

## **E. Aircraft Acquisition**

### **1. Introduction**

In our November 1994 report entitled, "Audit of Department of Energy International Charter Flights," we reported that the Department had not established a systematic and cost-effective process to acquire international air services. We suggested that the Department establish written policy and procedures for acquiring international air service including clarification of the responsibilities for all interested parties. We stated that the written policy and procedures should clarify the responsibilities of the Office of Human Resources and Administration, Headquarters Procurement, and Office of Aviation Policy. In addition, in a December 20, 1994, memorandum to the Deputy Secretary we concluded that the Department ensure that international air service processes and procedures be established before any additional trips were taken.

This section of the report discusses the actions Department officials have taken to respond to our November 1994 report and December 20, 1994, memorandum, and our review of the process they followed to acquire international air services for the four trade missions to India, Pakistan, China and South Africa. During the 16 trips, a variety of modes of transportation were used. Table 20 shows the method of travel used by the Secretary and her staff for each of the 16 foreign trips including the four trade missions. The Office of Aviation Operations Policy has been renamed the Office of Field Support (EH-53). The Office of Field Support is responsible for: (1) assisting the Office of the Secretary and Headquarters staff offices with travel planning and arrangements for domestic and international air travel, and (2) implementation and assurance of compliance with DOE and Federal travel requirements.

### **2. Action Taken as Result of a Prior Audit Report.**

Department officials did not establish written procedures for acquiring international air services before taking additional foreign trips. Since our December 20, 1994, memorandum, the Secretary traveled on two trade missions to China and South Africa without such procedures in place. Department officials advised us that they had met as early as December 14, 1994, to discuss improvements needed in the international aircraft acquisition process. However, only proposed procedures, entitled, "OUTLINE OF PROPOSED GUIDANCE FOR ARRANGING AIR TRANSPORTATION IN CONNECTION WITH SECRETARIAL OVERSEAS TRADE MISSION TRAVEL," had been established by Chief Financial Officer officials as of February 1996. These proposed procedures had not been reviewed or coordinated with officials who had responsibilities for acquiring aircraft services. On March 14, 1996, the Chief Financial Officer published "INTERNATIONAL TRAVEL POLICIES AND PROCEDURES (INTERIM)." These procedures had not been received by either Field Support Office or Headquarters Procurement Operations Office officials as of April 29, 1996.

In a March 28, 1996, meeting with the Inspector General, the Secretary expressed her desire to ensure that necessary policies and procedures for international travel were established, and properly coordinated with appropriate program offices prior to any additional international trade missions. The Inspector General recommended that the policies and procedures be processed through the Department's system for developing DOE orders and guidance.

As a result, the Department issued DOE Notice (N) 551.1, "INTERNATIONAL TRAVEL," dated April 15, 1996, to implement the audit report suggestions and to request comments on the procedures. Although the policies were issued, they did not, in our view, clarify roles and responsibilities of Department officials responsible for acquiring aircraft charter services for international travel.

After we issued our Initial Draft Report, Department officials issued DOE Manual (M) 551.1-1, "INTERNATIONAL TRIPS," dated July 31, 1996, which canceled DOE N 551.1. The Manual clarified roles and responsibilities of Department officials responsible for acquiring aircraft charter services for international travel.

### 3. The DOE Aircraft Acquisition Process

DOE used different methods of acquiring aircraft charter services for each of the four trade missions. Officials stated three factors influenced the decision on the method used: (1) inadequate lead times to effectively compete the acquisition, (2) lack of information on the number of passengers, and (3) aircraft configuration limitations.

We asked DOE officials whether they had considered commercial airline services. An official from the Office of Field Support said DOE officials generally justified non-use of scheduled commercial flights for the four trade missions for two reasons: (1) the Secretary requested that her entire group travel together and that there were not enough seats available for all travelers to fly together on any one scheduled commercial airline at the time of the trade missions; and (2) related to security needs, it was said the Secretary was required to be protected by an armed guard at all times.

**TABLE 20**  
**MODE OF TRANSPORTATION FOR FOREIGN TRAVEL**

	<u>TRIP NUMBER</u>	<u>DATES OF TRIP</u>	<u>COUNTRY</u>	<u>MODE OF TRANSPORTATION</u>
<u>1993</u>	1	June 1-5	France	Commercial
	2	Sept 24-Oct 2	Austria Russia	Commercial
	3	Oct 22-26	England	Commercial
	4	Dec 12-17	Russia	Commercial & Military
<u>1994</u>	5	Feb 5-8	Ivory Coast	Commercial & Military
	6	July 7-15	India	Commercial & Military
	7	Aug 31-Sept 5	Belgium	Commercial
	8	Sept 16-25	Austria Pakistan	Commercial & Charter
	9	Dec 12-19	Russia Sweden	Commercial & Military
<u>1995</u>	10	Feb 9-25	India Hong Kong China	Commercial & Charter
	11	May 17-27	France Azerbaijan Italy	Commercial & Military
	12	June 7-11	Costa Rica	Commercial
	13	June 26-July 1	Russia	Commercial
	14	August 18-28	South Africa	Commercial & Charter
	15	Sept 13-20	Czech Republic Austria	Commercial
	16	Nov 29-Dec 7	South Africa	Commercial & Military

Management Comments. Management commented that: “This section indicates there is a requirement for the Secretary to be protected by an armed guard at all times. There is no ‘requirement’ that the Secretary be accompanied by an armed guard at all times while traveling internationally.”

According to DOE officials, funding limitations also caused a change in the method of acquiring aircraft services. Payments DOE collected from non-Federal passengers on the India mission could not be retained by DOE to offset aircraft acquisition costs, but had to be returned to the U.S. Treasury. Thus, after the India trip DOE officials discussed the funds available for international travel and the estimated cost of future trade missions. They attempted to find a procurement method that would allow payment of only the cost of aircraft services used by DOE travelers.

Table 21 shows, for each trade mission, the estimated cost of aircraft and the amount of cost paid by non-DOE travelers versus the cost paid by the Department.

India :

In a memorandum dated on June 29, 1994, the Secretary of Energy requested that the Secretary of Defense provide a Department of Defense (DOD) aircraft for a delegation of approximately 60 government and business leaders in support of the Presidential Mission to India. The memorandum also stated that:

“Furthermore, given that this trip is scheduled during monsoon season when domestic flights in India are unpredictable and unreliable, it is essential to the timelines and overall success of the mission that a U.S. Government aircraft be provided.”

On June 30, 1994, Office of Field Support officials informed the Office of Scheduling and Logistics of the results of their aircraft-acquisition cost analysis performed on the Secretary of Energy’s planned visit to India. An official from the Field Support Office based the analysis on 59 travelers (15 Government travelers and 44 non-Government travelers). The analysis showed that commercial air travel would cost \$165,200, charter aircraft would cost \$355,495, and DOD aircraft would cost \$643,464. A Field Support official found that commercial flights, other than charter airlift, were not available to meet the Secretary’s requirement that all participants of the trip travel together. He recommended that charter airlift be used, which was less expensive than using military airlift. Another official stated that past estimates have also shown that use of military airlift was not considered the most cost effective mode of air travel.

**TABLE 21**  
**TRADE MISSION CHARTER AIRCRAFT PAYMENT**

<b>Mission</b>	<b>Cost of Charter</b>	<b>Collections from non-DOE</b>	<b>Cost to DOE</b>
India	\$ 498,965	*67,300	\$ 498,965
Pakistan	427,450	**210,248	217,202
China	***662,000	***330,284	331,716
South Africa	569,822	289,176	280,646
<b>Total</b>	<b>\$ 2,158,237</b>	<b>\$ 897,008</b>	<b>\$ 1,328,529</b>

\*DOE collected this amount and deposited it into the U.S. Treasury. Thus, DOE's cost remained at \$498,965, while the net Government cost was \$431,665 (\$498,965 - \$67,300).

\*\*The Department of Interior collected the \$210,248 on behalf of DOE, pursuant to an interagency agreement. Included in DOE's cost is \$48,831.50 that Interior was unable to collect from non-Federal travelers. Of the \$48,831.50, DOE has collected \$19,931 and deposited these funds in the U.S. Treasury.

\*\*\*The cost of the charter is per Omega records, the collections from non-DOE are estimated based on the charter cost.

The Secretary of Energy sent a memorandum, dated July 1, 1994, to the Acting General Counsel seeking approval of arrangements to use DOD aircraft for DOE and non-Federal travelers to travel from July 7-15, 1994, from Washington, D.C. to New Delhi, India, and return. The memorandum also authorized internal travel within India. Furthermore, the memorandum stated that:

"Use of the Government aircraft in this case is required due to the inability of commercial scheduled air services to meet my travel plans. Further, I have been advised that use of the Department of Defense aircraft is preferable for security reasons."

On July 1, 1994, DOD officials approved use of a DOD aircraft, and on July 5, 1994, the Acting General Counsel approved the Secretary's request to use a DOD aircraft. The Secretary and her delegation departed from Andrews Air Force Base, on July 7, 1994, for India.

A Field Support official requested the invoice on September 21, 1995, for remittance on the chartered DOD aircraft used to transport the Secretary's delegation. On September 22, 1995, a voucher for Transfer Between Appropriations and/or Funds, was received from the Air Force, which charged DOE \$498,965.

## Pakistan:

The Department used a different method to obtain charter services for the Pakistan mission. The Department acquired chartered airlift by using a service contract in accordance with the Federal Acquisition Regulation (FAR). A Department official established a contract with the Department of Interior (Interior) to provide financial support services to bill and collect from the non-Federal travelers. However, we found that the method used to offset the cost for non-Federal passengers on chartered airlift was contrary to Federal requirements. We discussed this issue in Section D, "Source of Funds," of this report.

On August 9, 1994, the Office of Field Support official sent a memorandum to the Secretary's staff outlining options and cost estimates for charter aircraft service. The following options were outlined:

- (1) Use DOD Aircraft: The only military aircraft that was available in passenger configuration was the C-137, the same type of plane that was used on the India trip. This option was deemed unsatisfactory because 70 passengers required transport. Although 70 passengers required transport, the plane's capacity was approximately 50 individuals; therefore, at least 20 passengers would have been required to travel commercially. Also, in order to use the C-137 aircraft, the Department would have had to change its itinerary. The military charter estimated cost was \$730,000.
- (2) Use of Commercial Carrier: This option was not available due to most flights being sold out. Scheduled commercial carriers from Washington (Dulles) to Islamabad to Lahore to Washington (Dulles) would cost approximately \$4,000 per traveler (\$280,000 for the total 70 passengers). However, the official stated that Omega travel noted that several of the flights necessary for the proposed itinerary were sold out.
- (3) Use of Charter Aircraft: This option was selected because it met the needs of the Secretary and her delegation. Flight Time International, a charter agent, provided a bid of \$375,000, which included 70 first class seats on a DC-8 aircraft, a 24 hour duty officer and flight services. The price per seat was \$5,357.

The Field Support official signed and sent a draft Justification for Other Than Full and Open Competition (Justification) document to the contracting officer on August 17, 1994. The Justification stated that the delegation would total 65 persons including 45 from the "private sector" and that no scheduled commercial airline service was available to meet the requirement. The draft Justification was signed by the contracting officer on August 18, 1994. The contracting officer, on August 23, 1994, forwarded a letter to Flight Time International committing the Department to a chartered flight for transportation of a party of 70 passengers from Washington, D.C. to Lahore, Pakistan.

On August 29, 1994, the contracting officer requested and received from the Office of Field Support information needed for inclusion in the contract with Flight Time International. On the next day, the contracting officer and program office officials signed the Small Business/LAS Set-Aside Review document for "Aircraft Charter Services." The document was signed by the DOE Small/Disadvantaged Business Specialist on September 2, 1994, and by the Small Business Administration representative on September 19, 1994.

Non-Federal travelers were informed in an invitation letter that the round trip flight cost would be approximately \$7,000. The fee was to pay for the cost of one business class seat on the U.S. Government-chartered aircraft, ground transportation, and official meals.

The contracting officer submitted a request for bids to Flight Time International on September 1, 1994. The request invited Flight Time International to submit a proposal in accordance with a Statement of Work that was provided. It also required Flight Time International to comply with the Truth in Negotiations Act. The Justification was signed on the same day, September 1, 1994, by required Department officials -- a Program office official, the contracting officer, the senior program official, and the procurement activity competition advocate. The contracting officer approved the Justification for Flight Time International to be the charter broker.

Also, on the same day, September 1, 1994, a Program office official and the contracting officer signed the "PRENEGOTIATION PLAN AND POST NEGOTIATION SUMMARY." The following cost proposals were considered:

<u>Agent</u>	<u>Price Quoted</u>	<u>Remarks</u>
Flight Time International	Proposed price = \$415,000	Available
American Trans. Air	Market Price = \$700,000	Unavailable
Rich International	Market Price = \$475,000	Unavailable
Advance Air	Market Price = \$500,000	Unavailable

A DOE official certified that funds were available in the amount of \$415,000 to contract for charter airlift services with Flight Time International. The contract to perform aircraft charter services in accordance with the statement of work was awarded on September 16, 1994, to Flight Time International.

The delegation departed for Pakistan on September 19, 1994, using the chartered MGM Grand (DC-8) aircraft that was provided by Flight Time International.

An Interagency Agreement between DOE and Interior's Office of Aircraft Services was signed by DOE contracting officials on September 20, 1994. Under the agreement, Interior was to act as DOE's collection and payment agent for chartered aircraft service. The total cost to DOE of the proposed agreement was \$12,450.

In accordance with Title 41, C.F.R. 101, Part 37.405 and OMB Circular A-126, all travel by non-Federal travelers to travel on Government-chartered aircraft must be authorized and approved on a trip-by-trip basis by the Department's senior legal official or the principal deputy. The approval must be authorized in advance and in writing. Department officials did not provide documents to show that non-Federal travelers were authorized to accompany the Secretary on the charter airlift.

#### China:

The third method used to acquire charter airlift services was use of the Department's centralized travel service, Omega World Travel. Provisions of the existing Omega World Travel contract were used to justify acquisition of charter service.

The Secretary's Travel Coordinator sent a memorandum dated December 1, 1994, to an Office of Field Support official, which outlined a draft itinerary for the planned trip. In the memorandum, the Secretary's Travel Coordinator stated ". . . in fact she would really like the same plane we had the last time . . . ." Subsequently, on or about December 12, 1994, the contracting officer forwarded a draft Justification for Other than Full and Open Competition (Justification) to Office of Field Support officials. Also, a draft purchase request to procure a charter aircraft for the China mission was forwarded to Omega World Travel by a Field Support official. The draft purchase request stated that the travel would include 26 Federal employees and 44 non-Federal business persons.

The Director of the Office of Field Support forwarded a memorandum citing cost estimates to the Director of the Office of Scheduling and Logistics on January 17, 1995. The cost estimates for alternative aircraft services included: \$8,895 per person cost (based on 77 passengers) for a DC-8-62 charter aircraft; \$3,859 using a business class ticket, which was cited as "2.3 times less than cost of charter person," for scheduled commercial services; and \$674,103 for an Air Force aircraft (Boeing 707 with up to 50 passenger seats). The Air Force aircraft, however, was not available.

In the invitation letters, non-Federal travelers were informed that their portion of the round trip flight cost was estimated at \$9,200 each (payable to Omega World Travel). Also, the letter assessed each traveler an administrative fee of \$300 to pay the cost of ground transportation, official meals, business services, and use of translators. Administrative fees were to be mailed to DOE's Office of Headquarters Accounting.

Omega World Travel forwarded cost estimates on January 25, 1995, to Field Support Office officials, which contained several options for the China trip. Attached was a document suggesting that Omega World Travel would provide charter services using a named charter airline.

Omega World Travel made the aircraft selection, subject to technical and safety review by the Office of Field Support. The Office of Field Support's technical review found that the low bidder did not have the international certification required to operate international



charters. Therefore, they were disqualified and the second lowest bidder was then selected.

On January 31, 1995, the Field Support Office official wrote to the Secretary's staff that Omega World Travel had been informed that "we would like to have the Grand Holdings Aircraft" (MGM Grand). The Field Support Office informed the Secretary's staff, in a memorandum, that a Grand Holding Aircraft (MGM Grand) would be used for the China trip.

The Omega World Travel Region Manager informed the local Omega World Travel Supervisor on February 10, 1995, that Flight Time International would be the charter agent and that Grand Holding would be the charter aircraft used for the China mission at a cost of \$662,000. As previously noted in the Pakistan mission, Department officials did not provide documents to show that non-Federal travelers were authorized to accompany the Secretary on the charter airlift, as required by 41 C.F.R. 101-37.405.

#### South Africa:

For the South Africa trade mission the Department used a fourth method of acquiring chartered airlift services. The method used was through a Government Transportation Request (GTR).

In June 1995, Department officials initiated the process to acquire aircraft charter services for the South Africa trade mission. On June 7, 1995, officials from the Field Support office and Headquarters Procurement Operations met with a former Interior official to discuss the feasibility of using the GTR to acquire aircraft charter services. The Interior official stated there are two basic methods used to acquire charter air services:

- (1) Formal procurement utilizing the Federal Acquisition Regulation under Chapter 48 of the C.F.R. This method is appropriate when needs are continuous or intermittent, but on a relatively frequent basis; and
- (2) Charter arrangements utilizing GTR/Charter Agreement procedures are described in 41 C.F.R. Chapter 304. This method is more appropriate for infrequent point-to-point transportation of groups.

