

ECONOMIC INTELLIGENCE

HEARING
BEFORE THE
SELECT COMMITTEE ON INTELLIGENCE
OF THE
UNITED STATES SENATE
ONE HUNDRED THIRD CONGRESS
FIRST SESSION
ON
ECONOMIC INTELLIGENCE

THURSDAY, AUGUST 5, 1993

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HEARING ON ECONOMIC INTELLIGENCE

THURSDAY, AUGUST 5, 1993

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC.

The Select Committee met, pursuant to notice, at 2:06 o'clock p.m., in Room SH-216, Hart Senate Office Building, the Honorable Dennis DeConcini, Chairman of the Committee, presiding.

Present: Senators DeConcini, Metzenbaum, Baucus and Warner.

Also Present: Norman Bradley, Staff Director; David Addington, Minority Staff Director/Counsel; Britt Snider, Chief Counsel; and Kathleen McGhee, Chief Clerk.

Chairman DECONCINI. The Committee will come to order. The Vice Chairman, Senator Warner, is on his way and suggests that we go ahead, and we will proceed.

The Committee meets today in public session to continue its examination of issues relating to economic intelligence. The Committee has held several closed hearings on this topic over the last three years, and has addressed it during recent confirmation hearings as well. But this is the first time we have had a public hearing devoted to this subject matter.

I think it is fair to say that despite the attention we have given this topic, we have yet to reach a consensus on the Committee in terms of what the proper role of the Intelligence Community should be.

I do think there is agreement on certain points which were made to this Committee by former DCI Robert Gates, and have been reaffirmed by his successor, Director Woolsey.

For example, Mr. Gates said that the Intelligence Community saw an obligation to advise U.S. firms if the Intelligence Community had information indicating they were the targets of an intelligence attack by another government. I think there is no disagreement with that.

Mr. Gates also said that he did not view it as the function of U.S. intelligence agencies to penetrate foreign firms on behalf of their U.S. competitors. He said his agency would spy for their country, but not for General Motors.

I think most Members would agree with that proposition as far as it goes. Certainly we don't want to cause other countries to retaliate by mounting clandestine operations against U.S. firms. By the same token, there are those like me who wonder why our intelligence agency should be any less reluctant than those of other countries to pass along information that would be useful to their

domestic business interests. If other countries are doing it, why put ourselves at that disadvantage?

So the issue really lies in terms of what more the Intelligence Community could or should do that would improve the competitive position of U.S. firms abroad, consistent with applicable law and international practices. This is the focus of today's hearing.

I might add that while this is a topic that has been debated at great length, we are not much further along than when we started in terms of having an overall policy. The Bush Administration never came to grips with it. And although the Clinton Administration promised a review of the subject, we still have no overall policy guidance in the area.

We intend to hear from Administration witnesses—most likely in closed session—when we return from the August recess. Perhaps our hearing today will provide some grist for their mill and they will listen to it and we'll provide them with it and see what kind of response they have.

We have with us two representatives of U.S. business who are here to tell us what, if anything, they think the Intelligence Community may be able to usefully contribute. We have another witness who, while not representing U.S. business interests, has given a great deal of thought to the issue involved and we welcome all the witnesses.

We will begin with the witnesses, all of them being here at the table. We will start with Mr. John Hayden, who is the Vice President and head of the Washington office of the Boeing Company, and Mr. Richard H. Blay, the Director of Corporate Security for Boeing.

Before we begin with our witnesses, I will ask Senator Metzenbaum if he cares to make any opening statement.

Senator METZENBAUM. Thank you, Mr. Chairman.

First I want to commend you for holding this open hearing on this matter. I think it is a subject the American people know very little about, and that by holding this open hearing, you give the American people a better chance to understand what the issue is all about.

Ever since the collapse of the Soviet Union and the end of the Cold War, we have been hearing people say that U.S. intelligence agencies had to do more in the field of economic intelligence, especially to promote the so-called economic competitiveness of U.S. businesses. We read statements by former officials and pundits proclaiming that U.S. firms are trouble and cannot compete unless we build up a new bureaucracy to help them. We read articles about people who sell their services to U.S. industry to prepare firms for the tough world of foreign competition.

This Senator doesn't buy that argument. This Senator recognizes that there has been some economic intelligence on a limited scale up until now. But I have the feeling that intelligence agency officials sort of thought that the Congress might be thinking of cutting back on the budget for intelligence activities and said, "well, we'd better find another area where we can be claiming we're doing more work. Let's get into this whole field of economic intelligence and let's make this the issue." And so they said, "we want this new

responsibility, we want to expand the present responsibility, and this is important to the American business community."

I don't buy it. I just don't believe it at all. I believe the American business community is fully capable of competing on its own. If there are certain matters of national security that involve foreign corporations, perhaps then the regular activities of the Intelligence Community will be able to deal with those.

But nobody has been able to tell me, if our intelligence agents start gleaning information that may be very important to the American automobile industry or the American steel industry or the American chemical industry, to which of the companies in America are they going to tell that information? Are they going to share it only with the top one, or the top two or three, or are they going to share it all the way down the line? And I just start to say, what kind of a world is this? What kind of activities are these? And even if they say, "well, we won't share it," I say to you that economic intelligence is different than national security intelligence. In national security intelligence you may have some leaks, but not very many. When it comes to economic intelligence, I say that intelligence agents who have picked up this information will, at cocktail parties, drop a word here, drop a hint there, or elsewhere. It will not be protected information.

I think that there isn't any reason to be expanding the economic intelligence activities of the Central Intelligence Agency. I think it is not in our nation's interest, I think it is contrary to our nation's interest. I think as it grows and grows, it will wind up embarrassing not just the intelligence agency, but the people of this country and our government. I think that it is the wrong way to go. I am grateful to the Chairman for holding this hearing. I am grateful for some of the American corporate leaders who are here today indicating that they also have concerns about moving further into economic intelligence.

I thank you, Mr. Chairman, for holding this hearing. We have never publicly heard from United States business on this question before. I came out of the business world and I have wondered how many of my colleagues in the business world would really want to rely on the Federal government for the detailed information they need to run their firms and compete in the international marketplace.

I am very pleased that we are here today listening to these business leaders. I am very much interested and I am very much concerned about the expansion of economic intelligence by our country.

Thank you, Mr. Chairman.

Chairman DECONCINI. The Vice Chairman, Senator Warner.

Vice Chairman WARNER. Mr. Chairman, I share with you the need to have this Committee well informed. I am glad we're having the hearing. Let's get on with it.

Chairman DECONCINI. The Senator from Montana.

Senator BAUCUS. Thank you, Mr. Chairman.

Mr. Chairman and other Members of this Committee, today's hearing on the business community's views towards economic intelligence I think is very timely and represents an opportunity to enrich the debate on what CIA Director Jim Woolsey called, quote, "the hottest topic in town," end quote.

Economic intelligence is very important to me. It is an area in which the government must develop a comprehensive policy if we are going to maintain our competitive edge in some sectors, regain it in others, protect the civil liberties of our citizens, and still remain a model for moral leadership for much of the rest of the world.

It is a murky area in which there are many possible pitfalls, an area in which we could spend a great deal of the taxpayers money for no legitimate end. It is an area in which we must act, I believe, sooner rather than later. It is an area in which I am sure that this Committee, under the Chairman's and Vice Chairman's able leadership will play a pivotal role.

Like most Americans I am disturbed by the periodic reports that foreign governments are engaged in predatory trade practices against the United States and that they are using their intelligence services as part of those predatory practices. The most recent report to gain notoriety involved a French government document which allegedly targeted 49 U.S. high technology manufacturing companies for industrial espionage. Almost as disturbing was the German official who responded to reports surrounding this incident by saying, and I now quote him, "being Europeans, we are surprised when someone is not breaking into our briefcases. No self respecting intelligence agency would not obtain information in this manner, but you have to maintain the Golden Rule that you do not get caught," end quote.

I disagree wholeheartedly with the goal contained in the document and this reported response. I do not believe it is proper for the U.S. government to spy on foreign companies. In fact, I believe that the CIA is a very self respecting intelligence agency for not becoming engaged in industrial espionage. But I believe in the level playing field approach to economic intelligence.

We must emphasize our counterintelligence efforts to ensure that U.S. businesses are adequately protected against foreign intelligence services. I will be interested in hearing from our witnesses today on how this can best be accomplished.

But I also believe that our patience can last only so long and that we should be prepared to retaliate against those countries who refuse to refrain from using their intelligence services for these unethical purposes.

The United States built a very sturdy intelligence capability during the Cold War. Even though we are going through a period of transition as we streamline the Intelligence Community, our capabilities to respond to any threat will remain strong. One of those capabilities will include, I believe, an excellent ability to retaliate in kind against those governments which use their intelligence services to steal our economic secrets.

I again emphasize that in the current circumstances, it is improper for the United States government to be spying on foreign companies. Equally important, I believe that we must develop a comprehensive policy to define the Intelligence Community's role in economic intelligence. And key to this effort will be drawing the lines between what is right and what is wrong for U.S. intelligence efforts.

I am looking forward to the witnesses testimony and I do hope, as I said, we can finally develop a policy on this murky matter sooner rather than later.

Thank you, Mr. Chairman.

Chairman DECONCINI. Thank you Senator Baucus, thank you, gentlemen.

Mr. Hayden, you may proceed.

**STATEMENT OF JOHN F. HAYDEN, CORPORATE VICE
PRESIDENT OF THE BOEING CO.**

Mr. HAYDEN. Good afternoon, Mr. Chairman, I am John Hayden, Corporate Vice President of the Boeing Company. I am accompanied today by Dick Blay, Boeing's Director of Security. At the Committee's invitation, we are here to discuss our perspective on issues related to the collection and dissemination of economic intelligence.

My statement before you will be brief. At the conclusion of these remarks, we will be happy to answer any questions you may have.

As the Members of this Committee know so well, the United States' economy and the aerospace industry in particular, face an increasingly competitive world market. We see evidence of global competition everywhere we look.

We see and hear of aspirations of many countries who wish to become part of the aerospace business.

We see the rise of foreign competitors, many of whom have benefited from government support.

And disturbingly, we see our industry and our companies targeted by foreign intelligence services who seek to gain an economic competitive advantage in the marketplace through espionage.

The Boeing Company today is a strong and successful company, and the number one U.S. exporter. I am confident that we can compete successfully in the global marketplace as long as that marketplace is not distorted by another anti-competitive factor, namely the benefit gained through foreign espionage.

The Boeing Company is not dependent today nor should we be in the future, on the U.S. Intelligence Community to acquire for us technological, marketing or economic information about our competitors. We must, however, rely on our government to help protect us from foreign spies who wish to tilt the tables in favor of their own national industries by stealing our technology, our processes and materials, and our marketing strategies and plans.

