entire national oil market and those enjoying this cost advantage are enabled to and do sell their products at prices lower than those which a refiner using domestic crude oil alone must charge to cover his costs. Obviously a refiner using domestic crude oil alone could not survive (in the absence of other resources such as those available to the major oil companies) and, as noted, many did not. This competitive pressure would extend in turn to domestic crude oil prices, and as noted these had declined—although not enough to maintain adequate refining margins or prevent the decline in independent refiner numbers.

In sum, the key to a solution was recognized to be a fair distribution of the cost advantage of foreign oil—a fair spreading of this cost advantage among all refiners. Only this would eliminate the competitive distortions which had resulted from the availability of this cost advantage to a few coastal refiners.

C. The Present Program

The basic design of the Mandatory Oil Import Program which emerged from those hearings and which has been in operation for over nine years was directly responsive to the problem.

1. A quantitative limitation was, of course, an essential element.

2. But clearly a quantitative limitation alone, however achieved, was not enough. It had been demonstrated that even a *limited* amount of low cost foreign oil in the hands of a few coastal refiners could still upset competitive relationships throughout the national market. Accordingly, the limited amount of low cost foreign oil was distributed to *all* refiners and in relation to their size.

3. But even this was not enough. It was recognized that competitive distortions would be eliminated and the ability of all refiners to purchase domestic crude oil would be maintained only if proportionately greater quotas, in relation to their size, were granted to the nonintegrated refiners. The graduated scale has therefore been a key element of the mandatory program since its inception. The shortest and simplest citation to the need for the graduated scale is the fact that, without the import quotas assigned to them on the graduated scale. Most independent refiners would operate at a loss today at today's prices for domestic crude oil and today's prices for their refined products.[8]

D. The Key Elements of the Problem Have Not Changed

After more than nine years of operation, it is clear that the mandatory program albeit short of its goals has been, at least until recently, in substantial measure successful. The decline in crude prices has been arrested if not significantly reversed. While the refining margin, within which nonintegrated refiners must operate, remains inadequate, its further decline has been halted.[9] The decline in independent refiner numbers has been slowed, if not arrested.[10]

At the same time, it should be emphasized there has been no favorable change in the basic forces at work which suggests relaxation of the control program. If anything, the pressures of foreign oil have intensified as world supply outstrips demand, and the differential between domestic and world crude oil prices has grown.

Accordingly, the imports auction scheme must be tested, in comparison with the present program (and other alternatives), as a solution to the same problems and as a means to the same objectives with which the Department has been so carefully working in the past ten years.

III. THE IMPORTS AUCTION SCHEME WILL NOT WORK

Instead of the present system the Department now proposes that "Quotas under an auction system would be obtained by means of competitive bidding." The Department states that it will preserve the overall level of import quotas but,

[8] The underlying circumstances are more complex, of course. A principal circumstance is the fact that the major integrated oil companies, by reason of their ownership of domestic crude oil reserves the price of which is supported by the oil import program, enjoy profits from that program in their crude operations which are not available to the nonintegrated refiner. There are also strong forces at work in the impact of the tax laws to allocate integrated company profits to their crude oil operations, thus creating a price structure for crude oil and refined products in which the refining margin is artificially reduced, with serious effects upon nonintegrated refiners. This is not the place to analyze these circumstances. They have been developed at length in the numerous hearings by the Department of the Interior as well as those conducted by the Federal Trade Commission. For the present purposes it is sufficient to state merely that the graduated scale is indispensable to the survival of independent refiners and their refining facilities so essential to the national defense.

[9] See Appendix A.

[10] See Appendix B.