

Statement of

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Before the Senate Committee on Commerce,
Science, and Transportation
Subcommittee on Science, Technology and Space

September 6, 1984

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

ON BEHALF OF THE SECRETARY OF TRANSPORTATION, I WOULD LIKE TO
THANK YOU FOR YOUR SUPPORT OF THE COMMERCIAL LAUNCH SERVICES
INDUSTRY.

SENATOR TRIBLE'S LEADERSHIP AND THE COMMITTEE'S SUPPORT WILL
ENHANCE DOT'S ABILITY TO ESTABLISH A LICENSING SCHEME TO ASSIST
THE PRIVATE SECTOR IN EXPANDING THE POTENTIAL FOR GROWTH IN THE
COMMERCIAL APPLICATIONS OF SPACE TECHNOLOGY THAT HAVE BEEN
DEVELOPED OVER THE PAST TWENTY-FIVE YEARS.

THIS ADMINISTRATION VIEWS FACILITATION OF THE COMMERCIAL
DEVELOPMENT OF EXPENDABLE LAUNCH VEHICLES (ELVs) AS AN IMPORTANT
COMPONENT OF AMERICA'S SPACE TRANSPORTATION PROGRAM. WE EXPECT
THAT A HEALTHY VIABLE ELV INDUSTRY, AS A COMPLEMENT TO THE
GOVERNMENT'S SPACE TRANSPORTATION SYSTEM, WILL PRODUCE A STRONGER,
MORE EFFICIENT LAUNCH CAPABILITY FOR THE UNITED STATES THAT WILL
CONTRIBUTE TO CONTINUED AMERICAN LEADERSHIP IN SPACE.

ON JULY 4, 1982, PRESIDENT REAGAN MADE IT CLEAR THAT HE WANTED PRIVATE ENTERPRISE TO HAVE A STAKE IN DEVELOPING THE FRONTIERS OF SPACE WHEN HE CALLED FOR "AN AGGRESSIVE, FAR-SIGHTED SPACE PROGRAM" THAT INCLUDES PRIVATE SECTOR INVESTMENT.

THE PRESIDENT RE-EMPHASIZED THAT COMMITMENT IN HIS STATE OF THE UNION ADDRESS IN JANUARY WHEN HE OBSERVED THAT THE MARKET FOR SPACE TRANSPORTATION COULD EXCEED THE FEDERAL GOVERNMENT'S CAPACITY TO PROVIDE IT. HE MADE IT CLEAR THAT HIS POLICIES WOULD RECOGNIZE THE NEED OF PRIVATE COMPANIES INTERESTED IN LAUNCHING PAYLOADS TO HAVE READY ACCESS TO SPACE.

IN ISSUING EXECUTIVE ORDER 12465, THE PRESIDENT DESIGNATED THE DEPARTMENT OF TRANSPORTATION AS LEAD AGENCY TO CARRY OUT THIS MANDATE. I WOULD LIKE TO DESCRIBE FOR YOU THE ACTIVITIES OF THE OFFICE OF COMMERCIAL SPACE TRANSPORTATION SINCE ITS CREATION SIX MONTHS AGO, AS WELL AS COMMENT ON THE LEGISLATION SENATOR TRIBLE HAS INTRODUCED.

ACCOMPLISHMENTS UNDER THE EXECUTIVE ORDER

THE OFFICE OF COMMERCIAL SPACE TRANSPORTATION--ESTABLISHED BY SECRETARY DOLE IN RESPONSE TO THE EXECUTIVE ORDER--HAS QUICKLY BECOME THE FOCAL POINT FOR GOVERNMENT AND INDUSTRY CONTACT REGARDING THE PRESIDENT'S INITIATIVE TO PROMOTE AND REGULATE THE COMMERCIAL USE OF ELVs. THE OFFICE HAS BEEN ACTIVELY INVOLVED IN

IMPLEMENTING THE DEPARTMENT'S CHARTER TO ENCOURAGE, FACILITATE, AND COORDINATE ACTIVITIES RELATED TO COMMERCIALIZATION OF ELVs. WE HAVE ESTABLISHED WORKING RELATIONSHIPS WITH EACH OF THOSE GOVERNMENT AGENCIES THAT HAS MAJOR INTERESTS IN SPACE TRANSPORTATION AND LICENSING. OUR JOB IS FACILITATED BY THE HIGH LEVEL OF INTEREST AND INVOLVEMENT IN THE ADMINISTRATION'S COMMERCIALIZATION EFFORTS AMONG SENIOR OFFICIALS IN THE FEDERAL GOVERNMENT.

