasury and largely ineffective in realizing the productive goals in whose name they were originally justified.

Id.

161. On August 26, 1981, Secretary of Education Terrel H. Bell established the National Commission on Excellence in Education to study education standards of American schools and colleges and to propose changes for their improvement. The Commission, headed by David P. Gardner, president of the University of California educational system, included 18 members from the fields of education, business, and government. FACTS ON FILE 689 (1981).

162. The Commission issued its 36-page report, entitled "A Nation at Risk: the Imperative for Educational Reform," on April 26, 1983, after a twenty-month study. The report warned that erosion of society's educational foundations threatens the future of the United States. The Commission found that American students had inferior skills compared with other industrialized nations and pointed out that about 23 million adults in the United States were functionally illiterate. FACTS ON FILE 310 (1983).

163. FORGING AN INDUSTRIAL COMPETITIVENESS STRATEGY, *supra* note 1, at 19.

164. *Id.*

165. Federal budgetary outlays for education were $15 billion in 1981 when President Reagan assumed office, compared with $14.3 billion in fiscal 1982 and an estimated $13.5 billion in fiscal 1983. FACTS ON FILE 431 (1983). President Reagan, for the first time since taking office, sought to increase funding for education in requesting a record $15.5 billion for fiscal 1985. The increase from 1984's appropriation of $15.4 billion reflected national concern about the deficiencies in education in the United States. FACTS ON FILE 71 (1984).

pect to fall further behind the educational achievements of its present and future foreign trade competitors.

CONCLUSION

In the last thirteen years, the world has grown up around America. American business no longer dominates many domestic and foreign markets. Improved international competition has resulted in a serious decline in U.S. competitiveness.

Reciprocity legislation presently before Congress will help the United States obtain market access and right of establishment overseas. However, while this legislation will be a valuable addition to U.S. trade laws, it should not be mistaken for the long-term solution to America's declining international competitiveness. Rather, the United States must develop an international trade policy which reflects a consensus among government, business, labor, and consumers. House bill 2203, if enacted into law, would provide the means of reaching this consensus.

The Advisory Council on International Trade Competitiveness proposed in H.R. 2203 would broadly represent the interests of American society, and by developing and evaluating data from the domestic and foreign economies, the Council would effectively identify trade problems and design strategies to deal with them.

Cooperation by all is essential. The nature of government involvement in the private sector must change if the United States hopes to restore its competitiveness. American business needs government to nurture a healthy macro-economic environment and to adopt policies which will address the specific causes of America's declining competitiveness. Specifically, the Government must take direct action to achieve a more favorable dollar exchange rate in international markets; it must commit itself to increased support of applied research and development, as well as education; it should revise tax policy; and, in some cases, it should provide outright financial assistance to American business.

Today, strong foreign competition challenges American business. All segments of American society—government, business, labor, and consumers as well—must respond through a united effort to prevent foreign competition from soon destroying many American industries.