A Field Support Office official stated that between June 7 and July 5, 1995, he had held many discussions with staff members of the Office of Scheduling and Logistics on a process to be used for procuring aircraft charter services for approximately 200 passengers in support of the South Africa trade mission. The official stated that around July 5, 1995, he discussed two options for chartering aircraft service for the South Africa trade mission with a staff member from the Office of Scheduling and Logistics. The recommended options, based on the itinerary and a passenger list of 70 members, were to use: (1) Rich International, which had the ability to transport 189 passengers, at an

estimated cost of \$311,000 plus a \$37 tax per person or (2) the Front Page Tours - Champion Air (formerly MGM Grand), at an estimated cost of \$485,000.

The Field Support official on July 14, 1995, contacted six charter agents and DOD as potential candidates that might provide charter aircraft service for the South Africa trade mission. However, four of the six charter agents and DOD were immediately eliminated because they could not provide charter aircraft to perform the stated itinerary and support a passenger list of 70. In addition, a Rich International agent (the fifth charter agent) noted that his company was unable to reconfigure aircraft seating. The only charter agent that could fully support the South Africa trade mission with the required configuration of the charter aircraft was Flight Time International. As a result, the Field Support official advised the contracting officer that Flight Time International was the sole responsive bid to charter the South Africa trade mission. The Field Support official advised us that he entered into a verbal commitment with Flight Time International, in advance of a written contract, to charter their aircraft service for the South Africa trade mission.

Department officials sent letters of invitation on July 18, 1995, to non-Federal personnel to accompany the Secretary of Energy on the trade mission. In the invitation letter, non-Federal travelers were informed that the round trip flight cost was estimated at \$7,553, which was to be paid directly to a Flight Time International representative. In addition, non-Federal travelers were informed of an administrative fee of \$600 to be paid to the hotel in Johannesburg.

The official from the Field Support Office forwarded the Purchase Request and Justification for Other Than Full and Open Competition to the contracting officer on July 20, 1995. Also, on the same day, the contracting officer sent a memorandum to the Office of General Counsel seeking interpretation of regulations governing transportation acquisition. On July 28, 1995, the Office of General Counsel determined that requirements found in the Federal Acquisition Regulation did not apply to acquisition of transportation or transportation-related services for personnel using a GTR.

The contracting officer prepared a "memorandum for record," on or about August 8, 1995, that noted inquiries were made to six charter agents, which requested aircraft service for the South Africa trade mission. Based on the stated itinerary and the 67-passenger list, the following is the summary information provided by each agent:

<u>Agent</u>	<u>Type of Aircraft</u>	<u>Price Quoted</u>
Tower Air	747	Approximately \$525,000, plus current prices of aircraft routings to South Africa. Aircraft not available.
Rich International	DC-8	Approximately \$500,000, aircraft seats about 200 people
American Trans Air	L1011	No price quote. The entire aircraft must be paid for. The required configuration kept the aircraft from being cost effective.
Flight Time International	DC-8	\$506,000. The agent was willing to charter the aircraft on behalf of DOE with the Department being responsible for only 21 seats. Available.
Sun Country Airlines	DC-10	\$510,000. All aircraft were committed for the summer and were not available for booking.
World Airways	DC-10	\$550,000. Company did not offer the required configuration for a one time charter.

On August 10, 1995, the Special Assistant to the Chief Financial Officer forwarded a memorandum to the contracting officer providing that the Chief Financial Officer has reserved "\$158,613 to cover the Government's share of the South Africa Delegation charter aircraft" with Flight Time International. On the same day, the contracting officer and a Flight Time International agent signed the basic GTR and charter flight requirements. While the DOE GTR was for seats needed for travelers paid for by DOE, the total charter cost was \$506,000 and the Department agreed "to fill empty seats with paying passengers off its delegation waiting list to ensure that Flight Time [International] realizes the full price of the charter." The appendix attached to the GTR further stated that: "In the event the Department cancels the trip prior to take-off, the cancellation fee shall be \$258,000." However, on August 10, 1995, the Office of General Counsel determined that in the event that the Department canceled the trip prior to take-off, the Department was legally liable for only its proportionate share of the original \$158,613.

An addendum to the basic GTR was forwarded to the contracting officer from Field Support Office, on August 15, 1995. The addendum added five Government passengers to the chartered aircraft manifests, a trip to Kimberly, South Africa, and two side trips to

Sun City, South Africa, and Mozambique. This addendum added \$68,454 to the trip cost, which included \$18,595 for a trip to Kimberly.

The Office of General Counsel (OGC) reviewed issues associated with charges for the Kimberly portion of the trip. In an August 18, 1995, memorandum on this subject, OGC stated that (1) it is lawful and appropriate for the Department to pay the additional aircraft cost of \$18,595 for the trip to Kimberly and (2) the Department need not charge the non-Government passenger a surcharge for the Kimberly portion of the trip. OGC further stated that non-Government travelers were to pay Flight Time International \$7,553 per person based on the itinerary and that this decision was consistent with OMB Circular A-126 and the Federal Property Management Regulations. OGC also said that it was proper for DOE to charter the entire aircraft and invite non-Government passengers to ride as guests without paying an "aliquot share" of the charter fee.

Several additional charges were incurred during the South Africa trade mission. First, on or about August 20, 1995, the Secretary of Energy was invited to travel to Sun City for a meeting with Vice President Mbeki. Vice President Mbeki was in Sun City with a delegation of 250 industry personnel from Malaysia. Attempts to accommodate the Secretary's requirements for visiting Sun City resulted in the on-site Transportation Coordinator and a Field Support Office official making two separate requests for aircraft.

Furthermore, on or about August 22, 1995, the Secretary of Energy was invited to attend both a meeting with President Chissano of Mozambique and an event to witness the signing of an agreement between Mozambique and Enron Corporation to develop and market the Pande natural gas reserves and related pipeline infrastructure. On the day of the trip to Mozambique, the signing was canceled, but the airline charged the Department the entire cost of the trip, 100 percent of the cost, because the cancellation was not made 24 hours prior to the scheduled take-off. As a result, Department officials paid \$5,287 for a canceled charter flight from Johannesburg to Mozambique.

The contracting officer received a bill and invoices on August 31, 1995, from Flight Time International for additional charges for aircraft charter services. The additional charges were for added seats totaling \$45,318, a side trip to Kimberly costing \$19,339, a \$32,000 return trip to Cape Town, two air charter services to Sun City totaling \$6,227, and a charge of \$5,287 for a canceled trip to Mozambique. The total additional charges were \$108,171.

Our review revealed that for a flight from Johannesburg to Sun City two aircraft were chartered for the same flight. One aircraft was chartered through the U.S. Embassy for \$1,347, and the other through Flight Time International. As a result of the administrative error of chartering the aircraft, DOE paid \$7,492 instead of \$1,347.

**RECOMMENDATION 23:** We recommend the Chief Financial Officer ensure that the Department's policies and procedures for aircraft acquisition for international travel are formally issued and they are consistent with results of this inspection.

Management Update on Status of Corrective Actions. Management stated that DOE N 551.1 had been finalized and the final policy statement and manual were issued on July 31, 1996, as DOE P 551.1, "INTERNATIONAL TRIPS" and DOE M 551.1-1, "INTERNATIONAL TRIPS." Management also stated that DOE N 551.1 includes policies on aircraft acquisition for international travel, pursuant to which the Procurement office is responsible for acquisition through competitive process or other legitimate procurement procedures.

Inspector Comments. This recommendation should remain open until the Department's policies have been revised to include how payment shall be received from non-Federal passengers traveling on military chartered aircraft.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report, you requested that we formally issue policies and procedures for aircraft acquisition. Our office formally issued these policies and procedures on July 31, 1996.

"In the Official Draft Report, you ask us to revise these policies to address how payment shall be received from non-Federal passengers on military aircraft. We will complete this action by October 31.

RECOMMENDATION 24: We recommend the Secretary provide written logistic requirements for other than regularly scheduled flights to the Director of the Office of Field Support.

Management Update on Status of Corrective Actions. Management stated that DOE N 551.1 had been finalized and the final policy statement and manual were issued on July 31, 1996, as DOE P 551.1, "INTERNATIONAL TRIPS" and DOE M 551.1-1, "INTERNATIONAL TRIPS." Management also stated that DOE N 551.1 requires the Senior Responsible Official to submit an air transport requirements document to the Office of Aviation Policy (Field Support).

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 25: We recommend the Director of the Office of Scheduling and Logistics assure that a system is developed and implemented to acquire charter airlift and services.

Management Update on Status of Corrective Actions. Management stated that DOE N 551.1 had been finalized and the final policy statement and manual were issued on July 31, 1996, as DOE P 551.1, "INTERNATIONAL TRIPS" and DOE M 551.1-1, "INTERNATIONAL TRIPS." Management also stated that DOE N 551.1 establishes

procedures for competitive acquisition (or other legitimate procurement process) of aircraft services for international travel.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 26: We recommend the Director of the Office of Scheduling and Logistics establish a system to provide a listing of non-Federal individuals who will be traveling on Government-chartered aircraft to the Office of General Counsel for approval.

Management Update on Status of Corrective Actions. Management stated that the final travel order/policy will be modified to require submission to GC of a listing of non-Federal travelers. Management also stated that DOE N 551.1 requires GC review and approval of travel by Government aircraft, without explicit reference to a list of non-Federal travelers. The Department officials redrafted DOE N 551.1 and issued a policy statement as DOE P 551.1, "INTERNATIONAL TRIPS" and a manual as DOE M 551.1-1, "INTERNATIONAL TRIPS, on July 31, 1996.

Inspector Comments. We determined that DOE M 551.1-1 addresses submission to GC of a listing of non-Federal travelers who will be traveling on a Government-chartered aircraft. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 27: We recommend the Assistant Secretary for Human Resources and Administration, in coordination with the Assistant Secretary for Environment, Safety and Health, establish a system to procure charter service in the most economical fashion possible and ensure funds are available prior to committing the Department.

Management Comments. Management commented that:

"Recommendations 23, 25, and 27 seem to overlap somewhat. The Department agrees with the recommendations and aircraft acquisition procedures need to be established. The Department will involve all parties discussed in the draft report in the process, assigning primary responsibility to the Office of Human Resources and Administration (Office of Procurement) working with the Office of Field Support, the Office of Scheduling and Logistics, the Office to General Counsel and the Office of the Chief Financial Officer."

Inspector Comments. The three recommendations address actions to be taken by three different Program offices. Recommendation 23 recommends that the Chief Financial Officer formally issue policy. Recommendation 25 recommends that the Office of Scheduling and Logistics assure a system is developed and implemented to acquire charter airlift services. Recommendation 27 recommends that the Office of Human Resources and Administration (Office of Procurement) work with the Assistant Secretary

for Environment, Safety and Health (Office of Field Support) to establish a system to procure charter airlift services. We believe that addressing these recommendations separately to these three offices is the best way to ensure corrective actions are taken.

Management Update on Status of Corrective Actions. Management stated that DOE N 551.1 had been finalized and the final policy statement and manual were issued on July 31, 1996, as DOE P 551.1, "INTERNATIONAL TRIPS" and DOE M 551.1-1, "INTERNATIONAL TRIPS." Management also stated that "DOE N 551.1 requires Aviation Policy to prepare Transportation Options Analysis which considers all reasonable alternatives and includes detailed cost breakout. Senior Responsible Official must select least cost option meeting needs." Further, management stated that "DOE N 551.1 requires transportation costs to be included in budgets; CFO required to certify availability for funds for budget."

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

## **F. Trade Mission Outcomes**

### 1. Introduction

The Department of Energy has used both monetary and non-monetary outcomes to report the success of trade missions to India, Pakistan, China, and South Africa. The monetary outcomes reported by the Department include the dollar value of business agreements signed on the missions and the estimated jobs associated with those agreements. The non-monetary outcomes include policy and regulatory structure reforms intended to promote investment in the mission countries, the breaking down of barriers that inhibit investment, cooperation between governments on nuclear and energy policy issues, and the signing of various official documents.

This section reviews the monetary outcomes of the trade missions reported by the Department, the Department's clarification of the monetary outcomes, the role the Department played in achieving the monetary outcomes, and the non-monetary outcomes of the trade missions.

### 2. Monetary Outcomes

#### Potential Value of Business Agreements Reported by Trade Mission

The Department has reported the potential value of business agreements signed on its trade missions as \$19.7 billion. This amount is found in an October 2, 1995, document prepared by the Office of Energy Exports entitled, "SUMMARY OF TOTAL BUSINESS

## AGREEMENTS SIGNED DURING DEPARTMENT OF ENERGY TRADE MISSIONS.”

The “Introduction” states: “Included in this report is a summary of the total dollar value signed during each mission broken out by energy sectors or ‘POD’ which to-date totals over \$19.7 billion.” As identified in this summary, the \$19.7 billion is derived from 143 business agreements signed on seven missions. These missions include:

- (1) Presidential Mission on Sustainable Energy and Trade to India, July 7-15, 1994.
- (2) Presidential Mission on Energy Investment to Pakistan, September 21-24, 1994.
- (3) Reverse trade mission to the U.S. made by India’s Minister of Non- Conventional Energy Sources, Kumar, India’s Power Minister, Salve, and the Confederation of Indian Industry, September and December, 1994.
- (4) Follow up Mission to Pakistan on Energy Investments, December 12-17, 1994, led by the Deputy Secretary.
- (5) Return to India, February 11-14, 1995.
- (6) Presidential Mission on Sustainable Energy and Trade to China, February 15- 24, 1995.
- (7) Clinton Administration Delegation on Sustainable Energy and Empowerment to South Africa, August 18-28, 1995.

Although not stated in the October 2, 1995, summary, an October 3, 1995, memorandum transmitting this summary refers to the \$19.7 billion as the “potential total dollar value” of the 143 business agreements signed on the missions. Table 22, “Summary of \$19.7 Billion by Trade Mission,” provides a breakdown of the number of business agreements and their value by trade mission.

The Department did not report any value for the 10 business agreements attributed to the South Africa mission. We were told by a Department official that, since the value of the agreements signed on the South Africa mission was small, the Department decided not to report this value because of concerns that it would detract from the other, more significant, non-monetary accomplishments of the mission. However, in response to questions asked by the House Committee on Commerce, Subcommittee on Oversight and Investigations, the Department reported that: “Based on its experience with India, Pakistan, and China missions, including uncertainties about the economic benefits of MOUs, DOE chose not to announce financial and job creation benefits from the mission to South Africa, although the benefits are considerable.”

### Accumulation of the Value of Business Agreements Signed



The Department decided to accumulate the value of business agreements signed on its trade missions in late February or early March 1995, shortly after the China mission. We were told by an official in the Office of Energy Exports, the office tasked with compiling Secretarial trade mission data, that he was approached by a member of the Secretary's staff after returning from China and asked to develop an amount representing the value of all business agreements signed on the Secretary's trade missions. This official said that he was told that this amount was needed for an upcoming hearing.

**Table 22**  
**Summary of \$19.7 Billion by Trade Mission**

<b>Trade Missions</b>	<b>Number of Business Agreements</b>	<b>Total Value (in billions)</b>
Presidential Mission to India	18	\$ 5.2
Return to India	23	1.3
Presidential Mission to Pakistan	16	3.9
Follow up Mission to Pakistan	18	2.6
Presidential Mission to China	35	6.5
Reverse Mission to the U.S. made by India's Ministers Kumar and Salve	23	0.2
Mission to South Africa	10	-
<b>TOTAL</b>	<b>143</b>	<b>\$ 19.7</b>

The Office of Energy Exports developed a March 20, 1995, document entitled, "SUMMARY OF TOTAL BUSINESS AGREEMENTS SIGNED DURING DEPARTMENT OF ENERGY TRADE MISSIONS." This document represents the first compilation provided to the Office of Inspector General of the total value for business agreements signed on the trade missions. In this document, the Office of Energy Exports identified a total of 108 agreements valued at \$19.5 billion. However, the first time a compiled amount was reported by the Department was during the Secretary's testimony on March 7, 1995, before the Senate Committee on Foreign Relations, Subcommittee on Near Eastern and South Asian Affairs. In her prepared statement, the Secretary reported that the Department's Presidential Missions "have resulted in energy business agreements valued in excess of \$15 billion." In her oral testimony before the Subcommittee, the Secretary stated that work the Department of Energy and the Department of Commerce had done in Pakistan, India, and China quantified "something very close to \$27 billion worth of U.S. deals signed." The monetary data for these statements was compiled by a Special Assistant to the Secretary. This official said that he obtained data for the monetary outcomes from trip reports and phone calls made to Department program offices engaged in tracking various efforts.

The data used by the Office of Energy Exports to accumulate monetary outcomes for the Department's trade missions were not taken from actual signed business agreements. An

official from the Office of Energy Exports told us that he accumulated the value of signed business agreements by gathering data available from trade mission trip reports and press releases. This official said that some business agreement summaries were prepared by U.S. company representatives during the mission and that these summaries were used for trip reports. The official said the summaries included the value of business agreements signed. However, the official said that he did not have access to the actual signed documents, and that this type of documentation was not obtained by the Department.

### Types of Agreements Included in the Monetary Outcomes

The 143 business agreements used in development of the \$19.7 billion are not all firm contracts for U.S. goods and services. The October 2, 1995, "SUMMARY OF TOTAL BUSINESS AGREEMENTS SIGNED DURING DEPARTMENT OF ENERGY TRADE MISSIONS," along with other Department records provided to us during this inspection, show that agreements signed on DOE missions include Memorandums of Understanding and Letters of Intent, and a wide variety of business agreements such as Concession Agreements, Power Purchase Agreements, Joint Venture Agreements, Implementation Agreements, and Sales Contracts. Many of these agreements represent various stages in the development of energy related projects such as power plants, wind farms, and cogeneration facilities, while others represent the sale of U.S. technology or equipment to foreign partners. As shown in Table 23, "DOE Summary of \$19.7 Billion by Agreement Type," nearly one-third of the \$19.7 billion in potential value reported by the Department represents Memorandums of Understanding, while roughly another third represents Letters of Intent and agreements for which no specific type was identified in the Department records reviewed by the Office of Inspector General.

