Computer Associates is left with a very disturbing prospect. In acceding to the relief terms of the proposed final judgment, Computer Associates is undermining its own ability to successfully compete in the marketplace by acknowledging, then perpetuating for the ten-year term of the agreement, an outright fraud. The fraud we refer to is the premise of the DOJ's prosecution—that merging companies should continue to act independently of one another even when that is not the case in actual reality.

No matter how much it wishes otherwise, the DOJ cannot alter reality, although it can certainly use its compulsory force to evade it, as is the case here. When two companies agree to merge, the very culture of their previously exclusive operations are altered at a fundamental level. The extent to which this is reflected in the pre-consummation or post-consummation period varies from company to company, but the essential principle is the same. In entering into its pre-consummation agreement with Platinum, Computer Associates acted in the honest interest of its shareholders, employees and customers, by openly acknowledging its new relationship with Platinum, and working to bring the two companies together in an efficient and rational manner.

In contrast, the new standards imposed by the DOJ in the consent agreement practically requires Computer Associates to never enter into another merger agreement except by fraud and duplicity. Since to acknowledge a coming together of companies before consummation is now *per se* illegal conduct in the eyes of the DOJ, there is no incentive for Computer Associates to act with integrity or honesty. Alternatively, of course, Computer Associates could simply choose not to merger with any company for the duration of the consent agreement, in which case they would potentially defraud their own stockholders by refusing to act in a manner which could increase the company's profitability and productive capacity. In either case, CAC sees no benefit to subscribing to the DOJ's delusional view of corporate mergers.

IV

Finally, CAC objects to the DOJ's construction of rights in this case. As with all antitrust litigation shepherded by the United States, the DOJ can only make sense of its argument when it completely ignores the principle of individual rights which animate our Constitution and republican form of government.

The DOJ defines the public interest, for purposes of antitrust litigation, as being one-in-the-same with the ''rights'' of consumers, the nebulous class of individuals who consume (or attempt to consume) the goods and services provided by economic producers. In this case, CA and Platinum's activities were deemed unlawful because the companies pre-consummation activities had the effect of ''denying'' the companies' customers ''the *benefits* of free and open competition'' (emphasis added). In the eyes of DOJ and the judiciary, ''benefits'' gets elevated to the status of ''rights'', and they are given such weight as to render the actual economic rights of producers to be virtually non-existent.

As has been discussed, *infra,* trade does involve, and indeed require, a voluntary exchange of goods and services which benefit all parties to the transaction. If nobody received benefits, then there would be no incentive to trade in the first place. But a benefit should never be confused with a ''right.'' Actual rights are ''moral principles which define and protect a man's freedom of action, but impose no obligation on other men.[7]'' A right is something which all individuals inherently possess as part of their humanity. A benefit, in contrast, is something which an individual receives at the behest of another, for whatever reason or motive: A will confers benefits on a beneficiary; a company provides health insurance for its employees; the local sports arena permits children to use the facility a few days a week. None of these things result from the beneficiary's right to enjoy the benefit. The right is that of the owner to dictate the use of his property, not of an outside party to demand use of property which is not his.

Computer Associates and Platinum had no obligation to ''provide'' competition for consumers. They chose to do so voluntarily for a number of years, and, when the companies decided it was in their self-interest to cease one-on-one competition, they did so. They did not consider their obligations to the consumer, because they had none, outside of pre-existing contracts (which presumably were honored). What was considered, as in any merger, was the benefits that would be generated by the combination of the two companies. The DOJ's fault lies in considering ''benefits'' to be limited to the price paid by a consumer at a given moment in time. The government's analysis failed to account for the potential benefits generated by the merger, including the actions of CA and Platinum during the pre-consummation period.

But even if no benefits could be demonstrated consequential to the merger, the United States would still be wrong to block the efforts of CA and Platinum, because it is not morally incumbent upon a corporation to positively demonstrate the benefits of their actions to a government agency. So long as the actions are voluntary, and do not constitute an act of force against another individual or corporation, a transaction between private parties is an extension of their right to own and use property.