MEMBERS OF THE CABINET, PARTICULARLY SECRETARY OF DEFENSE WEINBERGER, SECRETARY OF COMMERCE BALDRIGE, AND ADMINISTRATOR BEGGS OF NASA, HAVE BEEN QUICK TO MOBILIZE THEIR AGENCIES IN SUPPORT OF COMMERCIALIZATION POLICIES. SIMILARLY, THE CAREER STAFFS OF OUR SISTER AGENCIES HAVE DISPLAYED A HIGH LEVEL OF ENTHUSIASM AND A RESULTS-ORIENTED ATTITUDE. NASA, THE DEPARTMENTS OF STATE, DEFENSE, COMMERCE, AND JUSTICE, AS WELL AS THE U.S. TRADE REPRESENTATIVE'S OFFICE, HAVE BEEN VERY COOPERATIVE AND HELPFUL IN PROVIDING SUPPORT TO IMPLEMENT THE PRESIDENT'S INITIATIVE.

BECAUSE BOTH THE GOVERNMENT AND THE PRIVATE SECTOR HAVE HAD LITTLE EXPERIENCE WITH COMMERCIAL ELV LAUNCH OPERATIONS AND THEIR REGULATION, WE TOOK AS OUR FIRST TASK THE SYSTEMATIC INVESTIGATION OF THE LEGAL AND OPERATIONAL ISSUES THAT COULD AFFECT COMMERCIAL ELVs. THIS HAS BEEN A MAJOR TASK.

PRIOR TO NOVEMBER 1983, THE MANY FEDERAL GOVERNMENT AGENCIES WITH SPACE RESPONSIBILITIES WERE VERY CAUTIOUS WITH REGARD TO APPROVING COMMERCIAL ELV OPERATIONS. THE DEPARTMENTS OF STATE AND DEFENSE, NASA AND FAA WERE JUSTIFIABLY CONCERNED THAT REGULATORY RESPONSIBILITY BE EXERCISED WITH ADEQUATE OVERSIGHT AND THAT EVERY ASPECT OF GOVERNMENT INTEREST BE PRESERVED. OUR FIRST TASK AS LEAD AGENCY WITHIN THE EXECUTIVE BRANCH HAS BEEN TO ESTABLISH CERTAINTY AND CONFIDENCE AMONG THE AGENCIES THAT THE GOVERNMENT IS SERIOUS ABOUT COMMERCIALIZATION AND THAT THE OFFICE OF COMMERCIAL SPACE TRANSPORTATION WILL PROVIDE A COHERENT AND COMPREHENSIVE VIEW TO REGULATING, COORDINATING, AND OVERSEEING THIS DISTINCTIVE, IF NOT UNIQUE, ACTIVITY.

REGULATORY ACTIVITIES

OUR PRIMARY GOAL, OF COURSE, IS TO ESTABLISH AN EFFICIENT REGULATORY FRAMEWORK THAT ADDRESSES PUBLIC SAFETY NEEDS AS WELL AS FOREIGN POLICY AND NATIONAL SECURITY SAFEGUARDS, AND THAT PROVIDES PREDICTABILITY FOR THE INDUSTRY WITHOUT STIFLING IT. WE HAVE FOUND THAT THE PROBLEM IS NOT THAT TOO MANY AGENCIES ARE INVOLVED IN REGULATING THIS INDUSTRY, BUT RATHER THAT THERE WERE ALMOST NO GOVERNMENT PROCESSES DESIGNED TO ADDRESS THE WIDE RANGE OF ISSUES AND UNIQUE NEEDS OF PRIVATE SECTOR ELV LAUNCHES. THE OFFICE OF COMMERCIAL SPACE TRANSPORTATION'S ACTIONS ARE AIMED AT STRIKING A BALANCE IN THE REGULATORY ENVIRONMENT BETWEEN AN APPROPRIATE LEVEL OF FLEXIBILITY FOR AN EMERGING INDUSTRY AND THE CERTAINTY AND

PREDICTABILITY THAT ARE ESSENTIAL TO THE SUCCESS OF ANY PRIVATE VENTURE. IN THIS EFFORT, THERE IS NO SHORTAGE OF UNANSWERED QUESTIONS OR COMPLICATED ISSUES.

SINCE OCST'S ESTABLISHMENT, OUR EFFORTS HAVE COVERED ACTUAL PROTOTYPE LAUNCH ACTIVITIES; RADIO FREQUENCY ASSIGNMENTS; TRANSFER OF LAUNCH LICENSING AUTHORITY; THE REGULATION OF COMMERCIAL AND GOVERNMENT RANGES, INCLUDING SAFETY AND RANGE USE REQUIREMENTS; INSURANCE REQUIREMENTS AND A NUMBER OF OTHER AREAS. IN OUR FIRST WEEK AS LEAD AGENCY, WE DISCOVERED THAT STARSTRUCK, SEEKING A LICENSE TO LAUNCH A TEST AND DEMONSTRATION ROCKET, WAS CAUGHT IN THE REGULATORY LOG JAM.