#### Memorandums of Understanding

Memorandums of Understanding have been described to us by Department officials as the least firm of business agreements signed on the Department trade missions. Department records indicate that 52 of the 143 business agreements reported to have been signed on Department trade missions were Memorandums of Understanding, representing \$6.4 billion of the \$19.7 billion in potential value reported. Memorandums of Understanding have been defined by Department officials as agreements between U.S. companies and their foreign partners to work together to explore more formal business agreements. Department records identify Memorandums of Understanding to establish joint ventures and partnerships for activities such as development of power generating facilities and energy related production plants. An official from the Secretary's Office told us that Memorandums of Understanding are not generally binding.

#### Letters of Intent

Letters of Intent have been described to us by Department officials as more firm than Memorandums of Understanding, but less firm than other business agreements signed on the Department trade missions. Department records indicate that 15 of the 143 business

agreements reported to have been signed on Department trade missions were Letters of Intent, representing \$2.5 billion of the \$19.7 billion in potential value reported. Letters of Intent have been defined by Department officials as a more formal agreement that demonstrates that all parties involved are willing to pursue a specific opportunity. A Letter of Intent is described in the INVESTMENT OPPORTUNITIES

**TABLE 23**  
**DOE Summary of \$19.7 Billion by Agreement Type**

Type of Business Agreements	Number of Transactions	Potential Value (in billions)
Memoranda of Understanding	52	\$ 6.4
Letters of Intent	15	2.5
Sales	10	0.3
Implementation Agreements	7	3.2
Joint Ventures	4	0.1
Licensing Agreements	3	0.5
Power Purchase Agreements	2	0.3
Licenses	2	0.3
Turnkey Construction Project	1	0.1
Miscellaneous	22	0.1
Type Not Specified	<u>25</u>	<u>5.9</u>
<b>Total</b>	143	\$19.7

Note: DOE provided data as of October 2, 1995.

brochure published by the Government of Pakistan in February 1993. This brochure shows that a Letter of Intent contains the terms of agreement between the sponsors of a proposal selected for evaluation and the Pakistani government. This brochure states that a Letter of Intent confers on the sponsors exclusivity in relation to the project for a period long enough to enable them to complete all further preparation leading up to the signing of final contracts and agreements. Department records identify Letters of Intent for activities such as development of power plants and sale of generating equipment.

#### Other Agreement Types

Department records indicate that 51 of the 143 business agreements reported to have been signed on Department trade missions included a wide variety of agreement types representing \$4.9 billion of the \$19.7 billion in potential value reported. These agreements include Implementation Agreements, Power Purchase Agreements, a Turnkey Construction Project Agreement, and Licensing Agreements. According to the Department's records, Implementation Agreements represent \$3.2 billion of the \$4.9 billion

in other agreement types and are unique to Pakistan. An Implementation Agreement is described in the INVESTMENT OPPORTUNITIES brochure published by the Government of Pakistan. This brochure shows that an Implementation Agreement is the first in a series of contracts and agreements on power plant projects that will need to be signed before financial closure and the start of construction. According to this brochure, an Implementation Agreement defines the relationship between the project company and the Government throughout the project life, setting out general obligations and conditions to be satisfied by the project company and sponsor, the assurance and assistance to be given by the Government, and the arrangements that will apply in the event either party is unable to fulfill its obligation. The other contracts and agreements that follow an Implementation Agreement include Power Purchase Agreements, Fuel Supply Agreements, Loan Agreements, a Turnkey Construction Contract, an Operation and Maintenance Contract, a Shareholders Agreement, Escrow Agreement, Insurance Policies, Trust Deed, and Land Purchase/Lease Agreement.

#### Agreement Type Not Specified

Department records do not indicate the agreement type for 25 of the 143 business agreements reported to have been signed on DOE trade missions, representing \$5.9 billion of the \$19.7 billion in potential value reported. Department records identify activities such as the development of power generating facilities, but do not specify if the type of agreement signed in relation to the facility was a Memorandum of Understanding, a Letter of Intent, or some other type of business agreement such as an Implementation Agreement, Partnership, Joint Venture, or Power Purchase Agreement.

#### Characteristics of Monetary Outcomes

The \$19.7 billion reported by the Department in business agreements signed on Department missions does not represent the total dollar amount going to U.S. companies. Although the \$19.7 billion includes sales by U.S. companies and contracts for goods and services with U.S. companies, the \$19.7 billion in potential value also includes projects that involve U.S. and foreign capital investment into foreign countries. The potential benefit to the United States and U.S. companies resulting from capital investment projects cannot be determined from Department records because the Department did not collect the data necessary to make this determination.

#### U.S. and Foreign Investment

The Department has recognized, in instances involving development of major power projects, that the agreements signed include the value of both U.S. and foreign investment. As a result, the Department has used the term "U.S. share" to identify dollars associated with the capital investments of U.S. companies. Department records show that this term was used on the China mission.

Thirty-five business agreements were signed on the China trade mission with a potential value of \$6.479 billion. DOE records show that 10 of these 35 business agreements had a potential value of \$4.1 billion, and that the “U.S. share” of these 10 agreements was \$2.2 billion. We were told by an official from the Office of Energy Exports that the “U.S. share” represents investment being made by U.S. companies involved in the agreements, and that the remaining \$1.9 billion represents the foreign share of the investment. For example:

- The Department has reported the potential value of a Memorandum of Understanding for expansion of an electrical project as \$1.2 billion. Based on Department records, the “U.S. share” of this agreement is \$150 million.
- The Department has reported the potential value of a Letter of Intent for a 2X300 MW coal fired plant as \$300 million. Based on Department records, the “U.S. share” of this agreement is \$150 million.

We were told by the official from the Office of Energy Exports that this condition may exist for the dollars being reported for the India and Pakistan trade missions. However, since the concept of “U.S. share” was not utilized until the China trip, Department records for the business agreements signed on the India and Pakistan trade missions do not identify the “U.S. share.”

### U.S. Export Content

The Department’s use of the “U.S. share” concept does not capture data needed to identify the actual monetary benefits to the United States and U.S. companies. As a result, the Department could not, at the time of our inspection, identify that portion of the \$19.7 billion that may benefit the United States and U.S. companies.

We discussed the “U.S. share” concept with the Department of Commerce (Commerce). An official involved with Secretarial trade missions at Commerce told us that he was not familiar with the term “U.S. share.” This official told us that Commerce did not break down the source of capital into U.S. or foreign share. He said Commerce tries to identify the U.S. export content of the business agreements involving capital investment.

The Department, however, did not identify the U.S. export content of the business agreements signed on the India, Pakistan, and China missions, and we found that the “U.S. share” and the U.S. export content could be significantly different. For example, an executive from a U.S. company reported to have signed a \$1.2 billion Letter of Intent in China, told us that 35 to 50 percent of the total value of this agreement would be exports from the United States. This would equate to between \$420 million and \$600 million in U.S. exports versus the \$1 billion in U.S. share identified in DOE records.

In addition, many of the projects included in the \$19.7 billion are in an early stage of development. In a prepared statement provided to the House Commerce Committee,

Subcommittee on Oversight and Investigations, for a planned January 25, 1996, hearing, the Secretary stated that: "It generally takes between two and 10 years from initial agreement to financial closure and construction." Therefore, U.S. companies involved in these types of projects may not be able to provide data on the U.S. export content. For example, a business executive from a U.S. company reported to have signed a \$300 million agreement for a power generating facility told us that, "hypothetically," \$125 million of the total agreement would be capital equipment costs for material that "could" be purchased from the United States. However, he also said that there are other countries that are capable of providing this equipment as well.

#### Misapplication of the Formula for Calculating U.S. Jobs

As a result of not identifying the U.S. export content of business agreements included in the \$19.7 billion, the Department did not have the data necessary to provide accurate "OUTCOMES" information to the Trade Promotion Coordinating Committee (TPCC). The TPCC, created by the Export Enhancement Act of 1992, consists of members from 19 Federal departments and agencies that are involved in trade promotion. In their third annual report (October 1995) to Congress, a section entitled, "The Unified Budget - Linking Trade Promotion Funding with Performance," was compiled by the Office of Management and Budget. This section of the October 1995 TPCC report consisted of a unified trade promotion budget, trade promotion performance measures framework, and trade promotion output and outcome measures for each agency. In compiling this information, the Office of Management and Budget collected data from various federal agencies that make up the TPCC on their trade promotion activities. This data included the U.S. export content of business agreements. The U.S. export content was used, in part, to estimate the number of U.S. jobs created through trade promotion activities.

The Department provided the TPCC with an "OUTCOMES" measure of jobs created by its trade promotion activities, which overstated the estimate of the potential number of U.S. jobs created by the Department's trade missions. The Office of Energy Exports applied a formula for calculating U.S. jobs to the potential dollar value of business agreements signed on Department missions rather than to the U.S. export content. Specifically, on June 15, 1995, the Office of Energy Exports provided the Office of Management and Budget with an estimate of 390,000 "potential gross jobs to be created" by the Department's trade missions for the Unified Budget Portion of the TPCC Report. This estimate was calculated by the Department by applying a 20,000 jobs/\$1 billion formula to the \$19.5 billion in potential value of business agreements signed on DOE missions as of the March 20, 1995, summary. According to an official from the Office of Energy Exports, the 20,000 jobs/\$1 billion formula was obtained from a May 15, 1995, article from INSIDE ENERGY, entitled, "O'LEARY: BUDGET PLAN WILL HURT ECONOMY." The article states that "Every \$1 billion in U.S. goods sold overseas translates into 20,000 new domestic jobs."

The 20,000 jobs/\$1 billion formula was developed by the Department of Commerce for the purpose of estimating the number of U.S. jobs supported, and is applied to the U.S. export

content of business agreements. A Commerce official told us that Commerce has revised its jobs formula due to increased U.S. productivity, and currently uses a 16,000 jobs/\$1 billion formula. The Office of Energy Exports used the 16,000 jobs/\$1 billion formula, which was obtained from the Office of Management and Budget after the Department's June 15, 1995, submission. The Department applied the revised formula to the potential value of the business agreements and lowered its jobs estimate to 312,000 on July 28, 1995.

However, the Office of Management and Budget did not use either estimate for the October 1995 TPCC report. Since these formulas were applied to the potential value of business agreements and not the U.S. export content, both the 390,000 and 312,000 estimates significantly overstated the number of potential jobs created. A former official from the Office of Management and Budget, who received the Department's jobs estimates, told us that he recognized the jobs formula had been applied to the potential value of business agreements rather than to U.S. export content. He said that the Department's jobs estimates of 390,000 and 312,000 were not used in the TPCC report for that reason. The October 1995 TPCC report contained a footnote for the Department of Energy under the category "Indicative Est. of Gross Jobs Supported," which stated that: "Agency unable to measure this indicator at this time." An official in the Office of Energy Exports agreed that the jobs formula had been misapplied to the potential value of \$19.7 billion. This official told us that, in the future, the jobs formula would be used correctly.

**RECOMMENDATION 28:** We recommend that the Assistant Secretary for Policy establish policy and procedures for measuring accomplishments claimed as a result of trade promotion activities.

Management Update on Status of Corrective Actions. Management stated that the DOE Policy Office developed written guidance on tracking and reporting results of trade promotion activities. The policy was formalized on July 31, 1996. DOE's policy recommendation states that DOE track accomplishments of DOE-sponsored trade missions through the Department of Commerce Advocacy Center, using the same reporting forms and procedures as the Department of Commerce. The policy recommendation also states that, to the maximum extent possible, claims regarding the magnitude or dollar amounts of business activity generated during or as a result of a trade mission should be based on documentation provided by the private sector participants involved. The policy recommendation also states that speculation with regard to the potential business activity that could be the result of a particular trade mission should be avoided at all costs.

Inspector Comments. Although we agree with DOE's response, the Department has not discussed measuring all accomplishments claimed as a result of its trade promotion activities. Specifically, the Department conducts advocacy efforts involving letters sent to foreign governments on behalf of U.S. companies. According to the Commerce's Assistant Secretary for Trade Development, its Advocacy Center tracks its advocacy efforts that have resulted in the material advancement of business agreements between

U.S. and foreign partners. Since DOE's intention is to use Commerce's procedures, DOE should track its advocacy efforts. Therefore, this recommendation should remain open.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report, you requested that we establish policies and procedures for measuring accomplishments as a result of trade promotion activities. The Office of Policy developed these policies and procedures and they were issued on July 31, 1996.

"In the Official Draft Report, you request that we develop a tracking mechanism for advocacy and trade promotion activities. We are now using the system in place at the Department of Commerce, which has the responsibility to maintain a governmentwide trade promotion system. This allows governmentwide tracking of trade promotion and advocacy activities. We will develop an automated system tailored for DOE use."

Inspector Comments: We consider management's actions to be responsive. However, we believe this recommendation should remain open until planned dates for the implementation of the automated system have been established.

### Business Agreements Signed

We interviewed U.S. business executives who accompanied the Secretary on the trade missions to India, Pakistan, and China to obtain a better understanding of the business agreements that comprise the \$19.7 billion reported by the Department. Our sample included 22 U.S. business executives whose companies signed 30 of the 143 business agreements reported by the Department as having been signed on the missions. The 30 agreements represent \$9.4 billion of the \$19.7 billion in potential value reported by the Department. These interviews revealed that the \$19.7 billion includes the value of agreements that were already in process prior to the missions and that would have been signed anyway, and the value of some agreements that were signed prior to the missions.

#### Most Agreements Already In Process Prior to the Trade Missions

We were told by U.S. business executives that 29 of the 30 business agreements included in our sample were already in process prior to the trade missions. As discussed in Section B-3, "Selection of Non-Federal Participants," of this report, part of the selection criteria for the U.S. business delegation to accompany the Secretary on these missions included the "Company's current activity in the United States and [the missions country]," including the status of any "projects/deals." We were told by several Department officials that U.S. companies were asked if they had any agreements that would be ready for signing on the missions, and were asked what assistance could be provided by the Department in helping these agreements move toward signing. An executive from one



U.S. company who participated in four trade missions stated that: “In each instance [his company] was selected to participate in these trade missions because our company either had a project underway or a proposed project under consideration in the host country.”

We identified one agreement that was actually initiated on the Pakistan mission. An executive for a U.S. company that was reported to have signed an agreement for “75 MW hydropower” facilities at three sites told us his company actually signed a Memorandum of Understanding for a single 97 MW hydroelectric power plant valued at \$75 million. He said negotiations for the Memorandum of Understanding were initiated during the mission. He said he was invited by the Department to speak to Pakistani officials on renewable power issues and, that following his speech, he was approached by Pakistani officials on the feasibility of power plant construction. He said that the Memorandum of Understanding resulted from this event.

#### Many Agreements Would Have Been Signed Anyway

We were told by U.S. business executives that many of the business agreements included in our sample would have been signed anyway, with or without a DOE trade mission. Specifically, we were told by business executives representing 16 of the 28 business agreements, which were either signed on the missions or after the missions, that their agreements would have been signed with or without a DOE mission. However, several of these executives told us the missions accelerated the signing of their agreements and, in some cases, saved significant time and effort for their companies.

Business executives told us four business agreements would not have been signed without a DOE trade mission. Business executives told us it was “hard to say” if five business agreements would have been signed with or without a DOE mission. Three business executives did not indicate whether or not their business agreements would have been signed without a DOE mission.

#### Some Agreements Were Not Signed on the Trade Missions

We were told by U.S. business executives that four of the 30 business agreements included in our sample were not signed on the DOE trade missions. Specifically, we were told of two business agreements that had been reported in the October 2, 1995, summary as being signed on the India mission that were actually signed before the mission. These are:

- A \$6.5 million agreement in which a business executive from the U.S. company that signed the agreement said that the agreement had been signed the year before the mission, but that the mission helped energize the parties to the agreement to follow through with their prior commitments.
- A \$2.1 billion agreement in which a business executive from the U.S. company that signed the agreement said that the agreement had been signed prior to the

mission, but that the mission helped to advance proposals on counter-guarantees to enable the project to complete its financing package.

We were told of one business agreement that had been reported in the October 2, 1995, summary as being signed on the Pakistan mission, which was actually signed after the mission. This is:

- A \$740 million agreement in which a business executive from the U.S. company that signed the agreement said that the agreement had been signed after the mission, and that the agreement was just getting started at the time of the mission in September 1994. This executive, whose company was involved in the \$2.1 billion agreement reported to have been signed on the India mission as discussed above, said that he traveled to India, Pakistan, China, and South Africa. He said that: "The only agreement signed in the countries visited on the trade missions was in China by an . . . affiliate . . . ."

We were told of one business agreement that had been reported in the October 2, 1995, summary as being signed on the China mission, which was actually signed after the mission. This is:

- A \$400 million agreement in which a business executive from the U.S. company that signed the agreement said that the agreement was not signed on the China mission, but that it was actually signed upon return to the U.S.

We were also told of one agreement that had been reported in the October 2, 1995, summary as being signed on the China mission, which was actually re-signed on the mission. This is:

- A \$700 million agreement in which a business executive from the U.S. company that signed the agreement said that the agreement was signed prior to the mission, but that it was re-signed on the mission to incorporate re-negotiations with the Chinese with regard to capital investment.

### Reporting on the Outcomes of DOE Trade Missions

The Department's reporting on the outcomes of its trade missions was done primarily through press releases, testimony by the Secretary, and in reporting to the Trade Promotion Coordination Committee. The wording used in some of the Department's reporting could be interpreted to suggest that the Department's trade missions caused the business agreements to be signed, and that all of these agreements represented contracts with U.S. companies.

