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UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Washington, D.C. 20230

NOV 04 2019

Via electronic mail

FOIAonline Tracking Number: DOC-BIS-2019-002058
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Re: Freedom of Information Act Request (FOIA)

This is in response to your August 26, 2019, Freedom of Information Act (FOIA), 5 U.S.C. § 552, request to the Bureau of Industry and Security (BIS) for “a copy of each unpublished/unposted/internal History of the Office of Export Enforcement, also including manuscripts. I also request a copy of each unpublished or unposted or internal History of the Office of Export Administration, also including any manuscripts. I also request a copy of each unpublished or unposted or internal History of the Bureau of Industry and Security, including any manuscripts.”

BIS has completed its review and located 9 pages of records responsive to your request. The information is being released to you in full.

If you have questions regarding this request, please contact Jennifer Kuo at 202-718-4715 or via e-mail at jennifer.kuo@bis.doc.gov.

Sincerely,

A handwritten signature in cursive script that reads "Carol M. Rose".

Carol M. Rose
Chief Financial Officer and
Director of Administration

Attachment



A BRIEF HISTORY OF UNITED STATES EXPORT CONTROLS

On September 5, 1774, the First Continental Congress convened in Carpenter's Hall in Philadelphia, that December the Congress declared the importation of British goods to be illegal. Twelve months later the Congress outlawed the exporting of goods to Great Britain, thus establishing the first American export controls.

America's second, and most definitive, export control policy was instituted by President Jefferson on December 22, 1807, The Embargo Act. This act terminated all exporting activities from U.S. ports to any overseas destinations. Further, ships of United States registry were forbidden to call at foreign ports. This act was in effect for 14 months before Congress recinded its provisions.

During the Civil War export controls were enacted by the U.S. Congress to stop exports from U.S. ports to the Southern States. These export laws were enforced by the same naval blockade that prevented other countries from freely entering southern ports.

Prior to U.S. entry into World War I, in 1917, our nation was trading with both the Allies and the Central Powers. Passage of the Trading With the Enemy Act, and other legislation, restricted U.S. exports that could possibly do damage to the allied cause.

America's first comprehensive export controls were enacted on July 2, 1940, in Section 6 of the Neutrality Act of 1940. This Act authorized the President to prohibit or curtail the exportation of military equipment, munitions and related items. This was the first export act to impose specific penalties for violations. Subsequent legislation in 1941, 1942, 1944 and 1945 clarified the original Act, and broadened its powers to include "any articles, technical data, materials or supplies" which might have military applications. The Federal Bureau of Investigation was given the duty of investigating violations of export control laws.

United States export control of goods in short supply was initiated by Congress in 1948. Prior to that date export controls were mostly applicable to wartime. The result of Congress' concern was the Export Control Act of 1949. The 1949 act gave the U.S. Department of Commerce primary responsibility for administering and enforcing export controls. The Enforcement Branch of the Office of International Trade was established to enforce the provisions of the act. Staffing the branch was accomplished by recruitment of investigative personnel from the FBI, U.S. Customs and military intelligence organizations. In addition to searching out violations of export control regulations, the Enforcement Branch was given the mandate of investigating internal security problems relating to the integrity of licensing staff, license documents, destination control problems, matters relating to routing of shipments and overseas investigations. The 1949 Act was extended, and amended when necessary, to remain the primary export law for the next 20 years.

The year 1950 saw the formation of a Coordinating Committee (COCOM) on export controls. Today member nations include Japan and all the NATO nations, with the exception of Iceland. Since 1950 COCOM has maintained embargo lists on nuclear-related materials, munitions and dual-use high technology materials.

The outbreak of the Korean War in 1950 resulted in a total embargo on exports to North Korea. On July 20, 1950, all outstanding licenses to mainland China were also cancelled and, on December 3, 1950, with the entry of the Chinese Communists into the Korean War, a complete embargo was imposed on all exports to China.

During the 1950's there were no major changes in United States export control policy or legislation. This quiet period ended with the Cuban revolution. On October 19, 1960, the Commerce Department was ordered to impose validated license requirements on all U.S. exports bound for Cuba, with the exception of foodstuffs, medicines and medical supplies. Most general licenses applicable to Cuba were revoked. On February 3, 1962, after a meeting of the Foreign Ministers of the Organization of American States in Punta del Este, Uruguay, President Kennedy announced a limited embargo on trade between the U.S. and Cuba.

In 1963, the U.S. imposed export restrictions on South Africa. The restrictions included exports of arms and munitions, including material and equipment designed especially for the manufacture and/or maintenance of military equipment.

