WITHDRAWAL SHEET
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File Folder: Memos - [Office of] Policy Development [1 of 2] **Date:** 2/1/99
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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
1. Memo	Burleigh Leonard to Edwin Harper, Roger Porter Re: FmHA Bailout (p5 only), 5p	3/10/83	~~P5~~
2. Memo	Michael Uhlmann to Edwin Harper Re: Pension Discrimination, 3p	2/28/83	~~P5~~
3. Memo	Edwin Harper to James Baker, Edwin Meese Re: N.Y. Handicapped Infants Regulation, 1p	4/13/83	~~P5~~ OA5 10/18/00

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]
- P-1 National security classified information [(a)(1) of the PRA].
- P-2 Relating to appointment to Federal office [(a)(2) of the PRA].
- P-3 Release would violate a Federal statute [(a)(3) of the PRA].
- P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA].
- P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA].
- P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA].

C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]
- F-1 National security classified information [(b)(1) of the FOIA].
- F-2 Release could disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA].
- F-3 Release would violate a Federal statue [(b)(3) of the FOIA].
- F-4 Release would disclose trade secrets or confidential commercial or financial information [(b)(4) of the FOIA].
- F-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA].
- F-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA].
- F-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA].
- F-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA].

WITHDRAWAL SHEET
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File Folder: Memos - Policy Development [1 of 2]
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J OPD memos

THE WHITE HOUSE

WASHINGTON

April 5, 1983

MEMORANDUM FOR RICHARD G. DARMAN

FROM: ROGER B. PORTER RBP

SUBJECT: Reauthorization of the Civil Rights Commission

The attached materials, which reached me this morning, concern reauthorizing the Civil Rights Commission. I am informed that the House Judiciary Committee has introductory hearings scheduled for Thursday, April 7. Congressman Sensenbrenner, who is prepared to introduce the legislation for the Administration, would like to have the bill for introduction prior to the hearing.

Mike Uhlmann and Mike Horowitz have signed off on the attached transmittal message, bill, and fact sheet. They have also provided a copy to the Counsel's Office. Ed Harper has requested that you circulate this package as soon as possible.

Attachment

cc: Edwin L. Harper

THE WHITE HOUSE

WASHINGTON

April 1, 1983

MEMORANDUM FOR EDWIN MEESE, III
EDWIN L. HARPER

FROM: Michael M. Uhlmann

SUBJECT: Reauthorization of Civil Rights Commission

I. Background.

The Civil Rights Act of 1957 established the Commission as an agency of limited duration, to expire after producing a final report to Congress and the President. As the original and subsequent expiration dates have approached, the Act has been periodically amended to extend the Commission's life.

Under current law, the Commission will expire at the end of this fiscal year. The President is on record as supporting extension.

Don Edwards has stolen a march on us by introducing his own extension legislation. Markup is scheduled for April 7.

The Commission has forwarded its own proposed extension legislation to OMB for clearance.

In cooperation with OMB, we have drafted proposed extension legislation for submission by the President. If it is to have any impact, it must be forwarded to the Hill no later than April 5 so that it can be introduced in time for the markup.

This matter coincides with, and is likely to be subsumed in the battle to confirm our forthcoming nominations to the Commission.

II. Issues.

o Length of extension. Our draft proposes a ten year extension (we had previously contemplated six). The Edwards bill and the CRC draft both propose a fifteen year extension.

o Terms of office. Our draft provides for staggered six year terms, with the President retaining his authority to nominate replacements at will. The CRC draft would also establish staggered six year terms, but members could be removed before their terms expired "for cause" only. Edwards has announced that he will add a provision addressing this issue after consulting with civil rights groups. These groups support either fixed terms or life tenure with removal only for cause.

o Subpoena authority. Our draft would not change the Commission's existing authority to subpoena persons or documents (the Commission is currently authorized to issue subpoenas within a fifty mile radius of a Commission hearing). The CRC draft would give the Commission nationwide subpoena power for documents. Such a provision is likely to be added to the Edwards bill (although Arthur Flemming has argued that this is an issue the Commission's supporters had best not open).

III. Analysis.

This is a key skirmish in the larger battle to confirm our four impending nominations to the Commission.

The legislative aim of Edwards *et al.* is to "grandfather in" the existing Commissioners and substantially increase their capacity to make mischief. They will attempt to build a record, in moving their legislation, suggesting that the Commission must be protected against the Administration's "onslaughts" so that, when our nominations are made, they can be characterized as "there they go again".

It is therefore essential that we not allow ourselves to be placed in the position of reacting against Edwards' legislation, but in favor of our own.

Edwards' bill has received little, if any, publicity. Our own legislation (especially in view of the recent subpoena flap) would probably be widely publicized.

Republicans on the Subcommittee, particularly Sensenbrenner, are eager to take on the misuse of the Commission by its current members and staff as a Government financed lobby for the Left. They have, for example, added Checker Finn to the witnesses who will appear on April 7. An Administration bill (which we would expect Sensenbrenner to introduce in the House) would enable them to emphasize that while they are critical of the Commission's abuses, they are in favor of the Commission itself.

Recommendations:

o That the President forward the attached legislation to the Hill.

o That we immediately alert Sensenbrenner and other key allies of its contents.

o That we retain flexibility to make changes in our legislation in response to changing circumstances (e.g., if our four nominees are confirmed, the position of Edwards regarding issues such as lifetime tenure and removal for cause would change).

o We should take steps now to assure that the Senate Republican leadership recognizes the importance of all four of our nominees to the Commission, and is prepared to do battle for them.

Attached are drafts of (1) a transmittal message; (2) the bill itself; (3) a section-by-section analysis of the bill; and (4) a fact sheet.

TO THE CONGRESS OF THE UNITED STATES:

I am transmitting herewith the "Civil Rights Commission Reauthorization Act of 1983".

We Americans have come to share a vision of the nation we want to be: A nation in which sex, race, religion, color, national origin, age, or condition of disability do not determine an individual's worth--or where he or she can work, study, or live. We can be justly proud both of the progress we have made toward realizing that ideal--and of our willingness to recognize that progress remains to be made.

In my State of the Union Address on January 25 of this year, I emphasized the importance of the role the Commission can play in assuring that we, as a nation, keep our statutory commitments to fairness and equity for all Americans--and the necessity to assure that the Commission is not allowed to expire, as current law provides, at the end of 1983. In recognition of that importance, the legislation I am transmitting for your consideration would continue the Commission's important work through 1993.

The ten year extension I propose today would be the longest in the Commission's history. However, I believe it is necessary to assure the continuity required for the effective pursuit of the Commission's mission, while preserving the original Congressional intent that the Commission have a specified purpose and duration.

In addition, I am proposing that future members of the Commission be appointed for specified terms, as is currently the case with the Equal Employment Opportunity Commission and similar agencies. This will assure that the Commission's membership is reviewed at the specified intervals, promote continuity and provide for the regular introduction of new perspectives to the Commission's work.

Finally, I am proposing that the Commission's current authorities and procedures be continued intact. The existing statutory provisions have, since the Commission's founding, enabled the Commission to fulfill its unique function while avoiding duplication of activities performed by the EEOC, Department of Justice, and other line agencies.

I ask that this legislation be adopted quickly to avoid any uncertainty regarding the Commission's status and any resulting disruption in its important work.

THE WHITE HOUSE

April ,1983

A BILL

To amend the Civil Rights Act of 1957 to extend the life of the Civil Rights Commission and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Commission Reauthorization Act of 1983".

ESTABLISHMENT OF TERMS FOR MEMBERS OF THE COMMISSION

Sec. 2. Section 101 of the Civil Rights Act of 1957 (42 U.S.C. 1975) is amended to add the following at the conclusion of the section:

"(f) Members of the Commision will be appointed for a term of six years except for the members first appointed pursuant to this Act:

(i) Two of such members, not affiliated with the same political party, shall be appointed for a term of two years;

(ii) Two of such members, not affiliated with the same political party, shall be appointed for a term of four years;

(iii) Two of such members, not affiliated with the same political party, shall be appointed for a term of six years.

Provided that: Those members of the Commission who, on the effective date of this Act, are serving as members pursuant to appointments made under prior authority shall continue to serve until successors are nominated by the President and confirmed by the Senate."

"(g) (i) A member of the Commission may continue to serve on the Commission after the expiration of the member's term until a successor has been nominated by the President and confirmed by the Senate.

(ii) Persons appointed to fill vacancies occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member they succeed."

EXTENDING THE LIFE OF THE COMMISSION

Sec. 3. Section 104(c) of the Civil Rights Act of 1957 (42 U.S.C. 1975c(c)) is amended by striking out "1983" and inserting "1993" in lieu thereof.

AUTHORIZATION OF APPROPRIATIONS

Sec. 4. Section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e.) is amended to read as follows:

"There are authorized to be appropriated $12,180,000 to carry out the provisions of this chapter for the fiscal year ending September 30, 1984, and such sums as may be necessary for each of the following nine fiscal years."

Section by Section Analysis

Section 1 gives the short title of the proposed legislation, "Civil Rights Commission Reauthorization Act of 1982".

ESTABLISHMENT OF TERMS FOR MEMBERS OF THE COMMISSION

Section 2 would amend section 101 of the Civil Rights Act of 1957 (42 U.S.C. 1975) to add two new subsection at the conclusion of the section, (f) and (g). New subsection (f) would provide for staggered terms of six years for the members of the Commission. To initiate the staggered terms, the first six appointments pursuant to this legislation would be made in three pairs. One member pair would be appointed to two year terms, another to four year terms, and a third member pair to six year terms. Each pair of appointments would be of persons "not affiliated with the same political party" (the Civil Rights Act of 1957 requires that no more than 3 members of the Commission be members of the same political party). Thereafter, all appointments would be to six year terms (or, as provided in new subsection (g), where an appointee is succeeding or replacing a member whose term has not expired, to the remainder of the term in question).

Persons serving as members of the Commission upon enactment of this proposed legislation would continue to serve until successors are nominated by the President and confirmed by the Senate. New subsection (g) would provide that members may continue to serve after the expiration of their terms of office until a successor has taken office as a member of the Commission.

EXTENDING THE LIFE OF THE COMMISSION

Section 3 would extend the life of the Commission by ten years by amending Section 104(c) of the Civil Rights Act of 1957 (42 U.S.C. 1975c(c)) to provide that the Commission will submit its final report to Congress and the President in 1993 rather than 1983.

AUTHORIZATION OF APPROPRIATIONS

Section 4 would amend Section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e.) to authorize the appropriation of $12,180,000 for fiscal year 1984 and such sums as may be necessary for each of the following nine fiscal years. This period coincides with the period of extension of the Commission's life in Section 3.

FACT SHEET

PRESIDENT'S MESSAGE TO CONGRESS TRANSMITTING THE CIVIL RIGHTS COMMISSION REAUTHORIZATION ACT OF 1983

Summary

Pursuant to his State of the Union Address on January 25, the President today transmitted to the Congress a bill extending the life of the Civil Rights Commission. The ten year extension provided for in the bill would be the longest in the history of the Commission.

The President's Message reiterated his commitment to making America "...the nation we want to be: A nation in which sex, race, religion, color, national origin, age, or condition of disability do not determine an individual's worth--or where he or she can work, study, or live." Americans "...can be justly proud both of the progress we have made toward realizing that ideal--and of our willingness to recognize that progress remains to be made". The Civil Rights Commission, the President emphasized, can play an important role "...in assuring that we, as a nation, keep our statutory commitments to fairness and equity for all Americans...". The President's purpose in proposing an unprecedented ten year extension is to "...assure the continuity required for the effective pursuit of the Commission's mission--while preserving the original Congressional intent that the Commission have a specified purpose and duration".

BACKGROUND

--The Civil Rights Act of 1957 established the Commission as an agency of limited duration, to expire after producing a final report to Congress and the President.

--As the original and subsequent expiration dates have approached, the Act has been periodically amended to extend the Commission's life.

--Under current law, the Commission will expire at the end of this fiscal year.

SUMMARY OF PROPOSED LEGISLATION

The "Civil Rights Commission Reauthorization Act of 1983" would:

--Extend the life of the Commission through Fiscal Year 1993.

--Promote continuity and at the same time bring fresh perspectives to the Commission by providing that future members be appointed to specified terms, as is currently the case with the Equal Employment Opportunity Commission and similiar agencies.

--Authorize the appropriation of 12,180,000 for the Commission in FY 1984 and "such sums as may be necessary" in each of the following nine fiscal years; i.e., through 1993.