#### Press Releases

Press releases were issued by the Department for all of its trade missions. These press releases sometimes included wording that (1) did not clearly describe the Department's actual role in securing the signing of business agreements, (2) suggested the agreements signed were contracts when they were not, or (3) suggested the agreements were closed or finalized when they were not. For example:

- A press release for the India mission dated July 18, 1994, states that "Secretary of Energy Hazel R. O'Leary's mission to India . . . has begun a new era for partnerships between the United States and India, **having closed on hundreds of millions of dollars of commercial deals** [emphasis added] . . ."
- A press release for the Secretary's return to India dated February 16, 1995, states that "U.S. Secretary of Energy Hazel R. O'Leary's second mission to India **has produced 23 new projects** [emphasis added] between U.S. and Indian firms."
- A press release announcing business agreements being signed in Beijing at the conclusion of the China mission dated February 24, 1995, was titled "O'LEARY CHINA ENGAGEMENT **NETS** [emphasis added] MORE THAN \$6 BILLION IN NEW ENERGY PROJECTS."

We believe that the use of words such as "having closed," "has produced," and "NETS" can be interpreted as suggesting that the Department's trade missions are causing the business agreements to be signed.

Other press releases contained information that was misleading. For example:

- A press release dated February 17, 1995, kicking off the Secretary's mission to China, discussed outcomes of the Secretary's second mission to India and states that: "Prior to her trip to Hong Kong and China, Secretary O'Leary spent several days in India **where \$1.4 billion in contracts were signed** [emphasis added] for a wide variety of energy projects."
- The China press release dated February 24, 1995, states "Today's ventures, combined with eight signed in Shanghai on Monday, raise the total private sector investment **finalized** [emphasis added] on this trip to more than \$6 billion . . ."

We believe that some of the wording included in these press releases was not consistent with the facts as identified during our inspection. For example, the reference to the "\$1.4 billion in contracts" found in the February 17, 1995, press release discussing the Secretary's second mission to India was misleading. Based on Department records, 23 agreements were signed on the second mission to India with a reported value of \$1.3 billion, but 18 of these agreements valued at \$1.2 billion were not contracts, they were Memorandums of Understanding. In addition, the reference to the agreements signed on the China mission found in the February 24, 1995, press release, which states that the signings in Beijing "raise the total private sector investment finalized on this trip to more

than \$6 billion” was also misleading. Based on Department records, of the 35 business agreements signed on the China mission, 18 of the 35 agreements were Memorandums of Understanding or Letters of Intent, and only two of the 35 agreements with a value of \$25 million have been finalized, i.e., reached financial closure.

We were told by officials from the Department’s Office of Public and Consumer Affairs, Press Services Division, that there was concern within their division with regard to numbers being reported in press releases attributed to the signing of business agreements on the trade missions. We were told that the concern was that the numbers were not “hard,” that the numbers included agreements that were not actually contracts. We were told that this concern developed from the fact that many of the agreements included in the numbers reported were for Memorandums of Understanding, but that most reporters would think that the numbers being reported were actual contracts. These officials told us that they did not develop the numbers, but that the numbers were provided to their division by Department officials who were on the missions.

In response to a Department questionnaire, one member of the U.S. business delegation to Pakistan stated that: “The signings were great for the press and as a political statement but may not have represented much in fact . . . .” We were told by a member of the Secretary’s staff that the reporting of dollars associated with each mission was done primarily because the foreign press was looking for this type of information. In an interview with the Secretary, she said that she took ownership of the decision to quantify results of the trade missions. She said that, for the India mission, it was clear that the press was interested in numbers, and during the signing ceremonies, were asking what the signed deals were worth.

**RECOMMENDATION 29:** We recommend the Secretary, in coordination with the Director of the Office of Public and Consumer Affairs, establish policies and procedures for press releases related to the Department’s trade promotion activities.

Management Update on Status of Corrective Actions. Management stated that the Assistant Secretary for Congressional, Public and Intergovernmental Affairs issued a memorandum establishing policy and outlining procedures that are to be taken when press releases are issued in connection with international trade missions sponsored by DOE. Included in the memorandum are the purpose, content, and procedures for preparing and approving written press announcements. The policy was formalized on July 31, 1996.

Inspector Comments. We consider management’s actions to be responsive; therefore, this recommendation may be closed.

#### Reporting in “DOE This Month”

In addition to the above press releases, the January 1996 edition of the “DOE This Month” discussed monetary outcomes of the Department’s trade missions. Specifically:

- The Department reported in the January 1996 edition of “DOE This Month” that: “The missions have brought a return on investment of more than \$1,000 to every \$1 spent, with \$4.3 billion in successful economic projects **finalized** [emphasis added] so far.”

We believe that this wording was not consistent with the facts as identified during our inspection. The reference to “\$4.3 billion in successful economic projects finalized so far” is misleading. As discussed in Part 3 of this section, “The Department’s Clarification of Monetary Outcomes,” \$2.3 billion of the \$4.3 billion has not been finalized. In addition, the Department’s records do not identify U.S. export content of business agreements signed on its missions, and, therefore, do not identify that portion of the \$4.3 billion that would be returned to the United States through exports. Also, as discussed in Part 4 of this section, “Role of the Department in Achieving the Monetary Outcomes,” the “return on investment” for the Department’s trade missions cannot be determined because the Department cannot quantify the value of its role in helping business agreements move forward or reach financial closure.

#### Reporting to the Trade Promotion Coordinating Committee

The Department of Energy also provided data to the Trade Promotion Coordinating Committee on the “OUTCOMES” of its trade promotion activities. On June 15, 1995, the Department provided outcomes data to the Office of Management and Budget for the Unified Budget chapter of the TPCC’s annual report. In the Department’s submission, under the activity classification “Developing Foreign Markets for U.S. Goods & Services,” the Department stated that: “To date, the total potential \$ value of business agreements signed **as a result of** [emphasis added] DOE missions = \$19.5B. This figure is the result from Secretarial trade missions to India and Pakistan in 1994, and China in 1995.”

#### Secretary’s Testimony

The Secretary discussed outcomes of the trade missions in testimony before the Senate Committee on Foreign Relations, Subcommittee on Near Eastern and South Asian Affairs, on March 7, 1995. This testimony was prepared prior to questions raised by the press and Congress about the value of the business agreements. The testimony included the following statements:

- The Secretary, referring to “Our Presidential Missions,” stated that: “These missions **have resulted in** [emphasis added] energy business agreements valued in excess of \$15 billion.” She also stated that: “That equates to tens of thousands of new jobs created in the United States.”
- The Secretary stated that: “Last month, I spent four days in India on a return journey **that produced** [emphasis added] agreements valued at over \$1.4 billion of new projects . . . .”

We believe that this type of wording could be misleading in describing the Department's involvement with regard to business agreements that were signed on the trade missions. For example, this wording could be interpreted to suggest that these missions caused the business agreements to be signed. This wording does not clearly communicate the role of the Department in helping to move many of these agreements forward and in accelerating the signings of many of these agreements, and does not clearly communicate that many of these agreements would have been signed with or without a DOE mission. In addition, while the number of new jobs created in the United States may ultimately equate to "tens of thousands," Department records do not support this statement. At the time of our inspection, Department records supported only 5,650 U.S. jobs for five business agreements that the Department is reporting as reaching financial closure. Four thousand of these jobs were not identified by the U.S. companies, but were calculated by the Department using the Department of Commerce jobs formula.

The wording used by the Secretary since monetary outcomes of the Department's trade missions were questioned by the press and Congress has become clearer in terms of describing the Department's involvement with regard to business agreements that were signed on the missions. For example:

- The Secretary, in a prepared statement provided to the House Committee on Commerce, Subcommittee on Oversight and Investigations, for a planned January 25, 1996, hearing, and in an "Insight on the News" article in Insight magazine dated March 11, 1996, stated that: "Our four missions during 1994 and 1995 **advanced** [emphasis added] 143 trade agreements with a potential value of \$19.7 billion."
- The Secretary also stated, in her prepared statement provided to the Subcommittee on Oversight and Investigations, that: "The Department by no means assumes primary 'credit' for the agreements reached on its trade missions, because the companies themselves have been the tireless crusaders for their own interests abroad." She also stated that the Department has been told that its efforts helped move stalled projects and establish new business for U.S. companies that they did not yet have.

As will be discussed in Part 4 of this section, "Role of the Department in Achieving the Monetary Outcomes," the Department's involvement was that of a facilitator, a catalyst, and a force for accelerating or expediting agreements, not the cause of the generation of most of the business agreements. We believe that the wording used by the Secretary cited above describes this involvement.

#### Lack of Documentation to Support the \$1.8 Billion as Reported in DOE Press Releases for Business Agreements Signed on Reverse Missions

The Department has not been able to provide documentation to fully support the \$800 million in business agreements that were reportedly signed during the visit of Mr. Salve,

India's Minister of Power, to the United States. Full documentation was also unavailable for the \$1 billion in business agreements that were reportedly signed during the visit of Mr. Kumar, India's Minister of State for Non-Conventional Energy Sources, to the United States. Department records support only \$215 million in business agreements signed on these two visits.

The agreements signed during the two visits were reportedly a follow up to Secretary O'Leary's July 1994 trade mission to India. However, most U.S. companies involved in the business agreements were not part of the trade mission to India.

### DOE Press Releases

In a November 14, 1994, Department press release entitled, "U.S., INDIAN COMPANIES SIGN ENERGY AGREEMENTS; PACTS REFLECT GROWING RELATIONS BETWEEN TWO COUNTRIES' ENERGY SECTORS," the Department reported the signing of five agreements valued at \$800 million to jointly develop and market energy technologies at a ceremony attended by Secretary O'Leary and Mr. Salve, India's Minister of Power. However, the Office of Energy Exports has not been able to fully support the dollar amount reported in the press release. The Office of Energy Exports included one agreement signed during Mr. Salve's visit in the summary of 143 business agreements, but the value of this agreement has not been determined.

In a December 21, 1994, Department press release entitled, "\$1 BILLION IN RENEWABLE ENERGY AGREEMENTS SIGNED BY U.S. AND INDIAN COMPANIES," the Department reported the signing of 25 agreements valued at nearly \$1 billion. The signings were attended by Secretary O'Leary and Mr. Kumar, India's Minister of State for Non-Conventional Energy Sources. However, the Office of Energy Exports has not been able to fully support the dollar amount reported in the press release. The Office of Energy Exports included 21 agreements signed during Mr. Kumar's visit in the summary of 143 business agreements, but the value of these agreements was only \$215 million.

We believe that documentation for dollar amounts reported for the visits by Mr. Salve and Mr. Kumar have been difficult to obtain because the Department did not have a system for collection and retention of information relating to the monetary outcomes of its trade missions until after the China trade mission, approximately three months after the visits by Mr. Salve and Mr. Kumar. We contacted DOE officials who participated in the signing ceremonies for these visits, including those involved in providing dollar amounts for the press releases. These officials told us that notes were made at the time of the signings, which included the value of the agreements, but they were unable to locate these notes at the time of our inspection to support the \$1.8 billion.

According to a former Department contractor employee who organized the signing ceremony for Minister Salve, once the Minister agreed to visit the United States, the Indian Government contacted Indian companies who wished to travel to the U.S. in a reverse trade mission. We were told that the Indian companies who had agreements ready to be

signed then contacted their U.S. counterparts so that the signing of these agreements could be arranged. The former contractor employee then organized a signing ceremony attended by both Secretary O'Leary and Minister Salve. We were told that the same process was used for Minister Kumar's visit.

Although the visit by Minister Kumar was an official follow up to Secretary O'Leary's trade mission to India, only three of the 25 agreements reported to have been signed involved companies that were part of the official business delegation on the original mission. Of the three agreements, only one contained any dollar value; a \$1 million cost shared partnership. Of the five agreements signed during Minister Salve's visit, only one company was part of the official business delegation on the original mission. There was no dollar value associated with that agreement.

Lack of Documentation to Support the \$5 Billion as Reported in DOE Press Releases for Business Agreements Signed on Reverse Missions

In another press release involving the same visits to the United States by Mr. Salve, India's Minister of Power, and Mr. Krishna Kumar, India's Minister of State for Non-Conventional Energy Sources, as well as a visit by the Confederation of Indian Industry, the Department reported the signing of \$5 billion in business agreements. However, the Department has not been able to provide documentation to support this dollar amount.

Specifically, in a February 8, 1995, Department press release entitled, "ENERGY SECRETARY MAKES RETURN VISIT TO INDIA TO SOLIDIFY RELATIONSHIPS ALREADY BEGUN," the Department reported \$5 billion in "energy deals" signed on visits to the United States by Mr. Salve, Mr. Kumar, and the Confederation of Indian Industry. However, as discussed above, our inspection was only able to document \$215 million in business agreements to support the \$1.8 billion reported to have been signed on the visits by Mr. Salve and Mr. Kumar. In addition, we have been unable to identify any value for agreements that may have been signed on the visit by the Confederation of Indian Industry.

In the February 8, 1995, press release, the Department reported that the Secretary felt that a return visit to India was extremely important in order to sustain momentum generated on the Secretary's previous visit to India. This press release reported that the Department had "great successes" on the previous visit, signing "energy business deals" worth over \$400 million, which grew to nearly \$3 billion in the months following the mission. This press release went on to state:

"After O'Leary's mission, she hosted visits by India's Power Minister Salve, Non-Conventional Energy Minister Kumar and a trade mission led by the Confederation of Indian Industry (CII). Energy deals totaling \$5 billion were signed on these missions. . . ."

The draft of this paragraph was prepared by an Assistant to the Secretary with a blank line for the amount where the \$5 billion was later inserted for the issuance of the final press



release. We interviewed the Department's press officer who was responsible for processing this press release, the two Department officials who cleared this press release, and the two Department officials from the Office of the Secretary whose names appeared on the Public Affairs Clearance Sheet. The press officer was able to provide the original handwritten draft of this paragraph with a note written by her underneath the blank line, which states "Salve, Kumar, no CII business deals." However, none of the officials interviewed could recall who developed and provided the \$5 billion to the Department's Press Services Division, and none of these officials could provide any documentation to support the \$5 billion. Two officials speculated that the \$5 billion may have been derived from the \$1.8 billion reported for the visits by Mr. Salve and Mr. Kumar, and the \$3 billion reported in an earlier paragraph of the February 8, 1995, press release while discussing the "great successes" on the previous visit to India. None of these officials recalled any dollars associated with the visit by the Confederation of Indian Industry.

### 3. The Department's Clarification of Monetary Outcomes

#### Department's Attempt to Clarify the Monetary Outcomes

The Department has clarified the status of monetary outcomes reported for the four trade missions, two follow-up missions, and one reverse mission. Specifically, the Department is reporting that 20 agreements valued at \$2.0 billion have reached financial closure and 11 agreements valued at \$2.3 billion have made significant progress. These amounts, which total \$4.3 billion, are found in a December 19, 1995, document prepared by the Office of Energy Exports entitled, "TRADE MISSION RELATED BUSINESS AGREEMENTS PROGRESS STATUS SINCE MISSION." The transmittal for this status report states that: "The attached table is broken out by (1) agreements having reached either financial closure or sales agreements and (2) agreements having made significant progress since the mission." Table 24, "Summary of \$4.3 Billion Claimed by DOE by Type of Agreement," provides a breakdown of the \$4.3 billion by the type and value of agreements by mission.

We were told that the Department's clarification of monetary outcomes reported for the Department's trade missions was the result of questions raised in the press and by Congress concerning the validity of the \$19.7 billion. An official in the Office of Energy Exports told us that seven to 10 days prior to preparation of the December 19, 1995, status report, he received a message that the Secretary's office was interested in determining what business agreements had moved forward. He said that he believed that this message was the result of press reports regarding the \$19.7 billion and questions being asked about this amount by Congress.

Department program employees who worked closest with companies that attended the various missions were asked by DOE officials to telephone U.S. business executives and gather a status on business agreements signed during the trade missions. The status of these agreements was divided into two categories: those which had reached financial

closure and those which had made significant progress. The Office of Energy Exports has defined the terms financial closure and significant progress as follows:

- Financial closure: All necessary financial documents have been signed and the financing package has been approved.
- Significant progress: Where an agreement has moved but has not reached financial closure. Examples include agreements on projects that have entered into contract negotiations or where there is an expectation that contract negotiations will be completed, and agreements where project approval by the foreign government has been received.

The determination as to what business agreements fell into either of these categories was made by an official from the Office of Energy Exports.

#### Financial Closure Not Reached for One Agreement as Reported

Interviews conducted by the Office of Inspector General of U.S. business executives who accompanied the Secretary on the trade missions revealed one agreement that was reported to have reached financial closure, but was actually canceled. Specifically, we were told by a U.S. business executive that a \$9 million agreement for the sale of wind energy equipment reported to have reached financial closure was actually “dead.” The business executive told us that the order for the equipment was signed, but the foreign partner did not come through with the Letter of Credit to finance the sale.

#### The Department Lacks a System for Tracking Financial Outcomes

At the time of our inspection, the Department did not have a system to track the monetary outcomes of agreements signed on the Secretarial trade missions. In addition, the Department did not have a system to track monetary outcomes of non-Secretarial trade missions or its advocacy efforts that are not directly related to a trade mission. As a result, the Department (1) could not provide documentation to support some outcomes reported in press releases, (2) could not distinguish between business agreements in which the Department’s role in achieving signing was substantial versus those instances in which the Department played no substantial role in moving an agreement to signing, (3) could not clearly identify the value to the United States and U.S. companies that resulted from the signing of business agreements in the mission countries, and (4) could not provide accurate information to the Trade Promotion Coordination Committee.