OUR FIRST "HANDS ON" EXPERIENCE WAS TO FACILITATE THE FEDERAL APPROVAL PROCESS FOR STARSTRUCK'S TEST LAUNCH THAT WAS SUCCESSFULLY CONDUCTED OFF THE COAST OF CALIFORNIA ON AUGUST 3. TO ACHIEVE THIS, WE ASSISTED THE EFFORTS OF THE APPROVING AGENCIES--STATE, NASA, FAA, MATERIALS TRANSPORTATION BUREAU (MTB) AND U.S. COAST GUARD--TO SET PRIORITIES, TO COORDINATE THEIR ACTIVITIES AND THUS TO EXPEDITE THE FEDERAL REVIEW. NO SOONER HAD THE FINAL FEDERAL APPROVAL BEEN ISSUED THAN STARSTRUCK FACED DIFFICULTIES WITH LOCAL AUTHORITIES. THROUGH THE COAST GUARD AND MTB, WE WERE ABLE TO ALLEVIATE CONCERNS OF LOCAL SAFETY OFFICIALS. AND LATER, WHEN STARSTRUCK'S CONCEPT OF LAUNCHING 250 MILES OFF THE COAST PROVED INFEASIBLE, WE WORKED WITH THE COMPANY, THE FAA, COAST GUARD AND THE DEPARTMENT OF DEFENSE TO DEVELOP WAYS TO ALLOW STARSTRUCK TO LAUNCH IN CLOSER PROXIMITY TO THE UNITED STATES'

COAST. THIS EXPERIENCE HAS BEEN INVALUABLE IN SHAPING OUR IDEAS, ACTIONS, AND RECOMMENDATIONS FOR STREAMLINING THE FEDERAL APPROVAL PROCESS, AS I WILL DESCRIBE LATER.

THE NEXT TASK WAS TO EXAMINE THE GOVERNMENT'S CENTRAL LAUNCH LICENSING PROCESS ITSELF; I.E., THE REQUIREMENT FOR AN EXPORT LICENSE UNDER THE INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (ITAR). SHORT OF STATUTORY LICENSING AUTHORITY, THE ITAR WERE THE ONLY BASIS FOR GOVERNMENT CONTROL OF ALL LAUNCHES. DOT BELIEVED IT IMPORTANT TO TRANSFER THE ITAR TO AN ORGANIZATIONAL SETTING WHERE, CONSISTENT WITH THE FOCUS OF COMMERCIAL ELV ACTIVITY, THUS ALLOWING IT TO BE EFFECTIVELY ADMINISTERED AS A LAUNCH LICENSE INSTEAD OF AN EXPORT CONTROL.

AS A RESULT OF THESE EFFORTS, DOT AND THE DEPARTMENT OF STATE HAVE ALREADY AGREED, AS AN INTERIM MEASURE, TO THE TRANSFER OF AUTHORITY FROM STATE TO DOT FOR LAUNCH APPROVALS OF COMMERCIAL LAUNCH VEHICLES AND PAYLOADS THROUGH THE ITAR PROCESS. AUTHORITY WILL BE SHIFTED THROUGH AN AMENDMENT TO EXECUTIVE ORDER 11958.

THE GOVERNMENT'S "HANDS ON" EXPERIENCE GUIDED OUR DEVELOPMENT OF A STREAMLINED LICENSING PROCEDURE. WE HAVE ALREADY IDENTIFIED THREE TECHNIQUES WHICH COULD (AND DID, IN THE CASE OF STARSTRUCK,) SUBSTANTIALLY SIMPLIFY AND SHORTEN THE FEDERAL APPROVAL PROCESS: REDUCTION OR ELIMINATION OF SEQUENTIAL COORDINATION; ELIMINATION OF DUPLICATIVE REVIEW THROUGH VOLUNTARY RELIANCE OF ONE AGENCY ON ANOTHER AGENCY'S WORK, WHEREVER POSSIBLE; AND SPECIFICATION IN

ADVANCE BY EACH AGENCY OF ITS INFORMATION REQUIREMENTS. THE LAST ISSUE IS ONE WHICH HAS BEEN PARTICULARLY FRUSTRATING FOR NEW COMPANIES. WE ARE IN THE PROCESS OF CIRCULATING AMONG OUR SISTER AGENCIES A DRAFT LIST OF LAUNCH LICENSE INFORMATION REQUIREMENTS TO BE PUBLISHED IN THE FEDERAL REGISTER IN THE NEAR FUTURE.