Upon expiration of the Export Administration Act of 1949, the Export Administration Act of 1969 took effect on January 1, 1970. The 1969 Act authorized the control of U.S. exports for three purposes; national security, foreign policy and short supply.

The 1970's brought about detente, and major changes in U.S./Soviet trade. Export license trade with the USSR rose from \$151,000 in 1970 to \$1.27 billion in 1971. This drastic change was mainly the result of the licensing of U.S. machinery and technology for the Soviet automotive industry.

President Nixon ordered the termination of the embargo on direct trade with the People's Republic of China (PRC) in 1971. He also relaxed restrictions on carriers involved in the China trade, and published a list of non-strategic commodities that could be exported to the PRC under general license. In order to further stimulate trade he also dropped all restrictions on PRC imports to the U.S.

The following year President Nixon visited the PRC, and signed the Shanghai Communique, which stated that the U.S. and the PRC agreed to "Facilitate the progressive development of trade, based upon equality and mutual benefit." U.S. exports to the PRC reached \$60 million that year, and rose to \$850 million in 1973.

At the Moscow summit meeting in May, 1972, a joint U.S./USSR Commercial Commission was established. The following October a comprehensive bilateral trade agreement was signed with the USSR which granted reciprocal most-favored-nation treatment of Soviet exports to the U.S., establishment of trade offices in both countries, trade credits and arbitration arrangements.

During the mid 1970's, the U.S. substantially increased its trading with the USSR and Eastern Bloc nations. It was at this time that several sources from the scientific community, the military, and high technology production executives, all became concerned over the amount of U.S. technology being exported. Many of the concerned individuals felt that even with COCOM and national security controls, a great deal of illegal exporting was being conducted. These concerns resulted in the 1974 Congressional hearings on the illegal transfer of U.S. technology to the Soviet Bloc.

The Export Administration Act of 1979 was signed into law by President Carter on September 29, 1979. The Act attempted to control the export of U.S. goods, technology and data through a combination of licensing procedures and specific export restrictions, including grain.

The Carter Administration also imposed licensing restrictions against Iran in response to the 1980 hostage crisis. After the return of the hostages to the United States, in early 1981, the Iranian restrictions were lifted.

In December, 1981, President Reagan ordered trade restrictions against Poland. These restrictions were gradually reduced during 1983 and 1984.

The year 1985 saw the advent of licensing restrictions placed against Libya.

On July 12, 1985, President Reagan signed into law The Export Administration Act of 1985. While the Act leaves many of the provisions of the Act of 1979 unaltered, it makes a number of important changes and additions.

The Act of 1985:

- o Revises licensing procedures. The 1985 Act allows the issuance of multiple export licenses which permit firms to make successive shipments of the same goods, to the same nation, without obtaining a new license.
- o Provides that low-technology goods, such as personal computers, may be exported to COCOM nations without licenses.

- o Divides the enforcement of export control laws between the United States Department of Commerce and the United States Customs Service.
- o Requires consultations between the President, Congress, other nations, and U.S. business representatives, on export issues.
- o Limits the President's authority to break contracts into which U.S. firms have entered, for the purpose of exporting, or re-exporting.
- o Limits the President's ability to enter into agreements for the export of nuclear technology.
- o Encourages academic research and scholarship on technological issues.

The position of Deputy Assistant Secretary for Export Enforcement was created within the International Trade Administration in May, 1982. Creation of this new DAS position established the Office of Export Enforcement and combined OEE, at the DAS level, with the Office of Antiboycott Compliance. Enforcement of export controls was removed from the Office of Export Administration and extended to the DAS for Export Enforcement.

Secretary of Commerce Baldrige appointed Theodore W. Wu as the first Deputy Assistant Secretary for Export Enforcement on June 13, 1982.

The start of fiscal year 1987 finds the Office of Export Enforcement (OEE) consisting of a Washington, D.C. headquarters, and field offices in New York City, Washington, Los Angeles, San Francisco, Chicago, Dallas, Boston and Miami.

The Headquarters staff consists of: the Office of the Deputy Assistant Secretary, the Office of the Director of Antiboycott Compliance and the Office of the Director of Export Enforcement.

The Office of the Director of Export Enforcement is staffed with professionals who assist and advise the Director in managing the administrative and policy matters of the organization. The Director is assisted by two division directors in the Divisions of Investigations and Intelligence.

The Director of Investigations is the immediate superior of the Special Agents-in-Charge of the field offices. Each Special Agent in Charge is assisted by Team Leaders.

An organizational chart showing all of the above is included later in this package.