**TABLE 24**  
**SUMMARY OF \$4.3 BILLION CLAIMED BY DOE BY TYPE OF AGREEMENT**

<u>Trip</u>	<u>Financial Closure or Sales Agreements</u>	<u>In Millions</u>	<u>Significant Progress</u>	<u>In Millions</u>
<b>India</b>	Sale of PV Cells for Module Assembly in India	\$ 6.0	10 MW Cogen. Power Project	\$ 15.0
	Sale of Wind Energy Equipment to India	9.0	Joint Venture Agreement-Prod. of Adv. Batteries	9.0
	Investment in New Plant Equip. for Solar Cells	3.0	Proposal to Operate Natural Gas Project	<u>TBD</u>
	Sale of Wind Energy Equipment to India	60.0	<u>Significant Progress-Subtotal</u>	\$ 24.0
	Const. of a Combined Cycle Gas Fired Power Plant	250.0		
	Return to India	<u>12.6</u>		
	<u>Financial Closure or Sales Agreements-Subtotal</u>	\$340.6		
<b>Pakistan</b>	Concession Agreement-Oil/Gas Explor. and Prod.	\$ 175.0	Implement. Agreement-104 MW Nat. Gas Pwr. Pl.	\$ 105.0
	Concession Agreement-Oil/Gas Explor. and Prod.	100.0	Implement. Agreement-782 MW Power Station	740.0
	Implement. Agreement-360 MW Oil-fired Pwr. Pl.	350.0	Agreement to Develop 310 MW Nat. Gas Pwr. Pl.	<u>175.0</u>
	Implement. Agreement-360 MW Oil-fired Pwr. Pl.	350.0	<u>Significant Progress-Subtotal</u>	\$ 1,020.0
	Implement. Agreement-585 MW Nat. Gas Pwr. Pl.	660.0		
	Follow-up to Pakistan	<u>32.4</u>		
	<u>Financial Closure-Subtotal</u>	\$ 1,667.4		
<b>China</b>	Joint Venture to Mfr. Flow Measurement Products	\$ 0.9	Construct Polycrystalline Silicon PV Prod. Plant	\$ 12.0
	Sales Contract-Two 600 MW Turbine Gen. Units	<u>24.0</u>	Expand an Existing Photovoltaic Mfrng. Plant	2.0
	<u>Financial Closure or Sales Agreements-Subtotal</u>	\$ 24.9	General Petrochemical Works Project	400.0
			2X125 MW Coal Fired Power Plant	130.0
			2X350 MW Coal Fired Power Project	<u>700.0</u>
			<u>Significant Progress-Subtotal</u>	\$1,244.0
All Missions: Financial Closure or Sales Agreements- <b>Total</b>		<b>\$2,032.9</b>	All Missions: Significant Progress- <b>Total</b> <b>\$2,288.0</b>	
			<b>ALL MISSIONS: TOTAL</b> <b><u>\$4,320.9</u></b>	

As previously discussed, the Department has used informal methods to collect and track monetary outcomes of its trade missions. These informal methods included summaries provided by U.S. companies that signed agreements on the missions, telephone contacts with U.S. companies to determine the status of business agreements, and notes on the number and value of business agreements signed on some missions. In addition, the Department did not establish any central collection point for data on monetary outcomes of its trade missions until late February or early March 1995, after the India, Pakistan, and China missions had been completed.

Through its informal survey, the Department has identified 20 business agreements valued at \$2 billion that have reached financial closure. However, a system was not in place at the time of our inspection to track the financial progress of the other 123 business agreements reported to have been signed on the Department's trade missions. During our inspection, the Office of Energy Exports attempted to survey all the U.S. companies that were reported to have signed business agreements on the missions. However, an official from this office told us that he was prevented from pursuing this survey because of restrictions under the Paperwork Reduction Act.

Our inspection found that the Department has other trade promotion activities that are outside of the Department's reporting of \$19.7 billion for the trade missions to India, Pakistan, China, and South Africa. These other activities include Deputy Secretarial trips where business agreements have been signed, and Department advocacy involving letters sent by the Department to foreign governments on behalf of U.S. companies. However, we found no evidence that the Department has any means of capturing the results of these efforts. Therefore, because of a lack of a system to track monetary outcomes from all of its trade promotion activities, the Department's overall efforts in trade promotion are not being identified.

In her December 28, 1995, letter to the Chairman, House Committee on Commerce, the Secretary stated that the Department would continue to track progress and update the dollar-value results of the trade missions. Although DOE is currently planning on creating and maintaining a tracking system, the decision on what financial data is to be gathered and the methodology on how the data is to be captured was still pending at the time of our inspection.

#### Agreements Included in \$4.3 Billion Not Listed in \$19.7 Billion

The \$4.3 billion reported in the December 19, 1995, status report includes 31 agreements. Twenty-six of the 31 agreements were included in the Department's summary of the \$19.7 billion. However, five agreements were not signed on the Department's missions, and were not included in the \$19.7 billion. Specifically:

- An agreement to sell \$60 million of wind turbines in India was listed as reaching financial closure. The agreement was reportedly the result of a wind turbine

program supported by DOE. Although DOE may have supported the technology that led to the agreement, the company was not part of the official business delegation for the India trade mission.

- A mine-mouth coal-fired project in China valued at \$700 million was listed in the \$4.3 billion summary as making significant progress. The December 19, 1995, summary of the \$4.3 billion includes a footnote for this project that states “this project is not included in the \$19.7 B figure. Project was already in the approval process pipeline and was advocated for during the mission.” A company official attended the trade mission.
- A coal-fired power plant in China valued at \$130 million was listed in the \$4.3 billion summary as making significant progress. The December 19, 1995, summary of the \$4.3 billion includes a footnote for this project that states “this project is not included in the \$19.7 B figure. Project was already in the approval process pipeline and was advocated for during the mission.” A company official attended the trade mission.
- An implementation agreement for a natural gas combined cycle power plant in Pakistan valued at \$105 million was listed as making significant progress. The agreement was advocated for outside of the Secretarial trade missions.
- An agreement to operate natural gas from coal beds project in India whose value has yet to be determined was listed as making significant progress. The signing of the agreement followed the India trade mission.

#### 4. Role of the Department in Achieving the Monetary Outcomes

##### Statements by DOE Personnel

The Department’s role in achieving the monetary outcomes of its trade missions has been described by various Department officials as that of a facilitator, helping to move energy-related business agreements forward. We were told that these missions brought together U.S. companies, foreign companies, and foreign governments to focus their efforts on individual agreements to help bring them to a point of signature. We were also told that the Department did not cause these business agreements to be created. Some statements made by DOE personnel during interviews by the Office of Inspections include:

- An official in the Office of Energy Exports told us that the signing ceremonies were incorporated into the official itinerary, usually the last day in the mission city. This official said that many of the agreements would have been signed without a mission, but that the mission provided a signing date for everyone to work toward. He said that, in some cases, negotiations may have been accelerated as a result of establishing the date of the signing ceremony.

- An official from the Department's Office of Industrial Technologies told us that the Department helped to expedite business agreements, and discussed one \$400 million Letter of Intent for a control system upgrade project in which the Secretary personally advocated for the agreement while on the mission.
- An official from the Department's Office of Oil and Gas told us that he believed the Department helped expedite some business agreements by working with foreign ministries where the agreements were awaiting signature.
- An official from the Department's Office of Electricity Policy told us that the Department did not negotiate any agreements and that the private sector had the initiative in generating the business agreements.
- An official from the Secretary's office told us that no one will ever know the true value of the Department's role in helping to move business agreements forward. He said that the Government was not sitting at the negotiating table, but that the missions helped move some agreements "off the dime, some more and some less."
- In the summary for his statement provided to the Commerce Committee, Subcommittee on Oversight and Investigations for an April 24, 1996, hearing, the Assistant Secretary for Congressional, Public, and Intergovernmental Affairs stated that: "As to whether the Department alone claims credit, we know that 'success has a thousand fathers and mothers.' A successful business agreement is a joint effort by all concerned. But our bottom line at the Department of Energy is that the heroes of these projects are the private sector participants and their partners abroad. We feel privileged to make a contribution to their efforts. . . ."

Management Comments. Management commented that: "Statements by DOE Personnel' could be more complete with direct statements from recent hearings by the Secretary, Chief Financial Officer, Deputy General Counsel and Assistant Secretary for Congressional, Public and Intergovernmental Affairs."

Inspector Comments. In the Initial Draft Report, we quoted from the Secretary's prepared statement for a planned January 25, 1996, hearing before the House Committee on Commerce, Subcommittee on Oversight and Investigations. We also included in the Initial Draft Report the Assistant Secretary for Congressional, Public, and Intergovernmental Affairs' comments from a April 24, 1996, hearing before the same subcommittee.

The Secretary's prepared statement for the June 13, 1996, hearing, included the following:

"The Department of Energy, in planning these missions, focused on policy reforms and advocacy that would allow U.S. firms to capture market share and bring business and jobs home to Americans. We brought leading U.S. business, financial and energy policy experts together with high-level government and private sector officials in these nations to discuss,

recommend and advance policy reforms which would move government-controlled energy markets to privatization. We sought to build long-term relationships with decision-makers that could be relied upon over the years it can take for an energy project to move from initial agreement through construction to final operation.”

### Statements by U.S. Business Executives

The Department’s role in achieving the monetary outcomes of its trade missions has been described by various business executives for U.S. companies as that of a catalyst, crediting the Department’s missions with moving agreements along. Some statements made by members of the U.S. business delegations during interviews by the Office of Inspector General include:

- A business executive from a U.S. company reported to have signed a \$9 million agreement for the sale of production equipment for advanced batteries said that the mission brought dead projects back to life and brought energy projects to the forefront. He said that the entire mission was a catalyst to bring discussions on business agreements to a conclusion. He said that, in the case of his project, the Department did not provide direct advocacy, but provided a mechanism for his company to get access to foreign government ministries. He said that the mission promoted and endorsed business relationships.
- A business executive from a U.S. company reported to have signed a \$6.5 million agreement for the sale of photovoltaic cells said that the mission brought credibility to his company, and that his foreign partners got very excited about meeting their commitments under an existing agreement that was not generating much business.
- A business executive from a U.S. company reported to have signed a \$138 million agreement for a wind power project said that the mission accelerated the signing of the agreement because the Department was able to gather together appropriate foreign government officials for discussions and signing of the agreement.
- A business executive from a U.S. company reported to have signed a \$100 million agreement for a wind power project said that the mission accelerated the signing of the agreement because the Department was able to get appropriate foreign government officials together with personnel from his company.
- A business executive from a U.S. company reported to have signed a \$150 million agreement for a hydropower project said that the mission was instrumental in assembling the proper forum of senior foreign government and business officials that had the ability to make agreements happen. He said that the high profile of the Secretary and her delegation obviously impressed the foreign

officials and greatly accelerated the usual length of time that it normally takes to put business agreements together.

- A business executive from a U.S. company reported to have signed a \$175 million agreement for gas and oil exploration said that his agreement would have been signed eventually, but that the delay would have meant that U.S. oil drilling personnel would have been sent home for three to six months due to the gap between an old agreement and the new agreement. He said that it was clear that the Secretary's presence accelerated the signing by providing a positive forum for business and foreign government leaders to meet.
- A business executive from a U.S. company reported to have signed a \$2.1 billion agreement for a power plant said that the big help from the Department was not on specific business agreements, but the focus on market reforms in the foreign countries.
- A business executive from a U.S. company reported to have signed a \$245 million power purchase agreement for a gas combined cycle power plant said that the trade mission allowed his company to talk directly with foreign Government power ministers. He said that, without the mission, his company would never have had this level of access.
- A business executive from a U.S. company reported to have signed a \$650 million agreement for a power plant said that the Department acted as a catalyst and provided added trust for each party to an agreement to do business. He said that, for this agreement, there may have been some advocacy in which the Department brought in some foreign government officials to move things along.

This executive said that there are two misunderstandings about these missions. He said that it is not true that these missions cause business agreements to happen. However, he also said that it is not true that these missions are a waste of money.

Management Comments. Management commented that: "Statements by U.S. Business Executives' would be further enhanced by testimony given on June 13, [sic] 1996 by an industry panel before the House Commerce Committee, Subcommittee on Oversight and Investigations."

Inspector Comments. Prior to the June 12, 1996, hearing, where business executives testified before the House Commerce Committee, Subcommittee on Oversight and Investigations, we interviewed two of the business executives who provided testimony to the committee and the Vice President of another company whose President provided testimony to the committee. We included their comments in the Initial Draft Report.

Business Agreements Developed After the Trade Missions



Interviews of executives from U.S. companies have identified instances in which business agreements have developed after the missions were completed. For example:

- A business executive from a U.S. company reported to have signed the \$6.5 million agreement for the sale of photovoltaic cells said that his foreign partners got so excited during the mission that they sent him a letter proposing another project which his company was in the process of negotiating.
- A business executive from a U.S. company reported to have signed a \$150 million agreement for a 75 MW hydropower facility told us that, as a direct result of the Pakistan mission, his company has negotiated two additional Memorandums of Understanding for a 97 MW and a 500 MW power plant. He said that the estimated value of these agreements is between \$700 and \$750 million.

These agreements are not included in the Department's calculations of monetary outcomes.

#### A Cost/Benefit Relationship of Trade Missions is Difficult to Determine

The Department reported in the January 1996 edition of the "DOE This Month" that "The missions have brought a return on investment of more than \$1,000 to every \$1 spent, with \$4.3 billion in successful economic projects finalized so far." However, as previously discussed, the Department did not cause most of these agreements to happen, but acted in the capacity of a catalyst, accelerating the signing of many agreements that would have been signed anyway. The Department cannot quantify the value of its role in helping to bring these agreements to signing. In addition, the Department cannot quantify the value of its role in helping U.S. business build a foundation for any future business agreements that may develop after the missions are over.

## 5. Non-Monetary Outcomes of the DOE Trade Missions

### Non-monetary Outcomes

In response to questions asked by the House Commerce Committee, Subcommittee on Oversight and Investigations, the Department stated that the missions were designed to accomplish several objectives. These include:

- “(1) Promoting trade and investment partnerships that will deliver clean, affordable energy to fuel economic growth with U.S. technology, capital and expertise. Our strategy is to broaden the host country’s experience with U.S. firms, establish better confidence in U.S. technologies, reduce business risk to participation by U.S. firms, and ultimately to sign business agreements.
- “(2) Facilitating cooperation on sustainable development policies that offer environmental and economic benefits to both the host country and to the United States. Our strategy is to exchange ideas about innovative policies to spur the use of advanced technologies and better practices in order to meet energy needs, promote economic growth and improve the environment.
- “(3) Establishing a structure for bilateral problem solving on energy, environment and science. Our strategy is to develop new government-to-government structures for working together to resolve problems.”

These objectives resulted in activities that produced outcomes that cannot be measured in dollars at the conclusion of the missions. In his statement provided to the House Commerce Committee, Subcommittee on Oversight and Investigations, for an April 24, 1996, hearing, the Assistant Secretary for Congressional, Public, and Intergovernmental Affairs, stated that: “Our policy work remains the most important aspect of our international work, particularly because business contracts are unlikely to mature to financial closure unless the policy framework is sound, clear and stable over time.” Our inspection found that the Department’s trade missions have included many policy initiatives and that the Department’s trade missions have had numerous non-monetary outcomes in each objectives category identified by the Department.

Management Comments. Management commented that: “The non-monetary outcomes we agree are often difficult to define, thus increasing the importance of those that are stated clearly and represent tangible progress in the energy sector.”

### Planning for Non-Monetary Outcomes

The Department prepared reports prior to the primary trade missions to India, Pakistan, China and South Africa. Included in these reports was an agenda, briefing papers on meetings/breakout sessions, profiles of foreign delegation, and strategy papers listing anticipated outcomes for each POD and, except for Pakistan, opportunities and challenges facing the delegation. The pre-trip report served as a road map for the delegation on what objectives the POD wanted to achieve while on the mission. It also assisted in formulating actions DOE was to take following the mission.

### Examples of DOE Promoting Trade and Investment Partnerships

As discussed earlier in this section, through the trade mission's signing ceremonies, meetings, and advocacy efforts, DOE assisted in advancing specific agreements. The Department's trade missions also assisted in broad market development. Specifically, two markets were established as a result of Secretary O'Leary's trade missions to India and China. According to a Special Assistant to the Secretary, a market for wind energy was established during the Secretary's trade mission to India. The Special Assistant said that the company that initially established the market during the trade mission has since been eclipsed by other companies. Also, a former executive for a U.S. company said during an interview that the China trade mission provided high visibility for opening a new market -- clean coal technology. He said that political market entry is necessary in China and that DOE, through the high visibility of the trade mission, assisted in opening the market by focusing people's attention on new technology. This broad market development cannot be accurately measured in dollars, although development is crucial to creation and advancement of business agreements.

### Facilitating Cooperation on Sustainable Development Policies

In the "Insight on the News" article dated March 11, 1996, the Secretary stated that DOE conducted the four primary trade missions because officials of the host nations asked DOE to dedicate its expertise to the host nation's energy needs. She also stated that India, Pakistan and South Africa sought the Department's assistance in helping to establish a market-based policy and regulatory structure for what have been government-controlled energy sectors. The article listed numerous events held during the missions in order to help forge business and government relationships that would guide the energy-policy and investment agenda between the U.S. and these nations. For example, during the trade mission to India, the following events were held: an energy summit, a finance roundtable, and a government-to-government roundtable to address recommendations emerging from the energy summit. In addition, input was provided by DOE officials for making the host country's regulatory structures and policies more conducive for business agreements.