The alternative theory, presented by DOJ's enforcement of antitrust law, suggests the opposite: That property is not truly privately held, and that the interests of the ''consumer'' are paramount in any economic relationship with a producer. Under a capitalist system, the producers are the property owners who leverage their holdings to create wealth. Under the consumerist model enforced by DOJ, in contrast, producers hold and create wealth as part of a ''public trust'', and the consumer has the ultimate right to dictate how the wealth is distributed. This is why the DOJ spends an inordinate amount of time focusing on prices, and why any increase that takes place is immediately suspect under the Sherman Act.

Consumers, of course, do have certain ''rights'' in the marketplace. They have a right to buy or not buy the goods and services of their choosing. They have a right to contract free of coercion, and the right to seek redress of grievances before the law if that contract is breached. What consumers do not have the ''right'' to, however, is to unilaterally dictate the terms by which a producer offers his goods and services for sale. The DOJ advocates the opposite, as a result, it routinely intervenes in the acts of producers in an attempt to secure prices and conditions that are more favorable to the consumer, regardless of how this interference violates the property rights of the producers.

CAC believes that the people of the United States are better off living in a capitalist economy than in a consumerist system. Therefore, we find the terms of the proposed Final Judgment are not in the public interest, because the injunctive relief provided would recognize non-existent consumer rights at the expense of the legitimate rights of Computer Associates, and that in turn compromises the rights of all Americans.

For the foregoing reasons, CAC believes the public interest here would best be served by the DOJ withdrawing from the proposed final judgment and dismissing the compliant against Computer Associates and Platinum Technology with prejudice.

Respectfully Submitted,

S.M. Oliva,

Director of Federal Affairs, The Center for the Advancement of Capitalism.

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[7] Ayn Rand, *Man's Rights,* in Capitalism: the Unknown Ideal (1966).

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the CJIS Advisory Policy Board

AGENCY: Federal Bureau of Investigation (FBI), Justice.

ACTION: Meeting notice.

SUMMARY: The purpose of this notice is to announce the meeting of the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB). The CJIS APB is responsible for reviewing policy issues, uniform crime reports, and appropriate technical and operational issues related to the programs administered by the FBI's CJIS Division, and thereafter, make appropriate recommendations to the FBI Director. The topics to be discussed will include proposed changes to the definition of Administration of Criminal Justice in part 20 of title 28, Code of Federal Regulations; the proposal to establish a public website for National Crime Information Center ''Property and

Wanted Person Files''; and DNA Indicator in the Interstate Identification Index segment of the Integrated Automated Fingerprint Identification System (IAFIS). Discussion will also include the status on the National Crime Prevention and Privacy Compact, status of the Joint Task Force on Rap Sheet Standardization, the question of whether the Crime Index is a True Indicator of Crime, Immigration and Naturalization Service Alien Initiative, the Department of Justice Global and Information Sharing Project, and other issues related to the IAFIS, NCIC, Law Enforcement Online, National Instant Criminal Background Check System and Uniform Crime Reporting programs.

The meetign will be open to the public on a first-come first-seated basis. Any member of the public wishing to file a written statement concerning the FBI's CJIS Division programs or wishing to address this session should notify the Designated Federal Employee, Mr. Roy G. Weise, at (304) 625–2730, at least 24 hours prior to the start of the session.

The notification should contain the requestor's name, corporate designation, and consumer affiliation or government designation along with a short statement describing the topic to be addressed and the time needed for the presentation. A requestor will ordinarily be allowed no more than 15 minutes to present a topic.

DATES AND TIMES: The APB will meet in open session from 9 a.m. until 5 p.m. on December 4–5, 2002.

ADDRESSES: The meeting will take place at the Inter-Continental Houston, 2222 West Loop South, Houston, Texas, telephone (713) 627–7600.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Mrs. Diane M. Shaffer, Management Analyst, Advisory Groups Management Unit, Programs Development Section, FBI CJIS Division, Module C3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26309–0149, telephone (304) 625–2615, facsimile (304) 625–5090.