EXPORT ADMINISTRATION REGULATIONS

The Export Administration Regulations provide the foundation from which all Office of Export Enforcement Special Agents carry out their duties. Part 387, entitled "Enforcement", consists of fourteen sections, each section describes the criteria and conditions which constitute a violation of the Regulations. It is imperative to the effectiveness of the Special Agent that he or she review and understand these regulations in their entirety.

The following is selected content of particular enforcement interest from the Regulations:

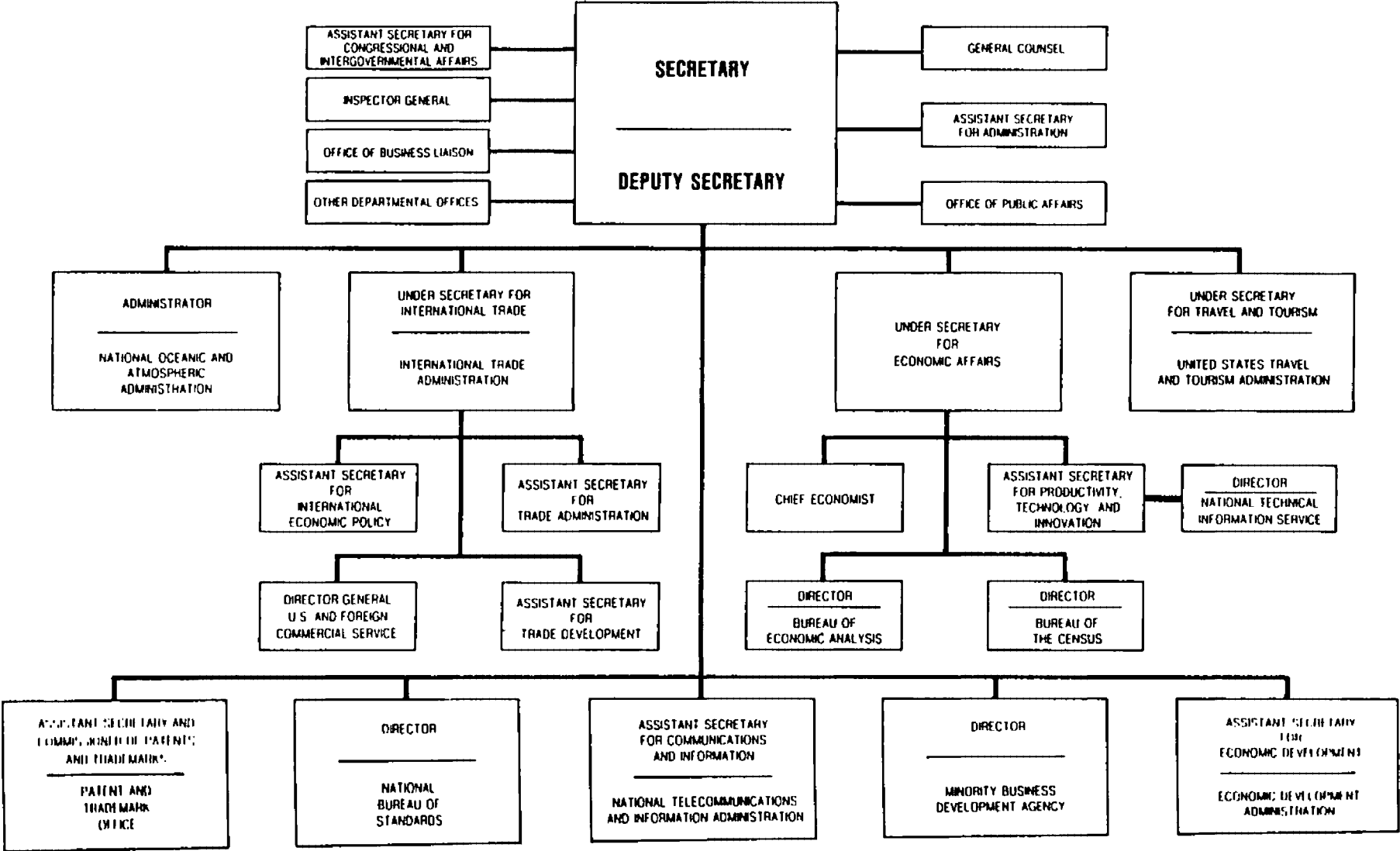
- o "Whoever willfully exports anything contrary to the Act or any regulation, order, or license issued under the Act, with the knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes...(shall be fined and, or, imprisoned)."

