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AMERICA'S FRONTLINE TRADE OFFICIALS

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Charles Lewis

THE CENTER FOR PUBLIC INTEGRITY

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

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THE CENTER FOR PUBLIC INTEGRITY

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The Center for Public Integrity is a new educational, non-profit organization examining public service and ethics-related issues in **Washington**, with a unique approach combining the substantive study of government with in-depth reporting. The Center is funded by **foundations**, corporations, labor unions, individuals and news organizations.

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*The right to **search** for truth implies also a duty; one must not
conceal any part of what one has **recognized** to be true.*

Albert Einstein

Charles Lewis is the founder of the Center for Public Integrity. For 11 years, from 1977 through 1988, he did investigative reporting at ABC News and CBS News. His last position in television was as a producer for "60 MINUTES," assigned to correspondent Mike Wallace. Two of his segments received Emmy nominations for "Outstanding Investigative Journalism" by the National Academy of Television Arts and Sciences. Lewis has written articles for the *New York Times*, the *Washington Post* and other publications. He holds a B.A. degree with honors and distinction in political science from the University of Delaware, and an M.A. degree from the Johns Hopkins University School of Advanced International Studies in Washington, D.C. Lewis is the Chairman of the Board of Directors and Executive Director of the Center for Public Integrity.

Several people over a period of months have assisted in the preparation of this Center REPORT, from the collection of relevant documents at various government offices, to poring over thousands of pages of arcane publications in private and public libraries, to conducting interviews and assisting in assembling the USTR biographies. Those principally involved are listed alphabetically below, and the author wishes to single out two people for their especially valuable contributions. Gregory Bologna worked on this project the longest, dating back to November 1989. Jean Cobb's excellent interviewing, writing and editing skills enriched the final product. Of course, the author takes full responsibility for any errors, and for the views expressed.

Michelle Barer has a B.A. degree in American history from Barnard College, served as an Investigative Analyst in the New York District Attorney's office, and in May 1991 will complete a master's degree in Public Administration from Columbia University.

Gregory Bologna has a B.A. degree in political science from George Washington University, and he is co-editor of the annual reference publication, *Washington Representatives*.

Jean Cobb was until recently associate editor of *Common Cause Magazine*. In 1988, she won the Investigative Reporters and Editors Award for outstanding investigative journalism, and last year, articles on campaign finance by Cobb and others at the magazine received the Sigma Delta Chi Award for public service in journalism.

Karen Litsinger is a Dean's List senior at Duke University, majoring in political science.

Colin McLaren is a junior and National Merit Scholar at the University of Southern California, majoring in political science and international relations.

Christine Stavem is a recent graduate of the University of Arizona, where she studied journalism under award-winning investigative reporter Jacqueline Sharkey.

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S U M M A R Y

The Office of the U.S. Trade Representative coordinates and administers U.S. trade policy. Created in 1962, USTR is part of the Executive Office of the President, and the U.S. Trade Representative is a member of the President's Cabinet.

This Center REPORT is not a substantive analysis of U.S. trade policy. Besides a brief background and history of how USTR has evolved, and a discussion of the contemporary issues surrounding USTR, we have profiled America's frontline trade officials who have served at the highest levels of USTR since 1974.

The senior officials of this agency for years have been among the most educated public servants in Washington. Several officials have worked for the U.S. overseas, several are multi-lingual, and 78 percent of them have graduate or law degrees. Geographically, most current and former senior USTR officials since 1974 are natives of the northeastern United States; the least represented geographic regions are the southwestern and northwestern U.S.

In terms of post-employment career patterns, by far the most significant development in recent years has been the large number of former USTR officials who have worked for foreign interests. Since 1974, nearly half—47 percent—of former senior USTR officials have personally registered or their firms have registered with the Justice Department as foreign agents. Some of these registrations are for a single client; some are for numerous clients. Those former officials include:

William Eberle, the former Trade Representative whose firm, Manchester Associates, has advised and lobbied for Nissan since the late Seventies.

Harald Malmgren, the former Deputy Trade Representative has worked for the Japan Whaling Association, Japanese electronics companies, the Japan External Trade Organization and others.

Steven Saunders, who after less than 18 months as an Assistant U.S. Trade Representative, quit government. Within nine months, Saunders and Company was on retainer to the Japanese Embassy.