--Continue the Commission's current authorities and procedures intact.

f OPD memos

THE WHITE HOUSE

WASHINGTON

MARCH 10, 1983

MEMORANDUM FOR EDWIN L. HARPER
ROGER B. PORTER

FROM: BURLEIGH LEONARD

SUBJECT: FmHA Bailout Legislation

The Senate Agriculture Committee and a House Agriculture subcommittee have reported legislation providing relief for FmHA borrowers. The bills -- S.24 and H.R.1190 -- are on fast tracks. There is very good reason to believe that some variation of a FmHA bailout bill could reach the President's desk.

S.24, originally introduced by Senator Huddleston, would:

1. require the Secretary of Agriculture, during the period beginning on the date of enactment of the bill and ending September 30, 1983, to permit family farmers with economic emergency loans or FmHA farm loans, on request, to defer repayment of the loans, if the borrower can show to the satisfaction of the Secretary that he has followed good management practices, is temporarily unable to continue making payments on the loan due to circumstances beyond his control, and has a reasonable chance of repayment of the loan after the deferral;

2. require the Secretary, after a deferral period ends, to make available to the borrower consolidation, rescheduling, or reamortization of the deferred loan at an interest rate not in excess of the interest rate on the originial loan. (estimated costs: depending on length of deferral and level of participation, Treasury would have to borrow \$0-6 billion; long-term permanent cost: \$0-2.4 billion);

3. establish, that for any FmHA farm loan deferred, consolidated, rescheduled, or reamortized by the Secretary, the interest rate for the remaining balance and term of the original loan cannot exceed the rate of interest for the original loan (estimated costs: \$200 million);

4. raise the loan limits for FmHA farm operating loans as follows--

(a) no insured loan could be made to a farmer that would cause the farmer's total outstanding farm operating loans to exceed $300,000 (under current law, the figure is $100,000); and
(b) no guaranteed loan could be made to a farmer that would cause the farmer's total outstanding farm operating loans to exceed $400,000 (under current law, the figure is $200,000)(no cost).

5. add $200 million to the amount authorized for insured farm operating loans in fiscal year 1983, the additional funds to be reserved for new borrowers (farmers who have not received any operating credit from the Farmers Home Administration since September 30, 1981)(estimated costs: $200 million in additional lending authority);

6. require that not less than 20% of the amounts authorized for insured farm ownership and farm operating loans in fiscal year 1983 be made available for the low-income, limited-resource farmer program, under which farmers who qualify for the program receive loans at a reduced rate of interest (estimated costs: $5 million);

7. extend the discretionary economic emergency loan program through September 30, 1984, and provide an additional $600 million worth of insured economic emergency loans in fiscal year 1983. (estimated costs: $600 million in additional lending authority; however, because program is discretionary there could be no cost if we can withstand pressure to issue loans).

H.R.1190, introduced by Congressman Ed Jones and co-sponsored by Congressman Tom Coleman, would:

1. require the Secretary of Agriculture, during the period beginning with the date of enactment of the bill and ending September 30, 1984, to permit borrowers with economic emergency loans or FmHA farm loans, on request, to defer repayment of the loans for a one-year period beginning on the date the deferral is approved, if the borrower can show that he has followed good management practices, is unable to continue making payments on the loan due to circumstances beyond his control, and has a reasonable chance to repay the loan after the deferral;

2. require the Secretary, after a deferral period ends, to make available to the borrower consolidation, rescheduling, or reamortization of the deferred loan at an interest rate not in excess of the interest rate on the original loan. (estimated costs: $4-6 billion in short-term Treasury borrowing depending on participation rate; long-term permanent cost $1.2-2.3 billion);

3. increase from seven to fifteen years the time over which the FmHA may reschedule and reamortize its operating loans and provide interest rates on such extended loans at the lower of the current or original rate (estimated costs: $200 million);

4. increase the limit on FmHA-insured operating loans from $100,000 to $200,000 and increase the limit on FmHA-guaranteed operating loans from $200,000 to $400,000 (no cost).

5. provide an additional $200 million in FmHA-insured operating loans in fiscal year 1983, the additional funds to be reserved for borrowers who have not received loans from FmHA since September 30, 1981 (estimated costs: $200 million in additional lending authority);

6. require that at least 20% of FmHA's farm operating and farm ownership loans in fiscal year 1983 be made to borrowers who qualify for reduced interest rates for low-income, limited-resource farmers (estimated costs: $5 million);

7. mandate operation of the economic emergency loan program, and provide an additional $600 million worth of insured economic emergency loans (estimated costs: $600 million in additional lending authority);

8. allow farmers who got disaster emergency loans after December 15, 1979, to get follow-up loans during fiscal years 1983-1984 (estimated costs: $1.2 billion in additional lending authority per fiscal year; however no permanent cost as these loans are made at cost of money and repaid);

9. establish that eligibility for disaster emergency loans will depend on losses suffered by the individual applicant, not on whether the Secretary of Agriculture has designated the producer's home county as eligible for disaster loans (estimated costs: would result in considerable administrative costs and could increase the number of disaster emergency loans made).

10. move authority to issue loan guarantees from FmHA county officers into a special Guaranteed Farm Loan Program unit set up by FmHA in each state (small administrative cost).

Neither of these bills merits the Administration's out-front support. However, there are differences between the two measures that need to be appreciated.

S.24's loan payment deferral provision applies for a shorter period of time and gives the Secretary discretion to set the length of an individual's deferral. Under a strict interpretation of the provision, the deferral period could be limited to such an extent that few, if any, additional federal outlays would be necessary. FmHA lawyers warn, however, that such a strict interpretation may be difficult to defend before the courts, unless more explicit directives were provided in the legislative history of S.24. I have encouraged USDA to explore with friendly Senators the possibility of securing such directives.

S.24 does not mandate the FmHA economic emergency loan program as does H.R.1190. It merely provides the Secretary of Agriculture with discretionary authority to make such loans. The economic emergency loan program is a poor program. It was designed to address the credit needs of larger operators who could not qualify for the regular FmHA farm loans. By administratively modifying the definition of family farm in conjunction with an appropriate increase in the ceilings on FmHA insured and guaranteed farm loans (such as those provided in both S.24 and H.R.1190), the Administration could accommodate larger farmers and thus neutralize the constituency for the economic emergency loan program. If the economic emergency loan program is mandated, we could be required to permit private lenders to dump anywhere between $600 million and $1.2 billion of low quality loans on FmHA.

It should be noted that a case is pending in a federal district court, the result of which could force FmHA to issue an additional $600 million in economic emergency loans.

Finally, S.24 refrains from extending subsequent loan eligibility for those who received disaster emergency loans after December 15, 1979, thereby avoiding the need to provide an extra $1.2 billion in lending authority in each of fiscal years 1983 and 1984. Furthermore, S.24 does not require that the disaster emergency loan progrm be administered on an individual evaluation basis. Such a requirement, as provided in H.R.1190, would impose an administrative burden on FmHA that could bring its program operations to a standstill.

There are indications that Congress is anxious to ram an FmHA bailout proposal into law. Secretary Block has sought to blunt such enthusiasm by sending to the Hill a letter which outlines the grounds upon which he would recommend a veto to the President. The letter explains that anyone of four provisions would prompt a veto recommendation from the Secretary: mandatory loan payment deferral; mandatory economic emergency loan program; subsequent loan eligibility for those who received disaster emergency loans after December 15, 1979; and individual designation for disaster emergency loans. The letter leaves enough wiggle room to permit the President to sign FmHA legislation as substantiation of his State of the Union pledge to work with farmers on a case-by-case basis to get them through hard economic times.

I think it will require White House involvement either to prevent any FmHA bailout legislation from getting to the President's desk or to get an FmHA bill that the President can sign. It may be wise to get that involvement going now while we still have a chance to shape events on Capitol Hill. We can ill-afford being put in the dilemma of choosing between bad and, in this case, expensive legislation and a strong political constituency, as we were on the contract sanctity issue.

There are things that could be done to help prevent a veto confrontation with Congress on FmHA bailout legislation:

- o Senator Domenici could be prevailed upon to object to S.24 on budgetary grounds until mid to late April, giving us enough time to develop support for a substitute similar to legislation introduced by Senator Cochran. Senator Lugar may be willing to carry the water for us on the substitute.

- o We could step up efforts to keep H.R.1190 bottled up in the House Agriculture Committee. Congressman Madigan to date has been a real trooper in leading opposition to the bill. His help should be acknowledged by the White House and his position should be reinforced in any way possible.

- o A FmHA supplemental (if it is necessary) could be sent to the Hill in a timely fashion so as to avoid giving supporters of S.24 or H.R. 1190 any cause to question our commitment to FmHA borrowers.

- o Farm groups could be urged by the White House to oppose FmHA bailout legislation.

- o We could increase public awareness of our efforts to date to help FmHA borrowers secure needed credit, thereby countering our image as having no compassion.

My point is that it is not too soon for the legislative strategy group to map out a course of action on FmHA bailout legislation. To simply say that we oppose such legislation may not be enough to stem the tide of support for the legislation.

f OPD memos

THE WHITE HOUSE

WASHINGTON

March 29, 1983

MEMORANDUM FOR EDWIN MEESE III
JAMES A. BAKER III

FROM: ROGER B. PORTER RBP

SUBJECT: Conservation PIK

As requested at this morning's senior staff meeting I have had our staff look into the Washington Post story that USDA is considering a program which would give farmers free surplus grain as an extra incentive to conserve eroding cropland.

Our inquiries at the Department confirm that USDA is considering such a program. Since such a program could have substantial budget implications as well as involve the interest of other departments and agencies this seems like an issue that merits Cabinet Council consideration.

I have asked Danny Boggs, Executive Secretary of the Cabinet Council on Food and Agriculture, to discuss this with Secretary Block and report to me if there is any problem.

A brief memorandum describing the options currently under review at USDA on this issue is attached.

Attachment

cc: David A. Stockman
Craig L. Fuller
Richard G. Darman
Edwin L. Harper

MARCH 29, 1983

MEMORANDUM FOR EDWIN L. HARPER
ROGER B. PORTER

FROM: BURLEIGH LEONARD BL

SUBJECT: Conservation PIK

Ward Sinclair's article in the March 29 edition of the Washington Post accurately indicates that USDA is considering a program which would give farmers free surplus grain as an extra incentive to conserve eroding cropland.

While no final proposal has been submitted to the Secretary as of yet, an intradepartmental task force has been putting together payment-in-kind conservation options that could be used to capitalize on the soil conservation opportunities presented by the PIK production control program.

Most of the acreage to be removed from production under the PIK program is marginal land with high susceptibility to erosion. The provisions of the PIK program require that this land be put into conservation usages -- such as cover crops -- in order to minimize soil loss due to water and wind erosion while the land is out of production. With their land already diverted and provided adequate incentives were available, some farmers could be encouraged to put their diverted land into long-term conservation usages such as permanent grass and trees. Other farmers could be encouraged to terrace their land or put in grassed waterways so that when their diverted land was put back into production it would be better protected from soil erosion.

The USDA task force is considering a number of options, including these approaches:

- Farmers who agree to permanent conservation programs for their farms might get federal surplus grain instead of or as part of federal cost-sharing money currently available under USDA conservation programs;

- Farmers already in the PIK program might be offered a bonus of 2 or 3 percent more in surplus commodities if they agree to carry out a permanent conservation plan.

The task force envisions a ceiling on the in-kind conservation payments of $250 million worth of commodities, as compared to the roughly $8 billion worth of commodities distributed under PIK.

USDA would have to bid commodities out of the farmer-held reserve in order to have access to sufficient commodities for use in the conservation program.

Senator Cochran has introduced legislation, S. 843, which provides authority for cash or in-kind payments to encourage farmers to use conservation practices. Given the questions being raised about the Administration's commitment to conservation programs (due primarily to significant budget cuts in USDA's conservation programs), USDA probably would want to support such legislation should it decide to pursue this son-of-PIK conservation approach.

This subject has not been discussed with OMB nor has it been inserted into the cabinet council process. It is regarded by USDA as an "in-house" matter.

f OPD memos

THE WHITE HOUSE

WASHINGTON

March 28, 1983

MEMORANDUM FOR JAMES A. BAKER, III
EDWIN MEESE III
MICHAEL K. DEAVER
CRAIG FULLER
DAVE GERGEN
FAITH WHITTLESEY

FROM: EDWIN L. HARPER

SUBJECT: Black Appointees

Mel Bradley has been meeting with black appointees in the Administration and has prepared the first summary report on these meetings. I think you may find some of his conclusions of particular interest.