ALTHOUGH THE DATA WILL BE INFORMATIVE, NOT REGULATORY, IN NATURE, EACH LAUNCH COMPANY WILL HAVE A SINGLE DOCUMENT WHICH DESCRIBES, IN LAYPERSON'S TERMS, THE AUTHORITY OF EACH REGULATORY AGENCY AND THE INFORMATION THE COMPANY WILL BE EXPECTED TO PROVIDE.

IN THE NEAR TERM, MOST COMMERCIAL LAUNCH ACTIVITY WILL OCCUR FROM THE GOVERNMENT'S (NATIONAL) RANGES. FIRMS SUCH AS GENERAL DYNAMICS AND TRANSPACE CARRIERS, INC. HAVE VEHICLES THAT ARE DEPENDENT ON THE LAUNCH FACILITY AND RESOURCE SUPPORT AT VANDENBERG AIR FORCE BASE OR CAPE CANAVERAL. ALTHOUGH NASA AND THE AIR FORCE ARE EAGER TO SUPPORT COMMERCIAL ACTIVITIES, THEIR RULES, REGULATIONS, AND PROCEDURES ARE DESIGNED TO ACCOMMODATE GOVERNMENT AND NOT COMMERCIAL OPERATIONS.

OVER THE PAST FEW MONTHS, WE HAVE WORKED VERY CLOSELY WITH AIR FORCE PERSONNEL TO REVIEW EXISTING POLICIES, PROCEDURES, AND PROCESSES THAT AFFECT THE COST AND COMMERCIAL USE OF NATIONAL RANGES. TOGETHER, WE HAVE MADE SIGNIFICANT PROGRESS IN MINIMIZING AND ELIMINATING BARRIERS TO COMMERCIAL OPERATIONS. IN PARTICULAR, THE FEDERAL GOVERNMENT IS OPENING THESE FACILITIES TO THE ESTABLISHED LAUNCH VEHICLES, BUT THIS ALSO IS BRINGING IN FIRST-TIME USERS AS WELL, SETTING MAJOR PRECEDENTS FOR OTHER FIRMS THAT

MAY EMERGE IN THE YEARS TO COME. AS A GENERAL MATTER, THE AIR FORCE AND NASA HAVE BEEN RESPONSIVE TO OUR EFFORTS UNDER THE EXECUTIVE ORDER TO INTRODUCE NEW IDEAS OR RAISE THE PRIORITY OF ISSUES BEING REVIEWED AND EXPEDITE THE DECISION PROCESS. WE WORK TOGETHER WITH THE COMMERCIAL ELV FIRMS TO ASSIST THEM IN MAKING IMPORTANT CONTACTS ON THE NATIONAL RANGES AND RESOLVING ISSUES AS THEY ARISE WITH REGARD TO COMMERCIAL USE OF GOVERNMENT FACILITIES AND SERVICES.

IN THE WORLD OF REGULATION, HOWEVER, GOVERNMENT PRIORITIES BECOME A REFLECTION OF PRIVATE SECTOR ACTIVITY. ALTHOUGH WE ENCOURAGE THE USE OF GOVERNMENT LAUNCH FACILITIES, COMMERCIAL FIRMS ARE GIVING ACTIVE CONSIDERATION TO ESTABLISHING COMMERCIAL RANGES. IN CONTRAST TO GOVERNMENT RANGES, WHERE WE SATISFY PUBLIC SAFETY NEEDS BY MANAGING THE RANGE AND THE VEHICLES ON IT, WE WILL ACHIEVE THIS END ON COMMERCIAL RANGES BY REGULATING THE DESIGN OF RANGES AND THEIR OPERATIONAL REQUIREMENTS.

ALTHOUGH RANGE REGULATIONS WILL BE BASED ON ACCEPTED LAUNCH AND RANGE SAFETY CONCEPTS, WE MUST ADAPT THESE APPROACHES TO RECOGNIZE THE DIFFERENCES BETWEEN GOVERNMENT AND PRIVATE SECTOR ROLES. WE ARE NOW DEVELOPING THE CONCEPTS AND CRITERIA FOR LAUNCH SITE SELECTION, RANGE DESIGN, RANGE AND VEHICLE SAFETY, FLIGHT SAFETY CORRIDORS, FLIGHT TERMINATION SYSTEMS, TO NAME A FEW. TO ACHIEVE THIS, WE HAVE BEEN MEETING WITH THE GOVERNMENT'S RANGE SAFETY

LEADERS, AS WELL AS THE COMPANIES' LAUNCH OPERATIONS OFFICIALS, AND OF COURSE DRAWING ON RESOURCES OF THE AIR FORCE AS WELL AS NASA.