- o "...no person may export, dispose of, divert, direct, mail, or otherwise ship, transship, or reexport commodities or technical data to any person or destination or for any use in violation of or contrary to the terms, provisions, or conditions of any export control document, any prior representation, any form of notification of prohibition against such action, or any provision of the Export Administration Act or any request, order, or license under the Act."

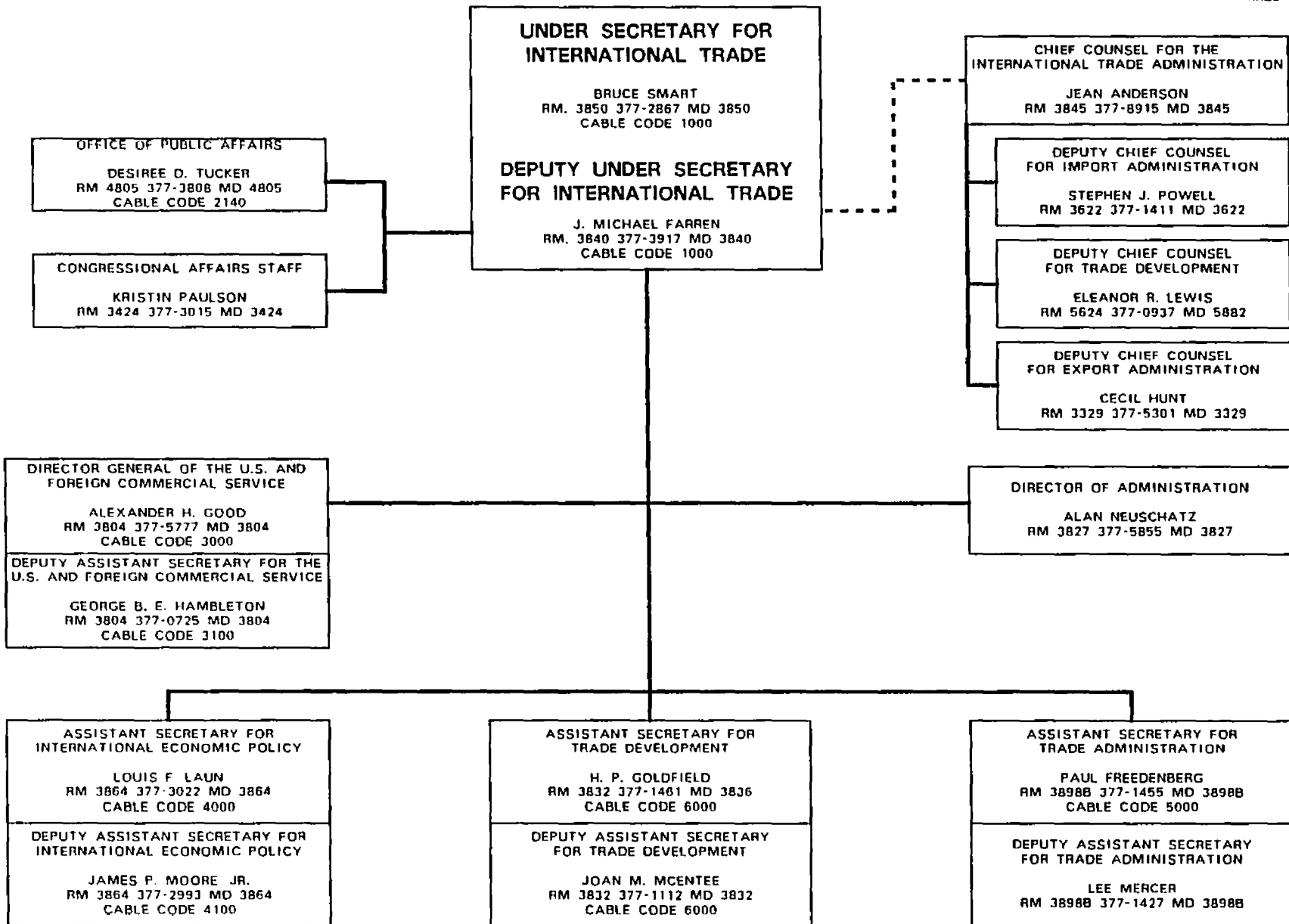
The enforcement provisions of the Export Administration Act, as amended in 1985, significantly strengthen the OEE's ability to enforce the Act. The amended Act provides OEE Special Agents with law enforcement powers (authority to carry firearms, make arrests, execute search warrants; and effect seizures of commodities or technical data).