Mel will continue to hold these meetings and report back from time to time. If there are specific topics that you would like him to test, feel free to contact him directly.

Attachment

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 23, 1983

FOR: ED HARPER

FROM: MEL BRADLEY MB

SUBJ: Meeting With Black Appointees

On March 4 and March 14, I completed the first round of meetings with Black political appointees who serve in full-time positions at significant levels within the Administration. The primary purpose of the meetings was to seek to establish a method of keeping them informed so that they might better serve the President. Perhaps more than any others within the Administration, Blacks, if kept abreast of actual developments, can do more as a group to dispel the myth that the Administration is pro-rich, anti-Black and is not first and foremost about the business of creating conditions in which all not just a few Americans can prosper. This is true largely because Black appointees tend to be in constant contact with one or more of the constituencies to whom it is important to correct the misperception. In addition to performing their regular responsibilities, Black appointees tend to spend a considerable amount of time speaking to the concerns of potential as well as actual friends and supporters and others of the Black community.

We agreed that:

(1) Consistent with available time and staff resources I would seek to assist in keeping them abreast of significant and pertinent policy developments and accomplishments;

(2) We would periodically hold additional informal meetings for this purpose and for the purpose of their informing each other of pertinent developments;

(3) They would incorporate the latest information regarding civil rights accomplishments, accomplishments regarding the economy, myth dispelling information, etc. in their public speeches and other public contacts; and

(4) They would provide feedback as to public reaction to this and other activities of the Administration.

There was outspoken unanimity that we may not be taking advantage of the potential gains available through a special communications effort directed to the Black press. The gist of the theory put forth was that, unlike the general press, the Black press is eager for all news relevant to Blacks and therefore would tend to print all, rather than just the negative or sensational.

MEMORANDUM

f OPD memos

THE WHITE HOUSE

WASHINGTON

February 28, 1983

FOR: EDWIN L. HARPER

FROM: MICHAEL M. UHLMANN

SUBJECT: Legislative Package on Pension Discrimination

You stated last week that you wanted the sex discrimination insurance package readied for transmission to The Hill by March 8, the timing to coincide with the President's meeting with Republican Congresswomen,. For the reasons set forth below, I think it would be ill-advised to transmit legislation at this time.

There is substantial agreement in the CCLP working group for including the following elements in a legislative proposal:

(1) Equalize pension benefits by prohibiting gender-based actuarial tables on a prospective basis.

(2) Protect older women by requiring spousal consent before survivor benefits could be waived.

(3) Protect younger women by lowering to 21 years the age at which workers must be permitted to participate in a pension plan (i.e., start earning credits).

(4) Neutralize the adverse consequences of taking maternity leave by providing that no break in service would occur.

There is no major controversy on the last three items, which have been incorporated in one form or another in various proposals now pending on The Hill. By the same token, none of the three is deemed to be of earth-shaking importance.

The equal-benefits proposal will be controversial, and by announcing it at this time, chances are far greater that we will be jeered rather than cheered. Consider:

- Because our proposal does not address the non-pension areas of insurance (and we do not now have the information to make an assessment), it will be criticized as a pale imitation of H.R. 100, which appears to promise so much. There is no reason whatsoever for any women's group to support anything less than H.R. 100 at this time. Even if some were disposed to say nice things (why, I do not know), they would be effectively prevented from doing so by their sister organizations, which in the spirit of all ideological interest groups would condemn any departure from the "party line". It must not be forgotten that the women's organizations compete with one another for leadership of the movement. That competition is measured not only in terms of ideological purity, but in terms of membership and fund-raising. They have far more to gain in condemning rather than praising our pale imitation of H.R. 100. <u>In short, proposing legislation of the sort we have in mind at this point could have exactly the opposite effect of the one you seek.</u>

- The foregoing is a particularly likely outcome because our prospective solution would be criticized by women's groups as a "retreat" from our petition in <u>Spirt</u>. Our memorandum in support of Ms. Spirt did not specifiy the form of relief required by Title VII, but EEOC participated below on the question of relief in support of retroactivity. Women's organizations have gratuitously assumed that the prospective/retroactive question has already been settled in their favor. By contrast, the dominant position within the Administration is that <u>Manhart</u> is open on this point. In any event, because our brief in <u>Spirt</u> did not address the issue, we at least have the benefit of ambiguity at the moment. <u>Coming out for prospective relief in legislation now would open us to severe criticism that we are offering less than what is now available under EEOC regulations and certain lower court decisions.</u>

Labor, Justice, Treasury, and EEOC strongly concur in this judgment, and believe we should keep our powder dry for the time-being. The real debate on H.R. 100 and similar legislation is only now beginning to heat up. Until recently, it's been pretty much a case of being for the bill or against "women's rights". But as more and more females discover what the elimination of gender distinctions in insurance will do to their premiums, and as the likes of Mayor Koch weigh in against the bill's adverse impact on public employee pension funds, the politics of this issue are going to change, and may change sharply.

It is yet too early to hazard anything more than a guess, but a good one is that H.R. 100 as it now stands will not emerge from Congress. A premature entry onto the battlefield by the Administration, however, will invite severe criticism from those who still believe that the bill is alive and well, place us permanently on the defensive, and make us a convenient scapegoat if the bill undergoes substantial change for reasons wholly beyond our control.

Alternative Scenario for March 8

Rather than sending legisltion up now, I would propose the following script for March 8:

(1) Present to the Congresswomen a detailed summary of our efforts on behalf of women to date. This would include, but need not be limited to

--information on personnel
--summary of 50-States Project (they issued their report last month)
--summary of Legal Equity Task Force (this is the Executive Order drill to review federal statutes and regulations)

(2) Present a detailed breakdown of the Economic Equity Act, which shows that the greater part of the original Act has already been enacted with our support.

(3) Reiteration of the President's concerns on pension equity, giving more detail than the SOTU, but drawing up short of announcing a specific package. Bottom line: as we pledged in testimony last week, we will work with Congress to produce meaningful legislation this year.

(4) Have the President announce his plans to create a presidential commission to study and report on the effects of eliminating gender-based actuarial tables in all forms of insurance other than pensions. Put the Commission on a short hook, e.g., six months, and postpone any legislative proposal on this front until after the Commission reports.

THE WHITE HOUSE
WASHINGTON

1:30
Today

April 14, 1983

TO: JAB III

RE: Infanticide Meeting Today

At 1:30 today, a meeting will be held to discuss a recent lawsuit about infanticide. This is a complex case, and has a number of pitfalls that were not apparent when Ed Harper first raised this the other day in senior staff.

I've attached a memo that Mike Uhlmann has prepared on the subject. It discusses some of the key issues, and explains why our decision in this case could have implications beyond the issue of infanticide alone.

I made sure Fielding was sent materials on the issue, and left a message yesterday suggesting that he look at this carefully.

Sorry I won't be here.

JC

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

April 13, 1983

FOR: EDWIN L. HARPER

FROM: MICHAEL M. UHLMANN

SUBJECT: Handicapped Infants Regulation and Medicare/Medicaid as Federal Financial Assistance

The Problem

Justice and HHS are at an impasse over the issue of whether Medicare and Medicaid constitute federal financial assistance. This issue is now presented squarely in litigation against our handicapped infant regulation in the Southern District of New York. (In the similar D.C. case pending before Judge Gesell, plaintiff medical groups did not raise this issue.) The district judge in New York has set a preliminary injunction hearing for Monday, and our brief is due Friday. Richard Willard of Justice believes we can avoid taking a position on this issue in the brief, but we must be ready with an answer at the hearing on Monday.

Thus far, we have kept the HHS-DOJ debate over the issue low-key, to avoid any adverse public flare-ups over the civil rights implications.

The non-discrimination requirement of Section 504 of the Rehabilitation Act of 1973 applies to any program or activity that receives federal financial assistance.

The issue therefore implicates not only the anti-infanticide regulation, but every federal civil rights scheme that is triggered by receipt of federal financial assistance: race discrimination, sex discrimination, handicap discrimination. Any change in the scope of coverage of this panoply of regulations is obviously fraught with controversy.

Arguments that Medicare and Medicaid should NOT be considered federal financial assistance to hospitals (as articulated by Civil Rights Division of Justice):

- Federal Medicaid payments are made to the states, not to the health care providers; hospitals participating in Medicaid receive financial assistance not from the federal government but from the states.
- Federal Medicare payments are financial assistance to elderly patients, not to hospitals.

- -- As with student loans, a federal payment for the benefit of an individual, which can be used at any institution the individual chooses, should not bring the institution under federal control.
- -- Medicare is analogous to food stamps, which are not and should not be considered federal financial assistance to grocery store chains.
- -- Moreover, Medicare is a federal funding program for the elderly, and a hospital's receipt of Medicare should not subject the hospital to federal regulation of its program of health services to infants.

Arguments that Medicare and Medicaid SHOULD be considered federal financial assistance:

- o This has been the consistent interpretation of HHS since the inception of the Medicare/Medicaid program, and has generally been accepted by hospitals and federal courts.
- o It is also the position DOJ has taken in litigation as recently as June 1982, when Baylor Medical Center objected to HHS investigatory jurisdiction and Justice filed a brief in federal court saying the institution was federally assisted because it received Medicare and Medicaid.
- o Even though federal Medicaid payments are channeled through the states, we have generally accepted the principle that state distribution of federal moneys does not insulate the recipient institution from federal civil rights jurisdiction: all our block grants have carried federal civil rights strings with them.
- o Politically, we could just as easily be attacked for trying to deregulate hospitals from civil rights laws as for trying to deregulate tax-exempt schools in the Bob Jones case.

Arguments that a hospital should not be covered by the handicapped infants regulation unless federal funding goes to its pediatrics ward:

- o Following the Supreme Court's North Haven decision, we have taken the position in litigation that only the specific program or activity receiving federal financial assistance is covered by civil rights laws.
- o For example, we have said that federal payments to one program of a university do not subject all programs of the university to civil rights coverage.

Arguments that the entire hospital should be covered if federal funds go to part of the hospital:

- It is not clear that a hospital can be divided into a "pediatrics program" distinct from other parts of the hospital, since many types of care are often given within a single hospital building, administered as a single program of care for patients.
- HHS has considered the entire hospital to be the relevant program or activity since the 1960s.
- The Justice Department brief in the Baylor case follows the view of the entire hospital as the relevant program or activity.

The argument against holding Medicare and Medicaid to be federal assistance has legal and logical merit. The analogy to food stamps and student loans has merit. However, we have departed from a thoroughgoing logical approach in this area by admitting that Pell grants are federal assistance in the Grove City case.

Analysis

A major complicating factor in this decision is the brief filed by Justice in the Baylor case. A copy of the Table of Contents from this brief is attached. However strong our legal arguments for saying that Medicare and Medicaid payments do not bring an entire hospital under federal civil rights coverage, we must be ready to meet the accusation that we are changing our position.

Politically, we could expect opposition from handicapped groups, women's groups, civil rights groups, and right to life groups. Without Medicare/Medicaid as a civil rights handle, a number of hospitals would drop out of civil rights coverage, especially with regard to handicap discrimination, since the Hill-Burton program expired around the time the Rehabilitation Act was enacted. As for potential political support, we should consider whether hospitals and medical associations would want to give public support to an effort that would take many of them out from federal civil rights coverage.

Recommendation

- All deliberations over this issue should involve White House Counsel's office, since the matter concerns pending litigation.

- Convene meeting as soon as possible. Recommended participants:

  - -- Fred Fielding
  - -- Ed Meese, Jim Baker
  - -- HHS (Heckler, del Real)
  - -- DOJ (Schmults, Reynolds, Willard)
  - -- OMB (Horowitz, Clarkson)
  - -- OPD (Uhlmann, Carleson, Bradley)

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THE WHITE HOUSE

WASHINGTON

April 13, 1983

MEMORANDUM FOR JAMES A. BAKER, III
EDWIN MEESE III

FROM: EDWIN L. HARPER

SUBJECT: New York Handicapped Infants Regulation Suit Requires Policy Decision

Does federal aid to an individual who accepts that aid in the context of an institution (e.g. school, college or hospital) constitute aid to the institution, opening the institution to a host of federal regulations?

In DOJ's filings in the Grove City and Hillsdale cases, we have said no it does not. DOJ feels we should take a similar position in this case.