NOT ALL OF OUR ISSUES ARE AS COMPREHENSIVE IN SCOPE, BUT THEIR IMPACT MAY BE EQUALLY SIGNIFICANT. FOR EXAMPLE, THE LAUNCH FIRMS WERE CONCERNED THAT THEIR ACCESS TO GOVERNMENT CONTROLLED RADIO FREQUENCIES CRITICAL TO LAUNCH ACTIVITIES MIGHT BE CONSTRAINED. DOT BROUGHT TOGETHER REPRESENTATIVES OF FIVE ELV LAUNCH FIRMS, THE FEDERAL COMMUNICATIONS COMMISSION, AND THE NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION TO DISCUSS THE INDUSTRY'S RADIO FREQUENCY NEEDS AND POTENTIAL PROBLEMS. FROM THE STANDPOINT OF BOTH THE GOVERNMENT AND INDUSTRY, THE DISCUSSIONS PROVED EXTREMELY HELPFUL. SMALL FIRMS LEARNED THAT THEIR SHORT TERM FREQUENCY NEEDS COULD BE SATISFACTORILY RESOLVED BY USING EXPERIMENTAL RADIO BANDS WHILE LARGE FIRMS LEARNED THAT THEIR NEEDS WOULD BE SATISFIED THROUGH THE RANGE SCHEDULING PROCESS. SOLUTIONS TO LONG TERM FREQUENCY NEEDS ARE NOW UNDER STUDY WITHIN THE NTIA, FCC AND THE OFFICE OF COMMERCIAL SPACE TRANSPORTATION.

OCST'S EXPERIENCE IN THE NEW ARENA OF PRIVATE SPACE TRANSPORTATION HAS TAUGHT US THAT ATTEMPTS TO REDUCE REGULATION TO A SINGLE, ALL-ENCOMPASSING PROCEDURE DESIGNED TO MEET ALL POTENTIAL SITUATIONS ARE UNTENABLE. IT WOULD BE IMPOSSIBLE TO FORESEE ALL THE POSSIBLE IMPEDIMENTS CONFRONTING A SINGLE LAUNCH IN A HIGHLY COMPLEX, DYNAMIC INDUSTRY. FURTHERMORE, WE FIND IT IS MOST EFFECTIVE AT

THIS POINT TO RESOLVE PROBLEMS SIMPLY BY CASE-BY-CASE INTERVENTION AS LAUNCH PREPARATIONS UNFOLD.

AS NECESSARY, WE EXPECT TO CONVENE THE INTERAGENCY GROUP ESTABLISHED BY THE EXECUTIVE ORDER TO BRING TO BEAR THE AGENCIES' ACCUMULATED REGULATORY EXPERTISE ON PARTICULARLY COMPLEX QUESTIONS WHERE DISCUSSION IN THAT FORUM IS APPROPRIATE. OF COURSE, EACH AFFECTED AGENCY IS MOST CONVERSANT WITH ITS OWN STATUTORY RESPONSIBILITIES AND THEIR APPLICATION TO PRIVATE SECTOR ELV SPACE LAUNCHES. OUR REGULAR DISCUSSIONS WITH EACH HAVE ENABLED US TO IDENTIFY SOLUTIONS TO REGULATORY PROBLEMS. IT IS IMPERATIVE THAT WE CONTINUE THE PROCESS, WITH THE AID OF THE RESPONSIBLE AGENCIES, OF CULLING OUT WHAT IS TRULY UNNEEDED, INAPPROPRIATE, OR DUPLICATIVE.

POLICY INITIATIVES

THE OCST HAS PARTICIPATED IN VARIOUS POLICY MAKING FORUMS, BOTH AS A MEMBER OF THE SENIOR INTERAGENCY GROUP ON SPACE, CHAIRED BY THE NATIONAL SECURITY COUNCIL, AND THE CABINET COUNCIL ON COMMERCE AND TRADE. ITS ROLE HAS BEEN TO CONTRIBUTE TO THE ESTABLISHMENT OF A SPACE STRATEGY, WHICH THE PRESIDENT SIGNED, AND TO EVALUATE INITIATIVES THAT PROMOTE AND ENCOURAGE PRIVATE SECTOR PARTICIPATION IN COMMERCIAL SPACE ENDEAVORS, APPROVED BY THE PRESIDENT ON JULY 17, 1984.