The defensive shield, if you will, is what we think is the proper role of our government to play. We wish only to be able to protect our own secrets and hard-earned competitive advantages. We do not believe it is either appropriate or necessary to secure in a clandestine fashion, the secrets of our competitors.

Some may ask why not take advantage. The answer, we believe, is straightforward. There are far too many trade-distorting influences in the global marketplace today. A great deal of our effort goes towards working with the United States government to eliminate those distortions seeking the so-called level playing field. We do not wish to introduce another whole category of potential disruptions to this tenuous international market structure.

Americans have long held the belief that we can hold our own, and indeed even prevail in international competition, when we are given a fair chance to harness the natural and intellectual resources which reside in this country.

I would ask this Committee to use its considerable influence to see that we are protected from those nations who would seek to gain economic advantage through espionage. The vital counterintelligence role played by our government agencies must be preserved and strengthened. If our government can provide us with more and better information about the targeting of our company and our industry by foreign intelligence services, we can take appropriate steps to protect the competitive advantages we have won through our own hard work.

Mr. Chairman, thank you very much for your time in allowing the Boeing Company to share our views.

Chairman DECONCINI. Thank you.

Mr. Blay, do you have any statement you are going to make?

Mr. BLAY. I do not have a prepared statement. I would be willing to answer any questions.

Chairman DECONCINI. Okay.

We will now hear from Mr. Thomas Faught, Jr., who is managing partner of Faught Management Group, and partner in Boyden Associates. He is also a former Assistant Secretary of the Navy—that will please the Vice Chairman—and served as head of the National Center for Advanced Technologies.

Mr. Faught.

STATEMENT OF THOMAS FAUGHT, JR., FAUGHT MANAGEMENT GROUP, BOYDEN ASSOCIATES

Mr. FAUGHT. Thank you, Mr. Chairman. I also shall be brief here and summarize some of the notes I have made in my opening statement.

I have had about 33 years of foreign business experience and I have taken the liberty, if I may, of broadening this a little bit beyond information or intelligence per se, because following the questions that were presented to me by the Committee, it asked to place the intelligence or information subject in some type of reference as to what the U.S. industry or business community looks to from the government to improve competitiveness in the broadest sense.

I think the first thing that we should take as background is that American businessmen themselves, or businesswomen, must evidence a seriousness of purpose before they depend or look to anyone for help. So often has been the case, someone in Pittsburgh, my home town, and other places, will call Washington and be very upset because they can't get the right telephone number or something to seek the price of whatever their product might sell for in Mexico or East Asia or some other place. And when they can't get that practical information by the simple use of a telephone call, they become somewhat irritated and that is where the aspersions originate.

I have taken the opportunity to review this matter with several colleagues in the business community as well as basing it on my own background, and I would like to say first of all that I have

found in fairly lengthy experience abroad that the State Department and Commerce Department have done a yeomanlike job in helping us when we tell them what type of help we need. And I was recently for five weeks in the Far East and I found the people in Beijing and Bangkok and I happen to be in Bombay, to be more than helpful. In fact, when I left they continued to follow up without any further requests.

So I think what bears repeating at the outset, that what the government is doing for most of us at least should have a very strong applause from the U.S. business community.

The questions themselves, I agree with the previous speaker. I have talked to these people and we are also in accord that the idea of taking the U.S. intelligence assets and using those to collect in a clandestine or covert fashion information to help us is not only reprehensible, but also as the Senator pointed out, fairly costly. And if we got right down to it, it would be extremely difficult to do.

First of all, each of our countries are specific in the type of competition they have. Each of our U.S. companies are very specific in the type of intelligence and data they require. So I think it would be at best an exercise in fairly gross futility.

We do, and I think it is well within the capability and abilities of the U.S. Government, we do look to have our own proprietary interests protected. And as the Senator pointed out about the French connection, so to speak, that I think brought us up all in the business community somewhat short as to how that was going on and how precise that attack and that program is being carried out by what had hitherto been considered an ally.

So I think on the one hand we do not need covert assistance. We don't think it is the thing to do and we don't think it would be practical in its implementation.

I would like to review five points where I think the government could help us, and these are in the broadest context of the government's ability to help our competitiveness.

First of all we definitely do need help in protecting our intellectual property rights. I have found in the cases where this has been discussed within U.S. companies, a mixture of responses. They all want help. We all want help. But in truthfulness, recently in a major eastern country, I was told that yes, we have a high tech product, it is being manufactured, it is being copied. In fact in this one case it was being copied to the point of almost the only physical evidence of being other than the original U.S. product was one digit removed from its nomenclature. The technology wasn't there, nor was the quality there. But nevertheless for domestic purposes at least, this product was being copied and with intent to be sold in this country. In that country.

When asked what could the U.S. Government do about this, the answer was well, hopefully not very much. We have a good position in this foreign country. It is a very large and growing market to us. And we just don't want to upset the applecart. And we're afraid that if we really achieved the purpose of pressure by the government to bring this to the fore, it might cost us more than it is worth. And most American companies as well as the one with which I spoke, professed that their strategy is to stay ahead tech-

nologically. We'll beat them at their own game and we'll keep producing better product and better quality at lower cost. And that I think is generally the tacit policy of most U.S. firms.

Secondly, we need to simplify the export licensing program including the coordination process. I am sure that the Committee is aware of this, but it is a very strong competitive disadvantage when you are faced today in a market where we no longer have a key technological edge of magnitude with companies in Europe and Japan, and yet it takes us so long to process an export license.

I was talking recently with a company in the United States which is a foremost leader in technology in the manufacturing technology area—machine tools. Senator, it happened to be from your state. They experienced, after equipment had been purchased, anywhere from six months to nine months delay in getting their export license to sell this, to send this equipment to this country, to this company. In fact, it was a company that our friends from Boeing had put together to build Boeing aircraft. And Boeing had specified certain types of equipment. And yet we had this difficulty of getting an export license to get that equipment in place and produce the product.

Thirdly, it will be necessary to compete internationally to sustain adequate levels of export subsidy funding, and that is in real terms, and provide the flexibility in subsidy applications. In those two areas I am speaking largely of the Export-Import Bank. Now whether the Export-Import Bank handles it or not, it should be necessary to reestablish some form or type of concessionary financing or tied aid program.

We had something underway which was fairly effective 15 to 18 years ago, and I would suggest that the Committee and the Congress and the Senate rethink that to bring that back into fact.

Fourth, adopt some selected cooperative government-industry practices as currently carried out by the UK, Japan, France and Germany, in aggressively marketing U.S. products and services in foreign countries.

I don't mean, again, that we want to have clandestine intelligence. But what I mean is the Ambassador in the country or his foreign service officer be sufficiently well apprised of what business interests are and what's going on in the country so they can introduce us to people who are making the decisions and people who are influential in how that country's industrial development is occurring.

Fourth, we need legislation enacted aimed at assuring significant increases in private U.S. investment in research and development and plant modernization. And at motivating greater export sales. These steps have been taken in the last 20 or 30 years, and there's certainly advantages to be realized in what we already have. But I would submit that in order to compete effectively, additional fiscal encouragement and further liberalization of antitrust legislation would be most helpful in this competitive environment.

Lastly, as an overall suggestion, I would like to see us get out of the ideological crack we are in concerning these comments and buzz words, such as winner and losers, fairness and industrial policy and some of these other things, which tend to constrict our

thinking and get us in a somewhat subjective role and thought process rather than being as objective as we should be.

I think my other points are pretty well stated in the memorandum I submitted and I, too, want to thank you again for the opportunity and look forward to answering your questions.

Thank you.

[The prepared statement of Thomas F. Faught, Jr. follows:]

PREPARED STATEMENT OF THOMAS F. FAUGHT, JR.

STRENGTHENING WORLDWIDE U.S. INDUSTRIAL COMPETITIVENESS

Mr. Chairman, honorable members of the Senate Select Committee, Committee staff members and fellow panelists. My name is Tom Faught. I am the Managing Director of Faught Management Group, and am most pleased to participate in this hearing. I commend the Committee for its consideration of this critically important and timely issue. I have had the pleasure of becoming acquainted with several of the Committee members during the 1980s when I was CEO of Dravo Corporation and, later, as Assistant Secretary of the Navy.

I bring to this hearing over 35 years of international business experience, most of which involved direct competition with foreign countries and companies which today represent principal U.S. industrial rivals. It is well to remember in discussing American industrial competitiveness that the business culture in most of these countries differs substantially from our own. The key aspect of this cultural difference is the strategically-integrated, economically-tied relationship which exists among their governments, industries and financial institutions. There are both competitive advantages and disadvantages in such cultural relationship. We in U.S. business believe the "level playing field" we seek in international competition can best be accomplished through strategic cooperation between government and industry. The disadvantages of these foreign cultures far outweigh their advantages.

The Committee staff has furnished us several questions relating to possible government steps aimed at assisting corporate America in improving its global competitiveness. My prepared remarks relate generally to these questions.

I have taken the opportunity to review this overall subject with several senior business acquaintances. In broad strokes, we are in agreement. Unanimity was lacking only in the method of response to some of the queries, not in substantive content.

My business acquaintances and I agree on praise for the high and continuing improvement in the quality of the U.S. Commercial Officers and Counselors abroad. These improvements are evident in the enhancement of their business acumen, in their enthusiastic willingness to assist U.S. business interests and in the useful information which they furnish the business community.

Now to the questions. In general they deal with three areas, namely the identification of business information needed, the collection, analysis and distribution of such information, the costs and risks of collecting and disseminating such data.

Let's first summarize the areas which govern the ability of U.S. industry to compete internationally. First there is the design, quality, cost and technological aspects of our products and services. Second is our ability to promote, market and sell these products, including our capability and willingness to modify them where necessary to meet the needs of specific markets. And third is our skill to negotiate bids, tenders and contracts, including "sharp pencil" financing. Essential to success is our ability to maintain security and confidentiality; to protect our technological, proprietary edge and to keep our negotiating (and financing) cards close to our vest.

Now, in which of these areas does American industry need help, in which can the U.S. Government assist and, in my judgment of equal or greater importance, in which areas should it provide assistance? To "cut to the bottom line" before continuing, at this time I see no value in the U.S. government engaging in clandestine industrial or economic intelligence activities, although I believe the government well could have a role in protecting American industry from foreign intelligence collection.

For the good of our people and the future of our country, industry and government must ensure that the U.S. establishes and maintains worldwide technological leadership. Thus, Government should employ all reasonable means to cooperatively carry on advanced product and process research and development and to protect U.S. intellectual property rights worldwide.

Second, in exploiting the competitive advantages of American products and processes the Government should continue to encourage export sales of American-made products. This assistance would range from streamlining our out-dated and cumbersome export licensing system to actively pressuring foreign governments to buy our products and services as long as they are of competitive quality and price.