William Walker, the former Deputy Trade Representative, has worked for Toshiba, the Japanese semiconductor industry, and others.

Doral Cooper, former Assistant U.S. Trade Representative responsible for the Pacific Basin and developing countries of Asia, was in South Korea on behalf of her new employer, Michael K. Deaver and Associates, two weeks after quitting USTR.

Michael Smith, former Deputy Trade Representative and America's toughest trade negotiator in the Eighties, left USTR with the public intention of helping U.S. firms abroad. Today, he and his firm represent

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several foreign clients, including the Canadian Sugar Institute.

William Brock, former Trade Representative, formed the Brock Group in 1989. Brock or his **firm** have done work for Toyota, Taiwan, and Airbus Industries.

Edward Gottfried, former USTR textile official, negotiated an agreement with Pakistan in December 1989. In April 1990, Gottfried quit USTR. Within two weeks, he was back in Pakistan, trying to land a large contract to work for Pakistan textile interests in Washington.

Three of the top four current USTR officials worked in the mid to late-Eighties for overseas clients *prior* to entering USTR—an unusual pre-USTR employment pattern which is unprecedented in the history of the agency. Trade Representative **Carla Hills** has represented Daewoo Electronics, Matsushita, Panasonic, Canadian lumber interests and others. Deputy Trade Representative S. Linn Williams represented Nissan, Nomura Securities, Orient Finance and other clients as an attorney in Tokyo. Deputy Trade Representative Julius Katz was chairman of a company which did public policy analyses for 28 foreign clients in 1988 alone, including the Japan Trade Center, Toyota, and **Cartier International**.

We found an agency relatively aloof from the normal conflict of interest sensitivities which confront other federal entities. Some of the appearances of conflict of interest the Center found include:

- At the time he was working for numerous foreign clients from 1985 to 1988, Julius Katz was also a paid consultant to USTR.
- Several members of the USTR Advisory Committee system, with access to sensitive negotiating strategies and holding security clearances, simultaneously have been registered foreign agents at the Justice Department. For example, **Richard Fairbanks**, who with his law firm has received more than \$300,000 since 1986 for representing the government of Iraq, also is a member of the USTR Investment Policy Advisory Committee on Trade.
- In the Eighties, USTR aggressively pressed several Asian countries to open their markets to U.S. tobacco products. The efforts were quite successful; Philip Morris and **RJR** Nabisco each reaped hundreds of millions of dollars in added revenues from the trade initiatives. The two Trade Representatives who led such efforts, **William Brock** and Clayton **Yeutter**, both had family stock in the tobacco companies.

The Center interviewed the two men in Congress most responsible for the creation and development of USTR. In 1962, Chairman of the House Ways and Means Committee, Rep. Wilbur Mills, insisted that a new office at the White House level be created to coordinate and administer U.S. trade policy. In 1974, Sen. Russell Long, then chairman of the

Finance Committee, pushed to have the Trade Representative's status elevated to Cabinet-level.

Today, both men are disappointed with USTR and its effectiveness in coordinating and implementing U.S. trade policy.

ities exist. For example, lawyers who represent foreign interests are **exempt**, but not if their activities are aimed at influencing public policy. Ascertaining what is "political activity" and "public relations activity" in Washington is by definition, a subjective, murky task.

Nonetheless, these records are all that the public has to rely on to monitor foreign lobbying in Washington. The Independent Counsel in the Michael Deaver case, Whitney North Seymour, has said that "the Deaver disclosures and the subsequent congressional hearing and the grand jury investigation would probably never have occurred if it had not been for" the FARA requirement and the "enterprising work of journalists" in reviewing those FARA filings.

A large number of former **USTR** officials did not speak favorably of the Justice Department Foreign Agent Registration Act, and the Center did uncover instances in which former senior USTR officials have been working for foreign clients and not registering.

For example, former Deputy Special Trade Representative Harald Malmgren has been retained by the Japanese government agency JETRO since the mid-Seventies. Although Malmgren never acknowledged his relationship in his filings at Justice, JETRO has consistently reported its payments to Malmgren. Since 1976 Malmgren has received \$702,250 from JETRO, primarily for "economic analysis." (See the Malmgren biography).