IN ADDITION, WE HAVE WORKED SUCCESSFULLY WITH OTHER EXECUTIVE AGENCIES TO ESTABLISH A PRICING POLICY FOR THE COMMERCIAL USE OF NATIONAL RANGE FACILITIES AND SERVICES. THE DIRECT COST PRICING POLICY THAT HAS BEEN ADOPTED BY THE DEPARTMENT OF DEFENSE IMPLEMENTS THE INTENT OF THE NATIONAL SECURITY DECISION DIRECTIVE TO PROMOTE THE USE OF NATIONAL RANGES AND SETS CHARGES FOR SUCH USE AT A LEVEL COMPARABLE TO THAT ASSESSED GOVERNMENT USERS.

WE ARE WORKING WITH THE DEPARTMENTS OF STATE AND COMMERCE, THE U.S. TRADE REPRESENTATIVE, AND NASA TO DEVELOP POLICIES TO INCREASE THE COMPETITIVENESS OF U.S. COMMERCIAL ELVs IN THE WORLD MARKET. IN RECENT YEARS, A NUMBER OF GOVERNMENTS AND FIRMS IN OTHER COUNTRIES HAVE FOCUSED ON DEVELOPING THEIR OWN LAUNCH CAPABILITIES. INTERNATIONAL ORGANIZATIONS SUCH AS INTELSAT, THE INTERNATIONAL TELECOMMUNICATIONS SATELLITE ORGANIZATION, AND INMARSAT, THE INTERNATIONAL MARITIME SATELLITE ORGANIZATION, HAVE DEMONSTRATED A TENDENCY TO SPREAD PROCUREMENT AMONG MEMBER COUNTRIES. THIS HAS RESULTED IN PREFERENCE FOR THE ARIANE, FOR EXAMPLE, AS A MEANS TO DIVERSIFY SOURCES OF SUPPLY. IN ADDITION, FOREIGN SUBSIDIES HAVE INCREASED U.S. INDUSTRY'S USE OF FOREIGN ELVs. IF THE UNITED STATES IS TO MAINTAIN ITS LEADERSHIP IN SPACE, IT MUST AFFORD THE PRIVATE SECTOR AN OPPORTUNITY TO COMPETE ON A FAIR AND REASONABLE MARKET-ORIENTED BASIS WITH ARIANE AND OTHER FOREIGN ELVs IN ORDER TO ADVANCE OUR OVERALL COMPETITIVENESS IN THIS AREA.

WE PARTICIPATED WITH THE COMMERCE DEPARTMENT IN PREPARING POLICY PAPERS FOR SPRING 1984 MEETINGS OF THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD). IN THESE EFFORTS, OUR OBJECTIVE WAS TO ESTABLISH AN EFFICIENT AND EQUITABLE INTERNATIONAL TRADING SYSTEM IN SPACE PRODUCTS AND SERVICES SO THAT U.S. AND FOREIGN GOVERNMENTS AND FIRMS, AS WELL AS INTERNATIONAL ORGANIZATIONS, ARE ABLE TO USE COMMERCIAL U.S. OR FOREIGN ELVs ON A REASONABLY COMPETITIVE BASIS. IF U.S. PRIVATE INDUSTRY CAN COMPETE ON REASONABLE TERMS, WE BELIEVE THAT IT CAN BE SUCCESSFUL.

DOT IS ALSO PARTICIPATING IN THE INVESTIGATION AND CONSULTATIONS WITH REGARD TO AN ALLEGED VIOLATION OF SECTION 301 OF THE 1974 TRADE ACT BEING CONDUCTED BY THE U.S. TRADE REPRESENTATIVE. THE INITIAL COMPLAINT OF UNFAIR PRICING PRACTICES WAS BROUGHT FORWARD BY TRANSPACE CARRIERS, INC., A NEW ENTREPRENEURIAL LAUNCH FIRM SEEKING FAIR AND REASONABLE COMPETITIVE MARKET CONDITIONS. AFTER OBTAINING ADVICE FROM AN INTERAGENCY GROUP, THE U.S. TRADE REPRESENTATIVE WILL MAKE RECOMMENDATIONS TO THE PRESIDENT BY JULY 1985 ON WHAT ACTION, IF ANY, TO TAKE.

PROMOTIONAL ACTIVITIES

WE ARE ALSO TAKING ADVANTAGE OF OTHER, MORE SPECIFIC OPPORTUNITIES TO PROMOTE THE USE OF DOMESTIC COMMERCIAL ELVs.

THE SECRETARY HAS MADE SPEECHES AND APPEARANCES BEFORE MAJOR PRIVATE SECTOR AND GOVERNMENT-SPONSORED GROUPS--BOTH SPACE AND NON-SPACE RELATED--TO DISCUSS THE PRESIDENT'S INITIATIVE AND OUR COMMITMENT TO PROVIDING THE PRIVATE SECTOR WITH READY ACCESS TO COMMERCIAL SPACE TRANSPORTATION OPPORTUNITIES.