It will come as no surprise to the Committee that U.S. industry today is fighting for its technological future. We no longer enjoy the technological edge of magnitude in several critical "multiplier" industries which we possessed as recently as a decade ago. The technological advances, improved marketing prowess and strong, coordinated government financing support of Japan, the UK and France in particular, and of Germany and Italy in certain instances, equal or exceed our own. They are aggressive in penetrating markets which heretofore have been America's domain. This is true particularly in major, strategically important areas such as China, and Pacific Rim and South and Southeast Asia.

Focusing on the first of the Basic Questions we received—"In general, where are improvements needed in U.S. Government efforts to strengthen the competitiveness of U.S. industry?"—I submit that improvements in government action mainly are required to:

Protect Intellectual Property Rights.

Simplify the Export Licensing Program, including the coordination process.

Sustain adequate levels of export subsidy funding in real terms, provide flexibility in subsidy applications and re-establish some type of concessionary financing/tied aid program.

Adopt selected cooperative government-industry practices of the UK, Japan, France and Germany in aggressively marketing U.S. products and services in foreign markets.

Enact legislation aimed at ensuring significant increases in private U.S. investment in research and development and plant modernization, and at motivating greater export sales.

Get us out of the ideologue crack we're in concerning "winners and losers", "fairness", "industrial policy" and so forth, and establish practical cooperative policies and strategies based on what best makes sense for the future of our nation.

Straight-forward steps by the Government to achieve the above improvements would go far to strengthen U.S. competitiveness. An example of a constructive program is the one underway in our Beijing Embassy. Each Thursday the Commercial Affairs Officer and his staff meet with U.S. businessmen—those visiting as well as operating in China—to review and discuss the evolving business environment and opportunities, upcoming prospects and so forth. It would be useful if this practice was extended to other countries.

Another contribution by the State-Commerce teams in Beijing, Bombay and Bangkok—and which I personally have found of great value—is information regarding the most important contract and technical decision-makers in their respective countries. In many cases the officers heading these teams provide U.S. businessmen personal introductions and meeting arrangements with these key individuals. It certainly is not lost on these foreign officials that the U.S. Government in supporting U.S. business in these instances.

Thus, in my judgment, I have found the assistance provided by our Government regarding business, industrial and economic information—particular the verbal briefings and assistance provided by our Embassy personnel—to be timely and useful.

In closing, I would emphasize that the real help which our Government could provide U.S. business regarding its drive for increased worldwide competitiveness centers on protecting proprietary rights, simplifying the export licensing program, sustaining and supplementing export-related financing, employing some of the cooperative practices of major countries against which we compete and enacting legislation to increase research and development, plant modernization and foreign sales.

Without doubt, information is important. However, the data already provided by government organizations, complemented by information obtained by our individual companies, appear to afford sufficient background for business to plan competitive action and for government to take remedial steps, e.g., to correct unfair trade practices, protect proprietary rights and so forth, I have difficulty appreciating what would be the value of economic intelligence collection efforts given the difficulty of determining the type or nature of data to seek, the highly specific needs of individual companies, the challenges of equitable dissemination and the probable cost involved, not to mention the possible damage to international trade and political relations which such efforts might incur; a question which only you have the background and experience to address.

Again, thank you for the privilege and the opportunity to participate in these deliberations.

Chairman DECONCINI. Thank you.

Mr. Lowenthal, who is senior specialist in U.S. foreign policy from the Congressional Research Service and a former Deputy Assistant Secretary of State for Intelligence and Research.

Mr. Lowenthal.

STATEMENT OF DR. MARK M. LOWENTHAL, SENIOR SPECIALIST IN U.S. FOREIGN POLICY, CONGRESSIONAL RESEARCH SERVICE

Dr. LOWENTHAL. Thank you Mr. Chairman, thank you Senator Warner for this opportunity to testify on the issue of the proper role of intelligence in economic competitiveness. I too offer a summary of my statement.

Much of what I say about the Community is familiar to the members of the Committee and their staff, but as this is an open hearing, I believe it is important to put this in the public record.

Since the end of the Cold War, the issue of a greater role for the Intelligence Community in economics has been widely debated. No one questions the importance of economic issues. However, there is no broad consensus about the Intelligence Community's proper role. Too often the issue has been oversimplified by calls for "more economic intelligence," unsupported by any knowledge of long standing activities in that area or of the likely utility of these intelligence activities and products to economic problems or issues.

I do not believe a persuasive case has yet been made that U.S. economic competitiveness requires large scale aid from the Intelligence Community. Many of the economic problems we face at home and abroad are not responsive to increased intelligence information flowing from the government to business. Nor has U.S. industry been notably willing to expand its own activities amid the rich and growing number of available open sources.

There is a role for defensive operations, counterintelligence, but beyond that I would argue that a number of fundamental problems suggest that at the very least we engage in a more detailed and systematic study of the issue before making any decision. I would ask business leaders many of the questions posed by this Committee in their letter.

How much open source collection do you do on your own? if you are not doing it, why not?

Can you provide details as to the exact nature of the foreign espionage threat you believe you are currently facing?

Can you specify losses and their results in terms of competitiveness? What sorts of information do you believe the Intelligence Community can provide that would improve your competitiveness? How would you use such information if it were available?

Are you willing to accept as part of the price of obtaining such information a greater government role in overall industrial policy?

I would also pose a set of questions to policymakers in the Executive and Congress. Can such activity be accepted within the current constraints of the intelligence budget? If not, what areas can be cut back in exchange?

Is the United States willing to accept the diplomatic consequences of some of these activities, particularly the collection of covert information to be provided to U.S. businesses?

Finally, what are the longer term implications for government-business relations of this sort of activity?

Despite the virtual deluge of books written about management in the last 30 years, the concept of competitiveness has changed little since Adam Smith described the "invisible hand" in *The Wealth of Nations* in 1776—a superior product at a fair price.

As difficult as it may be to admit, some of the problems that U.S. industries have faced overseas have been self-inflicted. When Chrysler refuses to make more right-hand drive cars for Japan or GM sees no need for its own marketing distribution in Japan, the issue is not inadequate Intelligence Community support.

Conversely, when Xerox captures 90 percent of the high speed copiers market in Japan, it is simply the success of market research and a better product.

Companies both here and abroad already have access to a wealth of statistical data and to scientific and technical information regarding marketing opportunities overseas and new technological breakthroughs that may be relevant to their competitiveness. There is reason to believe that U.S. businesses may not be making the best use of government-provided data that are already available.

Another issue that is raised is foreign economic espionage. Few would deny that it is a problem. However, the debate over this issue is filled with too much emotion and too little hard data. Much of the open source information about foreign espionage is anecdotal and repetitive.

This is not to suggest that the activity does not go on, or that it is not harmful. But it is also interesting to note that the stories one reads are too often the same few stories, and we have heard two of them already mentioned here today. In the intelligence business, this is known as "echo:" the same story feeding on itself as it gets repeated and repeated.

Before the Intelligence Community or its policy masters can contemplate any type of activity in regard to foreign espionage, U.S. industry should be forthcoming with detailed information about the problems they have been facing. What has been lost and what has been the cost? For example, the American Society of Industrial Security's Committee on Safeguarding Proprietary Information reported that in 1992, the 32 largest companies lost data valued at \$1.8 billion. That is a large sum of money. But in the context of a \$6 trillion economy, that is the equivalent of three one-hundredths of 1 percent of USGDP. You would have to expand that figure 30 times, to \$60 billion, which nobody is suggesting is the right figure, to be the equivalent of 1 percent of GDP.

Further, according to the same study, 70 percent of the cases had nothing to do with foreign economic espionage. And over half of all cases involved current or former employees. As we know from the experience of the Intelligence Community, there is little defense against these walk-ins.

Finally, it is ironic that at the very time when the Intelligence Community is actively looking at exploiting more open sources as

a means of collecting smarter and reserving classified systems for the tasks only they can do, U.S. businesses are clamoring for more classified data. Before these demands are satisfied it would be incumbent upon industry to answer the questions I posed above.

It is also not clear that many U.S. industries understand the nature of intelligence products in relation to their own needs. As part of my own on-going interest in this field, I wrote to over 70 companies in the Fortune 500, asking whether or not they currently gathered, analyzed and disseminated on a systematic basis the wealth of open source material now available. The conclusion I reached is that to a large extent some U.S. businesses are asking the government to do things that are entirely within these businesses capabilities, but not within their high priority needs or desires.

As we all know, intelligence is a costly affair. Even for a limited open source and analytical capability, we collect more than can be analyzed, and we produce more than can be read. That is the nature of intelligence. It may be that for U.S. businesses to engage in such activity in-house runs counter to the well noted trend within U.S. industries for quarterly bottom line figures that show steady profits rather than long term investments with pay-offs down the road. But that, too, may not be a sufficient reason for intervention by the Intelligence Community.

I would note, as Senator Metzenbaum pointed out, that there are some in the Intelligence Community who find the prospect of engaging in greater support to business attractive, if only as a means of "justifying the Community in the post-Cold-War world." Such an argument is fallacious and self-defeating. There is little need to justify the concept of intelligence as a necessary and legitimate government function. Our victory in the Cold War in no way ends the need for or the role of the Intelligence Community. The nature of the problems have changed. The role of intelligence has not. Nor is it likely that indulging in greater economic intelligence will somehow save the Intelligence Community.

Let me address briefly the three main intelligence activities. The most important remains analysis. A fundamental question for economic analysis that must precede the issue of providing it to U.S. business is whether it is getting a greater priority among senior policymakers. There is no evidence to suggest that the Clinton Administration is any better organized or any more accessible to economic intelligence than were its Cold War predecessors.

Beyond that, should some of this analysis be provided to business? This concept raises a number of issues with which the Committee is familiar. Can this be done with proper regard for safeguarding sources and methods? How can the U.S. Government decide which companies either deserve or need the information and are best placed to make the best use of it? Or, alternatively, should it simply be given to all concerned companies?

In the age of multinational corporations, how does one determine what constitutes a U.S. company? Is Ford, with its wholly owned British subsidiary a U.S. company? Is General Motors, given its on-going joint venture partnerships with Toyota, Saab and Opel?

Finally, does this not put the U.S. Government in the position of imposing industrial policy to some extent as there will be the expectation that companies will act on the information provided by

the Community? The argument is made that other governments provide analogous information to their industries. That may be so, but their economies are structured differently from ours, allowing for much greater government control. Does any U.S. company want to deal with a U.S. bureaucracy as powerful as Japan's MITI? There will be quid pro quos expected by the government for this gift of intelligence.

Some argue that classified intelligence analysis is not the issue, but that the Intelligence Community can serve a useful role as a clearing house for a great variety of open source information. Is this the proper role for the Intelligence Community when a number of other government agencies ranging from the Commerce Department to the Library of Congress may be more appropriate?