HHS feels that we should take the opposite position to preserve the infanticide regulations which it just issued. HHS finds itself on the side of the American Life Lobby on this issue. (see the attached telegram)

The brief which the government must file in the NY infanticide case is an important policy choice.

cc: Fred Fielding
Mike Uhlmann

The White House
Washington

WHC016(1359)(1-011298A103)PD 04/13/83 1358
ICS IPMWGWJ WSH 1983 APR 14 PM 2 02
00380 BUWASHINGTON DC 136 04-13 139P EST
PMS HON EDWIN L HARPER
ASST TO THE PRESIDENT
WHITE HOUSE DC

GIVEN THE PRESIDENT'S PERSONAL COMMITMENT TO THE ANTI-INFANTICIDE REGULATIONS THE ADMINISTRATION WILL HAVE A MAJOR POLITICAL DISASTER ON ITS HANDS IF ITS JUSTICE DEPARTMENT CIVIL RIGHTS DIVISION AGRES WITH THE CONTENTION OF THE AMERICAN HOSPITAL ASSN IN THEIR NEW YORK LAWSUIT AGAINST THE REGULATIONS THAT MEDICARE/MEDICAID ARE NOT ASSISTANCE TO INSTITUTIONS.

MRS HECKLER AT HE CONFIRMATION HEARINGS STATED THAT THE PENALTY FOR VIOLATION OF THE REGULATIONS COULD INCLUDE INELIGIBILITY FOR MEDICARE/MEDICAID.

MEDICARE/MEDICAID RATES ARE SET PRIMARILY ON THE BASIS OF THE FINANCIAL CONDITION AND COSTS OF THE HOSPITAL OR OTHER MEDICAL PROVIDER.

FOR EXAMPLE THE FOR-PROFIT HOSPITAL RATE INCLUDES A GUARANTEED RETURN ON EUQUITY.

DON'T LET JUSTICE CAUSE A MAJOR POLITICAL EMBARRASSMENT. GET THEM TO FIGHT THEIR ISSUE ON ANOTHER CASE.

GARY L CURRAN LEGISLATIE CONSULTANT
AMERICAN LIFE LOBBY
6 LIBRARY COURT S.E.
WASHINGTON DC 20003
(202) 546-5550

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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

April 13, 1983

FOR: EDWIN L. HARPER

FROM: MICHAEL M. UHLMANN

SUBJECT: Handicapped Infants Regulation and Medicare/Medicaid as Federal Financial Assistance

The Problem

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- -- DOJ (Schmults, Reynolds, Willard)
- -- OMB (Horowitz, Clarkson)
- -- OPD (Uhlmann, Carleson, Bradley)
- - Include Education

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THE WHITE HOUSE

WASHINGTON

March 15, 1983

MEMORANDUM FOR JAMES A. BAKER III

FROM: EDWIN L. HARPER

SUBJECT: Follow-Up on 3/15 Senior Staff Meeting

Based on Roger Porter's notes from the 3/15 Senior Staff meeting, I thought you might be interested in the following:

Tracking PRB Activities

The Property Review Board staff implements the policies set by the PRB including the study of forest service lands for possible sale as excess property. The staff coordinates its activities with Fielding's office, Duberstein's office, Williamson's office, GSA, and OMB via its weekly activity reports.

The weekly activity reports for the last month are at Tab A.

ACTION

Would you like to receive these weekly reports or would you like them sent to other members of your staff?

An important asset to coordinating the PRB's activites will be the WH Legislative Affairs staff's filling the legislative liaison slot which PRB made available last fall.

Crime Bill and CCLP

As you know we were finally able to resolve all of the substantive issues on the crime bill without the necessity of a CCLP.

cc: Edwin Meese III
Dick Darman
Craig Fuller
Josh Muss

TAB A

PROPERTY REVIEW BOARD
17th & PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20500

March 14, 1983

MEMORANDUM FOR EDWIN L. HARPER
CHAIRMAN, PROPERTY REVIEW BOARD

FROM: BRUCE I. SELFON B

SUBJECT: ACTIVITIES REPORT - WEEK OF MARCH 7, 1983

The principal activities for the Property Review Board staff follow:

1. Met with Congressman Ken Kramer and James D. Range, Legislative Counsel to Senator Howard Baker, for discussions re Asset Management Program of the Forest Service.

2. Held meeting with representatives of GSA, Department of the Army and Justic Department re Hamilton Air Force Base. A separate meeting with Congresswoman Barbara Boxer was also held.

3. Met with Congressman Frank Horton for discussions on the future of the Land Use Project, which is being studied for disposal near Hector, New York.

4. Received from the Department of Education written confirmation of their ability to expand their program to support the transfer of surplus property to state and local governments for correctional facilities.

5. Met with Harry Walters to discuss the relationship of the property initiative to the Veterans Administration.

6. Met with Assistant Secretary of the Air Force Tidal McCoy re property initiative.

Next week's planned activities:

1. Joshua Muss reviewing controversial properties in Rhode Island with Rhode Island congressional delegation.

2. Meet with Congresswoman Cardiss Collins, new Real Property Oversight Sub-committee Chairman.

3. Meet with Secretary Watt re property management initiative.

4. Meet with Assistant Secretary of the Army Joel Bonner re property management initiative.

cc: Gerald Carmen, Mike Horowtiz, John Cooney, Richard Hauser, Kevin Hopkins, David Waller, Roger Adkins, Richard Williamson, Fred Khedouri, Nancy Risque, Jim Murr

PROPERTY REVIEW BOARD

17th & PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20500

March 7, 1983

MEMORANDUM FOR EDWIN L. HARPER
CHAIRMAN, PROPERTY REVIEW BOARD

FROM: JOSHUA A. MUSS

SUBJECT: Activities Report - Week of February 28, 1983

The principal activities for the Property Review Board staff follow:

1. Reviewed asset management program maps prepared by the Forest Service.

2. Appeared before the Society of American Foresters Asset Management Task Force.

3. Met with investment bankers to discuss establishment of a new financing vehicle for surplus property sales.

4. Interviewed by Kiplinger Newsletter reporter (cleared by OPI).

5. Met with George Sawyer, Assistant Secretary of the Navy (Shipbuilding and Logistics) re Department of Navy's role in property management program.

Next week's planned activities:

1. Meet with key Congressional Congressional members and staff to discuss Forest Service legislative proposal.

2. Meet with representatives of GSA, Justice and Department of the Interior to discuss status of Hamilton Air Force Base.

3. Meet with Administrator of Veterans Administration and with Assistant Secretary of the Air Force to review progress of the property management initiative.

4. Meet with veterans groups and Justice Department re Pershing Hall legislative proposal.

cc: Gerald Carmen, Mike Horowitz, John Cooney, Richard Hauser, Kevin Hopkins, David Waller, Roger Adkins, Richard Williamson, Fred Khedouri, Nancy Risque, Jim Murr

PROPERTY REVIEW BOARD

17th & PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20500

February 28, 1983

MEMORANDUM FOR EDWIN L. HARPER
CHAIRMAN, PROPERTY REVIEW BOARD

FROM: BRUCE I. SELFON

SUBJECT: Activities Report - Week of February 21, 1983

The principal activities for the Property Review Board staff follow:

1. Met with Senator Inouye and Congressman Heftel of Hawaii to discuss Kaloko-Honokohau National Historical Park and Fort DeRussy. Next step is to consult with Governor Ariyoshi.

2. Met with Senator McClure's personal staff and Committee on Energy and Natural Resources staff to discuss Forest [redacted] and public information program for asset management program.

3. Met with Congressman Kramer to discuss status of property management initiative and to inquire of his interest in introducing the National Debt Retirement Act of 1983.

4. Met with Gerald Carmen, Ray Kline, Edwin Harper and GSA staff to discuss progress of the sales initiative at GSA.

5. Met with Jerry Dondero and Paul Wagner, who represent the Greenwell Estate on the status of Kaloko-Honokohau National Historic Park.

6. Met with minority staff of the House Government Operations Committee to discuss oversight activity in the 98th Congress.

7. Met with staff of Senator Mathias to discuss his bill to prohibit sale of property at Beltsville Agricultural Research Center.

Next week's planned activities:

1. Appear before the Society of American Foresters Asset Management Task Force.

2. Meet with investment bankers to discuss establishment of a new financing vehicle for surplus property sales.

3. Meet with Governor Ariyoshi to discuss Hawaiian properties.

4. Interview by Kiplinger Newsletter reporter (cleared by OPI).

cc: Gerald Carmen
Mike Horowitz
John Cooney
Richard Hauser
Kevin Hopkins
David Waller
Roger Adkins
Richard Williamson
Fred Khedouri
Nancy Risque
Jim Murr

PROPERTY REVIEW BOARD

17th & PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20500

February 18, 1983

MEMORANDUM FOR EDWIN L. HARPER
CHAIRMAN, PROPERTY REVIEW BOARD

FROM: BRUCE I. SELFON

SUBJECT: Activities Report - Week of February 14, 1983

The principal activities for the Property Review Board staff follow:

1. Met with Gerald Carmen for further discussions of GSA implementation of the property management initiative.

2. Met with Don Sowle of the Office of Federal Procurement Policy for general discussions regarding possible procurement of investment banking services.

3. Met with Forest Service representatives for review of their asset management maps of lands scheduled for further study.

4. Sent to the Interior Department an outline of proposed legislation on Pershing Hall Memorial in Paris.

5. Held further discussions with Defense and OMB regarding Section 802 of Milcon.

6. Provided comments to the Department of Interior on a marketing strategy for their sale of lands under FLPMA.

Next week's planned activities:

1. Meeting scheduled with Senator Inouye and Congressman Heftel to discuss Kaloko-Honokohau Historical Park and other Hawaiian properties.

2. Meeting scheduled with Senate Committee on Energy and Natural Resources staff to show them a typical Forest Service asset management map.

3. Joshua Muss to be interviewed by a reporter for the Philadelphia Inquirer for overall one-year update on the PRB program. (Cleared by OPI).

4. Meeting scheduled with John Duncan, Minority Staff Director, Committee on Government Operations, to discuss the property initiative in the 98th Congress.

cc: Gerald Carmen
Mike Horowitz
John Cooney
Richard Hauser
Kevin Hopkins
David Waller
Roger Adkins
Fred Khedouri
Nancy Risque
Jim Murr
Rich Williamson

PROPERTY REVIEW BOARD

17th & PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20500

February 14, 1983

MEMORANDUM FOR EDWIN L. HARPER
CHAIRMAN, PROPERTY REVIEW BOARD

FROM: JOSHUA A. MUSS

SUBJECT: Activities Report - Week of February 7, 1983

The principal activities for the Property Review Board staff follow:

1. A meeting was held with the Assistant Secretaries of Education, Health and Human Services, Interior, and representatives of General Services Administration and the Department of Justice to discuss prior discount conveyances. The PRB staff presented a review of past practices. The agencies agreed to establish uniform criteria for future conveyances and to prepare a written report within two weeks on suggested new standards.

2. Joshua Muss met with Ted Neuenschwander and Max Rogers of Senator McClure's staff, and with Gary Ellsworth and Tony Bevinetto, staff members of the Senate Energy and Natural Resources Committee, to discuss the asset management programs of BLM and the Forest Service.

3. Met with Fred Khedouri, John Crowell and David Swanson regarding USDA legislative strategy.

4. Met with Albert Abrahams of the National Association of Realtors to discuss real estate brokers.

5. Met with representatives of Department of Justice to discuss the legislative proposal for Pershing Hall.

Next week's planned major activities:

1. Meeting scheduled with Gerald Carmen to discuss GSA operations.

2. Meeting with Don Sowle to discuss procurement of investment banking services.

cc: Gerald Carmen, Mike Horowitz, John Cooney, Richard Hauser, Annelise Anderson, Kevin Hopkins, David Waller, Roger Adkins, Fred Khedouri, Nancy Risque, Jim Murr cc: OPD memo

TO CICCONI — 1/13 MDT

THE WHITE HOUSE

WASHINGTON

January 12, 1983

MEMORANDUM FOR JAMES A. BAKER
JIM CICCONI

FROM: VELMA MONTOYA Velma

At the White House Senior Staff Christmas party, my husband, Earl Thompson, began to describe his "labor standard" for the economy that suggests the convertibility of money into a fixed quantity of labor. You asked him to put it in writing. Here it is, both a three-page summary and a longer version, both presented to the Gold Commission.

Implementation of the standard has the characteristics of eliminating inflation, the business cycle, and governmental monetary control, while permitting efficient, laissez faire banking.

