

MINUTES
CABINET COUNCIL ON ECONOMIC AFFAIRS

July 19, 1984
8:45 a.m.
Roosevelt Room

Attendees: The Vice President, Messrs. Regan, Baldrige, Donovan, Svahn, Porter, Wright, Abrams, Murphy, Niskanen, Ginsburg, Breeden, Barody, DeMuth, Healey, Gibson, Halpert, Neal, and Ms. McCaffrey.

1. Tender Offer Legislation

The Council considered the Administration's position on tender offer reform legislation. Mr. DeMuth presented a revised draft letter opposing the legislation and reported on meetings Administration officials have had with Securities and Exchange Commission (SEC) Chairman Shad and his staff on this legislation.

The legislation would restrict tender offer bidding activity by closing the Williams Act 10-day disclosure window and requiring disclosure by bidders of the possible impact of a takeover on unions and communities. The legislation also would regulate defensive practices used by target firms to avert takeovers, including prohibition of "golden parachute" compensation offers during takeover battles, self-tender acquisitions, and the issuance of new stock by a target firm during a tender offer period, unless the issuance occurred "during the ordinary course of business." The legislation would also generally prohibit the payment of "greenmail" without the specific approval of shareholders.

The Council discussion focused on the net financial effects of greenmail and golden parachutes, the relationship between boards of directors and stockholders, and the specific effects of certain abusive practices. Council members were divided on whether certain abusive practices occurring during tender offers are widespread and whether any Federal action is needed. Secretary Regan noted that the 1984 Deficit Reduction Act contains provisions discouraging excessive compensation packages to protect management during hostile tender offers.

The Council also discussed the typical remedies available to shareholders in instances where management has acted abusively in spending company assets, and the capacity of States to regulate or prohibit certain management practices. The Council also discussed the costs of adopting Federal laws governing corporate management and the potential for leading legislation to a body of Federal corporate law.

The Council agreed that the issue required further discussion and that it would be considered again at the next Council meeting.