AN IMPORTANT ASPECT OF ENCOURAGING THE DEVELOPMENT OF ANY NEW INDUSTRY, PARTICULARLY ONE WHICH HAS BEEN IDENTIFIED EXCLUSIVELY WITH GOVERNMENT, IS PUBLIC VISIBILITY AWARENESS. IN ADDITION, THE SECRETARY HAS ESTABLISHED AN INDUSTRY ADVISORY COMMITTEE THAT WILL INSTITUTIONALIZE THE FLOW OF INFORMATION BETWEEN THE PRIVATE SECTOR AND THE FEDERAL GOVERNMENT ON ISSUES OF CONCERN TO BOTH. A STRUCTURE FOR CONTINUING, FOCUSED DIALOGUE WITH THE ENTIRE INDUSTRY PROVIDES AN IMPORTANT OPPORTUNITY TO DISCOVER AND SURMOUNT BARRIERS TO ELV COMMERCIALIZATION. THIS COMMITTEE WILL ALSO SERVE AS THE "EARLY WARNING SYSTEM" TO IDENTIFY AND ANALYZE REGULATORY AND OTHER HURDLES, RECOMMENDING ACTIONS THAT WOULD ELIMINATE OR MINIMIZE THEM.

THE COMMITTEE WILL INCLUDE REPRESENTATIVES OF MAJOR AEROSPACE MANUFACTURERS, LARGE AND SMALL LAUNCH COMPANIES, SATELLITE MANUFACTURERS, COMMUNICATIONS COMPANIES, INVESTMENT FIRMS, THE SPACE LAW COMMUNITY, INSURANCE BROKERS AND UNDERWRITERS, THE RESEARCH AND ACADEMIC COMMUNITIES, AND OTHER EXPERTS IN THE SPACE FIELD. WE PLAN TO CONVENE THE FIRST MEETING OF THIS COMMITTEE IN OCTOBER.

DOT COMMENTS ON S. 2931

ONE OF THE FIRST TASKS OF THE DEPARTMENT OF TRANSPORTATION IN ASSUMING ITS ROLE AS LEAD AGENCY, WAS THE IDENTIFICATION OF THE VARIOUS SOURCES OF AUTHORITY AND MECHANISMS AVAILABLE WITHIN THE FEDERAL GOVERNMENT FOR IMPLEMENTING THE PRESIDENT'S DIRECTIVE. WHILE THE EXECUTIVE ORDER CONVEYED THE NECESSARY AUTHORITY FOR DOT TO ASSUME A LEADERSHIP ROLE WITHIN THE EXECUTIVE BRANCH IN THIS ENDEAVOR, THE BASIC AUTHORITY FOR APPROVING LAUNCHES BY PRIVATE COMMERCIAL FIRMS CONTINUES TO BE THE PRESIDENT'S ITAR AUTHORITY, AS DELEGATED TO THE DEPARTMENT OF STATE, WHICH PROVIDES FOR THE OVERSIGHT OF INTERNATIONAL MUNITIONS TRADE. APPLICATION OF THESE REGULATIONS, HOWEVER, REQUIRED AN EXPANSIVE INTERPRETATION OF THE LAW AND ITS IMPLEMENTING REGULATIONS, RESULTING IN THE DESIGNATION OF A LAUNCH VEHICLE OR PAYLOAD AS AN EXPORT.

THE ADMINISTRATION SUPPORTS THE GENERAL PURPOSE OF S. 2931 TO ESTABLISH A FEDERAL LICENSING SCHEME FOR ELVs. IN THE DEPARTMENT'S VIEW, S. 2931 PROVIDES THE SECRETARY OF TRANSPORTATION WITH APPROPRIATE LICENSING AUTHORITY FOR REPLACING THE ITAR PROCESS WITH A FLEXIBLE APPROACH TO ESTABLISHING A REGULATORY FRAMEWORK TO DEAL WITH THIS EMERGING INDUSTRY. WE DO STRONGLY URGE, HOWEVER, THAT A NUMBER OF TECHNICAL AMENDMENTS BE MADE TO THE BILL.