Roy G. Weise,

Designated Federal Employee, Criminal Justice Information Services Division, Federal Bureau of Investigation.

[FR Doc. 02–27706 Filed 10–30–02; 8:45 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2237–02; AG Order No. 2624–2002]

Extension of the Designation of Sierra Leone Under the Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: The Attorney General's most recent extension of the designation of Sierra Leone under the Temporary Protected Status (TPS) program expires on November 2, 2002. This notice announces the Attorney General's decision to extend the TPS designation for Sierra Leone for an additional period of 12 months, as provided by law, and contains information regarding the 12-month extension of TPS.

DATES: The TPS designation for Sierra Leone is extended for a period of 12 months, from November 2, 2002, through November 2, 2003. The re-registration period commences on October 31, 2002, and will remain in effect until December 30, 2002 (inclusive of such end date).

FOR FURTHER INFORMATION CONTACT: Naheed A. Qureshi, Office of Adjudications, Residence and Status Branch, Immigration and Naturalization Service, Room 3040, 425 I Street, NW., Washington, DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Is the Statutory Authority for the Designation and Extension of TPS?

Under section 244 of the Immigration and Nationality Act (Act), 8 U.S.C. 1254a, the Attorney General is authorized to designate a foreign state (or part thereof) for TPS. The Attorney General may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state).

Section 244(b)(3)(A) of the Act requires the Attorney General to review, at least 60 days before the end of the TPS designation, the conditions in a foreign state designated under the TPS program to determine whether the conditions for a TPS designation continue to be met and, if so, the length of an extension of TPS that is granted on the basis of such a determination. 8 U.S.C. 1254a(b)(3)(A). If the Attorney General determines that the foreign state no longer meets the conditions for TPS designation, the Attorney General shall terminate the designation, as provided in section 244(b)(3)(B) of the Act. 8 U.S.C. 1254a(b)(3)(B). Finally, if the Attorney General does not make the required determination prior to the 60-day period prescribed by statute, section 244(b)(3)(C) of the Act provides for an automatic extension of TPS for an additional period of 6 months (or, in the discretion of the Attorney General, a period of 12 or 18 months). 8 U.S.C. 1254a(b)(3)(C).

Why Is the Sierra Leone TPS Designation Being Extended?

The Administration, including the Departments of State and Justice, as well as the National Security Council, is actively and closely monitoring conditions in and developments relating to Sierra Leone. The United States Government recognizes that there has been considerable progress toward renewed stability in Sierra Leone. In January 2002, the country's decade-long war was declared over. More than 45,000 combatants have been demobilized. In May 2002, violence-free elections were successfully completed. More recently, on September 24, 2002, the United Nations Security Council voted unanimously to adopt a resolution extending the mandate of the United Nations Assistance Mission in Sierra Leone (UNAMSIL) for six months, while implementing the Secretary General's recommendation for a phased, gradual draw-down of UNAMSIL. The resolution urges UNAMSIL to carry out Phases 1 and 2 of the draw-down over the next eight months, which would reduce UNAMSIL's troop strength from 17,500 to 13,000 (a reduction of approximately 25%). In addition, the situation in Liberia, which affects regions of neighboring Sierra Leone, remains unstable. On October 1, 2002, the Attorney General designated Liberia under the TPS program.

The Attorney General consulted with appropriate agencies of the Government, but due to the nature of the situation in Sierra Leone, has not made a determination whether the conditions for TPS designation continue to be met. Accordingly, this Federal Register notice does not contain the Attorney General's determination regarding whether or not the conditions in Sierra Leone continue to satisfy the statutory standards for an extension of TPS under section 244(b)(3)(A) of the Act. Instead, as a result of the 60-day requirement prescribed by statute, this notice provides that the previous TPS designation for Sierra Leone has been extended pursuant to section 244(b)(3)(C) of the Act. 8 U.S.C. 1254a(b)(3)(C). As an exercise of discretion, the Attorney General has decided to extend TPS for 12 months, as