And again, if this task is levied on the Intelligence Community, how will this affect their other on-going responsibilities that only they can carry out?

Defensive operations, counterintelligence, is the one area around which there is some consensus. It seems legitimate to expect that the Intelligence Community should play a role in warning U.S. companies that they are being targeted by foreign governments or companies. But if we are to sanction such a role and perhaps expand it, U.S. businesses must do their share. For both good and bad reasons ranging from concerns about proprietary information to corporate pride, U.S. businesses have been reluctant to admit to specific losses.

As we did on occasion with the Soviet Union during the Cold War, it is sometimes necessary to embarrass the other side by exposing their operations. This serves the dual purpose of both punishment and deterrent. My understanding is that, as a rule, U.S. businesses have opposed this tactic. Public actions, such as the Hughes Aircraft's refusal to participate in the Paris Air Show, are necessary and effective. But they require the cooperation of industry.

Finally, there are offensive operations, covert collection of information. The idea of conducting such operations largely for the benefit of U.S. businesses again raises a number of important and difficult questions, including, does not engaging in such activity have the effect of justifying similar foreign actions? The oft heard reply that it is necessary to fight fire with fire is not a sufficient reason. If there is to be a moral core to our policy, we cannot indulge in behavior that we find reprehensible in others. And if this code of conduct was valid in World War II and the Cold War, then it should be valid now.

And again, during a period in which the intelligence budget is shrinking, will not an increase in collection of this type severely strain the collection system and possibly detract from other areas that may, in terms of national security, be more pressing?

Mr. Chairman, the debate over the degree to which the U.S. Government via the Intelligence Community should assist competitiveness is a valid one. To date, however, there has been more emotion than fact. I would argue that the burden rests on U.S. business to indicate first, what they are doing for themselves in the burgeoning field of open information. Second, if they are suffering losses, exactly what and to whom. And third, the types of information they

need and how they would use it. This detailed case has yet to be made and, even then, there remain serious questions for Congress and the President to consider before taking any further steps.

Thank you, Mr. Chairman.

[The prepared statement of Dr. Mark M. Lowenthal follows:]

STATEMENT OF DR. MARK M. LOWENTHAL—THE ROLE OF THE U.S. INTELLIGENCE COMMUNITY AND U.S. ECONOMIC COMPETITIVENESS

Mr. Chairman, Senator Warner, thank you for inviting me to testify on the issue of the proper role of the U.S. Intelligence Community in the effort to enhance U.S. economic competitiveness.

I approach this issue from a dual vantage point. During my service in the Intelligence Community, as a Deputy Assistant Secretary in the State Department's Bureau of Intelligence and Research, I had supervisory responsibility for several offices, including the Office of Economic Analysis. Since my return to the Congressional Research Service, I have devoted much time to the issue of the role of the Intelligence Community in a number of areas in the post-Cold War world, including economics.

Much of what I will say about the Intelligence Community is familiar to the Members of this Committee and its staff but, as this is an open hearing, I believe it is important to put this in the public record.

"MORE" ECONOMIC INTELLIGENCE: SEARCHING FOR THE MAGIC BULLET

Since the end of the Cold War, the issue of a greater role for the Intelligence Community in economics has been widely debated. No one questions the importance of economic issues; however, there is no broad consensus about the Intelligence Community's proper role. Too often the issue has been over-simplified with calls for "more" economic intelligence, unsupported by any knowledge of longstanding activities in that area or of the likely utility of these intelligence activities and products to economic problems or issues.

One of the most important duties for all intelligence managers is to ask the nature of the policy problem set before them. Before one calls for "more" economic intelligence, it is legitimate to ask: What are the problems the Intelligence Community is being asked to address?

There is broad consensus that our most pressing domestic economic problem is the budget deficit. However, it is difficult to see any substantial role for economic intelligence here. Foreign economic intelligence may provide some useful data on the availability of foreign money to fund near-term obligations, but this has little to do with the core issue facing policy makers in Congress and the Executive: taxes and spending.

When we turn to the role of the United States and of U.S. companies in the global economy, the calls for intelligence assistance become louder. Proponents argue that greater intelligence support will provide U.S. companies with a greater competitive edge, or that it will "even out" a now uneven playing field. These concerns are rather vague, at least in terms of finding ways to apply intelligence to them, and, I believe, difficult to substantiate.

Despite the virtual deluge of books written about management in the last thirty years, the concept of competitiveness has changed little since Adam Smith described the "invisible hand" in *The Wealth of Nations* in 1776: a superior product at a fair price. As difficult as it may be to admit, some of the problems that U.S. industries have faced overseas have been self-inflicted. For example, during their trip to Japan with President Bush, Lee Iacocca was asked: "Why doesn't Chrysler make more autos with right hand drive to sell in Japan?" and Robert Stempel was asked: "Why doesn't GM have its own marketing distribution network in Japan?" Both had the same answer: "Because we don't sell enough cars in Japan to justify it."

By way of contrast, look at the success of Xerox, which produced its 5100 photocopier specifically for the international market. They strove to build a machine that could copy Japanese characters and would use the thinner Japanese paper. As a result, the Xerox 5100 has captured nearly 90% of the high-speed copier market in Japan.

In neither of these cases—U.S. autos of the Xerox 5100—was foreign intelligence a requirement. All it took was a bit of elementary market research and a superior product.

Companies, both here and abroad, already have access to a wealth of statistical data and to scientific and technical information regarding marketing opportunities

overseas and new technological breakthroughs that may be relevant to their competitiveness. There is reason to believe that U.S. businesses may not be making the best use of Government-provided data that are already available.

Another issue that is raised is foreign economic espionage. Few would deny that it is a problem. However, the debate over this issue is filled with too much emotion and too little hard data. First, much of the information one reads in open sources about foreign economic espionage is anecdotal and repetitive. This is not to suggest that such activity does not go on, or that it is not harmful. But it is also interesting to note that the stories one reads are too often the same three or four familiar cases. In the intelligence business this phenomenon is called "echo:" a story feeding on itself as it gets repeated and repeated.

Second, it is also important to recognize that stealing economic secrets is not going to stop. One of the prices of being a technology leader, as the United States still is, is that one also becomes an espionage target. This had been true for centuries, and at times the United States has been the villain, not the victim. To cite one famous example, the New England cotton textile industry in the United States was founded by such espionage. When Britain dominated—and, indeed, invented—the textile industry in the late 18th century, it introduced laws forbidding the export of drawings of textile machines and the emigration of textile workers. At the same time, bounties were offered in the United States for such information. Samuel Slater, a British textile worker, successfully emigrated in 1789, carrying the plans in his head. He set up his first mill in Rhode Island and built others elsewhere. Thus was the New England textile industry founded.

Before the U.S. Intelligence Community or its policy masters can contemplate any type of activity in regard to foreign espionage—either offensive or defensive—it is incumbent on U.S. industries to be forthcoming with detailed information about the problems they have been facing. What has been lost and what has been the cost? For example, the American Society of Industrial Security's Committee on Safeguarding Proprietary Information reported that in 1992 the 32 largest companies lost data valued at \$1.8 billion. That is a large sum of money, but in the context of a \$6 trillion economy, it is the equivalent of 3/100's of 1% of U.S. GDP. One would have to increase that figure over 30 times, to an equivalent loss of some \$60 billion—which no one has suggested is an accurate estimate—to approximate 1% of U.S. GDP. Further, according to this same study, 70% of the cases had nothing to do with foreign economic espionage. And over half of all cases involved current or former employees.

The current complaint of General Motors against its former employee, Jose Ignacio Lopez de Arriortua, is instructive. If, as is alleged, he took proprietary documents with him, what amount of U.S. counterintelligence likely would have prevented this? As we have learned over and over in the Intelligence Community, no amount of internal security and periodic rechecks can completely or effectively stop an employee who wants to deal in secrets. Moreover, if, as the Washington Post reported, the Clinton administration seeks to make this a test case in foreign economic espionage, it is likely fighting the wrong battle, at least in terms of intelligence issues. Lopez's defection to Volkswagen and his alleged theft of proprietary information says much about upper management at General Motors and may say much about Lopez himself, but it appears to say little about foreign economic espionage.

Finally, there is something ironic in the fact that at the very time when the Intelligence Community is actively looking at exploiting more open sources as a means of collecting smarter and reserving classified systems for the tasks only they can do, U.S. businesses are clamoring for more classified data. Before these demands are satisfied it would be incumbent upon industry to specify the types of information they require, how they would use it to enhance their competitiveness, and whether or not much of that same information is not available through open sources.

Further, it is not entirely clear that many U.S. industries understand the nature of intelligence products in relation to their own needs. As part of my own ongoing interest in this field I wrote to over seventy companies in the Fortune 500, asking them whether they had an office or other unit whose main purpose is to keep abreast of, report and analyze current events, trends, etc., as opposed to long-term market research or similar analyses, that might affect their business; the types of vehicles and audiences for such information if it was produced; whether there was a "feedback" channel; and, if they did not engage in such activity, whether such an enterprise might not be useful over and above available newspapers, CNN, etc. My purpose was to ascertain whether or not U.S. companies were willing to make efforts on their own to gather, analyze and disseminate, on a systematic basis, the wealth of open source material now available.

Although the overall response was less than I had hoped, the general trend was clear. Only three companies engaged in the types of activities I had described; five did so to a limited extent; four had widely decentralized efforts of varying degrees; and three had no such activities at all. Several respondents questioned the utility of such activity to their companies.

The conclusion I have reached is that, to a large extent, some U.S. businesses are asking the government to do things that are entirely within these businesses' capabilities but not within their high priority needs or desires. As we all know, intelligence is a costly affair—even for a limited open source collection and analytical capability. We collect more than we can analyze; we produce more than can be read. That is the nature of intelligence. It may be that for businesses to engage in such activity in-house runs counter to the well-noted trend within U.S. industries for quarterly bottom-line figures that show steady profits, rather than long-term investments with pay-offs down the road. But that, too, may not be a sufficient reason for intervention by the U.S. Intelligence Community.

THE NATURE OF ECONOMIC INTELLIGENCE

We can also turn the problem on its head and look at available Intelligence Community assets and their applicability to competitiveness. I would note that there are some in the Intelligence Community who find the prospect of engaging in greater support to business attractive, if only as a means of "justifying" the Intelligence Community in the post-Cold War world. Such an argument is fallacious and self-defeating. There is little need to justify the concept of intelligence as a necessary and legitimate government function. Our victory in the Cold War in no way ends the need for, or role of, the Intelligence Community. The nature of the problems have changed, but the role of intelligence has not. Nor is it likely that indulging in greater economic intelligence will somehow "save" the Intelligence Community.