## Establishing a Structure for Bilateral Problem Solving

As identified in the trade mission trip reports, numerous official documents were signed on the various trade missions. The underlying themes of the agreements were to establish ties between the two governments, cooperate in the energy arena, and share ideas and information. Specifically, according to the India trip report, 10 documents were signed during the trade mission to India, including four statements of intent to cooperate in various energy fields between DOE and its foreign government counterpart. In addition, two documents establishing cooperation between DOE and its foreign government counterpart were signed on the Secretary's return to India. According to the Pakistan trip report, three joint statements of intent were signed during the trade mission to Pakistan including one document establishing a Joint Commission on Energy. According to the trip report for the follow up to Pakistan, five documents were signed during the follow-up mission to Pakistan, including three joint statements of intent to facilitate activities in various energy fields between DOE and its foreign government counterpart. The other two documents signed during the follow-up mission to Pakistan established Joint Committees on Energy and the Environment. According to the China trip report, seven documents were signed during the trade mission to China. The underlying themes of the agreements were to cooperate in the energy arena and share ideas and information. According to the South Africa trip report, seven documents were signed in South Africa. One document formalized an Energy Committee-Binational Commission, two others established training and educational programs, while the other documents shared underlying themes of cooperation and the exchange of information.

## Non-Monetary Outcomes Identified by DOE in Trip Reports

In addition to the documents that were signed during the trade missions, DOE discussed numerous non-monetary outcomes throughout its trip reports. The following is only a partial listing of those non-monetary outcomes:

### India

- Prime Minister Rao affirmed the appropriateness of opening a nuclear safety dialogue between experts in India and the U.S.
- U.S. Renewable Energy Resources Association signed a cooperative agreement with the Confederation of Indian Industries to advance private partnerships.
- The Ministry of Non-Conventional Energy Sources agreed to establish a special organizational unit in order to streamline, standardize, and shorten the joint venture process and resolve issues brought to them by specific ventures.
- The Indian government agreed to accelerate consideration of standardizing customs and tariffs on U.S. renewable energy products imported into India.

- The Confederation of Indian Industries and National Independent Energy Producers of the U.S. signed an cooperative agreement to recommend reforms and oversee progress made in implementing reforms necessary to finance private power projects in India.

Management Comments. Management commented that:

“The summary of non-monetary outcomes for India could be more complete. The India Matrix, the India calendar of events (an event almost every month since the first trip in July 1994), and the communiqués from two meetings of the Indo-U.S. bilaterals already provided to the IG are clear evidence of the historic work that the Department of Energy is undertaking with India.”

Inspector Comments. The Initial Draft Report lists the non-monetary outcomes identified by DOE in Trip Reports, including India. The India Matrix, the India calendar of events and the communiqués from two meetings of the Indo-U.S. bilaterals were not included in the trip report. These documents were provided to the OIG on July 18, 1996, and indicate the continued efforts of DOE within India.

Pakistan

- The Government of Pakistan announced that an incentive package for investment in their transmission sector would be announced in the future.
- Agreement that significant reductions to energy consumption can be made by adopting efficiency improvement and DSM measures and that Pakistan could benefit from U.S. experience in these fields.

Follow Up Mission to Pakistan

- Liaison established between U.S. EPA and the Pakistan Environmental Protection Council.

Trade Mission to China

- Held discussions on China’s energy policies, focusing on investment barriers and opportunities and on the policy framework necessary to encourage foreign investment in the energy sector.
- DOE, the Export-Import Bank of the United States and the China State Bank agreed to work together in facilitating financing of renewable energy projects.
- The Ministry of Electric Power agreed to establish an informal “working group” to discuss issues relating to electricity projects in China.

- The Ministry of Electric Power clarified procedures used to evaluate power projects in China, particularly those with foreign partners.

#### Trade Mission to South Africa

- Facilitated economic and environmental equity by creating pilot projects, helping build an infrastructure for sustainable development, and devising strategies for supplying power off-grid.

Management Comments. Management commented that we should: “Add two more bullet [sic] for South Africa.” The suggested bullets were:

“Held lengthy discussions with industry and government leaders from both countries which resulted in extensive U.S. comments on the South African draft energy policy statement, ‘the green paper’.”

“Launched efforts which resulted in Departmental and U.S. industry experts assisting in the restructuring of electricity regulatory structure and an action plan for developing of a natural gas market.”

Inspector Comments. With regard to the first bullet, the Initial Draft Report listed the non-monetary outcome for South Africa identified by DOE in the trip report. The Initial Draft Report also discussed a statement provided by a DOE official who said that the Department and members of the business delegation were able to comment and provide input on South Africa’s “Green Paper.”

With regard to the second bullet, we did not include this information in the Initial Draft Report. The trip report states that efforts were launched to identify areas where policies and regulations needed to be altered to attract private investment and strengthen energy partnerships between the U.S. and South Africa. It also states that positive discussion and understanding occurred on the part of the South African government on the urgency to develop a clear policy and regulatory framework to encourage new development (in the oil and gas arenas). However, the trip report did not discuss the result of restructuring of electricity regulations or an action plan for developing a natural gas market.

#### Other Non-Monetary Outcomes Identified By DOE Personnel

The Secretary discussed non-monetary outcomes in an interview with us. She said that it is not important how many “deals” were signed and how much they were worth. She said what is important are the non-monetary results from the trade missions: deploying technology, national security interests, global climate change, planting seeds of democracy, and empowering people.

Other Department personnel also identified non-monetary outcomes generated from the trade missions. For example, according to a DOE official, an action plan outlining how the industry was to follow up on the China trade mission was drafted at the energy summit. According to the official, both U.S. and China officials formed teams in eight work areas. The teams consist of two industry representatives, two national lab representatives, one small company representative, and one non-governmental representative. The DOE official said that the teams are working together to eliminate barriers. She said that DOE is “out of the loop,” but will facilitate where it is difficult for the team to move forward in order to create opportunities. The official believes that these teams will eventually generate business deals that go beyond the reported amounts. She believes that the team structure is unique between the U.S. and China.

Another Department official said that the heads of five Chinese ministries gathered together in the same room for the first time because of the China trade mission. The official stated that industry officials considered this gathering of officials to be a very significant event.

Management Comments. Management commented that:

“The five Chinese ministries described in this section are the five important heads of oil and gas in China; the presidents of China’s four oil and gas national corporations and the Minister of Geology and Mineral Resources. The lack of cooperation between the national corporations in particular is infamous, and so getting them in the same room was a major accomplishment and speaks volumes about the importance that these powerful Chinese leaders placed on the mission.”

Another Department official said that, during the trade mission to South Africa, DOE and members of the business delegation were able to comment and provide input on South Africa’s “Green Paper,” which, according to the July 8, 1996, comments on the Initial Draft Report signed by the Acting Chief Financial Officer, was a “policy options roadmap document for restructuring the energy sector.”

#### Other Non-Monetary Outcomes Identified By Business Delegation

As discussed earlier, we interviewed 21 company officials concerning 30 business agreements valued at \$9.4 billion. DOE’s trade missions acted as a catalyst; a way of moving specific business agreements forward. However, those within the business delegation identified numerous non-monetary outcomes not associated with specific agreements. Almost every company official contacted was highly satisfied with the trade mission. Some specific statements follow:

##### India

- A business executive from a U.S. company said that the trade mission’s focus was not on specific deals, but rather on market reforms. He said that market

reforms, either regulatory, financial, or others were necessary to assure the success of projects. He said that the focus of the trade mission was to resolve obstacles preventing U.S. businesses from successfully competing in these markets.

- A business executive from a U.S. company said that the DOE trade mission was the first time that the government actually helped business. He wanted very much to see more involvement in the future.
- A business executive from a U.S. company said that the DOE trade mission brought together government officials in the host country and participants from the U.S. He said that the mission also brought together negotiating parties that wanted to demonstrate success.

### China

- A business executive from a U.S. company said that his company has expanded business in China and that this expansion was directly related to the Secretary's assistance. He believed that there was a need for the Government to work with businesses.
- A business executive from a U.S. company said that the trade missions make U.S. presence known. He stated that the missions are part of the U.S. Government's assistance to U.S. companies that compete against foreign companies and their government.
- A business executive from a U.S. company said that the mission was a good way to send a signal to the Chinese to let them know the U.S. was interested in conducting business with China.

The Department surveyed business delegation participation in Secretarial trade missions through the use of questionnaires. These questionnaires addressed the general satisfaction of the trade mission participants, asking questions on usefulness of the missions, adequacy of logistical arrangements, suggested follow-up activities, and the ranking of regulatory and policy issues in terms of potential adverse impact on U.S. trade and investment in the mission countries. Most responses we reviewed were positive. Among the responses gathered from the trade mission to Pakistan, an official from a U.S. company stated that, as a result of the trade mission, the company would be increasing its activity in Pakistan. Another U.S. company official stated that the trade mission helped in bringing the U.S. and Pakistan closer. He stated that U.S. business people needed this type of support from the Government in order to compete with companies from other nations.

Among the responses from the business delegation for the China trade mission, a U.S. company official stated that he was able to meet many industry and U.S. Government



people. Another U.S. company official stated that the support afforded his company and others that were embarking on a new world journey was most appreciated and would greatly enhance not only the worth of their companies but the economic long-term viability of the country.

Management Comments. Management commented that: “The Trade Mission Outcomes section of the draft report understates the value of the trade missions by not including important national security and non-proliferation accomplishments.”

Management also commented that:

“In each country where DOE conducted trade missions, the Department undertook work related to non-proliferation and national security. In India and Pakistan, Secretary O’Leary took the opportunity to establish personal relationships with key officials, an important step in advancing U.S. non-proliferation policy. Since both of these countries are at the center of a nuclear arms and missile race in South Asia, the ability to use personal relationships to convey U.S. non-proliferation policy concerns and positions is useful and important. Secretary O’Leary established these relations on her trade missions, and built upon them when discussing with India the importance of completing a Comprehensive Test Ban Treaty.”

Inspector Comments. The “Trade Mission Outcomes” section of the “Initial Draft Report on Inspection of the Secretary of Energy’s Foreign Travel” did not specifically address national security and non-proliferation accomplishments. The India trip report does not specifically address non-proliferation and national security. However, the trip report does indicate meetings with key officials on nuclear safety. The trip report states that Prime Minister Rao affirmed the appropriateness of opening a nuclear safety dialogue between experts in India and the U.S. The trip report also states that:

“A significant advancement occurred when Secretary O’Leary, Nuclear Regulatory Commissioner Gail de Planque and other nuclear energy experts on the delegation met with Indian Atomic Energy Commission Chairman Chidambaram and reached agreement on regular consultations on nuclear safety.”

The Pakistan trip report does not address non-proliferation and national security, or nuclear safety. However, the trip report does indicate meetings with key officials, and states that:

“The Secretary met several times with her official host, Prime Minister Bhutto, and with President Leghari, who curtailed a foreign tour to be on hand for the implementation strategy roundtable at the conclusion of the energy conference. The Secretary also held discussions with her Pakistani counterparts, Water and Power Minister Ghulam Mustafa Khar, and Petroleum and Natural Resources Minister Anwar Saifullah Khan.”

While discussions on completing a Comprehensive Test Ban Treaty were not specifically included in the India trip report, it appears from the Department’s comments that these

discussions took place after the India mission and do represent a non-monetary outcome of the India mission.

Management Comments. Management commented that:

“The discussions with China resulted in an agreement by the Chinese government to consider joining a program to convert their research reactor fuel from weapons-usable highly-enriched uranium to non-weapon usable low-enriched uranium. Such conversion has a direct non-proliferation benefit by decreasing the need and use of a bomb-grade material. Conversion of these reactors worldwide is a U.S. policy goal. This meeting also assisted in the dialogue on the future of the U.S.-China Peaceful Nuclear Cooperation Agreement that was signed in the 1980’s but is not yet implemented because of Chinese proliferation and human rights practices.”

Inspector Comments. The China trip report does identify a government-to-government agreement to convert Chinese research reactor fuel from weapons-usable highly-enriched uranium to non-weapon usable low-enriched uranium. The trip report identifies this agreement as follows:

- Statement of Intent on Reduced Enrichment for Research/Test Reactors (RERTR) to work together through the exchange of information on the conversion of Chinese research reactors from highly enriched to low enriched uranium.

The trip report also identifies a discussion on the U.S.-China Nuclear Cooperation Agreement. The trip report states that:

“During the meeting with Jiang Xinxiong, President of the China National Nuclear Corporation, the Secretary clearly and forcefully expressed the U.S. interest in expanded nuclear cooperation with China, while emphasizing the necessity to satisfy the nonproliferation requirements of U.S. law in order to fully implement the 1985 U.S.-China Agreement for Nuclear Cooperation.”

Management Comments. Management commented that:

“The South Africa meeting produced a nuclear cooperation agreement which will facilitate U.S.-South Africa cooperation on nuclear energy issues including the conversion of their highly-enriched uranium fueled reactors to low-enriched uranium fuel. In addition, both governments agreed to engage in a nuclear non-proliferation dialogue. This is important, given South Africa’s admission that it once possessed nuclear weapons and now has relinquished them.”

Inspector Comments. The South Africa trip report does identify a nuclear cooperation agreement. The trip report states that:

“The government to government agreements included statements of intent in the areas of collaboration on energy policy, science and technology, and the exchange of energy information and forecast trends. The two nations also entered into a new Agreement of Cooperation in the Peaceful Uses of Nuclear Energy. The Agreement recognizes the many significant and positive steps taken by South Africa with regards to nuclear non-proliferation. President Clinton approved the agreement on August 14, 1995, and authorized Secretary O’Leary to sign on behalf of the United States.”

The trip report does indicate nuclear non-proliferation dialogue. The trip report shows that a commitment was reached during the mission for the drafting and coordination of an agenda for a Conference in South Africa on Non-proliferation scheduled for the Fall of 1995.

Management Comments. Management commented that:

“The conduct of these non-proliferation and security elements of the trade missions also required additional staff and Administration representatives with expertise in these issues. By failing to fully acknowledge these important aspects of the missions, the draft report fails to provide a full picture of the activities, accomplishments and staff requirements of the trips.”

## **VI. SUMMARY OF RECOMMENDATIONS AND CORRECTIVE ACTIONS**

This section summarizes the corrective actions the Department has planned and reported as completed on our recommendations. The Department concurred on Recommendations 1 through 29. Recommendations 30 and 31 were added to the Official Draft Report. In comments dated October 3, 1996, the Department also agreed with these two recommendations.

Management Comments. Management commented that:

“The draft report confirms areas of concern in the conduct of international travel. We acknowledge that stronger management controls, improved planning, tighter administration and improved accounting procedures are necessary. Your recommendations -- which the Secretary has accepted and directed to be implemented -- will help achieve the goal of establishing more accountability and cost containments for future international travel.”

RECOMMENDATION 1: We recommend the Secretary assign to a senior official the responsibility for developing and implementing written international travel procedures for planning, coordinating, and executing all facets of international travel.

In a letter dated March 22, 1996, to the Chairman, Subcommittee on Oversight and Investigations, House Committee on Commerce, DOE's Office of General Counsel wrote that the Department began preliminary work on a new travel policy after the India trip and that the first complete draft of the policy was completed in January 1996, and an interim policy issued in March 1996. On April 15, 1996, the Department issued DOE Notice (N) 551.1, "International Travel," "for simultaneous use and coordination." The Office of General Counsel also wrote to the Chairman that the Department hoped to complete and issue the final international travel policy this summer.

Management Update on Status of Corrective Actions. Management stated that a redraft of DOE Notice (N) 551.1, "International Travel," has been finalized and issued July 31, 1996, as DOE Manual (M) 551.1-1, "International Trips," and DOE Policy (P) 551.1, "International Trips." DOE P 551.1 states that all international trips by the Secretary, Deputy Secretary, and Under Secretary (Principal Department Officers) as well as all international trips by others at Department expense costing at least \$50,000 (together covered trips) will require the assignment of a Senior Trip Official who is responsible for all aspects of the trip.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 2: We recommend the Secretary establish a nomination process for non-Federal trade mission participants, which includes public announcements of the opportunity to be included in any future trade missions.

Management Update on Status of Corrective Actions. Management stated that: “The Policy office developed a policy, circulated it for concurrence and comment and implemented on July 31.”

Inspector Comments. We have been told that the Department plans to incorporate a Policy office recommendation concerning comprehensive public notification/solicitation methods for trip participants into a supplement to DOE M 551.1-1, “International Trips,” at a future date. Therefore, this recommendation should remain open until the Policy office recommendation is incorporated into the existing guidance on notification/solicitation.

Subsequent Management Comments on the Official Draft Report. Management stated that:

“In the Initial Draft Report, you requested that we establish a nomination process for non-Federal trade mission participants. We prepared and circulated such a nomination process with the Department’s revised travel policy on July 31, 1996.

“Our subsequent conversations with your staff indicate that you may ask that more formal action be taken. We agree to take such action should our continuing deliberations with your staff call for that result.”

Inspector Comments. We believe that a formal issuance of the nomination process is needed. Accordingly, we believe this recommendation should remain open until procedures are issued.

RECOMMENDATION 3: We recommend the Assistant Secretary for Policy establish written selection criteria for non-Federal participants on future trade missions and that such criteria be applied in the selection process.

Management Update on Status of Corrective Actions. Management stated that: “Consistent with DOE P 551.1 and DOE M 551.1-1 the Policy Office developed and implemented ‘standard’ selection criteria.” In addition, for those trade missions covered by the new Department Travel Regulations, the Senior Trip Official will be responsible for developing mission specific selection criteria for selecting non-Federal participants in Department-sponsored trade missions.

Inspector Comments. We consider management’s actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 4: We recommend the Assistant Secretary for Human Resources and Administration implement procedures to ensure that all non-Federal participants on future trade missions are provided with the appropriate official invitations in advance, and that copies of all correspondence pertaining to trade missions are maintained.

Management Update on Status of Corrective Actions. Management stated that the Office of Executive Secretariat has issued a memorandum “reminding all of correspondence policy” and has conducted training and streamlined their archiving processes. Also, management stated that the Office of Scheduling and Logistics staff have received training to ensure that correspondence is handled correctly.