Former U.S. Trade Representative William Brock said registering with the Justice Department has become "pejorative." Brock is on a retainer from Toyota for what he describes as "labor-management relations" consulting. Brock and his firm have not registered with the Justice Department over the Toyota work, but are registered on behalf of other clients. (See the Brock biography.)

Former Ambassador Michael Smith, who left government in late 1988, suggested he would work to assist U.S. firms, but he and his firm have since begun representing foreign clients. When interviewed by the Center, Smith spoke **disparagingly** of FARA, and said it was not necessary for him to register. Less than a month later, he filed papers with the Justice Department. (See the Smith biography.)

Trade As A Cause

From 1934 and the Reciprocal Trade Agreements Act to 1962, trade policy in Washington was handled principally by the State and Commerce Departments. During this period, federal trade officials all had a fairly common career pattern. They were trade policy professionals and for many of them, liberalizing trade around the globe was not just a life career, it was a cause.

One of those professionals was William B. Kelly, Jr., who taught international trade at Tufts University in the Fifties, worked briefly in the State and Commerce Departments in the early Sixties and was a senior policy adviser in Geneva during the Kennedy Round negotiations. From 1967 until 1980, he was a senior STR official. In 1980, Kelly left the U.S. government to become the Deputy Director-General to the **GATT** in Geneva. Upon his departure, he received a plaque from his colleagues, the text of which reads: "United States Trade Representative William B. Kelly, Jr. Award For Professional Excellence." Every year since 1980, a USTR official has been selected to receive the Kelly Award for Excellence, which includes a monetary bonus.

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at USTR."*

In an interview Kelly told the Center, "We [were] dedicated to trying to. . . **bring** about more comparative advantage around the world, which means [we **were**] going to have more production and therefore you can raise living standards. It's **like** somebody trying to cure AIDS or cancer, whatever. I know this may sound a little funny and dramatic because if I were to say this to some of the people at **USTR** today, they'd smile and say '**Kelly**, he's some kind of **over-the-hill [guy]**.' That's not the motivation today..."

"Somewhere along the line, people coming into the USTR did not look at this job as a career. They looked at this job as a step up in their careers. They put out calling cards. I never had a calling card." According to Kelly, today there seems to be less dedication, and people seem to be less committed to a life of public service. "**The** turnover you now have in the USTR, we never had when I was working at USTR."

Increased Demand for Former Trade Officials

There is a general consensus among trade experts and former USTR officials that the trade field began to change in the late Seventies. America's trade position was worsening, and foreign nations were becoming increasingly aggressive about penetrating the huge, relatively open U.S. market. Millions of dollars began flowing into Washington from abroad, for public relations, lobbying, information monitoring, economic and political analysis, legal representation, and the like.

The potential "market" demand for the services of trade specialists became very clear in the cases of two former STR officials who were retained at hefty sums by Japanese interests. Indeed, the first lengthy public discussion about USTR officials working for Japanese interests occurred in Japan. In 1980, Yoshi Komori and Toshio Obi wrote *Japan Lobby*, detailing among other things the activities of former Special Trade Representative William Eberle and former Deputy STR Harald **Malmgren**. Eberle and his company, Manchester Associates, landed a \$12,000 monthly retainer from Nissan. Malmgren and Malmgren, Inc., received \$300,000 from five Japanese electronics companies. Komori and Obi, citing the Malmgren contracts, criticized Japanese lobbying in Washington as "next to idiotic," not only because **Malmgren's** fees were '**out of order**' with standard lobbying fees in Washington, but also because his lobbying did "not seem to have had any noteworthy effects for Japan."

In 1978, Malmgren also registered at Justice for representing the Japan Whaling Association. His contract was for \$100,000 a year.

Malmgren told the Center, "Basically their problem was a peculiar one. The Japanese whaling people are quite scientific, it's the most scientific fishing activity in the **world**. . . **But** they have a habit and tradition of killing **whales**. . . **The** problem was how to explain themselves. And that one I took on, well, I thought, that's an awful subject. I took it on for a number of months, trying to articulate for them in the United States what the case was, from the Japanese point of view, on the substance. But I decided that was an unhappy and thankless task, so I terminated that [contract] myself."

