

CONCLUSION

A. The need for continuing commitment to international negotiations

Since World War II multilateral negotiations in the GATT and consultations in the OECD have been established as the principal means whereby the trading nations agree to uniform and non-discriminatory rules of trade. As such, they provide the essential foundation for orderly progression toward expanded international trade and elimination of devices and restrictions by which nations seek either to protect their domestic economies from outside competition or to gain an unfair advantage in foreign markets. General Electric believes that the long-standing U.S. commitment to multilateral discussion and negotiation is desirable, necessary and productive. It is the foundation on which viable rules of international law can be built.

Part of these negotiations, in OECD or in the GATT, could well be directed toward an agreement on uniform, publicly disclosed, non-discriminatory procurement rules which would open the European government owned or controlled markets to United States competition. The desirability of such an agreement has been well stated by The Brookings Institution to the Senate Finance Committee in connection with its review of U.S. trade policies:

"Government procurement policy seems to be one of the more promising areas for progress in reducing nontariff barriers. The basic approach that has been suggested by U.S. officials is to obtain an agreement among governments to provide foreign producers with the same opportunity to bid on Government contracts as domestic producers. This would involve such matters as establishing uniform procedures regarding the announcement of proposed purchases, publicizing required standards, and publishing the bids that are accepted. Any preference granted to domestic producers would be explicitly expressed and put in percentage terms."

(Compendium of Papers on Legislative Oversight, Feb. 7, 1968, vol. I, p. 340.)

Thus, with respect to heavy electrical equipment, such suggested agreement would contain explicit provisions and definitive safeguards followed by all Government authorities for the purpose of assuring U.S.-manufactured electrical utility equipment the same access to European governmental markets that European equipment producers now enjoy in selling to the United States Government procurement authorities.

Certainly too, these ongoing negotiations should focus specifically on the trade effects of border tax adjustments which are presently export-promoting and import-restricting for the indirect tax countries. The basic assumptions underlying the GATT provisions are open to substantial question, as has been previously discussed. The full border tax adjustments provided for with respect to indirect taxes can constitute both an export subsidy and an import surcharge. Adjustments for indirect taxes should at least be reduced under carefully circumscribed conditions, or some comparable advantage granted to countries who do not enjoy the international trade benefits of the indirect tax system.

B. The inadequacy of existing statutory remedies

But proceedings in the GATT and OECD are not enough. An effective and comprehensive U.S. trade policy requires more: for example, determined and resourceful utilization of statutory and administrative procedures to cope with the many facets of international competition and provide timely remedies which can be invoked to discipline unfair competition on a case-by-case basis. As a practical matter, however, the available procedures discussed below have not provided effective relief against the consequences of exclusionary procurement practices of foreign governments and the dual pricing by foreign suppliers when selling to governmental agencies in the U.S.

1. Trade Expansion Act of 1962

On its face, Section 252 of this Act (19 USC Section 882) would appear to give the President broad discretionary authority to take a variety of retaliatory steps in order to end "unreasonable" or "unjustifiable" foreign import restrictions, discriminatory acts and non-tariff barriers. Yet, thus far this statutory authority has not been invoked nor, so far as we are aware, have U.S. trade officials encouraged U.S. industries to provide specific information that would bring its provisions into play. This appears to be a missed opportunity, because the apparent legislative intent of this Section was to provide a means for execu-