Inspector Comments. We consider management’s actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 5: We recommend the General Counsel and the Chief Financial Officer provide training to those individuals responsible for processing invitational travel.

Management Update on Status of Corrective Actions. Management stated that, in addition to issuing an April 23, 1996, memorandum to all Secretarial officers concerning the legal review of aircraft use and invitational travel, the CFO and OGC had developed plans and materials to conduct training classes. Classes have been scheduled to start in August and will continue regularly in an effort to keep DOE employees informed of the regulations and any changes associated with them.

Inspector Comments. We consider management’s actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 6: We recommend the Assistant Secretary for Human Resources and Administration evaluate the level of administrative and communications support required for Secretarial foreign travel.

Management Update on Status of Corrective Actions. Management stated that DOE N 551.1 requires the Senior Responsible Official to develop a logistical staffing plan as part of each trip plan. Management also stated that the Offices of Administrative Services and Information Management have developed written criteria for use by the Senior Responsible Official in determining the appropriate number of administrative/communication personnel.

Inspector Comments. We consider management’s actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 7: We recommend the General Counsel determine the authority and financial liabilities of the Department and of executive protection personnel when carrying weapons in a foreign country.

Management Comments. Management commented that we should revise Recommendation 7 by deleting the words “in a foreign country” from the end of the recommendation.

Inspector Comments. Our review only addressed executive protection provided to the Secretary while on foreign travel; therefore, we did not revise our recommendation.

A July 31, 1996, memorandum from the Deputy General Counsel to the Acting Chief Financial Officer, contained the Office of General Counsel's conclusions regarding its review of this matter. In summary, the Office of General Counsel concluded that all but two of the 16 jurisdictions visited by the Secretary (the United Kingdom and Hong Kong) authorize personnel assigned to protect Cabinet Secretaries to carry weapons and it is generally understood that physical force or weapons may be used only in self-defense or in the defense of the Secretary.

With respect to liability by the Department or the DOE protection personnel in the event that physical force or weapons are used against a foreign national, the Office of General Counsel concluded that there probably would not be liability where the host country consents to the use of firearms by protection personnel and the use of physical force or weapons is a valid use of self-defense. The Office of General Counsel further concluded that foreign countries might assert jurisdiction over the United States for alleged torts resulting from the use of force. Finally, with respect to DOE protection personnel, they concluded that although these personnel do not enjoy diplomatic immunity, in the event that there is the use of physical force or weapons, the United States might be able to invoke sovereign immunity because protection of the Secretary is an official function carried out for a public purpose. It must be shown, however, that the DOE protection personnel were acting within the scope of their employment.

In view of the Office of General Counsel's conclusions, it is suggested that DOE consider including a discussion of executive protection personnel potential liability in the executive protection training program. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 8: We recommend the Chief Financial Officer include provisions in DOE N 551.1, "International Travel," to remind travelers of Federal travel regulations requiring that they reduce their M&IE for meals they are provided.

Management Update on Status of Corrective Actions. Management stated that the CFO "has ensured final policy was modified to include reminder," "has issued a DOE Cast [Department-wide E-mail message] addressing this issue," and "is working with the Travel Manager software to improve checks and balances."

The Department provided a June 12, 1996, "Memorandum for Trade Mission Participants," which stated that:

"The Inspector General's draft report indicates that many trade mission travelers did not deduct meals that were provided to them. The Office of the Chief Financial Officer is therefore conducting a review to ensure that all travelers properly reduce their per diem amounts to reflect the meals that were provided to them on these missions."

This memorandum included attachments consisting of DOE Order 1500.2A Chg. 11, IV-5, dated April 16, 1993; Federal Travel Regulation, Chapter 301 - Travel Allowances; Instructions for Per Diem/M&IE [Calculations]; and Table 13 - Inventory of Meals and Associated M&IE Offsets from the "Initial Draft Report on the Inspection of the Secretary of Energy's Foreign Travel." Additionally, the Department provided "DOE Employees M&IE Reimbursement for Trade Missions" reflecting the status of the recoupment of the M&IE offset costs.

DOE M 551.1-1 includes a provision relating to the reduction of M&IE for meals provided to Federal travelers. DOE M 551.1-1, "Meal Deductions," states that "Federal travelers are required to deduct the designated amounts from the meal portion of their allowances for every meal provided to them incident to their official travel (e.g., meals provided in connection with an official luncheon meeting)."

Inspector Comments. The Department's update on the status of corrective actions did not include a copy of the DOE Cast addressing this issue or documentation regarding the status of the work that is being done with the Travel Manager software to improve checks and balances. DOE M 551.1-1 does include a provision relating to the reduction of M&IE. This recommendation should remain open until the work is completed on the planned changes to Travel Manager.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report you requested that we include a reminder in the international travel policy concerning reduction of expenses for meals which are provided. On July 31, 1996, we issued DOE M-551, which included this reminder.

"In the Official Draft Report, you request that we forward to you a copy of the DOECast on this issue, and demonstrate to you the changes we made to the Travel Manager software. We are attaching a hard copy of the DOECast requested, which was made widely available to DOE employees. With respect to changing the Travel Manager software, an on-screen prompt already exists reminding travelers to reduce miscellaneous and incidental expenses by meals that are provided. In addition, we will reemphasize the reminder of DOE M-551.1 and the automatic prompt in the Travel Manager software in our continuing program of training on the use of this software."

Inspector Comments: We consider management's actions to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 9:** We recommend the Chief Financial Officer contact all Federal travelers that submitted vouchers on the four trade mission trips, inform these employees of the M&IE offset issue, and request that the employees reimburse the Department for the amount appropriate.



Management Update on Status of Corrective Actions. Management stated that a “[m]emorandum was issued on 6/12/96 to travelers requesting review and reimbursement and responses have been received from a majority of trade mission participants.”

Inspector Comments. The Department provided a letter dated May 16, 1996, from the Deputy General Counsel, subject: “Per diem and Meals-and-Incidental-Expenses Deductions When Complimentary Meals are Received During Official Travel,” which described (1) pertinent ground rules concerning official traveler who receives meals paid for by the Government and (2) a DOE official traveler who receives meals paid for by anyone other than the traveler while on official travel. This letter also included attachments consisting of DOE Order 1500.2A Chg. 11, IV -5, dated April 16, 1993, and 41 C.F.R. 301-7.12, “Reduction in maximum per diem rates when appropriate.”

The Department also provided the June 12, 1996, “Memorandum for Trade Mission Participants,” which stated that “EACH TRADE MISSION TRAVELER SHOULD REVIEW TRADE MISSION VOUCHERS AND MODIFY THEM TO REFLECT PROVIDED MEALS.”

According to the documentation provided by the Department, as of August 1, 1996, the Department has recouped approximately \$2,424 for M&IE offset costs.

This recommendation should remain open until all of the applicable M&IE offset costs are recouped from the trade mission Federal travelers.

Subsequent Management Comments on the Official Draft Report. Management stated that:

“In the Initial Draft Report, you requested that we contact all Federal employees on the trade missions and obtain reimbursement for appropriate miscellaneous and incidental expenses. We have located and contacted 129 of the 139 employees involved and collected the \$3259.21 due. With respect to the remaining 10 employees all of whom have left the Department, we are continuing our efforts to locate them through all available sources so that they can identify for us whether they inappropriately received payment for miscellaneous and incidental expenses; and ensuring they have complied fully with the proper requirements.

“In the Official Draft Report you request that we completely recoup outstanding amounts. We will continue to pursue all amounts due for meals and incidental expenses received.”

Inspector Comments. We consider management’s actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 10: We recommend the Chief Financial Officer, in coordination with the General Counsel, properly classify “reception and representation” type costs incurred, and take other actions that may be required.

Management Update on Status of Corrective Actions. Management stated that the “CFO has disputed with State Dept many of the representation type expenditures highlighted in the report. CFO continues to work with State Dept to reverse improper charges. Meanwhile, GC is assessing remaining legal issues.” Management also stated that it considers its action on this recommendation to be complete.

However, on July 31, 1996, the Deputy General Counsel wrote to the Acting Chief Financial Officer concerning the results of GC’s review of “reception and representation” fund issues. In its review, GC identified \$35,086.01 of expenses that should be obligated from “reception and representation” funds.

Inspector Comments. This recommendation should remain open until the representation expenditures identified in the OGC’s review have been resolved and properly reclassified, and applied in the Department’s accounting system.

Subsequent Management Comments on the Official Draft Report. Management stated that:

“The Department has reviewed the expenses and agrees to the classifications found in the General Counsel’s review of representational fund expenses from the 4 trade missions. We are in final discussions with the State Department regarding who will pay for certain expenses and we expect that all issues will be resolved by and a final accounting will be completed by October 31.”

RECOMMENDATION 11: We recommend the General Counsel review the Department’s obligations and payments of expenditures that are representational in nature, to determine whether such obligations and payments, absent adequate “reception and representation” funds, constitute a misuse of appropriated funds.

Management Update on Status of Corrective Actions. Management stated that: “Prior request of GC asked to determine all Department funds available and how to handle any potential issues. GC is completing analysis and CFO will act on results of GC review.”

Inspector Comments. See our response to Recommendation 12.

Subsequent Management Comments on the Official Draft Report. Management stated that:

“The Office of General Counsel’s review, referenced above, concluded that there had not been a misuse of appropriated funds. A copy of their findings was provided to you on July 31.

“In the Official Draft Report, you informed us that you have sought the views of the Comptroller General on the question whether representation funds are no-year money or are available only for one year. We have completed all action on this recommendation; however, we will review the Comptroller General’s analysis when he responds to your request.”

RECOMMENDATION 12: We recommend the General Counsel review the Department’s obligations, and/or payments of expenditures that are representational in nature, to determine whether such obligations and payments, absent adequate “reception and representation” funds, constitute a violation of the Antideficiency Act (31 U.S.C. 1341)

Management Update on Status of Corrective Actions. Management stated that “CFO is disputing with State Dept many of the representation type expenditures highlighted in the report. CFO continue[s] to work with State Dept to reverse improper charges. Meanwhile, GC is assessing remaining legal issues.”

Inspector Comments. On July 31, 1996, the Office of General Counsel provided the Acting Chief Financial Officer its opinion regarding “reception and representation” fund issues. In that opinion OGC stated:

“ . . . the Secretary has committed to implementation of all the recommendations contained in the Inspector General’s initial draft report. To enable timely implementation of the recommendations 10, 11, and 12, we proceeded simultaneously on several fronts: development of facts with respect to what the obligations and expenditures were, and the circumstances under which they may have been made; and research and analysis of the legal issues potentially appropriated funds nor a violation of the Antideficiency Act.

\* \* \* \* \*

Based on the . . . classification analysis, it appears that amounts totaling \$35,086.01 should be obligated from reception and representation funds. Amounts totaling \$4,206.34 should be obligated from other account funds other than reception and representation, including other appropriate program accounts (or remain in a suspense account pending collection).

\* \* \* \* \*

“ . . . we conclude that reception and representation funds remain available for their original purposes until expended, subject only to the limitation of the amount available from each appropriation; that sufficient carryover funds were available to meet the expenses discussed above which are properly chargeable to the “reception and representation” fund; and that, in view of the availability of adequate funds for the expenses related to the foreign travel

examined in the memorandum, there had been neither a misuse of appropriated funds nor a reportable violation of the Antideficiency Act as set forth in sections 1341 (a)(1) or 1517 (a), title 31, United States Code.”

Inspector Comments. On August 29, 1996, the Office of Inspector General requested a Comptroller General opinion concerning the issue whether the Department’s reception and representation funds are “no year” funds, available until expended, or whether the annual expenditures are limited by the stated appropriation act amount. In their review, the Office of General Counsel concluded that the Department was not required to use funds only during the fiscal year for which appropriated; in fact, regarding the matter in controversy, the Office concluded that unobligated reception and representation balances may be used for properly chargeable current expenses. The Office of General Counsel review identified \$49,008 of unobligated "reception and representation" funds available from the past eleven years that could be used in paying for the \$35,086 of "reception and representation" expenses it identified in its review.

In order to resolve this conflict between stated long-standing Department practice and the Office of General Counsel’s legal conclusion, we are asking for an opinion on the sole issue of whether Department of Energy “reception and representation” funds may in essence be carried over for “reception and representation” activities in another fiscal year.

Subsequent Management Comments on the Official Draft Report. Management stated that:

“The Office of General Counsel conducted such a review and concluded that DOE’s actions were consistent with the Antideficiency Act.

“In the Official Draft Report, you informed us that you have sought the views of the [C]omptroller General on the question whether representation funds are no-year money or are available only for one year. We have completed all action on this recommendation; however, as stated above, we will review the Comptroller General’s analysis when he responds to your request.”

**RECOMMENDATION 13:** We recommend the Chief Financial Officer recover personal expenses from responsible individuals.

Management Update on Status of Corrective Actions. Management stated that: “The Office of the Chief Financial Officer has identified personal expenses and is billing them to the individuals as appropriate by DOE rules and regulations. Additionally, the CFO stands ready to handle further actions if GC identifies additional personal expenses in the course of their other reviews.”

Inspector Comments. This recommendation should remain open until efforts to recover all personal expenses from responsible individuals have been completed.

Subsequent Management Comments on the Official Draft Report. Management stated that:

“With respect to personal expenses that were incurred, we have completed our audit of all but three of the relevant travel vouchers. Six disclosed improperly billed personal expenses amounting to \$366.77, all of which has been recovered. Three remaining vouchers are still under review.

“We are aware that there are additional personal expenses that were or will be billed to DOE through U.S. Embassies overseas that will not appear on travel vouchers. We will work with the State Department to identify these amounts and take corrective action.

“With respect to any remaining improperly charged personal expenses, unless these expenses are voluntarily repaid, we will follow formal debt collection procedures, including the use of 30 day demand letters and referral to a collection agency.”

Inspector Comments: The Department provided a matrix which indicated that corrective action for this recommendation will be completed by October 31, 1996.

RECOMMENDATION 14: We recommend the Chief Financial Officer take action to ensure proper review and approval of travel costs being charged to the Department, and that, to the extent available, bills are reviewed and accounts settled by DOE financial officer(s) prior to departing the country visited.

Management Update on Status of Corrective Actions. Management stated that “DOE N 551.1 establishes policy for review and approval of travel costs, including review of available invoices prior to departure. The final policy statement and manual have been issued. CFO has circulated internal policies and procedures on this process.”

Inspector Comments. We consider management’s actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 15: We recommend the Chief Financial Officer develop policies and procedures which ensure that embassy support costs are appropriate, properly approved, and correctly applied.

Management Update on Status of Corrective Actions. Management stated that the final policy statement and manual have been issued. Management also stated that DOE N 551.1 requires a negotiated advance understanding with the embassy or a detailed cable listing needed goods and services, specifically identifying individuals authorized to make changes, and requiring invoices, etc. prior to the end of the trip.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 16: We recommend the Chief Financial Officer ensure that, prior to initiation of the trip, sufficient funds are obligated for foreign trips which require embassy support.

Management Update on Status of Corrective Actions. Management stated that the final policy statement and manual have been issued. Management also stated that DOE N 551.1 requires the CFO to review the detailed trip budget, certify availability of funds, ensure proper authorizations are in place, and then track expenses.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 17: We recommend the Chief Financial Officer develop written policies and procedures to ensure that embassy support costs for foreign trips be closely coordinated with the program office and to establish specific guidelines that would require timely application of embassy support costs.

Management Update on Status of Corrective Actions. Management stated that the final policy statement and manual have been issued. Management also stated that DOE N 551.1 provides for program participation in developing administrative/logistical support levels and requires changes to these levels to be approved in writing prior to incurring costs. Post trip, the Senior Responsible Official is required to reconcile all costs and certify results.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 18. We recommend the Chief Financial Officer take timely action consistent with the Office of General Counsel opinion and the Federal and Department accounts receivable collection requirements.

Management Comments. Management commented that actions had been completed on all accounts receivable for the India and Pakistan trade missions. Of the remaining five individuals with accounts receivables, three had been placed on an installment plan and two had been referred to collection agencies.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 19: We recommend the Chief Financial Officer ensure that requirements outlined in DOE Order 2110.1A and DOE Notice 551.1 are consistent with the full cost recovery policy.

Management Comments. Management commented that:

“The draft report reviews the costs of the trade missions and recommends that the Department ensure its orders are consistent with full cost recovery policies. Yet the report does not address some of the Federal Regulatory limitations (i.e. OMB Circular A-126) that may bear on implementing a full-cost recovery policy.”

Inspector Comments. In a letter dated January 23, 1996, to the Chairman of the Subcommittee on Oversight and Investigations, House Committee on Commerce, Department officials stated that certain portions of the OMB circular did not apply to DOE travel. “. . . whereas, attachment A to OMB Circular A-126 would suggest the aliquot shares of the full cost recovery rate might be charged. Moreover, since the travel at issue does not perfectly fit any of the categories of travel by non-Federal personnel described in these provisions, it would be possible to conclude that they do not apply at all. In any event, the Department believes the non-Federal participants in these trade missions who are asked to pay their own travel expenses should do so on a full cost recovery basis, and has restructured commercial air charters to achieve this end.”

Management Update on Status of Corrective Actions. Management stated that the CFO will ensure the final order is consistent with full cost recovery.

Inspector Comments. This recommendation should remain open until DOE Order 2110.1A, paragraph 25, is revised to clarify the policy concerning the air fare to be charged to non-Federal passengers traveling aboard DOE-chartered aircraft. Currently, DOE Order 2110.1A states that non-Federal passengers traveling aboard DOE-chartered aircraft should be charged the “comparable common carrier coach fare”; whereas DOE M 551.1 states that non-Federal personnel “traveling with the other trip members must pay their full prorated share of the arranged transportation costs by the date established for payment.”

