the Department would not have proposed the auction scheme without at least a tentative conclusion that it had authority so to do, nevertheless we submit that this proposal transgresses the President's and the Department's existing statutory authority for import controls. The proposal is probably illegal on at least three grounds.

(1) It is contrary to and in excess of the limited *national security* basis and purpose in the underlying statute. For the reasons shown above, it will actually frustrate attainment of purely national statutory objectives. We see no other national security interest, certainly for example, not in the mere sale of quota tickets.

(2) The auction scheme is in substance and effect a tax without compliance with the basic rule that all taxation originate in the House of Representatives. While the price paid by the bidder may be described or labeled under some other name, the simple fact is that the government can collect money by three principal means: a) the sale of government-owned goods or government-rendered services, b) the acceptance of gifts, and c) the imposition of taxes. The payments proposed to be made for import quotas are clearly not in the first two categories. The cost advantage of foreign crude oil is not property of the Federal Government; it cannot be sold; it can only be regulated or taxed.

(3) The government's expressed intent to permit Phillips and Hess to continue to ship petroleum products into the United States under the agreements in respect thereto between those companies and the Secretary raises still further legal questions. While this intent does not expressly appear in the release of March 20, 1968, it has been reported on more than one occasion in the trade press. The agreements with Phillips and Hess did not exempt those companies from payment of import duties, fees and other charges incident to shipment into the United States. Therefore, if the auction scheme should become a reality, it would appear that these firms should be required to pay whatever fee is assessed against other importers under the auction scheme. If not, there will exist the basis for a serious charge of administrative discrimination.

While it may be that these legal defects could be cured through appropriate legislation, such legislation is apparently not intended by the Department's proposal. In the absence thereof, the legal difficulties are so great as virtually to assure a legal challenge to the auction scheme and to place the program in doubt while that legal point is settled.

VI. IMPROVEMENTS, WITHIN THE BASIC STRUCTURE OF THE PRESENT PROGRAM, ARE IN ORDER

We are mindful of the many serious complaints which have been made, and recently in increasing number, with respect to the present oil import program. Indeed, this Association has itself been critical of certain recent tendencies to depart from the essential basis of the Mandatory Oil Import Program in such matters as the special deals for Phillips and Hess, petrochemical plants, etc. Such deviations from a sound, regulatory structure properly invite criticism from those who are otherwise most interested in its integrity.

We are afraid, however, that the present volume of criticism, from friends and foes alike, has been misconstrued by the Department. What is needed to quiet these criticisms is a return to the basic essentials of the original program and the gradual, evolutionary improvement in that program. By basic essentials we mean quotas to all refiners on the basis of refinery inputs and with the graduated scale. By improvements we mean the prompt elimination of historical product quotas (which have been continued for all these years without even partial phaseout) and the correction as soon as possible of the petrochemical aberration—and an end, of course, to other special deals such as Phillips and Hess.

DEPARTMENT OF THE INTERIOR—INFORMATION SERVICE

(For release on delivery)

ADDRESS BY HON. ELMER F. BENNETT, UNDER SECRETARY, DEPARTMENT OF THE INTERIOR, TO THE NATIONAL PETROLEUM ASSOCIATION, CLEVELAND, OHIO, APRIL 21, 1960 AT 2:30 P.M.

THE FIRST YEAR OF THE MANDATORY OIL IMPORT PROGRAM

It is indeed a pleasure to be here. I want to thank your president, Mr. Blazer, your eminent counsel, Mr. Dow, and your presiding officer, Don O'Hara, for