Meanwhile, William Eberle formed Manchester Associates, Ltd., in 1979, and one of the firm's first major clients, and steadiest over the years has been the Nissan Motor Company, Ltd. Manchester Associates was paid \$12,000 a month, plus expenses, by **Nissan**, for "consulting and advisory services, including information reporting, research, analysis and advice, and representational **services**."(33)

In addition, Eberle proposed to Nissan that Manchester Associates "present the views of Nissan to U.S. government officials. Manchester Associates will also arrange, upon the request of Nissan, meetings and conferences between representatives of Nissan and government and corporate officials in order to promote better understanding on matters of mutual interest."

U.S. Commercial Interests

A substantial percentage of U.S. trade officials has always had some post-employment interaction with the private sector, working in some capacity with U.S.-based corporations, and the biographies later in this REPORT reflect that. Today, former Assistant U.S. Trade Representative Richard **Heimlich** is a Vice President for Motorola. Former Deputy Special Trade Representative William Pearce returned to Cargill, Inc. in Minneapolis, where he had worked before joining USTR. Former Special Trade Representative Frederick Dent returned to his company, **Mayfair** Mills, in South Carolina. Former Assistant Trade Representatives Harvey Bale, Paul **O'Day** and William **Krist** today work for the Pharmaceutical Manufacturers Association, American Fiber Manufacturers Association, and the American Electronics Association, respectively.

It should be noted that some trade officials left the trade field **altogether**—although this is the exception. Today, former Chief Textile Negotiator H. Reiter Webb works for Hyatt Legal Services in Falls Church, Va. Former Deputy STR Kenneth Guenther, after serving under three Federal Reserve Board Chairmen, is Executive Vice President of the Independent Bankers Association.

Steven Saunders

Nonetheless, the number of former USTR officials working for overseas interests has perceptibly increased. And it hasn't been just the highest, most experienced officials from USTR. Consider the case of Steven Saunders.

After less than 18 months as an Assistant U.S. Trade Representative for Congressional and Public Affairs, Saunders left USTR in early 1982, at the age of 35. Nine months later, he was on retainer to the Japanese Embassy. According to Justice Department records, in 1989 his small consulting firm, Saunders and Company, represented five foreign clients—four of them Japanese, including the **Embassy**—and received \$240,000 in fees and expenses.

Doral Cooper and Lisa Barry

In 1985 and early 1986, USTR officials Doral Cooper and Lisa Barry left government and joined Deaver and Associates, the consulting **firm** of Michael Deaver which landed several large contracts representing foreign companies and governments. (See "Doral Cooper, Lisa Barry and South Korea," later in this section.)

William Walker

One of the more publicized foreign agents been former Deputy STR William Walker who, with the law firm of Mudge Rose **Guthrie** Alexander and Ferdon, has worked for Toshiba and the Japanese electronics industry, among others, in recent years. (See the Walker biography.)

HARALD B. MALMGREN

Dr. Harald B. **Malmgren** in two separate stints served under three Presidents in various capacities in the Office of the Special Trade Representative. From 1972 to 1975, he was Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

Born in Boston on July 13, 1935, Malmgren studied at Rensselaer Polytechnic Institute for a year and then transferred to Yale, where he received a B.A. **summa cum laude** in economics in 1957. He did some graduate study at Harvard and in 1961 received his doctorate in economics from Oxford University.

In 1961, Malmgren was Assistant Professor of Mathematical Economics at Cornell University.

In 1962, he came to Washington as one of Secretary of Defense Robert McNamara's "Whiz Kids," working for the Institute for Defense Analysis.

In December 1964, Malmgren moved over to the new Office of the Special Trade Representative. **Malmgren's** position was Senior Economic Adviser.

Later, when **Herter** died in **office**, Malmgren worked as a liaison between **Herter's** successor, William M. **Roth**, and Deputy Special Representative Michael Blumenthal in Geneva, in connection with the Kennedy Round world trade negotiations. Malmgren negotiated matters involving worldwide anti-dumping codes. In 1967, at the age of 32, Malmgren was the lead negotiator for a wheat agreement with the Soviet Union. He also spent some time in Geneva, and began to develop an inventory of non-tariff trade barriers preliminary to creating international trade codes of conduct. By the time he left STR in the late spring of 1969, Malmgren was the Chief of Operations.