In addition, the amended EAA promotes U.S. national security interests by expanding enforcement authority. It is now a crime under the amended Act if someone..."knowingly...conspires to or attempts to violate any provision of the Act...". The key provisions here are the separate statutory offenses, under the Act for conspiracy to violate and attempts to violate. This now gives U.S. prosecutors the ability to apply the weight of an additional statutory proscription against those who conspire to unlawfully divert U.S. goods and technology. The Act also makes it a crime for any person to possess goods or technology with the intent to export such goods or technology in violation of any national security or foreign policy export control imposed under the Act.

U.S. DEPARTMENT OF COMMERCE



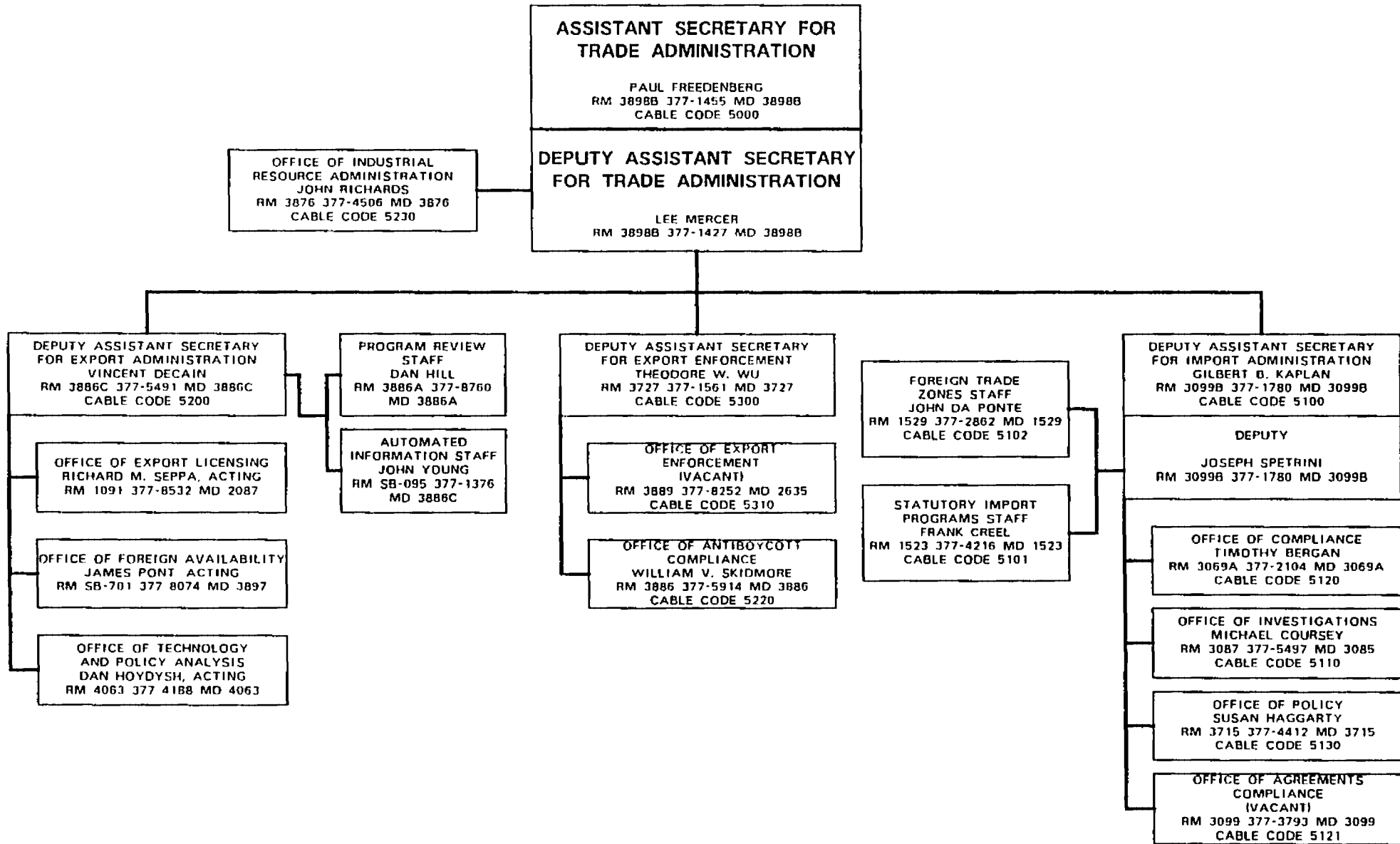
U.S. DEPARTMENT OF COMMERCE INTERNATIONAL TRADE ADMINISTRATION WORK REFERENCE CHART



14

TRADE ADMINISTRATION

15



EXPORT ENFORCEMENT ORGANIZATION/
TELEPHONE CHART

16