FREE BANKING UNDER A LABOR STANDARD -- THE PERFECT MONETARY SYSTEM

Submitted by

EARL A. THOMPSON

DEPARTMENT OF ECONOMICS
UNIVERSITY OF CALIFORNIA, LOS ANGELES

JANUARY 8, 1982

No one to my knowledge has prescribed a financial system that would, at least within familiar economic paradigms, guarantee an automatic, simultaneous cure for all of our macroeconomic maladies (viz., inefficient fluctuations in employment, persistent and highly variable rates of inflation or deflation, and governmentally created, artificial scarcities of money). Economists seem to believe that such a system does not exist. However, there *is* a financial system -- one with a labor standard and free banking -- that would, at least theoretically, simultaneously prevent all macroeconomic ills *regardless* of the kinds of shocks that hit our economy and without *any* reliance whatsoever on discretionary policy intervention.

The *only* governmental responsibility in this financial system is to make the dollar freely convertible into an amount of gold, or noncurrency redemption asset that government finds most convenient, just enabling the redeemer to purchase a *predetermined, fixed amount* of labor in the free market.

So, theoretically speaking, a dollar will always buy a constant amount, say five minutes, of U.S. labor. This creates a stable and intertemporally constant wage level. To see this, suppose that the free market level of money wages were to increase, ceteris paribus. The amount of gold required to purchase a unit of labor would increase correspondingly. Since the public could then obtain more gold for a dollar from the government than they could from the free market, arbitrageurs would profit by turning dollars into the government for gold and then selling the gold in the free market. The resulting, automatic drain of dollars from the system would serve to depress money wages. The induced reduction in the free market's money price of gold would *not* reduce the arbitrage profit because a lower gold price immediately increases the amount of gold required to purchase a unit of labor and therefore the amount of gold one can obtain from the government for a dollar; as the financial return to the gold purchase and resale decreases, its cost decreases by the same amount. The currency drain, therefore, continues until the money wage rate is restored to its original level.

In a world with many kinds of labor, our standard would stabilize the quantity-weighted average wage rate, e.g., the 30-million worker, B.L.S. monthly wage index, thereby giving an individual, for his dollar, an amount of gold just enabling him to purchase a representative set of labor services totalling a constant number of man-minutes of U.S. labor.

Since monthly wage index data are not available until well into the following month, a practical problem arises as to how to determine the relevant conversion prices. To solve this, the government should make its conversion payments assuming that the wage index will be at its theoretical value, but compensate all large converters ex post for subsequently observed increases in the index from its theoretical value and, of course, charge them for decreases in the subsequently observed index. Thus, the government would make its March conversion payments assuming that the average cost of five minutes of labor during March is $1.00; but if this average cost turns out to be, say $1.02, then all large converters would be due an extra 2% gold payment while if the index were, say, at $.97, the large converters would have to pay 3% more dollars to the government. Thus, if informed speculators thought, on balance, that the March wage index was going to be above $1.00, they would, on balance, convert dollars to gold, simultaneously sell the gold in the free market, and wait for their expected compensation from the government in the following month. The dollar drain created by this operation would depress the expected wage level until it reached unity. In this way we would always have an expected wage index, an expected dollar cost of five minutes of labor, of $1.00.

Another practical problem, a temporary one, is posed by the fact that existing contracts are geared toward about a 10% annual increase in money wages over the next few years. Allowing gradual decreases in the labor conversion rate for a few years, commencing at a 10% annual rate, before stabilizing it at, say, five minutes of U.S. labor for a dollar (i.e., to where the average wage level is $12 per hour) would preclude potentially very costly recontracting and at the same time substantially reduce the redistributional component of the increase in the value of existing long-term bonds. Alternatively, a new, recognizably distinct, labor-convertible dollar could be printed. This would not only allow existing contracts requiring the delivery of future dollars to be executed in the old, Fed-controlled, depreciating dollars and thereby permit an immediate move to an intertemporally constant wage level in terms of the new currency; it would also, by enabling the government to prohibit the Fed from transacting in new dollars, prevent the Fed from inadvisedly attempting to neutralize the efficient, labor-standard, currency flows between the Treasury and Public. After a while, once most old-dollar obligations have been fulfilled, and the new dollar has supplanted the old, the Fed could take over the Treasury's conversion operation, although this would presumably require an Act of Congress. Such an Act should also eliminate reserve requirements, bank interest rate regulations, rediscounting and open market operations as needless constraints on the free market's efficient, competitive provision of a currency-convertible medium of exchange. The intertemporally constant wage rate would insure the automatic absence of inefficient business-cylce unemployment and the removal of the artificial constraints on the banking system would assure a statically efficient, competitive banking system.

While inefficient fluctuations in employment would disappear under a labor-standard, they would be greatly exacerbated by returning to a simple gold standard because money wages and employment under a gold standard are altered by variations in the free market's relative price of labor in terms of gold and because the relative price of assets fixed in supply to the world has become highly unstable and should be expected to remain so over the foreseeable future. For the same reason, adopting the discipline of a commodity index standard would induce more severe employment swings than we've witnessed over the past decade. Moreover, unlike a gold standard, a labor standard would neither require international cooperation nor lay us open to foreign economic sabotage.

Finally, the resumptions of convertibility that would occur under a labor standard following wartime convertibility suspensions and inflations -- in sharp contrast to gold standard resumptions -- would create nothing like the gradually decreasing money wages and great depressions characteristic of our sordid past under the gold standard. Resumptions of convertibility under a labor standard would instead produce the immediate wage and price level adjustments characteristic of harmless currency reforms. The system would be depression-proof.

FREE BANKING UNDER A LABOR STANDARD

Prepared for the U.S. Gold Commission
November 1981

By Earl A. Thompson, UCLA

Macroeconomic ills -- inefficient fluctuation in employment, persistent and highly variable rates of inflation or deflation, and governmentally created, artificial scarcities of money -- have received a significant and probably increasing portion of economists' attention over the past couple of centuries. Yet no one to my knowledge has specified a financial system that would, at least within familiar economic paradigms, guarantee a simultaneous cure for all these maladies without creating new ones. Economists seem to believe that such a system does not exist. However, there _is_ a financial system -- one with free banking and a labor standard -- that would, at least theoretically, simultaneously preclude all of these macroeconomic ills regardless of the kinds of shocks that hit our economy and without any reliance on discretionary policy intervention.

The first part of this paper describes a competitive economy with free banking under a labor standard and discusses some problems of implementation. The second explains its efficiency compared to the existing system. The third explains its efficiency compared to other systems such as the classical gold standard, commodity-bundle convertibility systems, and gold-based fractional reserve systems.[1]

A simple advantage of this theoretically perfect system is that it requires no international cooperation whatsoever. Hence, international banking and trade issues will receive no detailed consideration in this paper.

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[1]Theoretical background for these efficiency arguments can be found in my 1974 and 1977 papers. These papers explain the static efficiency of a competitive banking system. The 1974 paper also points out a critical dynamic defect in the classical gold standard in that shifts altering the free market value of gold, relative to other outputs, alter money wage and employment levels more than under a modern, fixed-money-supply regime; correspondingly, it points out that by far the worst depressions of modern history, all of which occurred under a gold standard, were the obvious results of such shifts. The papers make no mention of the labor standard developed here. The latter did not occur to me until a UCLA graduate student, Gertrud Fremling, informed me of the possibility of a "variable gold standard," a standard apparently first proposed by Simon Newcomb before the resumption of the U.S. gold standard in 1879 and again later by his student, Irving Fisher (in Stabilizing the Dollar) in 1920, prior to the European gold-standard resumptions of the mid-late 1920's. (Each policy suggestion was ignored and, as a result, each resumption created a needless and severe depression.) Their suggested monetary standard tied the amount of gold one could obtain for his currency to an index of commodity prices. A similar, simple type of convertibility, suggested by many authors, ties the dollar to a given commodity bundle rather than just gold. My variation on the Newcomb-Fisher theme ties gold payments to a wage index rather than a commodity price index and allows substitutes for gold payments at the convenience of the government. If these authors had the modern theory of rational unemployment and the monthly, 30 million-worker, BLS wage index available to them, I suspect they too would have espoused some kind of labor standard.

I. THE MEANING OF A LABOR STANDARD WITH FREE BANKING

A. A Labor Standard. A labor standard, like a classical gold standard, allows people to convert their currency into "gold," the non-currency asset of the government that it finds most convenient to redeem for currency. But unlike the classical gold standard, the quantity of gold one can obtain for his currency is not a given constant. One obtains, instead, an amount of gold just enabling him to purchase a fixed amount of labor in the free market.

So, theoretically speaking, a dollar will always buy a constant amount, say five minutes, of U.S. labor. This creates a stable and inter-temporally constant wage level. To see this, suppose that, for whatever reason, the free market level of money wages were to increase. The amount of gold required to purchase a unit of labor would increase correspondingly. Since the public could then obtain more gold for a dollar from the government than they could from the free market, arbitrageurs would profit by turning dollars into the government for gold and then selling the gold in the free market. The resulting, automatic drain of dollars from the system would serve to depress money wages. The induced reduction in the free market's money price of gold would not reduce the arbitrage profit because a lower gold price immediately increases the amount of gold required to purchase a unit of labor and therefore the amount of gold one can obtain from the government for a dollar. As the financial return to the gold purchase and resale decreases, its cost decreases by the same amount. The currency drain, therefore, continues until the money wage rate is restored to its original level.

While gold, the metal, could possibly become relatively inconvenient for the government to deliver in this arbitrage process, there is no reason for a legal commitment to payments in the form of this metal. Other, sometimes more convenient redemption assets, such as other metals, may be used instead. Even bonds may be used on a temporary basis. The converter is only interested in what the asset obtained for his currency will fetch in private markets; an amount that stays the same under fixed labor convertibility regardless of which asset the government surrenders to redeem the public's currency.

In a world, like our own, with many kinds of labor, each receiving its own variable money wage rate, our standard would stabilize the quantity-weighted average wage rate, e.g., the B.L.S. monthly wage index, thereby giving an individual, for his dollar, an amount of gold just enabling him to purchase a representative set of labor services totalling a constant amount, say five minutes, of man-hours of U.S. labor. (Other countries would be encouraged, in the interests of their own economies, to tie their currencies to their <u>own</u> wage indices rather than the dollar.)

Since monthly wage index data are not available until well into the following month, a practical problem arises as to how to determine the relevant conversion prices. The best method that has occurred to me is to have the government make its conversion payments assuming that the wage index will be at its theoretical value, but compensate (charge) all large converters ex post for the subsequently observed deviation in the index from its theoretical value. Thus, the government would make its March conversion payments assuming that the average cost of five minutes of labor during March will be $1.00; but if this average cost turns out to be, say $1.02, then all large converters would be due an extra 2% gold payment while if the index were, say, at \$.97, the large converters would have to pay 3% more dollars to the government. Thus, if informed speculators thought, on balance, that the March wage index was going to be above 1.00, they would, on balance, convert dollars to gold, simultaneously sell the gold in the free market, and wait for their expected compensation from the government in the following month. The dollar drain created by this operation would then depress the expected wage level until it reached, on balance, unity. In this way we would always have an expected wage index, an expected dollar cost of five minutes of labor, of \$1.00.

Another practical problem, a temporary one, is posed by the fact that existing contracts are geared toward about a 10% annual increase in money wages over the next few years. Allowing gradual decreases in the labor conversion rate for a few years, commencing at a 10% annual rate, before stabilizing it at, say, 5 minutes of U.S. labor for a dollar (i.e., to where the average wage level is \$12 per hour) would preclude potentially very costly recontracting and at the same time substantially reduce the redistributional component of the increase in the value of existing long-term bonds.

B. Free Banking. An economy with free, unconstrained, competitive banking has no governmental regulation on the quantity of money it can issue. There are no reserve requirements held by the government and no restrictions on interest payments. Federal reserve banks would serve only as clearing houses. Banks would be free to print their own notes as long as the notes could be easily distinguished from those of other entities and were convertible into government issue or gold. Deposit insurance would, however, be maintained to reduce the individual over-risk incentives of banks due to the inability of some of the creditors of a bank's financially dependent creditors to observe, and thereby economically appreciate, the quality of the loans made by the bank.

Most important, as emphasized by the nineteenth century advocates of laissez-faire banking, currency overissue and underissue by the government would be impossible in such a system. An unprovoked governmental injection of currency would, if not immediately neutralized by private conversion, put upward pressure on wages and create an arbitrage profit to conversion, a profit that would not be removed until the injection is neutralized by the arbitrage-motivated conversions. Similarly, if government currency came into short supply, private gold sales to the government would expand the currency supply before wages could fall to any appreciable degree. This classical "Law of Reflux" would thus assure against governmental overissue and underissue without any reliance whatever on system-wisdom on the part of government authorities.