Subsequent Management Comments on the Official Draft Report. Management stated that:

“In the Initial Draft Report, you requested that we revise DOE Order 2110.1A (which calls for non-Federal travelers on DOE aircraft to be charged full coach fare) and DOE Order M-551.1 [sic] (which calls for full cost recovery) for consistency. In response, we examined and consulted with members of your staff on whether the two rules were, in fact, inconsistent.

“In the Official Draft Report, you reiterated your requested [sic] that we modify DOE Order 2110.1A to clarify that DOE’s policy is to recover the full cost of transportation by all travelers. We will complete this action by October 31.

RECOMMENDATION 20: We recommend the Chief Financial Officer consider requesting an appropriation account to fund future foreign trade missions.

Management Update on Status of Corrective Actions. Management's update included a July 31, 1996, memorandum to the Acting Chief Financial Officer from the Special Assistant to the Chief Financial Officer that provided two options regarding the consideration of an appropriation account to fund future foreign trade missions: (1) Request Trade Mission Funding as a Single Appropriation or (2) Continue Program Office Funding of Trade Mission. The memorandum stated that the Department chose the second option and will continue to fund trade missions through the relevant program offices. Further, the memorandum also included a statement that the CFO should examine the ability of the accounting and finance systems to separately track trade mission expenses.

Inspector Comments. A CFO official subsequently informed us that the Department has not determined a method for tracking trade mission expenses. Therefore, this recommendation should remain open until a system has been defined and implemented for tracking foreign trade mission costs.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report, you requested that we consider requesting an appropriation account to fund future foreign trade missions. We considered but rejected such a request because the same financial information can be captured without altering the existing, Congressionally-approved budget structure.

"In the Official Draft Report, you accepted this strategy but requested that we define a system for identifying and tracking trade mission costs. At present, for all travel that is covered by the new travel regulations, including trade missions, the Senior Trip Official is charged with the responsibility for identifying, tracking and maintaining a log of all trade mission costs. That individual will provide regular expense reconciliations of trips to the Chief Financial Officer. However, as you have requested, we will develop a computerized system that is complementary to our existing travel manual."

Inspector Comments: We agree with management's planned actions to develop a computerized system. Accordingly, this recommendation should remain open until that action has been completed.

RECOMMENDATION 21: We recommend the General Counsel determine whether the "miscellaneous receipts" Statute (31 United States Code, Section 3302(b)) requires the Department to deposit into the U.S. Treasury all funds the Department of Interior collected on behalf of DOE.



Management Update on Status of Corrective Actions. Management's update included a July 31, 1996, memorandum from the Deputy General Counsel to the Acting Chief Financial Officer regarding this recommendation. The memorandum stated that: "... the Miscellaneous Receipts Statute does require DOE to deposit in the Treasury as miscellaneous receipts the amount of the funds collected by DOI from non-federal sources."

Inspector Comments. We consider management's action to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 22: We recommend the Chief Financial Officer take timely action consistent with the determination of the General Counsel.

Management Update on Status of Corrective Actions. Management stated that Department officials have taken appropriate action as a result of the final opinion issued by OGC regarding the collections received by DOI from non-Federal travelers. Further, the Department has provided the OIG with a copy of the accounting records that show the transfer of the funds from the Departmental Administration account to the Department of Treasury's Miscellaneous Receipts.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 23: We recommend the Chief Financial Officer ensure that the Department's policies and procedures for aircraft acquisition for international travel are formally issued and they are consistent with results of this inspection.

Management Update on Status of Corrective Actions. Management stated that DOE N 551.1 had been finalized and the final policy statement and manual were issued on July 31, 1996, as DOE P 551.1, "INTERNATIONAL TRIPS" and DOE M 551.1-1, "INTERNATIONAL TRIPS." Management also stated that DOE N 551.1 includes policies on aircraft acquisition for international travel, pursuant to which the Procurement Office is responsible for acquisition through competitive process or other legitimate procurement procedures.

Inspector Comments. This recommendation should remain open until the Department's policies have been revised to include how payment shall be received from non-Federal passengers traveling on military chartered aircraft.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report, you requested that we formally issue policies and procedures for aircraft acquisition. Our office formally issued these policies and procedures on July 31, 1996.

“In the Official Draft Report, you ask us to revise these policies to address how payment shall be received from non-Federal passengers on military aircraft. We will complete this action by October 31.

RECOMMENDATION 24: We recommend the Secretary provide written logistic requirements for other than regularly scheduled flights to the Director of the Office of Field Support.

Management Update on Status of Corrective Actions. Management stated that DOE N 551.1 had been finalized and the final policy statement and manual were issued on July 31, 1996, as DOE P 551.1, “INTERNATIONAL TRIPS” and DOE M 551.1-1, “INTERNATIONAL TRIPS.” Management also stated that DOE N 551.1 requires the Senior Responsible Official to submit an air transport requirements document to the Office of Aviation Policy (Field Support).

Inspector Comments. We consider management’s actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 25: We recommend the Director of the Office of Scheduling and Logistics assure that a system is developed and implemented to acquire charter airlift and services.

Management Update on Status of Corrective Actions. Management stated that DOE N 551.1 had been finalized and the final policy statement and manual were issued on July 31, 1996, as DOE P 551.1, “INTERNATIONAL TRIPS” and DOE M 551.1-1, “INTERNATIONAL TRIPS.” Management also stated that DOE N 551.1 establishes procedures for competitive acquisition (or other legitimate procurement process) of aircraft services for international travel.

Inspector Comments. We consider management’s actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 26: We recommend the Director of the Office of Scheduling and Logistics establish a system to provide a listing of non-Federal individuals who will be traveling on Government-chartered aircraft to the General Counsel for approval.

Management Update on Status of Corrective Actions. Management stated that the final travel order/policy will be modified to require submission to GC of a listing of non-Federal travelers. Management also stated that DOE N 551.1 requires GC review and approval of travel by Government aircraft, without explicit reference to a list of non-Federal travelers. The Department officials redrafted DOE N 551.1 and issued a policy statement as DOE P 551.1, “INTERNATIONAL TRIPS,” and a manual as DOE M 551.1-1, “INTERNATIONAL TRIPS,” on July 31, 1996.

Inspector Comments. We determined that DOE M 551.1-1 addresses submission to GC of a listing of non-Federal travelers who will be traveling on a Government-chartered aircraft. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 27: We recommend the Assistant Secretary for Human Resources and Administration, in coordination with the Assistant Secretary for Environment, Safety and Health, establish a system to procure charter service in the most economical fashion possible and ensure funds are available prior to committing the Department.

Management Comments. Management commented that:

“Recommendations 23, 25, and 27 seem to overlap somewhat. The Department agrees with the recommendations and aircraft acquisition procedures need to be established. The Department will involve all parties discussed in the draft report in the process, assigning primary responsibility to the Office of Human Resources and Administration (Office of Procurement) working with the Office of Field Support, the Office of Scheduling and Logistics, the Office to General Counsel and the Office of the Chief Financial Officer.”

Inspector Comments. The three recommendations address actions to be taken by three different Program offices. Recommendation 23 recommends that the Chief Financial Officer formally issue policy. Recommendation 25 recommends that the Office of Scheduling and Logistics assure a system is developed and implemented to acquire charter airlift services. Recommendation 27 recommends that the Office of Human Resources and Administration (Office of Procurement) work with the Assistant Secretary for Environment, Safety and Health (Office of Field Support) to establish a system to procure charter airlift services. We believe that addressing these recommendations separately to these three offices is the best way to ensure corrective actions are taken.

Management Update on Status of Corrective Actions. Management stated that DOE N 551.1 had been finalized and the final policy statement and manual were issued on July 31, 1996, as DOE P 551.1, “INTERNATIONAL TRIPS,” and DOE M 551.1-1, “INTERNATIONAL TRIPS.” Management also stated that “DOE N 551.1 requires Aviation Policy to prepare Transportation Options Analysis which considers all reasonable alternatives and includes detailed cost breakout. Senior Responsible Official must select least cost option meeting needs.” Further, management stated that “DOE N 551.1 requires transportation costs to be included in budgets; CFO required to certify availability for funds for budget.”

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 28: We recommend that the Assistant Secretary for Policy establish policy and procedures for measuring accomplishments claimed as a result of trade promotion activities.

Management Update on Status of Corrective Actions. Management stated that the DOE Policy Office developed written guidance on tracking and reporting results of trade promotion activities. The policy was formalized on July 31, 1996. DOE's policy recommendation states that DOE track accomplishments of DOE-sponsored trade missions through the Department of Commerce Advocacy Center, using the same reporting forms and procedures as the Department of Commerce. The policy recommendation also states that, to the maximum extent possible, claims regarding the magnitude or dollar amounts of business activity generated during or as a result of a trade mission should be based on documentation provided by the private sector participants involved. The policy recommendation also states that speculation with regard to the potential business activity that could be the result of a particular trade mission should be avoided at all costs.

Inspector Comments. Although we agree with DOE's response, the Department has not discussed measuring all accomplishments claimed as a result of its trade promotion activities. Specifically, the Department conducts advocacy efforts involving letters sent to foreign governments on behalf of U.S. companies. According to Commerce's Assistant Secretary for Trade Development, its Advocacy Center tracks its advocacy efforts that have resulted in the material advancement of business agreements between U.S. and foreign partners. Since DOE's intention is to use Commerce's procedures, DOE should track its advocacy efforts. Therefore, this recommendation should remain open.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report, you requested that we establish policies and procedures for measuring accomplishments as a result of trade promotion activities. The Office of Policy developed these policies and procedures and they were issued on July 31, 1996.

"In the Official Draft Report, you request that we develop a tracking mechanism for advocacy and trade promotion activities. We are now using the system in place at the Department of Commerce, which has the responsibility to maintain a governmentwide trade promotion system. This allows governmentwide tracking of trade promotion and advocacy activities. We will develop an automated system tailored for DOE use."

Inspector Comments: We consider management's actions to be responsive. However, we believe this recommendation should remain open until planned dates for the implementation of the automated system have been established.

RECOMMENDATION 29: We recommend the Secretary, in coordination with the Director of the Office of Public and Consumer Affairs, establish policies and procedures for press releases related to the Department's trade promotion activities.

Management Update on Status of Corrective Actions. Management stated that the Assistant Secretary for Congressional, Public and Intergovernmental Affairs issued a memorandum establishing policy and outlining procedures that are to be taken when press releases are issued in connection with international trade missions sponsored by DOE. Included in the memorandum are the purpose, content, and procedures for preparing and approving written press announcements. The policy was formalized on July 31, 1996.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 30: We recommend that the General Counsel, who's office has a responsibility within the Department for interpretation of the procurement integrity provisions of 41 U.S.C. 423 and the implementing regulations in FAR 3.104, determine whether the provisions of 41 U.S.C. 423 were violated by the Department's acceptance of I CAN's offer to sponsor the August 23, 1995, reception or by individuals personally attending the reception and take any actions as may be appropriate.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"The Official Draft Report contained two new recommendations, both of which we have adopted."

Management also stated that:

"In response to this recommendation, we attach a memorandum from the Assistant General Counsel for General Law, which concludes that there was no violation of the procurement integrity laws."

The attached memorandum from the Assistant General Counsel for General Law stated that:

"Acceptance of the Reception by the Department

"It is our view that, had the reception been funded by the I Can Foundation, the reception would have constituted a gift to the Department that could have been accepted under the Secretary's gift acceptance authority. The procurement integrity gift prohibition applies to gifts to procurement officials and not the acceptance of gifts by an agency that had statutory gift acceptance authority. The FAR excludes from the prohibition gifts which are accepted under specific statutory authority. (FAR 3.104-4(f)(1)(ii)) We have informally discussed this interpretation with a

representative of the Office of Federal Procurement Policy, who agreed. Accordingly, we conclude that a violation of the procurement integrity gift prohibition could not have occurred.

“Acceptance of Invitations to Attend the Reception

“Given the totality of the facts in this case, attendance at the reception should be viewed as gifts to the attendees from the Government. Invitations to the reception were sent out by the American Embassy. The I Can Foundation intended to add names to the invitation list, but advised the Office of Economic Impact and Diversity that it was unable to do so due to a lack of cooperation from the State Department. Thus, it appears that the Federal government exercised control concerning the invitation list to the reception. Since the Government decided who would be attending the reception, any procurement officials who attended the reception would have been accepting a gift from the Government, not from the I Can Foundation.

“Further, even if one were to argue that the reception should be viewed as a gift from the I Can Foundation to the attendees, the acceptance of the invitation must have been done “knowingly” in order to cause a violation. Both competing contractors and procurement officials have a duty to inquire whether any prospective conduct would violate the procurement integrity provisions. (FAR 3.104-8) In this case, there was confusion concerning funding of the I Can Foundation. Although the purchase order for the I Can Foundation was not issued until more than a month after the reception, it appears that, at the time of the reception, the individuals involved in the funding of the I Can Foundation thought the work had already been done under an existing contract with The Mitchell Group. [The Special Assistant’s] August 11, 1995, letter and her August 21, 1996, interview with representatives from the Office of the Inspector General indicate that she thought that the I Can Foundation was going to be paid under the existing contract. Funds were in fact transferred to the Golden Field Office for these activities on August 11, 1995. In addition, The Mitchell Group sent correspondence to the Golden Field Office after the reception indicating their belief that the I Can Foundation was to be paid under the existing contract. It is illogical to conclude that attending the reception gave rise to a violation of the procurement integrity gift prohibition when the alleged gift was given at a time when those involved were unaware that a procurement was being conducted. In any event, since the I Can Foundation never paid for the reception, any question concerning the propriety of individual attendees accepting a gift from it would appear to be moot.”

Inspector Comments: We believe this recommendation should remain open until this office completes its analysis of the Office of General Counsel opinion.

RECOMMENDATION 31: We recommend that the Assistant Secretary for Human Resources and Administration review the circumstances surrounding the I CAN

procurement to document procurement irregularities and identify “lessons learned” and take any actions that may be appropriate.

Subsequent Management Comments on the Official Draft Report. Management stated that:

“The Official Draft Report contained two new recommendations, both of which we have adopted.”

Management also stated that:

“We have prepared an action plan for implementation of this recommendation. That plan is attached to this memorandum.”

Inspector Comments: We consider management’s actions to be responsive. However, we believe this recommendation should remain open until the November 15, 1996, date set in the Action Plan for a report to be issued.

## **VII. OTHER MANAGEMENT COMMENTS**

The Department provided comments to our Initial Draft Report on the Inspection of the Secretary of Energy’s Foreign Travel, issued May 29, 1996, in two phases. The comments provided in a memorandum dated June 27, 1996, signed by the Acting Chief Financial Officer were said to identify “key areas of concern and clarification.” This memorandum also stated that another memorandum would be provided to the OIG that would include comments and supporting documentation and clarify details provided in the June 27, 1996, memorandum. A memorandum dated July 8, 1996, signed by the Acting Chief Financial Officer included the “annotated comments” to our Initial Draft Report. Also, on October 3, 1996, the Department provided comments to an Official Draft Report. The three management comments memorandums are attached to this report. In general, management comments have been incorporated where appropriate in the report. The following discusses comments that have not been specifically addressed elsewhere in the report.

### Characteristics of Monetary Outcomes

Management Comments. Management commented that: “This paragraph suggests that all agreements signed on the trade mission were contracts. DOE has never characterized these agreements as final contracts.”

Inspector Comments. In a July 24, 1996, memorandum to the Acting Chief Financial Officer, we asked for clarification on this comment, since, in our view, we did not see the “contract” implication in the paragraph referenced by this comment. On August 1, 1996, a meeting was held with representatives of the Acting Chief Financial Officer to discuss

responses to our July 24, 1996, memorandum. During this meeting, these officials agreed with our view of the comment.

Many Agreements Would Have Been Signed Anyway

Management Comments. Management commented that:

“It should be noted that secretarial trade missions are a new concept to the DOE. Other program office trade missions have normally focused [sic] on fact-finding, or industry-industry or industry-government discussions aimed at identifying and defining approaches to overcoming perceived trade and investment-related barriers. The reporting of business agreements is a new concept to the DOE and only associated with the four trade missions to India, Pakistan, China and South Africa. Nonetheless, the DOE does need to improve its reporting of all trade promotion activities.”

Inspector Comments. In a July 24, 1996, memorandum to the Acting Chief Financial Officer, we asked for clarification on this comment, since, in our view, it was not clear how it applied to the referenced paragraph. On August 1, 1996, a meeting was held with representatives of the Acting Chief Financial Officer to discuss responses to our July 24, 1996, memorandum. During this meeting, these officials agreed with our view of the comment.



## Other Issues

Management Comments. Management commented that: “Our agency-wide review also has revealed that some information presented in the report is inaccurate or does not appear to reflect the complete picture.”

Inspector Comments. Throughout the report we address the Department’s comments. In many cases where the Department’s comment is that the Initial Draft Report is incorrect, we disagree and present our reasons why we disagree with the comment.

Management Comments. Management commented on certain information in the appendices that were included in the Initial Draft Report.

Inspector Comments. We did not include the appendices in the Official Draft Report; therefore, we only addressed the Department’s comments on the appendices that were applicable to text in the main body of the report.

Management Comments. Management commented that one individual included on our participants list as having traveled preadvance on trip 10 (India, Hong Kong, China) and two individuals included on our list as having traveled on trip 11 (Paris, Azerbaijan, Florence) did not go on those trips.

Inspector Comments. We reinterviewed the three individuals; and, based on the results of our interviews, we concluded that two of the individuals should not have been on our list. Changes were made to the report to reflect the results of our interviews. The third individual, however, did join the Secretary for the Azerbaijan portion of trip 11 and remains on our participants list.