Later that year, he became a Senior Fellow of the newly-formed Overseas Development Council (ODC), in Washington.

From 1965 to 1971, Malmgren was an Adjunct Professor at the Johns Hopkins University School of Advanced International Studies. He has also taught at Georgetown University (1964-65 and 1982-86) and George Washington University (1976-77).

In 1971, he formed his own company, "Malmgren, Inc." His clients were business and banking groups, for whom he wrote "think papers" about international economic developments. He also was a part time adviser to the Senate Finance Committee, and wrote papers for the Atlantic Council and other groups.

From 1972 to 1975, Malmgren became the President's Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

In the spring of 1975 and 1976, Malmgren was a Fellow of the Woodrow Wilson International Center for Scholars at the Smithsonian Institution. He also advised the Senate Finance Committee again during this period.

By the summer of 1977, he went back to consulting.

On April 10, 1978, *Washington Post* reporter George Lardner wrote in a page 1 article that Malmgren and his firm had sent a marketing letter to a small number of corporate clients suggesting it had an influential relationship with a senior **senator**—**Abraham Ribicoff**—on the Finance Committee. Malmgren and Jeffrey **Salzman**, a Malmgren, Inc. consultant who, like Malmgren, had previously worked for Ribicoff, sent out a letter to prospec-

tive clients soliciting \$200,000 to represent them in a tax relief bill.

Malmgren, Inc. advertised itself in the five-page letter as "in an unusually good position to influence the outcome of the debate . . . and move it in a good **direction**," and pointed out that Malmgren and Salzman had worked for **Ribicoff**.

An angry Senator Ribicoff issued a statement saying, "I am shocked. Both Mr. Malmgren and Mr. Salzman were members of my staff. Period. Mr. Malmgren left my staff on June 2, 1976. Mr. Salzman left my staff on Nov. 30, 1977. They have absolutely no special relationship **with** me and are completely out of line to make such a representation."

Malmgren told reporters, the letter "**was** just bad judgment." (*Washington Post*, April 11, 1978, p. A3)

In 1977 and 1978, in a contentious, litigious **atmosphere**, Malmgren represented **five** Japanese electronic companies attempting to import televisions into the U.S. (Hitachi, **Melco**, Sanyo Electric Co., Ltd., Sharp Corporation and Tokyo Shibaura Electric Co.). He registered as a foreign agent with the Justice Department, and was under contract for \$300,000 a year. Although criticized in the Japanese and American media for the amount of remuneration, Malmgren defended the **sum**, saying, "At that **time**, my time was pretty **valuable**. . . **My** annual salary as a consultant was in that level already. I was probably the highest paid economist around. It was pure economics."

In working for the Japanese electronic interests, Malmgren said, "I was **technically**, in my mind, an arbitrator, a mediator, let's say, but nonetheless, I registered [as a foreign **agent**]."

In 1978, he also registered at Justice for representing the Japan Whaling Association. His contract was for \$100,000 a year.

"Basically their problem was a peculiar one. The Japanese whaling people are quite scientific, **it's** the most scientific fishing activity in the **world**. . . But they have a habit and tradition of killing **whales**. . . The problem was how to explain themselves. And that one I took on, well, I thought, that's an awful subject. I took it on for a number of months, trying to articulate for them in the Unites States what the case was, from the Japanese point of view, on the substance. But I decided that was an unhappy and thankless task, so I terminated that myself.

"I decided this is not a pleasant subject, not a good way to make a living. I pretty much then stepped out of any such representation work ____ From then on, I stuck to what I would call analysis."

That same year Malmgren registered with Congress and the Justice Department as a representative for Empresa **Minera Del Centro Del Peru** (known as Centromin Peru), a Peruvian, state-owned company. He also registered on behalf of the Embassy of Japan and the Government of **Japan/Japan Trade Center**. Also around this time, Malmgren worked for the Commission of the European Communities.

In 1984, Malmgren represented the Korean Traders Association (**KTA**). Between August 1984 and January 1985, former Deputy USTR Malmgren represented Korean steel interests to various U.S. government officials, for which he was paid \$74,960. Thirty-one separate contacts with government officials were made on behalf of the KTA, from Deputy White House Chief of Staff Richard **Darman**, to USTR William Brock, with whom Malmgren spoke to on August 20, 1984 and December 18, 1984. Including Brock, half of Malmgren's documented communication on behalf of the Korean interests (15 of 31) were to officials from his old agency, USTR.

