Italian exporters. Representative Thomas Curtis asked Mr. Gannaway and myself if anything needed to be done to strengthen our Countervailing Duty Statute to guard against subsidized foreign products. Our answer at that time was that the Countervailing Duty Statute was reasonably adequate, and the main ingredient required was proper enforcement by the government. I would ask that this letter be included as part of the record to supplement our testimony on the question asked.

Judicial interpretation of our Countervailing Duty Statute makes it clear that any time a foreign government exempts from or remits taxes upon exported goods while such taxes are levied upon or are not remitted for goods destined for domestic sale such action constitutes a subsidy which requires the Secretary of Treasury to impose a countervailing duty to the full extent of the amount of such exemption or remission. Treasury in 1951 and again in 1958 publicly stated its intention to follow the distinction made in the General Agreement on Tariffs and Trade between the remission of direct and indirect taxes. [Hearings before House Committee on Ways and Means, August 6–September 19, 1951, 82nd Cong., 1st Sess., p. 16; Response to Questionnaire from GATT, see GATT Antidumping and Countervailing Duties. Report of Group of Experts, p. 139 (1958).] However, these statements have been opinions of Treasury and not administrative decisions. To our knowledge Treasury has never ruled on the question so that it should feel free to conform to the Supreme Court interpretations of our statute. These judicial interpretations make any distinction between direct and indirect taxes totally irrelevant. It is clear that remission of any type of taxes on exports constitutes a subsidy within the meaning of our statute. The Protocol of Provisional Application of the GATT clearly exempted existing statutes; and the Countervailing Duty Act has been in effect since 1897, so that it obviously comes within the grandfather clause of GATT. Furthermore, Treasury has recognized and understood this fact, since in applying the Countervailing Duty Statute it does not require any showing of injury which is required by the GATT. We submit that earlier Treasury statements about adhering to the distinction between direct and indirect taxes were in conflict with the existing statute. The current disenchantment by many economists with the entire rationale behind the direct and indirect tax distinctions made in GATT should make it easier for Treasury to conform its present views to our Countervailing Duty Law and treat the remission of any taxes as a subsidy.

The need for Treasury today to speak out in support of the existing Countervailing Duty Statute and conform its interpretation to judicial decisions is most important in view of the tax harmonization agreement of the European Economic Community. By 1970 the effective rate on the value-added tax in the EEC countries will likely be in the neighborhood of 15%. We are concerned that a 15% rebate on steel products will permit exporters an unfair advantage and surely a substantial incentive to ship their products to this country. We are quite hopeful that our Treasury Department will now take a position which makes no distinction between direct and indirect taxes and looks only to the clear and compelling language of our statute.

Another possible deficiency in the administration of the statute is the manner in which the amount of subsidy is calculated by the Treasury. The administrative agency is not obliged to make known how it calculated the amount of subsidy. As a matter of consistent practice, Treasury has merely published the final amount it has determined constitutes a grant or bounty under our statute. No explanation of the calculation is furnished to any interested parties. Furthermore, there is no adequate provision to judicially test the soundness of the administrative calculations. We believe that this situation could be corrected by a change in the Treasury Regulations which would require it to publish the method of calculation. The factual underpinning of their calculations would serve to demonstrate the reasonableness of their actions and would not make such findings subject to attack unless the calculations showed a clear abuse of discretion. Such a change in administrative practice would merely conform the agency determinations to that conduct which is governed by the Administrative Procedure Act for most other administrative action. Although judicial precedent has held that under our act Treasury is permitted almost complete discretion in the manner of calculating the subsidy, we submit that confidence in the fairness of administrative action would be enhanced by Treasury publishing the basis of its calculations.

Another procedural amendment in the regulations could be made. A time limit should be prescribed within which Treasury must make its decisions. We believe