There are three different types of intelligence roles that are at issue vis-a-vis economics and competitiveness:

- Economic analysis, the provision of timely, accurate information to policy makers;
 - "Defensive" operations, i.e., counterintelligence; and
 - "Offensive" operations, i.e., covert collection of pertinent information.
- I will address each of these in turn.

Economic Analysis

Analysis of all sorts is the primary and largest function of the Intelligence Community. The Intelligence Community has been producing a variety of economic analyses for years, in each of its major analytical centers. Throughout the Cold War, the major problem was not that insufficient economic analysis was produced, but rather that it rarely had sufficient priority with policy makers. Other issues—primarily the Soviet Union and associated problems, but also the Middle East, terrorism, etc.—were always more compelling and more assured of getting senior policy maker attention. Even for the 10 years when we had two successive Secretaries of State who had been Secretaries of the Treasury—George Shultz and James Baker—economic issues rarely were the main focus of their attention.

Thus, a fundamental question for economic analysis—one that must precede the issue of providing it to U.S. businesses—is whether it is getting a greater priority among senior policy makers.

The Clinton administration is the first to take office since the end of the Cold War. President Clinton and his senior appointees across the board—including Secretary of State Christopher—have said that their primary concern is economic issues. But in terms of the degree to which economic intelligence analysis has any better access than it had in the past remains uncertain. It is simply the nature of the foreign policy process that more immediate and glaring issues—like Bosnia, or Haitian refugees—always receive more attention. Nor is there any indication that new bureaucratic entities, such as the National Economic Council, have altered the situation. First, the National Economic Council, as created by E.O. 12835, is a coordinative group, not a policy making group. Second, its membership is so large, including more than half of the Cabinet, along with eight other senior officials, as to question its effectiveness. One of the rules of government one learns by experience is that large bodies discuss policy; small bodies make policy. The National Economic Council is a large body.

Finally, we return to the issue central to today's hearings: should some of this analysis be provided to U.S. business? This concept raises a number of issues with which the Committee is familiar:

- Can this be done with proper regard for safeguarding sources and methods?

• How can the U.S. government decide which companies either deserve or need the information or are best placed to make the best use of it? Or, alternatively, should it simply be given to all concerned companies?

• In this age of multinational corporations, how does one determine what constitutes a "U.S." company? Is Ford, with its wholly-owned British subsidiary, a U.S. company? Is General Motors, given its ongoing joint venture partnerships with Toyota, Saab and Opel?

Finally, does this not put the U.S. government in the position of imposing industrial policy to some extent, as there will be the expectation that companies will act on the information provided by the Intelligence Community? The argument is made that other governments provide analogous information to their industries. That may be so, but their economies are structured differently from ours, allowing for much greater government control. Does any U.S. company want to deal with a U.S. bureaucracy as powerful as Japan's MITI? There will be *quid pro quo's* expected by government for this "gift" of intelligence.

Some argue that classified intelligence analysis is not the issue, but that the Intelligence Community can serve a useful role as a clearinghouse for a great variety of open source information. I believe it is legitimate to ask if this is the proper role for the Intelligence Community, when a number of other government agencies, ranging from the Commerce Department to the Library of Congress, may be more appropriate. And, again, if this task is levied on the Intelligence Community, how will this affect their other ongoing responsibilities that only they can carry out?

"Defensive" Operations

Counterintelligence is a vital function and there clearly has been a shift from what was the Soviet threat towards new concerns. As the committee well knows, at the end of the Cold War the FBI shifted large numbers of agents from Soviet counterintelligence to organized crime issues. It seems legitimate to expect that the Intelligence Community should play a role in warning U.S. companies that they are being targeted by foreign governments or companies.

But if we are to sanction such a role and perhaps expand it, U.S. business must do its share. For both good and bad reasons—ranging from concerns about proprietary information to corporate pride—U.S. businesses have been reluctant to admit to specific losses. As we did on occasion with the Soviet Union during the Cold War, it is sometimes necessary to embarrass the other side, to expose their operations. This serves the dual purpose of both punishment and deterrent. My understanding is that, as a rule, U.S. businesses have opposed this tactic. Public actions, such as the U.S. refusal to participate in the Paris Air Show, are necessary and effective, but they require the cooperation of industry.

"Offensive" Operations

As noted, I use this phrase to mean the covert collection of information, and to distinguish it from counterintelligence activities. The idea of conducting such operations largely for the benefit of U.S. businesses again raises a number of important and difficult questions. Some are the same as those raised above concerning economic analysis. It also raises a number of other important questions as well.

Does not engaging in such activity have the effect of justifying similar foreign actions? The oft-heard reply that it is necessary to fight fire with fire is not a sufficient reason. If there is to be a moral core to our policy we cannot indulge in behavior that we find reprehensible in others. If this code of conduct was valid in World War II and during the Cold War, then it should also be valid now.

During a period in which the intelligence budget is shrinking, will not an increase in collection of this type severely strain the collection system and possibly detract from other areas that may, in terms of national security, be more pressing?

CONCLUSION

In summary, I do not believe that a persuasive case has yet been made that U.S. competitiveness requires a large scale aid from the Intelligence Community. To a very large degree, many of the economic problems we face at home and abroad are not responsive to increased intelligence information flowing from the government to business. Nor has U.S. industry been notably willing to expand its own activities amid the rich and growing number of open sources available. There is a role for defensive operations—counterintelligence. But beyond that, I would argue that a number of fundamental problems suggest that, at the very least, we engage in a more detailed and more systematic study of the issue before making any decision. I would ask business leaders many of the questions posed by this Committee in their letter:

How much open source collection do you do on your own? If you are not doing it, why not?

Can you provide details as to the exact nature of the foreign espionage threat you believe you are currently facing? Can you specify losses and their results in terms of competitiveness?

What sorts of information do you believe the Intelligence Community can provide that would improve your competitiveness? How would you use such information if it were made available?

Are you willing to accept, as part of the price of obtaining such information, a greater government role in overall industrial policy?

I would also pose a set of questions to policy makers in the Executive and Congress:

Can such activity be accepted within the current constraints of the intelligence budget? If not, what areas can be cut back in exchange?

Is the United States willing to accept the diplomatic consequences of some of these activities, particularly the collection of covert information to be provided to U.S. businesses?

What are the longer-term implications for U.S. government-business relations of this sort of activity?

Mr. Chairman, thank you again for this opportunity.

Chairman DECONCINI. Mr. Lowenthal, thank you very much. Gentlemen, thank you. The testimony is very helpful to this Senator.

I am going to commence questioning and we will do it in ten-minute intervals here, as many as anybody wants, and the witnesses will tolerate.

Mr. Hayden and Mr. Faught, let me ask you this question. Should this country make a determination that a foreign country is in fact targeting some industry here, such as the aircraft industry, and that this is clear to our intelligence gathering apparatus, or the Commerce Department or what have you—should we, number one, retaliate in order to deter those acts of espionage, or should we publicly expose the actions in order to deter them? Further, what should we convey to the American target if we have concluded that in fact a foreign company or a foreign government, particularly a foreign government, is involved in such activities?

Mr. HAYDEN. Mr. Chairman, I think if the Intelligence Community does have hard data that a company or an industry is being targeted by a foreign interest, it is incumbent upon them to advise in a very prompt fashion, that company or industry.

Chairman DECONCINI. Well, do they advise the company that they are actually being targeted or just tell them that we have information that would be of interest to them because somebody is doing this to them, or do our agencies give them the whole thing?

Mr. HAYDEN. Well, under the ideal environment, without disclosing their sources or methodology of how they derived this particular conclusion, they could portray in basically a generic scenario outlining what the risks are, what products are being targeted; and what organization is being penetrated. With this information, a company, through its own endeavors, could take the necessary protective action to preclude this type of penetration or disclosure.

The intelligence information does not have to be classified in my opinion. I think the intelligence agency could structure it in such a way that it would not divulge their significant sources or whatever their concerns would be, but certainly be specific enough that would allow a company to be proactive and take corrective action. As far as retaliation, it could be on a case by case basis, depending on the severity of the offense. After appropriate warnings, does it

still persist. There could be trade sanctions, there could be other types of penalties imposed on that foreign government.

Chairman DECONCINI. Mr. Hayden, what about retaliation, doing the same thing to them?

Mr. HAYDEN. I don't think that would be appropriate—you look at the risk versus the benefits—I think it is a zero sum game.

Chairman DECONCINI. Thank you for that. That is helpful to this Senator. I am in a quandary, because I don't know how to retaliate. Obviously public exposure would be helpful. Perhaps warnings to the company and the country for doing it, or possibly diplomatic efforts, discussions of sanctions, something like that. Am I correct that that is what you're talking about.

Mr. HAYDEN. That's right.

Chairman DECONCINI. Now in your company, Mr. Blay, what do you get from intelligence?

Mr. BLAY. I think that is really the issue we are talking about.

Chairman DECONCINI. Do our agencies come and tell you sometimes?

Mr. BLAY. Sometimes yes, but not on a regular timely basis. I believe it is a question of trust as the Intelligence Community is uncomfortable with sharing information. If they have information where Boeing is vulnerable from an espionage perspective, we would like to know so we can ensure the integrity of our security.

Chairman DECONCINI. You can take care of yourself?

Mr. BLAY. We have security professionals and if we know where the risk is we can take a look at it and see how well we are protecting that information and that is all we are looking for. I think one of the comments was made about the French. I'll give you a classic example. I think perhaps one of the most important things we can do in protecting our information is raise the level of awareness of our people. We do that by pointing out compromising scenarios that have occurred. I think the last time they came to tell me the French are still at it. This has been going on for 30 years. It focuses on one country; one Intelligence Community. We know that many intelligence operations are more astute and successful at what they do than the French. It appears they have been exposed, but have not ceased.

Vice Chairman WARNER. I am missing what you are saying. You say one country being France?

Mr. BLAY. The Intelligence Community is focusing the threat information on France.

Vice Chairman WARNER. And then you used the pronoun "they," they being the government or French industry or what?

Mr. BLAY. They, the Intelligence Community of our government. The Intelligence Community is talking about former intelligence agents of foreign countries that are now very active. We hear about those of the Former Soviet Union, we hear about the Germans, we hear about the Koreans. And yet there is not one word on their activities as targets from our government intelligence services.

I think that when we talk about awareness and we focus on the efforts of one country, we really dilute the message. The best thing we can do to protect our proprietary rights is to raise the level of awareness of our people who are vulnerable.

Chairman DECONCINI. You mean the people, the public in general?

Mr. BLAY. Not the public in general, but those that are targeted and vulnerable.

Chairman DECONCINI. Not the people that work for you.

Mr. BLAY. I am talking about Boeing and we are talking about people throughout private industry that have to protect their proprietary information.

Chairman DECONCINI. Excuse me, you are talking about your employees?

Mr. BLAY. Right.