II. THE ECONOMIC EFFICIENCY OF FREE BANKING UNDER A LABOR STANDARD

A. Financial Efficiency

By allowing banks to freely compete with other debt issuers rather than choking them back with reserve requirements and restrictions on interest payments, we would remove the current, artificial excess of bank lending rates over certain borrowing rates, an excess that has unnecessarily increased borrowing costs to business and forced small depositers around the country to inefficiently substitute back and forth into and out of a myriad of very short term asset positions in order to avoid the artificially low interest rates offered them by the banks. (I have estimated our loss in real wealth from this contrived, inefficient redirection of short term lending away from banks to be in excess of $200 billion in 1980 dollars.) Substantial additional savings would come from the cessation of our speculation-inducing, frustrating attempts to control the economy's various money supplies and also from the end of federal regulation of individual banks. (Although some additional governmental expenditures would be required to make conversion payments and issue currency in exchange for gold, there is little reason to believe that they would exceed the simple transaction-cost component of current governmental attempts to keep our various money supplies within their targeted ranges.)

As average output prices decline over time under a simple labor standard at a rate equal to the increase in the real wage rate (about 2% annually if history is any guide) the holding of currency would be rewarded by a real interest rate that is probably only slightly below the typical real rates on other assets. While this is approximately optimal, knowledge of an exact optimum would not be possible unless private banks are just as good at producing currency as the government, in which case the exact optimum occurs where the money rate of interest competing banks would pay to induce people to hold their currencies matched the governmental rate of zero. Even at this exact "optimum," there may be special social costs of adjusting the physical attributes of the government currency supply based on the gradual deflation of output prices. As a result, even if future governments have no serious competition in the business of supplying currency, it may be better, as a practical matter, to allow a gradual, committed, fixed escalation of the wage-level, a gradual and constant decrease in the amount of labor one can obtain for his dollar through conversion. This trend value, having strong psychological as well as economic returns and costs, is best, I believe, left to the political process to determine.

My suggestion then would be to reduce the labor content of the dollar so that money wage growth increased in the following sequence:

10%	1st year
8%	2nd year
6%	3rd year
4%	4th year
2%	5th year
2%	6th year
2%	7th year
2%	8th year
2%	9th year
2%	10th year.

At the end of the eighth or ninth year, I'd see if several, private, competing substitutes for treasury notes and coins were developing. If they were, I'd examine the implicit interest rate on them and reduce the wage inflation rate by this rate so as to make this competitive interest rate zero. If such substitutes were not developing, I'd have congress vote on whether to keep the rate at two percent or go to one or zero percent.

It should be pointed out that short-term interest rates under wage-level constancy would normally be so low that the government's short-term debt would be essentially non-interest bearing. Currency would be so readily held as an appreciating short-term asset that treasury bill financing requirements would be reduced to insignificance. The resulting savings in transaction costs provide an additional reason for preferring constant rather than constantly increasing money wage rates. With money wages rising around 2% per year, the average annual treasury bill rate would be around 2%, and bills, as now, would be a frequently important source of government finance.

In either case, competitive interest rates on savings accounts would be so low that demand deposits would replace time deposits and existing nonbank financial intermediaries would either become banks or be absorbed by banks. The substantial, socially wasteful, transaction costs people now endure in switching between savings accounts, treasury bills, and bank checking deposits would be gradually eliminated as the system approached its noninflationary equilibrium.

B. Dynamic Efficiency

While some swings in overall commodity prices and outputs would remain under labor convertibility, there is no reason for us to want them eliminated. Such fluctuations may merely reflect the changing values informed individuals place on commodities over time. What we should want eliminated are the erroneous decisions by labor over what we have come to know as the business cycle. These errors are based on the inability of labor to distinguish changes in the economy's overall wage level from changes in relative wages between various kinds of employment. Economists have long observed that whenever the overall wage level drops below its usual trend, many workers leave their current employments. This may be because they have some form of rigid, fixed-wage contract with their employers; but more likely they erroneously believe that wages have not also fallen elsewhere -- that there has been a change in the relative returns across different types of employment rather than a change in the overall wage level. In either case, the result is excessive job-search, occupational re-tooling, and, perhaps, leisure during a period of decreasing wages and too little of such activity during booms. Moreover, during normal times, i.e., when average wages are on trend but there are still unexpected expansions in employment opportunities in some industries but contractions in others, laborers being offered lower than expected wages are, in our economy, tempted to believe that the economy is in recession, i.e. that wage offers have been reduced everywhere else too, and will remain in this low-valued use too long. This creates too little normal, "frictional" unemployment -- too little job mobility -- in our economy and is a partial rationale for our expensive system of unemployment compensation.

These inefficiencies in the labor market, and the highly expensive policies that are employed to combat them, would all be immediately removed by adopting a system of labor convertibility.

There are many sources of inefficient employment cycles in our current economy. Increases in money demand -- when not matched by equal increases in our governmentally controlled money supplies -- induce people to sell assets, create lower prices and wage offers, and therefore inefficient unemployment. Increases in the price of imported oil -- when not matched by immediate jumps in the money supply -- cause decreases in the productivity of labor, lower wage offers throughout most of the economy, and inefficient unemployment. Whatever the cause of such unfortunate business swings, labor convertibility would eliminate them. It would do this by automatically neutralizing such shocks with immediate, endogenous changes in the privately determined money supply. An increase in money demand would just be supplied by the unconstrained, private bankers or through reductions in conversions with the passive Federal Reserve, which would be filling its originally mandated function of quickly responding to the "needs of trade." A lower productivity of labor through higher costs of imported oil would, by raising the price of non-labor commodities and the demand for money, induce an equal increase in the supply of money and no inefficient unemployment. The business cycle, as it is usually conceived, would be dead.

Moreover, the economy would gain through increased mobility and ordinary job search and could justifiably cut way down on its expensive support of unemployment compensation.

III. THE SUPERIORITY OF LABOR TO OTHER CONVERSION STANDARDS

A. Commodity Index Convertibility

Commodity index convertibility, and thus price level stability, in our modern economy would be substantially inferior to labor convertibility. This is because the world in recent years has become much more subject to large jumps in the values of assets that will be fixed in supply to the world in the foreseeable future, gold, oil, collectables, etc. This means that keeping average commodity prices constant still creates a great deal of money wage variability and unemployment. We would, for example, have had falling money wages and much more unemployment during the sluggish 1970's under a constant commodity price index than under our current, feeble, government-controlled monetary system. Depression levels of employment would have been approached and fixed-commodity-bundle convertibility probably abandoned as a financial system. In contrast, no such instability exists under labor convertibility, a system that allows price levels to rise and fall with the rise and fall in commodity demands.

The superiority of labor convertibility over commodity index convertibility is so substantial given the recent instability of commodity values that even though I estimate a jump of about 20% in our national wealth by going from our current system to labor convertibility, I would recommend our current system over commodity index convertibility. The depression-potential of price-level-stability is just too great in a modern economy.

B. <u>The Classical Gold Standard</u>

Returning to a simple, pre-1933, freely convertible gold standard would undoubtedly be the single worst economic policy in U.S. history. Under a simple, convertible gold standard and free banking, the money price of gold is pegged by the government; so the average money prices of all goods, i.e., "the price level," varies directly with the free market evaluation of these goods <u>relative to gold</u>. A jump in the public's demand for gold would, by forcing the government and other money suppliers to absorb money in exchange for gold under free convertibility, depress the price level by a percentage drop equal to the percentage increase in the relative value of gold.

The magnitudes involved are hair-raising. For example, suppose that in August, 1971, President Nixon, rather than abandoning the last vestiges of the gold standard, returned us to the freely convertible, competitive-banking, gold standard, the type of return last tried in the late 1920's by several European countries. Since the remainder of the 1970's was marked by a 2,000% increase in the real value of gold, the price level would have had to fall to $\frac{1}{20}$th of its 1971 level in order to prevent a drain of our gold reserves. This might not sound bad; but to maintain 1980 profits and production, 1971 workers would have had to be willing to continue working at wages close to $\frac{1}{20}$th of their 1971 level rather than either jumping on to employment insurance, welfare, and governmental training programs or quitting to search out what they erroneously perceived to be now-greener pastures. Experience shows that they would not have been so willing. The comparatively small, 25% wage reduction during the great depression, when government welfare alternatives were virtually absent, produced a decrease in employment of about 25%. And we're talking -- realistically -- about a reduction in the wage level to $\frac{1}{20}$th, not 3/4, of its normal level!

Our economic and political system barely survived the celebrated return to the discipline of the gold standard in the late 1920s. Such a return in the early 1970s would have clearly shattered our system beyond recognition. The old gold standard always was vulnerable to variations in the value of gold relative to other goods. It never was a desirable system in terms of business-cycle-stability. What would make it an order-of-magnitude worse in modern times is the much greater volatility of the relative values the public places on gold. Gold's possible future use as a high-technology conductor and as a middle class consumption good for a rapidly awakening Orient, coupled with its long term fixity of supply, has made gold a tremendously speculative asset by historical standards. In sharp contrast, under a labor standard with free banking, a jump in the relative value of gold would simply reduce the amount of gold -- but not labor -- one could get in return for his dollar. Wage and employment levels would remain unaffected by the shift.

Historically, the most serious practical defect in the gold standard appears because of wartime suspensions of convertibility rights. During major wars, the executive branch of government has the justifiable power to finance expenditures by expanding the currency supply, thus taxing preexisting currency at will through the familiar inflation tax. To do this, the government must, of course, suspend convertibility. The resumption of convertibility at historical conversion rates is the root cause of the worst depressions in world history. Such resumptions inevitably forced price levels back to around prewar levels as the relative price of gold had little reason to fall from prewar levels. Monetary authorities in each postwar decade (1820's, 1870's, 1920's) had hopefully bet that the free market, equilibrium real price of gold had, for some reason or another, fallen at least 50% although no gold discoveries occurred during these periods. The bets where based more on wishful thinking than anything else. In any case, the gradual increase in demand for gold stocks occasioned by these returns to the gold standard each, inevitably, led to gradual decreases in the world price level and depressions. (The best economists, and informed speculators, were well-aware of all this. Ricardo preached bullionism to save gold reserves prior to resumption in the 1820's. Keynes preached England's continuance of the gold exchange standard for the same reason. Fisher, as we have said, preached a variable gold standard and fixed level of commodity prices. So did Newcomb in 1879. All were ignored. Speculators after Europe's return to the gold standard was completed in 1928 believed, correctly, that the only hope for the world economy was for the U.S. to induce, through domestic inflation, a large outflow of gold to support Europe's new gold demands. They bid up the price of shares in U.S. companies in expectation of the correct, stimulative, U.S. policy. But our ill-conceived monetary policy in mid-1929, one designed to reduce stock market speculation, signalled the unwillingness of the U.S. to sustain such a boom, and the world economy, quite naturally, collapsed, with the informed speculators getting in and out at just the right times, leaving everyone else taking a bath. I would expect a very similar sequence if Europe were to now return to the gold standard.)

An important advantage of a labor standard in this regard is that a resumption shock under a labor standard would have a single, one-shot effect on the wage level. Consequently, most all laborers would recognize created shortages of money in the case of an exogenously increasing gold base and secular inflation or (b) a liquidity trap economy subject to a vicious, endless spiral downward in prices and interest rates. (This is not commonly known; it's based on a fallacy in Keynesian logic. I'll send a paper on request. The dynamic story goes: prices fall a little. This lowers real profit rates a little. This in turn increases the demand for money despite the reduced transactions-demand for money because of the high interest sensitivity of the demand for money at low interest rates. This lowers prices some more and the sequence is repeated until the price level reaches zero!)

If, however, only government-produced money, i.e. currency, were constrained by this gold reserve requirement, and if all quantity restraints were taken off the existing banking system, the new system being based on competitive banking with convertibility into U.S. currency, then these defects would not exist. We would still, however, be subject to unintended variations in the currency-gold stock and in the demand for government currency relative to other forms of money. So there are many "ifs" for a gold reserve system to avoid some very large costs; and, even when the conditions are met, the system is less stable and requires more governmental wisdom than a labor standard. The same, of course, could be said for any variant of our current system in which we remove all constaints on our banks and have the government control only the supply of its own currency.

that all labor services after resumption was worth much less money than during the war and that the universally lower money wages would buy about the same basket of consumer goods as their previous wages did. It follows that postwar resumption at the original exchange rate would induce almost no inefficient unemployment. It could therefore be automatically imposed at the official ends of our future, hopefully infrequent, wars. Guaranteed, immediate postwar resumption would have the added advantage of preventing post-war recessions borne out of the expectation of lower future prices and wages. Advancing such periods of expected deflation to wartime converts the social cost of postwar recessions into the social benefit of decreasing the real cost of wartime finance.