From 1985 to 1990, Malmgren or his company, **Malmgren, Inc.** did not register as a foreign agent with the Justice Department.

Why? Because, **Malmgren** told the Center, "I haven't done anything **political**—We do **`think** stuff for **clients, analysis**. . . . I've kind of been **diversifying**, I like it that way I don't like to feel I owe anybody anything. Sort of pride in workmanship, you know?"

Today, Malmgren, Inc. has offices in Washington, London and Brussels. Malmgren personally earns in excess of \$300,000 a year. At least 60 percent of the firm's business is in Europe, representing U.S., Japanese and Canadian clients before the EEC. In Washington, Malmgren said a third of his clients are Asian, a third are U.S., and a third are Canadian or European.

In April, 1990, Malmgren registered as a foreign agent with the Justice Department, as a consultant to the firm Marks, Murose and White. That firm's clients include Sodick, Inc., and Bibby-Ste. **Croix** Foundries, Inc.

In the past, there have been discussions with Justice Department attorneys about whether Malmgren ought to register.

"I had a contract, I still have a contract, with the Japan External Trade Organization (JETRO) in New York. Just to analyze, no political activity." After Malmgren had written a magazine article, the Justice Department questioned whether he should register as a foreign agent for JETRO. The article, said Justice, "could be construed as political activity." But Malmgren balked, and the Justice Department backed down.

"I got quite irritated. Nobody has ever paid me for what I say in public. . . . I write what I wish. I wouldn't take money for a point of view. It's not my game. I'm not a flack, I'm not a p.r. **person**. . . . I **don't** sit at the table and represent anybody, but I'll tell you who does, is Goldman Sachs, Solomon Brothers, Morgan Stanley. . . . I'm an analyst, and sometimes I give advice of that type, debt servicing or something. If you really want me to register for every damn thing I do, then you register all of them first, and I'll be glad to get in line. Well, they saw the point—Dammit, don't single me out, because I happen to live in Washington."

Since 1976, Malmgren has received \$702,250 from JETRO for primarily economic **analysis**—\$313,750 in consultant fees since 1986. The Japanese reported these "consultant" payments to Malmgren to the Justice Department, but Malmgren never has.

While the discrepancy in the disclosure documents might appear to be a possible violation of the Foreign Agent Registration Act to some people, in general the former Deputy **USTR** maintains that "I've been very careful" in terms of registering. He said the Foreign Agent Registration Act is an "ambiguous law," and that just what exactly constitutes political activity is "unclear."

**OFFICE OF THE SPECIAL REPRESENTATIVE I
FOR TRADE NEGOTIATIONS**

(1973/74 U.S. Government Manual)

William D. Eberle	Special Trade Representative
William R. Pearce	Deputy Special Representative
Harald B. Malmgren	Deputy Special Representative
John H. Jackson	General Counsel
Herbert F. Propps	Assistant Special Representative for Commercial Policy

(1974/75 U.S. Government Manual)

William D. Eberle	Special Trade Representative
Harald B. Malmgren	Deputy Special Representative
Alan W. Wolff	General Counsel (Acting)
William B. Kelly	Assistant Special Representative
James A. McNamara	Assistant Special Representative

(1975/76 U.S. Government Manual)

Frederick B. Dent	Special Trade Representative
Kenneth A. Guenther	Deputy Special Representative (Acting)
Alan W. Wolff	Deputy Special Representative (Acting)
Alan W. Wolff	General Counsel
Kenneth A. Guenther	Assistant Special Representative
William B. Kelly	Assistant Special Representative
Allen H. Garland	Assistant Special Representative
Stephen L. Lande	Assistant Special Representative

(1976/77 U.S. Government Manual)

Frederick B. Dent	Special Trade Representative
Clayton Yeutter	Deputy Special Representative
William N. Walker	Deputy Special Representative
Alan W. Wolff	General Counsel
John C. L. Donaldson	Assistant Special Representative
Geza Fekete kuty	Assistant Special Representative
William B. Kelly	Assistant Special Representative
Stephen L. Lande	Assistant Special Representative
Paul T. O'Day	Assistant Special Representative