Chairman DECONCINI. And employees in other sensitive industries.

Mr. BLAY. That's right.

Chairman DECONCINI. Not the public at large?

Mr. BLAY. No. The information provided could risk a sensitive source and if it comes to that point that it could jeopardize a sensitive source, I don't think they should tell us that. If they can find a way to sanitize that information, it should come through. We must develop a relationship with the Intelligence Community where they will share information when we are at risk. That is all we are looking for in intelligence sharing.

Chairman DECONCINI. Mr. Faught, do you have any comments about retaliation or what we should do on a proactive basis?

Mr. FAUGHT. Well, I think one underlying step which the government is taking I think with some degree of effectiveness, and that is as government to government relations are insisting that some of these countries—for example, China—enact and have a legal system which can enforce laws regarding intellectual property rights, for example. Without that as a cornerstone, it is very difficult to attack this problem.

But concurrent with that effort, I agree with these gentlemen that if something is found through whatever sources, in terms of piracy or theft of American technology or anything else relating to our business interests, then I think that should be conveyed to the business.

For the longest time, and I think it still occurs, we businessmen who travel abroad, would not infrequently come back and talk about what we have seen and what we have heard, what we've done, with the Intelligence Community. I can recall doing that as long ago as 1958. So it is a little bit of a two way street.

And when the Intelligence Community, with a big I or a little i, State Department, Commerce, etc., finds out something that, with some credibility behind it, would be injurious to an American company or could be in the future—

Vice Chairman WARNER. Should share it.

Mr. FAUGHT. Should share it.

Vice Chairman WARNER. What else should they do? Should they expose it publicly? Should they go to them diplomatically?

Mr. FAUGHT. Pardon?

Vice Chairman WARNER. Should they go to them diplomatically?

Mr. FAUGHT. To the other country?

Vice Chairman WARNER. To the other country? Should they consider public exposure?

Mr. FAUGHT. I think initially they should go to the appropriate ministry of foreign affairs or trade or whatever and say look, this is the evidence we have, and we want to put you on the alert that we are aware of this and we would expect something to be done about it.

Chairman DECONCINI. Do you think that would work? Do you think—

Mr. FAUGHT. No, I don't think it would. But I think it would—

Chairman DECONCINI. I don't think it would work either.

Mr. FAUGHT. But I think there are steps in exerting pressure before you really get into sanctions and things, because we have to determine what sanctions are worth versus what we are getting out of them.

Chairman DECONCINI. I mean when you have extensive relationships with a country like France or Israel, and you find that they are helping somebody—and we recently had a public exposure of this type of issue—and you take it to their Ambassador or you take it to their finance or trade minister or something, you know, what are you going to do? Are you just going to tell him and hope that good will will correct it. We have seen in some of these instances that nothing happens. In fact, it continues even though there are promises that they will not continue. My question is what do you do when you are confronted with the fact that nothing is going to happen.

Mr. FAUGHT. Well, I think now we're dealing in country specific situations. With France, there is not too much you can do other than embarrass them. But with China, with Thailand, with Indonesia, we are a pretty good market for those people. But I think we have to act with conviction if we are going to go that far. We can't say, well, if you continue doing this, we are going to slap your hands, and then never do anything. I think we have done altogether that too many times.

Chairman DECONCINI. Thank you.

I only have a minute left. Mr. Lowenthal, can you comment?

Dr. LOWENTHAL. Well, my experience tells me that protesting to the ministries is futile.

Chairman DECONCINI. That is my conclusion as well, but I am glad you said it.

Dr. LOWENTHAL. This is the "Louis Renault" defense from Casablanca. They will suddenly be shocked that this activity is going on, and they'll say it is terrible. My sense is the best thing you can do at this point short of retaliation, for which I do not think that you will get a consensus, is to expose their operations and embarrass them. I think the French were frightfully embarrassed by what didn't happen at the Air Show. That is, I think, the most that you can do. Because if you try retaliation you are going to have other businesses saying, they didn't spy on me. Why am I suffering for the fact that they spied on them?

I think you have to be overt about the fact that this is going on and expose it in the hope that that will stop it. And businessmen will have to be more careful. If you travel overseas, don't leave things lying around that you don't want people to read. They need the same defensive briefings we used to get when we went into the Communist Bloc. You know your suitcase was going to be opened

in your hotel room when you were gone. You just took that for granted. So you didn't leave things in your briefcase. Businessmen may have to go through the same sort of indoctrination and stop thinking that it is one happy world.

Chairman DECONCINI. Do you think—I think it was Hughes that boycotted the Air Show, was it not?

Dr. LOWENTHAL. Yes, sir.

Chairman DECONCINI. Do you think that made a real impression on France?

Dr. LOWENTHAL. My sense is that it did. The Paris Air Show is a really high profile opportunity for the French to host this big gathering, to show off their technology. They do have a good aerospace industry. And for a major corporation to snub them and say it is because you are spying, I think that was a real slap in the face to them. And I think it was effective. But you have to be willing to continue doing it publicly. Every so often we would PNG a whole bunch of East Bloc diplomats, as a way of showing displeasure.

Chairman DECONCINI. Senator Warner.

Vice Chairman WARNER. Thank you, Mr. Chairman.

First may I say that the witnesses have given excellent testimony, and I think it helps to set a framework within which this Committee will proceed. The Chairman and I and other Members have been quite interested in this issue.

And I would like to first say a few words about France. France is an invaluable ally. I mean, I can take you all the way back to the American Revolution when it was the French navy which bottled up off the coast of Virginia the ability of the British to resupply their forces. France probably had more connection with our independence than any other nation in the world.

And today our fighting forces are with the French, whether it is Somalia or Bosnia or elsewhere.

And we loosely use the statement, of the French Government. Obviously at some point in time there was a problem. And I would ask following my testimony, that this statement by the French Government issued in response to the Paris Air Show and other problems be put in the record.

[The statement referred to follows:]

Washington, June 8, 1993.

Hon. JOHN WARNER,
Washington, DC.

DEAR SENATOR WARNER: Following our meeting on May 25 regarding reports in the U.S. press about an old French intelligence case and a recent article published in the Washington Times, please find enclosed herewith a statement issued by the Embassy of France which should put an end to this campaign.

With my best regards, I remain,
Yours Sincerely,

JACQUES ANDRÉANI.

[PRESS RELEASE]

JUNE 7, 1993.

Over the past several weeks, a series of articles have appeared that have called into question France's conduct by reviving an old intelligence case that was resolved some years ago with American officials, and is now, in any case, out of date. Most recently, it has been alleged that French nationals were under an official probe for spying on American businesses.

The French Embassy, which is in constant contact with the FBI and other U.S. government agencies, has received confirmation that no such investigation is under way with regard to the activities of official French bodies or French citizens. This should put an end to a campaign aimed at promoting the utterly baseless belief in the existence of a French-American dispute in this area.

Vice Chairman WARNER. And indeed, the Chairman and I have met privately with the Ambassador from France to the United States, and also I have had correspondence with our current Ambassador from the United States to France. So this problem is being worked on.

But my point is we don't know at what level this exists in the French Government. This could be a very low level operation, if in fact it can be characterized as a government operation, and perhaps it just hasn't come to the attention of more responsible people up the line. And I concur in your view, Mr. Lowenthal, that the Paris Air Show was a gong that was heard throughout and I think France now, if in fact it did exist in the lower echelons of the government, is trying to correct it.

But I am not certain that I have got a good grasp on the magnitude of the problem as it exists or does not exist. Mr. Lowenthal, I made careful notes here as you spoke. And you used the phrase, few stories but they are beginning to echo, and that gives a distortion of the magnitude of the problem. You said many of the cases, and I think you said half, involve former employees of the U.S. corporation or current employees. So I wonder if we can, without naming the names of firms, ask each of our witnesses to relate what knowledge they have of how pervasive this problem is towards our industrial base. Because I think Mr. Hayden from Boeing made the statement with which I agree, as long as that marketplace is not distorted by another anti-competitive factor.

So my question is, what is the magnitude, in your knowledge of experience, of this anti-competitive factor?

Mr. Hayden.

Mr. HAYDEN. Well, I can report that—

Vice Chairman WARNER. Do you concur, by the way, with Mr. Lowenthal, who seemed to give some parameters to the problem as being relatively small?

Mr. HAYDEN. I don't know whether we are chasing an illusion.

Vice Chairman WARNER. Well, that's a candid answer.

Mr. HAYDEN. We have yet to be notified by any intelligence agency that we have been targeted by any foreign interest. So the only knowledge we have is what we read in the media and some of the briefings that have been provided by the intelligence agency which

are the same stories repeated over and over again. So we don't know whether we are chasing an illusion.

Vice Chairman WARNER. Well, let me stop you right there, because our Committee has received a copy of a document which allegedly was prepared at some level within the French Government, and here it is. It has been examined by our Committee now for some several weeks. And on page 2, Boeing, target, priority. Number one priority, civil aeronautics, to follow. One, commercial activities related to the sale of civilian aircraft. Two, analysis production capacities. Three, current technical problems with Boeing aircraft. Four, restructuring of the means of production. And then it goes on in considerable detail. They wanted to know the technology of the V-22 tiltrotor aircraft, the E6A strategic communications aircraft. Here it is. Have you ever seen this?

Mr. HAYDEN. Yes. That document I believe was reported in the Wall Street Journal.

Vice Chairman WARNER. That's correct.

Mr. HAYDEN. That's when we heard about it. One week before that article was published in the Wall Street Journal we were contacted by the intelligence agencies.

Vice Chairman WARNER. But you used the phrase, we don't know whether it is an illusion. Does this help dispel the illusion or is this—

Mr. HAYDEN. Well, I think that number one, it certainly elevates our concern. It certainly is something to be considered. But we have no other data base than what was reported in the Wall Street Journal.

Chairman DECONCINI. Well, I just want to call to the Senator's attention as a very good point that that report has been confirmed to come from the French intelligence, as also has been publicly reported. And just to follow the question, is that still an illusion? This seems to me to be a clear policy by the French Government. As the Senator says, I am not here to bash France or any such thing. Maybe they've stopped as they say they have. Perhaps this issue is several years old. Maybe we're making too much of this one instrument. But that instrument is the only one we have that I know of or that I can talk about.

Mr. HAYDEN. Well, it certainly is troubling.

Vice Chairman WARNER. It's what? Troubling?

Mr. HAYDEN. To be targeted.

Vice Chairman WARNER. Well, let me move on now; I've a very short period of time.

Mr. BLAY, now you are a professional in this area, is that correct?

Mr. BLAY. Yes.

Vice Chairman WARNER. I presume from time to time you share your experiences with your counterparts in other industries?

Mr. BLAY. Yes.

Vice Chairman WARNER. You may have a convention from time to time.