C. Gold Exchange Standards

Gold exchange standards, under which we provide gold convertibility for foreigners but not ourselves (in order to conserve on gold supplies) have none of the advantages of domestic convertibility standards. We would, like in both postwar periods of this century, have central-bank rather than private determination of our money supplies. As a result, we would suffer from the same susceptibility to exogenous shocks that we have under our current system.

While the system would provide some, at least temporary, discipline on monetary authorities, I don't believe that they need it. Their job is hard enough without it. For example, if the authorities had to maintain such convertibility during the 1970's in the face of the gigantic excess demand for gold at an average of $35, they would have had to deflate in a way very similar to the way a classical gold standard in order to maintain our gold reserve. The appropriate monetary policy in the 1970's was stable growth except for upward jumps immediately following the oil price jumps. While the authorities certainly missed the mark by letting money supplies rise only gradually and giving us a costly secular-inflation, at least they did not give us the hair-raising depression that we would have had under the discipline of the gold or gold exchange standard.

It's true that we could, under a flexible gold exchange standard, adjust the price of gold with market conditions. But we would have no "standard" at all if we continually adjusted the price of gold. We would just have our current, inconvertible, fiat money economy. And adjusting the price of gold in jumps rather than continuously would provide no obvious benefits to anyone except gold speculators, monetary authorities, and international economists. We would have the same business cycle, the same artificial scarcities of domestic money supplies and dependence on monetary authorities, and approximately the same incentive to inflate as we have under the current, slightly more flexible, monetary system.

D. Gold Reserve Systems

Gold reserve systems limit the supplies of certain kinds of money to fixed multiples of certain gold stocks. An excess of existing over required gold supplies makes the system behave in the same, unconstrained fashion as our current system. If and when the constraint is reached, we tie the hands of our monetary authorities so that they are unable to respond to recessionary shocks. Only extreme monetarists appreciate this kind of discipline. And even if monetary authorities had no control of the gold base and the monetarist judgment that business cycles are largely a Fisherian "Dance of the Dollar" were correct, we would still suffer from either (a) artificially

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THE WHITE HOUSE

WASHINGTON

December 21, 1982

MEMORANDUM FOR JAMES A. BAKER III

FROM: ROGER B. PORTER RBP

SUBJECT: Expiration of the Clean Air Act and Other Environmental Statutes

At this morning's senior staff meeting a question came up regarding what would happen if the Clean Air Act Amendments were not passed in the lame duck session. Since the meeting I have discovered the following.

Most environmental statutes have multi-year funding authorizations. The statutes do not have sunset provisions. Thus, the regulatory provisions are not affected by the expiration of the funding authorization. The Environmental Protection Agency and the Department of Justice continue to enforce environmental laws and regulations even if the Congress fails to authorize expenditures. The appropriations committees historically continue to fund environmental programs and, absent a point of order, funds are provided.

The Clean Air Act has already received funds in the HUD-Independent Agencies appropriation bill which passed in this session of the Congress. Thus, failure by the Congress to reauthorize the Clean Air Act will not affect enforcement of the regulatory provisions.

THE WHITE HOUSE

WASHINGTON

December 2, 1982

MEMORANDUM FOR EDWIN MEESE III
EDWIN L. HARPER

FROM: ROGER B. PORTER RBP

SUBJECT: Contract Sanctity

Conferees will meet on Tuesday, December 7, to resolve the differences between the House and Senate versions of the Commodity Futures Trading Act of 1982. An issue of primary concern to the Administration is the contract sanctity provision contained in the Senate bill.

Senator Durenberger succeeded in attaching to the Senate bill an amendment which would prohibit the President (except when he declares a national emergency or Congress declares war) from abrogating contracts for the foreign sale of agricultural commodities, provided the contracts were entered into before the announcement of export restrictions and delivery was called for within 270 days of the date of the contract. A motion to table the Durenberger amendment failed by a vote of 27 to 66.

The State Department proposes to send a letter to the conferees outlining the Administration's opposition to the Durenberger amendment. The draft letter presents a sound foreign policy argument against impairing the President's flexibility to respond to aggressive behavior by other countries. However, it fails to make the point that is likely to carry the most weight with the conferees who are members of the House and Senate Agriculture Committees. Enacting the Durenberger language will remove the incentive for the Soviets to negotiate a new long-term grain agreement that obligates them to buy more grain from the U.S.

The Administration's outright opposition to the Durenberger provision on foreign policy grounds probably will not be sufficient to get the Senate conferees to retreat from their position on contract sanctity. The House conferees are expected to recede to the Senate on the Durenberger language. Therefore, unless some accommodation is reached, the President is likely to be confronted with an unacceptable bill that could well be veto-proof. A veto (or pocket-veto) would invite intense reaction from farmers who have made contract sanctity their battle cry.

One strategy for reducing the chances of an unattractive confrontation on this matter would be to communicate to the conferees that:

- o The Administration is prepared to enter into negotiations on a new grain agreement with the Soviet Union this summer;
- o Enacting the Durenberger language would remove any incentive that the Soviets may have to join in such negotiations.
- o If the conferees are truly interested in assisting the Administration in its pursuit of increased agricultural trade with the Soviet Union, they should reject the Senate's contract sanctity provision.

Other alternatives for avoiding a confrontation include:

- o Extending the Soviet delivery assurances that lapsed on November 30 for 30-60 days in return for the conferee's dropping the Durenberger language.
- o Encouraging the conferees to couch the contract sanctity provision in "sense of the Congress" language.

f OPD memos

THE WHITE HOUSE

WASHINGTON

June 27, 1982

MEMORANDUM FOR JAMES A. BAKER III

FROM: ROGER B. PORTER

SUBJECT: Meeting with the President on the U.S.-U.S.S.R. Grain Agreement - June 28, 1982

On Monday, June 28, 1982, at 2:00 p.m. the President is scheduled to meet with the Cabinet Council on Food and Agriculture to discuss whether to commence negotiations with the Soviet Union for a long-term grain agreement.

Like most interesting policy issues, the decision of whether to resume negotiations involves a host of considerations. This issue is at the intersection of foreign, domestic, and economic policy.

The issue paper circulated last Friday outlines the principal facts and alternatives along with their advantages and disadvantages. This brief memorandum supplements that paper and attempts to highlight five considerations that I find useful in thinking about the issue. They involve both substance and perceptions.

1. Two past presidential actions and statements will importantly shape the contour of this decision.

   - In December 1981, in the wake of the imposition of martial law in Poland, the President announced a series of sanctions against the Soviet Union including postponing negotiations for a long-term grain agreement.

   - On March 22, 1982, in his most important agricultural address since becoming President, Ronald Reagan outlined his export policy. His most noteworthy announcement (which I am told isnow painted on the side of every barn in the Midwest grain belt) was that he would not embargo (read restrain exports) grain shipments to the Soviet Union except in the case of a total embargo on all U.S. trade with the Soviets.

   - Thus, if the President approves resuming negotiations the Europeans will perceive such a move as easing the sanctions imposed last December.

   - But, if the current agreement is allowed to expire on September 30, there will be no effective restraint on Soviet purchases in U.S. grain markets.

The President's March 22 statement leaves little room for affecting Soviet behavior in U.S. grain markets in the absence of a total trade embargo, a highly unlikely event.

2. Substantively, whatever decision is made will likely affect U.S. total grain exports little in the short-term, but could affect the incentives for other countries to expand their grain production over the longer term.

   - Current world grain stocks are high and the prospects for a good worldwide harvest are good. We are not dealing with a shortage situation, as in 1975.

   - The Soviets have already diversified their sources since the 1980 embargo entering into several long-term agreements with various countries. They should be able to get most of what they want without having to rely on the U.S.

   - The problems of Soviet agriculture are legion as I tried to point out in the issue paper circulated on Friday.

   - But the fact that the Soviets have had three bad harvests in succession does not guarantee that this pattern will persist.

   - They have historically had an average of one bad harvest every three years.

   - The important question, in the short-term, is what effect having a grain agreement would make on total Soviet purchases. If we have an agreement that requires the Soviet's to purchase 12 million tons, and they would have purchased at least 12 million tons without an agreement, then such an agreement does not increase their total demand or total purchases on world markets.

     Effectively, the grain trade is a world market. If the Soviets buy from others, then we will end up selling to third countries, in the short term.

   - However, an agreement can influence export trading patterns in the longer-term. If countries believe that they can get a secured, guaranteed part of the Soviet market (as Canada and Argentina seem to believe, with good reason), then they are likely to increase their production in future years, thereby increasing world production. Thus, in the longer-term, who gets the Soviet market can make a real difference.

3. The grain agreement is a major issue in the agricultural community, quite possibly the major issue for this year. This

issue has seriously damaged the two immediate predecessors of President Reagan (Carter and Ford) in the farm community.

- o The agriculture community, by whatever measure, is in difficulty. Farm income is down sharply. Relatively low prices (for wheat and feedgrains), increasing costs, and high interest rates, have hurt farmers.

- o Among those in the agricultural community grain producers are the least well off. Livestock producers, dairy farmers, and cotton and tobacco growers are doing relatively better.

- o The administration's response has been to oppose bailout measures and to emphasize that we are supporting an aggressive export policy. This was the heart of the President's March 22 statement.

- o Our position on the negotiation of a long-term grain agreement is being watched closely in the agricultural community and farmers are viewing it a something of a litmus test to test the administration's commitment to an aggressive export policy.

4. The Europeans would prefer that we not sign a long-term agreement with the Soviets and will likely expend much rhetoric on the issue, but are less likely to fall on their sword on this question.

- o The current agreement does not involve granting the Soviets any credits. The agreement forces the Soviets to buy our grain with hard currency at world market prices.

- o The alternative to an extended or renewed grain agreement is not to deny the Soviets U.S. grain. In the absence of an agreement the Soviets will be free to purchase all the U.S. grain they want. The Europeans do not expect the President to go back on his March 22 statement. They all have agricultural communities that they must pay attention to as well.

5. The timing of this issue could hardly be worse. The June 18 pipeline sanctions decision and Secretary Haig's resignation have focused much attention on this area.

This is not a good time to make a decision. And there is no imminent action forcing event. The current agreement extends until September 30. There is considerable merit in the President taking this under advisement.

I am leaving this afternoon for an early Monday morning address in Minneapolis but will be back in Washington in time for the 2:00 p.m. meeting. I will call as soon as I return in the event that you have any questions.

As you can tell three worries dominate my thinking on this issue:

1. That there is the potential for real political damage in the traditionally Republican farm community if the farmers feel they have once more had their interests sacrificed for foreign policy objectives.

2. That the Soviets, who are shrewd traders and have always sought to get the best buys on international markets by the timing of their purchases (witness 1972), will prove difficult in a situation where they are effectively unrestrained either because there is no agreement or because of the March 22 export policy statement.

3. That over the long-term, the U.S. could simply become the residual supplier for the lucrative Soviet market and that the attraction of that market may well stimulate greater production in other countries. Rather than serving as the world's most aggressive and successful grain exporters, we might well become to an even greater extent than now the holder of the world's grain stocks.

ISSUE PAPER

U.S.-U.S.S.R. GRAIN AGREEMENT

Issue

The current U.S.-U.S.S.R. Grain Agreement will expire on September 30, 1982. The Administration must decide whether it wants a formal arrangement (and, if so, what kind) to govern U.S.-U.S.S.R. grain trade after September 30.

I. Background

U.S.-U.S.S.R. Grain Trade Prior to 1975. An unfavorable climate, poor soil, backward technology, and an extremely inefficient agricultural system make periodic crop failures in the Soviet Union a virtual certainty. As a result, the Soviets have, during the last twenty years, imported increasing amounts of grain to accommodate their domestic needs.

Soviet purchases from the U.S. were relatively modest until 1972, when the prospect of a major crop failure prompted them to buy, over a two to three month period, 19 million metric tons (mmt) of U.S. grain, including one-fourth of the total U.S. wheat crop. The Soviets made their purchases quietly and early, before prices adjusted to the sudden increase in demand. The Soviets also were able to capitalize on USDA's wheat export subsidy program and a recently negotiated credit arrangement. These circumstances, as well as the domestic market disruption caused by the massive grain purchases, led critics to label the U.S. sales as the "great Soviet grain robbery."