1. PAGE 6 -- ADD "OR OTHER INTERNATIONAL LAW" BETWEEN "STATES" AND "AT" ON LINE 12.

2. PAGE 10 -- ADD "BEYOND THE GOVERNMENT OR ANY STATE GOVERNMENT WITH JURISDICTION UNDER SECTION 19(a) OF THIS ACT," BETWEEN "DISCLOSE" AND "ANY" ON LINE 9.
3. PAGE 13 -- DELETE §14(a) IN ITS ENTIRETY. IN §14(b), DELETE THE WORDS "ESTABLISH AND" ON LINE 20.
4. PAGE 14 -- DELETE "AS DETERMINED BY THE SECRETARY" ON LINE 1. IN ADDITION, RENUMBER §14(c) TO BECOME §15(a). THE EXISTING LANGUAGE OF §15 BECOMES §15(b) AND LINES 17-19 ARE REVISED TO READ, "...LIABILITY INSURANCE IN SUCH AMOUNTS AS CONSIDERED NECESSARY BY THE SECRETARY IN LIGHT OF THE INTERNATIONAL AND OTHER OBLIGATIONS OF THE UNITED STATES."
5. PAGE 16 -- ON LINE 10, INSERT "PRIOR TO REFERRAL TO THE ATTORNEY GENERAL," BEFORE "THE SECRETARY MAY...."

AS A FINAL MATTER, THE ADMINISTRATION SUGGESTS TWO ADDITIONAL AMENDMENTS. ON PAGE 18, WE WOULD SUGGEST THAT THE COMMITTEE DELETE LINES 10-17 BEGINNING WITH, "AS PART OF SUCH REPORTING POLICIES." ADDITIONALLY, SECTION 23 OF THE SENATE BILL AUTHORIZES \$4,000,000 FOR PURPOSES OF CARRYING OUT THIS ACT IN FY 1985. THE DEPARTMENT BELIEVES THAT CURRENT DEPARTMENTAL FUNDING LEVELS ARE ADEQUATE TO IMPLEMENT THIS LEGISLATION. WE THEREFORE FEEL THAT ADDITIONAL AUTHORIZATIONS ARE UNWARRANTED AT THIS TIME.

THE COMMITTEE CORRECTLY ANTICIPATES THAT SYSTEMATIC OVERSIGHT OF THE PAYLOAD ISSUE WILL BE NEEDED. THE UNITED STATES IS ABSOLUTELY LIABLE UNDER INTERNATIONAL TREATY FOR ANY DAMAGE SUFFERED BY NATIONALS OF OTHER COUNTRIES FROM ANY LAUNCH IN WHICH WE QUALIFY AS THE LAUNCHING STATE. WE WILL, HOWEVER, REQUIRE THOSE WHO PARTICIPATE IN THE PROGRAMS TO HAVE THE NECESSARY INSURANCE TO PROTECT THE UNITED STATES.

WE BELIEVE THAT THE GENERAL APPROACH REFLECTED IN THE LEGISLATION INTRODUCED BY SENATOR TRIBLE CAN AID IN ACHIEVING THE OBJECTIVES SET BY BOTH THE EXECUTIVE AND LEGISLATIVE BRANCHES. BY INCORPORATING THESE CHANGES, THE BILL WILL FULFILL ITS INTENT TO ESTABLISH AN EFFICIENT LICENSING SCHEME AND WILL NOT PROVIDE AUTHORITIES OR BUDGETARY AUTHORIZATIONS BEYOND WHAT ARE NEEDED TO FULLY IMPLEMENT THE LICENSING PROCEDURES.

IN CLOSING, I WOULD LIKE TO THANK THE COMMITTEE FOR INCLUDING COMMERCIAL ELV SPACE TRANSPORTATION ON ITS AGENDA. THE EXECUTIVE BRANCH IS WORKING AGGRESSIVELY TO CREATE CONDITIONS THAT PERMIT THE COMMERCIAL ELV INDUSTRY TO PROVIDE THE UNITED STATES WITH A PRIVATE SECTOR ALTERNATIVE FOR PLACING PAYLOADS IN SPACE. FOR MANY MISSIONS NOT REQUIRING MANNED CAPABILITY, COST-EFFECTIVE, DEDICATED, AND RELIABLE ELVs ARE AN ATTRACTIVE ALTERNATIVE. THEIR CAPABILITY CAN BE INVALUABLE FOR USERS WHO NEED TO PLACE SPECIALIZED PAYLOADS IN SPACE WHEN THE PARTICULAR ORBIT, LAUNCH WINDOW, OR SPACE ON THE SHUTTLE'S MANIFEST MAY BE UNAVAILABLE.

WE STRONGLY URGE THE SUBCOMMITTEE TO ADOPT THE AMENDMENTS WE HAVE PROPOSED AND LOOK FORWARD TO CONTINUING TO WORK WITH YOU ON ELV COMMERCIALIZATION IN THE FUTURE.

THIS COMPLETES MY PREPARED STATEMENT, AND I WOULD BE PLEASED TO RESPOND TO YOUR QUESTIONS.