Mr. BLAY. Yes.

Vice Chairman WARNER. In which you all get together and pool your knowledge and pool your experiences. What is your judgment of the level of this activity targeted against American industry

based on the discussions and the information that you share and learn from your colleagues?

Mr. BLAY. I think that is the concern. I think when Mr. Hayden refers to an illusion, we are talking about the stories of how active foreign agents are at intelligence gathering. When I say foreign agents, I refer to the rest of the world. We seem to zero in on France. We really don't know what's out there because we're not being told that much.

I sit on the Threat Committee of the National Industrial Security Program along with a deputy assistant director of the FBI and we sat and talked how this risk information is really what we need. The problem is—and the government representative did admit that we were a legitimate consumer of this type intelligence. I keep ribbing them that unfortunately we're not able to consume any. We don't really know what's out there. So we don't know what to ask for.

Vice Chairman WARNER. Well, let me stop you right there. Mr. Lowenthal talked about the old days when we used to go to the Soviet Union. I made many, many trips in my public service career, many when I was Secretary of the Navy. We used to go over there and we knew that the rooms were bugged and we used to talk into the bugs, tell them what we thought they ought to know. That was quite a joke. We all did it. We knew our briefcases were rifled. Let me start with just a very fundamental thing. How many of you know of experiences where your briefcases have been rifled or other personal possessions, and to what extent?

Mr. BLAY. We know to a great extent in France that they were compromised while staying at various hotels.

Vice Chairman WARNER. Were, past tense, or are now?

Mr. BLAY. Were, past tense. I don't know right now. And what we tried to do, and I mentioned before, is to raise the level of awareness, to tell your people, do not take an document there, do not leave it in your room if you don't want it compromised.

However, my concern is and I express it again, what is going on in the rest of the world? We don't know where else we are vulnerable. What are specifics to share with our employees who are at risk?

Vice Chairman WARNER. All right, let me stop you again to ask you a sort of a basic question. I was fascinated last night to see an old rerun of a FBI film showing how the Germans got the Norden bomb sight in 1939 out of this country. It was achieved very easily in those days when we weren't aware of their espionage.

But the point is, if you have got one specific type of technical information that is enabling you to make a profit in this world market and then suddenly it appears, the same device in a French product, you know full well the chances are they got it from you or somebody. You're the only one that has it. How many examples can you give me where foreign industry has come up with the same widget that we have been manufacturing and trying to preserve the secrets and have now thrown at us a comparable product in the world market. There is another example that leaked out.

Mr. BLAY. Well, I can refer to a book that was recently published, Friendly Spies, and it talked about the French intelligence coming

over there and setting up an electronic operation in Everett, Washington, to listen to and monitor the flight tests on the new 747-400. It pointed out the similarity in avionics between that and the Airbus A-340. Whether that is factual or not, I do not know. I have called the intelligence agencies to determine whether or not what is included in that book is factual information. They indicate they are not sure. So I don't know whether it is factual or not.

Vice Chairman WARNER. Mr. Chairman, my time is up but I thought Mr. Faught indicated he wanted to respond to some of this barrage of questions I have fired at them. Do you wish to add anything?

Mr. FAUGHT. Well, I can only say that—

Vice Chairman WARNER. I am just trying to figure out, where is some hard evidence we have got a problem out here?

Mr. FAUGHT. I think the hard evidence—I know the hard evidence is available, and we have seen it. But how important or significant it is, that's the question we have very great difficulty answering. You know you can find if you push far enough clients or the companies I have worked with, you can find a piece of evidence here or there. But if this is a total country policy, except for the indication you have there concerning the European country, it's very difficult to zero in on that.

I can recall when I was with the Navy, we looked at one of the missiles—

Vice Chairman WARNER. What year were you in the Secretariat?

Mr. FAUGHT. Assistant Secretary in 1977, 78 and 79.

Vice Chairman WARNER. You came up to sweep up the trash that I had left, is that about it?

Mr. FAUGHT. No, I was identified as being responsible for sweeping up someone else's trash, but that is another whole story. But we looked at his missile, and as I was telling your senior staff people the other day, when it was opened I was called over to the Navy lab, and here was a small chip, and this had been reverse engineered to the point that the two initials of the American producer were still embedded in the chip. They had gone so far as to really copy everything.

But that is such an isolated case. Now surely that chip also was about two generations or three generations back from what was then current.

The situation in China I mentioned earlier. That was one case of a fairly high technological product which has a massive market. But whether that was an isolated company case or a country case, it is very difficult to get your arms around. But there is evidence there that that is being done, and I don't think you find that same evidence on our side of the court here.

Vice Chairman WARNER. On a scale of one to ten, one being very slight, ten, very serious, how serious a problem is this to the United States industrial security problem? Worldwide.

Mr. FAUGHT. Well, that's a difficult question.

Vice Chairman WARNER. Well, let's try the other end of the table, and you think a minute.

Mr. Lowenthal, what do you think?

Dr. LOWENTHAL. I am going to pass on quantifying—

Vice Chairman WARNER. Beg your pardon?

Dr. LOWENTHAL. I have no way of being able to quantify. That's my problem. My sense is that most of our—

Vice Chairman WARNER. Can you, Mr. Hayden?

Mr. HAYDEN. I'll quantify it, if nobody else will. I believe it is on the lower spectrum. Maybe a two.

Vice Chairman WARNER. Good.

Mr. Blay.

Mr. BLAY. I really don't have any idea because I don't know what's going on out there.

Vice Chairman WARNER. All right.

Mr. Faught.

Mr. FAUGHT. I really don't know.

Vice Chairman WARNER. Thank you very much, Mr. Chairman.

Chairman DECONCINI. The Senator from Ohio.

Senator METZENBAUM. I just have to say to you four gentlemen, you are a breath of fresh air, because the Intelligence Community, the CIA and Director Woolsey, would lead us to believe that American industry is being decimated, and that unless we do more, spend more and more millions or billions on economic intelligence, our nation is going to suffer, our companies are going to be clobbered, and we'll lose out in the American workplace.

Now, to have the four of you sit there and say, "we don't see it that way," is very reassuring.

But I would just like to point out to my two colleagues, both of whom are friends of mine and men whom I respect, that the thrust of their questions to you had to do with counterintelligence, about spying upon your company or other companies in this country. That's not the most critical issue before this Committee today. I have no problem at all with our intelligence agencies helping American industries see to it that their business secrets are kept private. The real issue before us is how much we should be doing in spying on other countries' companies. Counterintelligence: no problem. Spying on our government's behalf: more difficult.

Regarding this report about the French, they really helped you tremendously. They told you all of a week before you read it in the Wall Street Journal. How long did our Intelligence Community have it before they shared it with you? I am not sure you know; I know I don't know. But I think there is a proper role for intelligence agencies in protecting American economic secrets, and I think there is a totally inappropriate role in going out and spying on foreign countries' companies that have trade secrets and then, I guess, bringing them back to you. I don't know, when they bring them back, if just Boeing gets it, or Lockheed gets it, or some other companies get it—whether you give it to every steel company in the country or just give it to the biggest steel companies, whether you give it to Ford or General Motors or Chrysler, pick one of them or pick all three.

And I just say that, as I see it, I don't hear any demand from American industry for this economic intelligence. Maybe one of you can tell me, are you the rarity? Are you the exception? Are your colleagues saying, "you fellows are out of step, we really want the American government out there spying on foreign companies." Have you heard that, Mr. Hayden?

Mr. HAYDEN. I don't think we are unique.

Senator METZENBAUM. Pardon?

Mr. HAYDEN. I do not think that the Boeing Company is unique in our belief in not endorsing this covert type of activity. We think it would be detrimental in the long run to our industry. I believe this is probably universal across U.S. businesses. I see no useful purpose to obtain competitive data or information in a clandestine fashion from any competitor. There is just no benefit per se when you look at the risk versus the very nominal benefit of having that type of information available to U.S. industry.

Dr. LOWENTHAL. Senator, may I? My experience with business—and I am not in the business community, as you know—is different. I gave a speech last year roughly along the lines of my testimony and at one point I feared for my safety in terms of leaving the room when business executives were up on their feet screaming at me, literally, that why shouldn't they get this information? They are paying for it with their tax dollars and they need it and it is wrong for the Community to withhold it. So I am glad to hear what Mr. Hayden says.

But my experience and exposure to other industries, especially in the software industries, some smaller manufacturers, has been very different. They feel that they have a right to the information because it is part of their tax benefit. So I have been exposed to a very different slice of the business community that feels that they should be getting it, and I have reacted, as I did in my statement, negatively to the concept.

So I am not sure it is as universal as Mr. Hayden thinks. If he is right, I would be very pleased. But I have had a different experience.

Senator METZENBAUM. A lot of people say that U.S. businesses don't compete effectively in the international marketplace because we lack a so-called level playing field. To what extent are foreign companies beating out American ones through bribery, improper pressure by foreign governments, or the use of their intelligence services to steal the secrets of U.S. firms?

Mr. FAUGHT, do you want to answer that?

Mr. FAUGHT. Well, I think—I think we have to differentiate here. The level playing field—or the unlevel playing field I have seen has very little to do with obtaining clandestine intelligence and someone else's technology. The unlevel playing field I have seen is when you bid for a job and the country—most of these countries we deal with, the country and the company are synonymous because the companies are very closely related to their countries—but the country will open the bids and then they will say, well, we want to have this rebid because we are going to make a little tweak here, a little tweak there, and they have a pretty good idea of who they want to give that contract to.

Now, I think we have all—we're all big boys and we've kind of grown up in that environment, and so we play that same game. We don't give our best price initially and we work it along later on. But the idea of the soft financing around the corner, that's the type of thing that makes those bumps in the playing field that we see. At least that has been my experience.

I have had very little problems with someone coming in and saying, well, look, they've copied your nuclear engineering for a reac-

tor. If they have copied it, by the time they get that thing in the marketplace, they are probably 12 years behind us.

So Senator, it is my experience at least it hasn't been the result of their cleverness in terms of gathering technological information regarding our processes or products or services. It has been some other things that relate to how they conduct the business—not intelligence.

Senator METZENBAUM. Thank you, Mr. Faught.

Mr. Bay, you were on the State Department's Overseas Security Advisory Council, which last year published a set of guidelines for protecting U.S. business information overseas. Is the U.S. Government failing in its duty to guard against hostile intelligence activities that affect U.S. firms, or do publications like this one and the government's current efforts to discover and stop improper activities by foreign intelligence services do the job?

Mr. BLAY. I think that really is the crux of the matter. It really is an awareness level and I think that when we talk about the mystique that we hear about, how active this intelligence activity is and asking industry to identify it, I guess we're going more on what they're saying. That threat is out there but we're not hearing specifically what the threat is.