The U.S.-U.S.S.R. Grain Agreement. The summer of 1975 brought new reports of a looming Soviet crop failure. These reports, coupled with the desire to avoid a repeat of the 1972 scenario, prompted the Ford Administration to suspend grain sales to the Soviet Union until an arrangement could be worked out that would prevent Soviet disruption of U.S. domestic markets and guarantee U.S. farmers a reasonable share of the Soviet market.

The ensuing negotiations with the Soviet Union produced an agreement with the following provisions:

- The Soviets agreed to purchase 6 mmt of U.S. wheat and corn, in approximately equal proportions, during each of the five years covered by the agreement;
- The Soviets can purchase up to 2 mmt more of U.S. grain during any year without consultations with the U.S.;
- The U.S. agreed not to embargo exports of up to 8 mmt of grain to the Soviet Union;
- The Soviets are required to consult with the U.S. (to determine a higher supply level) before buying more than 8 mmt of grain in any given year;
- There is an escape clause for the U.S. in the event of a major U.S. supply shortage;
- Soviet purchases must be made at prevailing market prices and in accordance with normal commercial terms.
- The Soviets agreed to ship the grain under the terms of the U.S.-U.S.S.R. Maritime Agreement;
- The Soviets are required to space their grain purchases and shipments as evenly as possible over each 12-month period.

Since the agreement, there has been greater stability in world grain trade and in Soviet purchasing patterns. Under the agreement, the U.S. has expanded its share of the Soviet market (see Appendix). Over this period, Soviet demands for grain have increased more rapidly than their production, resulting in a higher level of Soviet grain imports.

The Soviet Grain Embargo of 1980. On January 4, 1980, in response to the Soviet military invasion of Afghanistan, President Carter cancelled contracts for the sale of 13.5 mmt of U.S. corn and wheat to the Soviet Union. The U.S. also denied the Soviets access to an additional 3.5 mmt of grain which had been offered to, but not yet purchased by, the Soviets. Finally, shipments of soybeans, broilers, and some other agricultural products were halted.

The Soviets were able to minimize the effects of the embargo by drawing down their grain stocks and by increasing grain, soybean, rice, flour, and meat imports from Argentina, Canada, Australia, and the European Economic Community.

The Soviets have since entered into new long-term purchasing agreements with Argentina, Brazil, Canada, Hungary, and Thailand, in an attempt to diversify their sources of supply, resulting in a declining share of the Soviet market for U.S. farmers.

In April 1981, President Reagan lifted the Soviet grain embargo. This was followed by an agreement in August to extend the expiring U.S.-U.S.S.R. grain accord for an additional year, through September 30, 1982. In October 1981, the U.S. offered the Soviets an additional 15 mmt of grain, raising to 23 mmt the amount of U.S. grain available to the Soviets during fiscal year 1982. To date, the Soviets have purchased a total of 13.9 mmt of U.S. wheat and corn.

U.S. Sanctions Against the Soviets in the Aftermath of the Polish Declaration of Martial Law. Discussions concerning negotiation of a new U.S.-U.S.S.R. long-term grain agreement were under way within the Administration when the Polish government declared a state of martial law in December 1981. When the Soviet Union failed to respond to U.S. urgings to help restore basic human rights in Poland, the President announced a number of sanctions against the Soviets, including postponement of negotiations on a new grain agreement and suspension of negotiations on a new maritime agreement.

II. Discussion

Soviet Import Demands. Soviet grain production has declined sharply during the past three years, after more than a decade of steady growth. Following a record crop of 237 mmt in 1978, the Soviet harvest fell to 179 mmt in 1979, 189 mmt in 1980, and reportedly to 158 mmt in 1981, nearly one-third below target. To avoid massive shortages, the Soviets have imported more than 100 mmt of grain since June 1979. During the marketing year ending this June, Moscow is expected to import a record 45 mmt of grain.

Soviet hard-currency outlays this year for all agricultural commodities -- including grain, other feedstuffs, meat, sugar, and vegetable oil -- will probably reach some $12 billion, up about $1 billion from last year, and a sharp increase from the roughly $8 billion spent in 1980. Altogether, food imports now account for roughly 40 percent of total Soviet hard-currency purchases.

Even with a strong recovery in domestic grain production, Moscow will continue to import large amounts of grain, an estimated 41 mmt of grain during the next marketing year (July 1982-June 1983). The ultimate level of Soviet grain imports during the next marketing year will depend on:

- o The size of the 1982 Soviet grain crop. USDA recently reduced its projection for the 1982 Soviet grain crop from 200 to 185 mmt;
- o The extent to which the Soviets decide to maintain or expand livestock inventories;
- o Hard-currency constraints. Increasing Soviet hard-currency constraints or a decision by Western bankers to curtail short-term credits could hamper Moscow's import intentions;
- o U.S.-U.S.S.R. trading relations;
- o The extent to which the Soviets will allow increased dependence on imported grains; and
- o Soviet port capacity. Currently Soviet grain import capacity is 45-50 mmt per year.

Soviet officials recently announced ambitious production goals for grain and livestock for the remainder of the 1980s. They also expressed their intention to reduce imports of foodstuffs from capitalist countries. The history of Soviet agriculture, however, suggests that achieving increased livestock production goals will be extremely difficult if the Soviets reduce grain imports.

<u>U.S.-U.S.S.R. Grain Agreement in the Context of the World Grain Market</u>. It is doubtful that a long-term grain agreement between the Soviet Union and the United States would have much effect on the total U.S. share of world grain trade during the next marketing year. However, the existence or absence of such an agreement is likely to have a significant impact on world grain trading patterns in future years. If, by failing to negotiate a formal trading arrangement, the Soviets were discouraged from satisfying their import demands in the U.S. market, they would have to seek new sources of supply. The prospect of servicing a consistently large buyer, such as the Soviet Union, would prompt other exporting countries to further increase their production. (Since the 1980 Soviet grain embargo, Argentina and Canada have increased their grain production by roughly 25 percent.) This increased production would compete with U.S. grain in world markets, reducing the U.S. share of the growth in global grain trade.

U.S. Foreign Policy Considerations. The U.S. is pursuing, and encouraging its allies to pursue, a general policy of economic restraint with the U.S.S.R., based upon fair burden sharing in the West. A government-to-government agreement, especially one perceived as newly-negotiated, that promotes grain exports, would be regarded as an exception to that policy.

More specifically, negotiations with the Soviets would signal an end to one of the President's measures against the U.S.S.R. in response to the Poland crisis, undercutting the general package of Poland-related sanctions, and impling that the situation there has improved and that the U.S. is prepared to adopt a "business as usual" stance. The Soviets could be expected to promote this interpretation vigorously.

Resuming negotiations would conflict with the decision to extend extraterritorially sanctions on oil and gas equipment and technology. In the absence of real changes in Poland, resuming negotiations would undermine U.S. credibility on burden sharing and U.S. efforts to induce its allies to exercise restraint in credit and trade arrangements with the U.S.S.R.

U.S. Domestic Considerations. The U.S. farm sector is experiencing serious economic hardships due to over-abundant grain supplies, high interest rates, and a cost/price squeeze. Pressure is being applied on the Administration to provide various forms of assistance for farmers, including paid land diversions, export subsidies, increased food assistance, and higher price supports.

All these programs entail substantial budget outlays and lead to increased government interference in agriculture. The negotiation of a new long-term U.S.-U.S.S.R. grain agreement that guarantees a larger share of the Soviet market for U.S. farmers is virtually the only cost-free, market-oriented step the Administration can take to help the farm community. It is also consistent with the central feature of the Administration's farm policy -- increasing agricultural exports. Farmers regard the U.S.-Soviet grain agreement issue as the litmus test of the Administration's commitment to the agricultural sector.

The U.S. maritime industry and labor share a common concern over the arrangements for shipping grain from the U.S. to the Soviet Union. In the absence of a new U.S.-U.S.S.R. maritime agreement, U.S.-flag vessels would be effectively precluded from participation in carrying grain to the U.S.S.R. Such a development could have an adverse impact on the cooperation of U.S. maritime labor in implementing any grain agreement.

III. Options

Option 1: Allow the existing U.S.-U.S.S.R. grain agreement to expire without providing for any formal agricultural trading arrangement between the two countries after September 30, 1982.

Advantages:

- o Would be consistent with the President's policy of postponing negotiations on a new long-term grain agreement with the Soviets until there were improvements in the Polish situation.

- o Could be presented as the Administration's attempt to reduce government intervention in the international marketing of U.S. agricultural products.

Disadvantages:

- o Would give the Soviets unrestricted access to the U.S. grain market and could lead to disruption of the U.S. grain market if the Soviets were to resume their erratic purchasing behavior of the early 1970s.

- o Farmers would view lack of an agreement as eliminating their chances for maximizing their share of grain sales to the Soviet Union, and this would be perceived as undermining the President's commitment to help increase agricultural exports.

- o Could lead to the lowest level of U.S. grain exports under any of the options, and thus increase federal outlays for agricultural price support and production control programs.

- o Would eliminate one more ongoing U.S.-U.S.S.R. tie, and could affect the atmosphere of the upcoming U.S.-U.S.S.R. summit.

Option 2: Extend the existing U.S.-U.S.S.R. grain agreement for one year.

Advantages:

- o Would maintain a formal trading arrangement that would assure U.S. farmers of some access to the Soviet market and insulate domestic users from possible Soviet disruption of U.S. markets.
- o Would continue the status quo, thereby blunting the charge that the U.S. was making a concession to the Soviets in the absence of an improvement in the Polish situation.
- o Would allow for a more positive trade atmosphere with the Soviets than there would be in the absence of an agreement, and thus would leave open the possibility of entering into negotiations on a new long-term grain agreement subsequent to an improvement in the Polish situation.

Disadvantages:

- o Would be perceived by U.S. farmers as harming their chances for maximizing their share of grain sales to the Soviet Union and thus undermine the President's commitment to help increase farm exports.
- o Could be perceived as a weakening of U.S. sanctions imposed against the Soviets as a result of the Polish situation, and conflicting with the recent decision on sanctions on oil and gas equipment and technology.
- o Could undermine ongoing U.S. efforts to enlist the support of its allies in restricting government credits to the Soviet bloc.

Option 3: Extend for two or more years the existing U.S.-U.S.S.R. grain agreement amended to provide higher minimum purchase requirements.

Advantages:

- Would insulate domestic consumers from possible Soviet disruption of U.S. markets for a longer period.
- Would provide U.S. farmers with a larger share of grain sales to the Soviet Union and thus demonstrate the President's commitment to increasing agricultural exports.
- Could promote U.S. foreign policy objectives by increasing Soviet dependency on grain imports from the U.S.

Disadvantages:

- Would signal a U.S. retreat from the sanctions imposed in response to the Polish situation and could undercut our efforts to secure changes in the policies of the Jaruzelski regime.
- Would undermine ongoing U.S. efforts to enlist the support of its allies in restricting government credits to the Soviet bloc.

Option 4: Negotiate a totally new U.S.-U.S.S.R. grain agreement.

Such an agreement might include four basic features:

1. A minimum purchase level for the grains covered under the agreement. The minimum purchase level would be adjusted each year on the basis of a two-year moving average of actual Soviet grain purchases.

2. A "prior consultation level" -- expressed as a percentage above the minimum purchase level -- beyond which the annual Soviet purchases could not go, without prior consultation with the U.S.

3. A provision to encourage the Soviets to buy value-added agricultural products.

4. A provision that any decision on supply availability above the prior consultation level would require commitments on both sides to purchase and sell specific amounts.

Advantages:

- Would achieve a greater integration of the U.S. and Soviet trading systems.

- Would assure U.S. farmers a reasonable share of the Soviet market, based on actual levels of grain trade.

- Would force the Soviets to be more forthcoming with respect to their buying intentions.

Disadvantages:

- Would signal a U.S. retreat from the sanctions imposed in response to the Polish situation, and could undercut our efforts to secure changes in the policies of the Jaruzelski regime.

- Would require protracted negotiations that could extend beyond the expiration of the current agreement.

- Would provide the Soviets much greater opportunity to press for stronger supply guarantee provisions.

APPENDIX

U.S.-SOVIET GRAIN TRADE 1973-1982

	Total USSR Grain Imports (mmt)	US Grain Exports to USSR (mmt)	US Share of Total USSR Grain Imports (%)
FY 1973	22.5	14.1	63
FY 1974	5.7	4.5	79
FY 1975	7.7	3.2	42
FY 1976	25.6	14.9	58
FY 1977	8.4	6.1	73
FY 1978	22.5	14.6	65
FY 1979	19.6	15.3	78
FY 1980	27.0	8.3	31
FY 1981	38.8	9.5	24
FY 1982 (projected)	45.0	17.8	40