As I mentioned before, I have asked if the threat is out there, specifically what is it and then we'll take the necessary action to protect whatever information ought to be protected. But we don't have that level of cooperation.

And you mentioned the timeliness of it with that French document, and I questioned the same thing. Every time it was given to me, there was a caveat, this is probably going to appear in the newspaper in a couple of weeks. I wondered how long they had had it and why wasn't it shared as soon as it was obtained.

I spent a good number of years in the Intelligence Community and I guess perhaps I am jaded by my contemporaries in private industry, but I don't know of any of my counterparts who has asked that the government get into a pro-active posture to spy and feed intelligence information to assist private industry. It is more, just tell us when we are at risk. Let us know and then we'll protect it. That is all we are asking. I am not sure we have reached that point yet, unfortunately.

Senator METZENBAUM. A firm like Boeing or AT&T can accept short term losses on one contract to maintain a strong market position in some country over the long haul. Major firms can use continued innovation, product development, to maintain market shares. What about new or smaller firms? Do they need more U.S. Government information or intervention, or can they too be more effective in the marketplace if the government restrains its urge to step in?

Mr. Lowenthal, perhaps you would care to comment?

Dr. LOWENTHAL. Well, as I said, my experience is at the smaller types of firms, especially in information processing and so on who apparently feel the greater need for intervention. But I don't think that—as I said in my statement, I don't think they have an understanding of the types of information that are available and the degree to which this would be applicable to what they are doing. They just assume that there is a magic bullet out there and if they could

just have this one scintilla of information, they'd be so competitive it would be unbelievable. And my sense is that this is unreal, that it doesn't match the reality of what is available.

Senator METZENBAUM. Let me ask you, have you ever heard of any American company that has been provided with information concerning a foreign intelligence matter that was significant in its business plan?

Dr. LOWENTHAL. Not during my experience in the Community, no.

Senator METZENBAUM. Mr. Hayden?

Mr. HAYDEN. Not to my knowledge.

Senator METZENBAUM. Mr. Blay?

Mr. BLAY. No.

Senator METZENBAUM. Mr. Faught?

Mr. FAUGHT. Senator, let me qualify this. If a small company visits the commercial officer in Beijing, as an example, and he can learn that for whatever reason, the Beijing government is putting together a modernization plan or something which will include consideration for his type of products some time in the near future, that type of what I would term incidental intelligence would be most useful. And I think we are getting, when we request it and we go seek it, which is fine, I think we are getting that type of heads up, so to speak. But I don't really classify that as clandestine programmed effort to obtain something.

Senator METZENBAUM. Mr. Hayden, one last question. I don't know how much we spend on economic intelligence—if I did, I wouldn't tell you—but if we spend \$1 billion or \$2 billion or \$3 billion or \$4 billion, whatever the amount may be, and the question were put to you to advise me as a Senator, should I eliminate that expenditure or should I vote for it? How would you tell me to vote?

Mr. HAYDEN. I'm glad I am a businessman and not a Senator.

Senator METZENBAUM. But the point is, it is your tax dollars that we spend.

Mr. HAYDEN. I understand. I think the intelligence requirement has to be real. That it has to be defined as to what their role and mission would be and what benefits accrue in obtaining industrial intelligence information. Then it would be basically a decision of am I getting a return on my investment? If I am not, then I am not going to make the investment.

Dr. LOWENTHAL. Senator, can I just add something to that?

Senator METZENBAUM. Yes, please.

Dr. LOWENTHAL. My sense is that, as I said in my statement, the real problem with economic intelligence is that it doesn't have a high priority among senior policymakers. It never did during the Cold War. Even when we had two successive Secretaries of State, both of whom I worked for, who had been Secretaries of the Treasury, Mr. Shultz and Mr. Baker had other priorities—dealing with the Soviet Union, dealing with the Middle East, dealing with terrorism. And economic analysis I don't think ever made it into the top five of the batting order. My sense is that this hasn't changed a lot in the first post-Cold War Administration we have.

So if you are trying to assess, and you are in the perfect position to do it, if you are trying to assess how much should we spend on economic analysis and other economic activities, I would want to

find out, is it doing any better than it used to do? And my sense from talking to my former colleagues in the business is, no, it is not. That's the real issue. Are they producing this and is it just sort of a continuation of the cave of winds where—we used to have a saying that the memo that doesn't get read is like the memo that didn't get written. And if that is still happening, then it may be a waste of time.

Senator METZENBAUM. Thank you very much, members of the panel, and thank you, Mr. Chairman. I think this hearing is very worthwhile.

Chairman DECONCINI. Thank you, Senator Metzenbaum.

Let me just follow up, Mr. Lowenthal, on that question. You know, what do we do to raise that? You know, how do we—what do we do here? Do you have any suggestions? Because that's my observation, with particularly the reference to the French material, Senator Warner and I sat with the French Ambassador and we, you know—it was not very productive. It was nice. Very pleasant, very diplomatic, both sides, I think. But it was not encouraging. And it turned out not to be accurate, we found. Not I think so intentionally to mislead us, but it just turned out that the times and what have you weren't so accurate.

So you know, what do we do as a Congress? Do we instruct perhaps the intelligence agencies to deal directly with the governments when this is found out, you know, with approval of the President? Or how do you get around—the Secretary of State is not going to want to sit down with the President of France and chew him out for targeting Boeing. Or say, you know, you keep doing that, we are going to cut off the import of wine. I mean, it is just not going to happen. What—how do we address that, or is it just hopeless?

Dr. LOWENTHAL. Well, even during the Cold War there were times when you wouldn't want to expose a Soviet operation or you wouldn't want to deport large numbers of their diplomats, and there were times when you would. I still feel that that is about the only recourse you have short of some cataclysmic event in diplomatic relations which is not going to happen.

But as we have all indicated, there has to be a systematic effort to get a better handle on how extensive this problem is. I get a lot of calls from journalists about economic intelligence and economic espionage and I ask them which cases are they working on. I keep hearing the same three or four cases. If that's all that's happening, it goes on, it's always gone on.

The U.S. textile industry was begun through economic espionage. We had a British citizen steal the plans and come to the United States—I wish Senator Chafee was here, because it happened in his state—and he built a plant in 1789. I mean, it is always going to happen. The advanced state is going to be the target of the less advanced states.

I am not sure we can do a lot more. I think U.S. businessmen have to be smarter, as I said, overseas. They have to assume that they are targeted. But I am not sure that on a state to state basis, you can do an awful lot more than we are doing.

Chairman DECONCINI. Well then, your answer goes to what Mr. Hayden and Mr. Blay said, what business needs is the information that we may come across so that they can protect themselves.

Dr. LOWENTHAL. I think a smart businessman at this point would assume if he is traveling overseas that somewhere en route, from the moment his plane lifts off, he may be a target, and he has to be a little careful about what he says, and he has to be careful about where he leaves papers, and he may have to make arrangements for things to be kept in a secure place when he is going out to dinner and so on. I mean, these are simple tasks that the Intelligence Community could teach you, that any industrial security firm could teach you. But it doesn't require the Intelligence Community, per se. And I don't think you need a target list of countries. You just have to assume when you are traveling these days that you may be a target.

Chairman DECONCINI. You talk about Boeing or AT&T or somebody that large. What about the small intellectual property owner, inventor, who is targeted, if he is targeted? You know, how does he defend himself?

Mr. FAUGHT, have you had any experience representing any smaller—

Mr. FAUGHT. Well, I think from talking with people in the machine tool industry, for example, that is not an AT&T, though it isn't a mom and pop shop necessarily. But they are aware that the technology they have, for example, in the five axis turning machine has been reengineered, improved on, whatever, over the years, the initial generations of that development. And their policy, as I mentioned earlier, is just to stay ahead of the game. They are spending a goodly portion of their total cost on R&D, and their plan is to keep advancing their technology.

I think in some cases it is not necessarily analogous to determining the proverbial how many angels can dance on the head of a pin, but it is very, very difficult to try to develop policies which would be effective and particularly cost effective in this area.

To my knowledge, the smaller companies, those who have ventured abroad, have a sufficient technology base or marketing base that they can compete quite successfully vis a vis the aim for intelligence.

Chairman DECONCINI. Mr. Hayden, let me go back to a hypothetical. The intelligence agencies of this country intercept, through the normal course of SIGINT or some capability, that they have in the European area, some advanced technology that the Airbus organization is including in its product. They know that that is in direct competition with what you are doing in the aerospace industry. They think that maybe you don't know this and that it would be very helpful if American industry had this new technology. Maybe they are pretty sure of it by the base of my hypothetical, that they intercept this information. What if anything should they do with that information vis a vis American companies and interests, in your opinion?

Mr. HAYDEN. I would be reluctant to accept it.

Chairman DECONCINI. You would be?

Mr. HAYDEN. Yes, because of all the ramifications. Technology is perishable. It only lasts for so long. We are making the invest-

ments to stay up with the latest state of the art in the aerospace market. Our competitors are doing the same. If they have a breakthrough, then so be it. They did it with their own resources. They did it legitimately, and I do not want the information.

Chairman DECONCINI. Do you agree with that, Mr. Lowenthal?

Dr. LOWENTHAL. Yes.

Chairman DECONCINI. Now, to carry that further, in the course of discovering this they also discover that they have intercepted and stolen some of your advanced technology. That information you would like disclosed, that second part?

Mr. HAYDEN. Yes.

Chairman DECONCINI. You would like to know that—

Mr. HAYDEN. I would like to know—

Chairman DECONCINI. From our government you would like to know that we have come across information—in the normal course of our intelligence gathering—that your competitor, Airbus, in this hypothetical case, has in fact spied on your company and stolen some proprietary advanced technology. You would like to know that that happened.

Mr. HAYDEN. Yes.

Chairman DECONCINI. You think that is a proper course for our government?

Dr. LOWENTHAL. Yes, providing you don't blow away the source when you are doing it.

Chairman DECONCINI. Of course.

Dr. LOWENTHAL. And it is very hard to mask—as you know, it is very hard to mask clandestine sources, despite the best efforts to do so.

Mr. HAYDEN. I accept that qualification.

Chairman DECONCINI. Gentleman, thank you very much. It is very helpful to this Senator, because I am in a dilemma. I don't know where we should go, and I don't get a lot of help from our own agencies in government just because they haven't focused on it. I think the source of a lot of what we need in government comes from the private sector. This is very helpful, you sharing with us for an hour and a half some of your thoughts. If you don't mind, we might ask you for some more opinions as we go down this train track.

Thank you.

Dr. LOWENTHAL. Thank you.

Mr. HAYDEN. Thank you, Mr. Chairman.

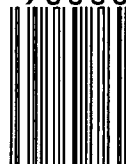
Chairman DECONCINI. The Committee will stand in recess.

[Thereupon, at 3:33 o'clock p.m., the Committee was recessed.]

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