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STATEMENT OF FRANK G. ZARB

ADMINISTRATOR

Before the

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

UNITED STATES SENATE

February 13, 1975

on

S. 594 and S. 622

Mr. Chairman, Members of the Committee, I appreciate this opportunity to appear before you today to discuss pending legislation that would provide standby authorities to deal with future energy emergencies, Title XIII of S. 594, the Administration's Energy Independence Act of 1975, and S. 622, the Standby Energy Authorities Act. Title XIII of the Administration's bill would also constitute the legislative authority which this government is obligated to seek under the provisions of the Agreement on an International Energy Program, executed last fall by the United States with most of the other major consuming nations.

In considering the legislation before us, I think it is necessary to bear in mind its relationship to the comprehensive program submitted by the President to the Congress in his State of the Union Message. As you know, he has outlined three time-phased energy goals.

1. In the short-term, a reduction in our oil imports of one million barrels per day by the end of this year and two million barrels per day by 1977.

2. By 1985, import levels no greater than 3 to 5 million barrels per day -- and the capability to withstand a total disruption by the use of standby authorities and strategic reserves.

3. Accelerated development of energy technology and resources so that the United States can meet a significant share of the energy requirements of the world by the end of this century.

The second goal would eliminate by 1985 this country's vulnerability to economic disruption should foreign supplies of petroleum be interrupted. If the legislation required to carry out all of the President's program is enacted, by the end of the next decade our petroleum imports should amount only to 3 to 5 million barrels per day. Should those imports be curtailed, 3 million barrels per day could be drawn from a strategic petroleum reserve for a period of one year, and the remainder would be dealt with through imposition of the mandatory conservation and allocation measures that would be authorized by the legislation before the Committee today. So it is clear that these bills must be considered in the context of the entirety of the President's program, and their effectiveness would depend in large measure on the implementation of the balance of the program. In particular, I would emphasize the necessity of prompt consideration of Title II of S. 594, which would authorize the strategic reserve which complements the standby authorities we are addressing today. Title XIII of the Administration's Energy Independence Act of 1975 builds upon the extensive work by the Administration and the Congress, particularly this Committee, in order to design workable standby legislation to deal with future energy emergencies. Each bill would provide the President with

certain mandatory authorities, particularly allocation, rationing and the ability to promulgate mandatory conservation plans in order to deal promptly and effectively with major energy emergencies such as last winter's embargo. Each bill authorizes certain ancillary authorities which complement these provisions, such as federal actions to increase available domestic supplies and allocate scarce materials which are essential to energy production.

The conceptual framework for the exercise of the basic authorities is similar in each bill: mandatory conservation, allocation and rationing plans might be implemented after a specified set of factual findings are made by the President, with each plan having a maximum duration specified by law.

Despite the basic similarity, however, we believe S. 622 is seriously deficient when compared to the Administration's bill in limiting the maximum life of any allocation, rationing or conservation plan to six months (rather than the 18 months of S. 594), permitting the exercise of these authorities on the less-stringent Presidential findings of S. 622, and providing for a veto by one House of Congress of any plan promulgated by the President. We believe that a more precise description of the facts which would permit exercising these authorities

is a better safeguard against unwise action by the executive than the after-the-fact congressional veto and limited plan duration contained in S. 622.

Title XIII of the Administration's Energy Independence Act differs from S. 622 in several other respects, principally in areas designed to accommodate more effectively the obligations incurred by the United States in the Agreement on an International Energy Program.

The IEP requires that each Participating Country maintain reserves equal to 60 days of imports, later to be increased to 90 days. Because of the broad definition of stocks in the IEP, the United States presently has sufficient inventories to meet this obligation. Nevertheless, since the IEP itself establishes a framework for reevaluation of the definition of the stocks constituting reserves, and since we must be assured that such minimum levels can be maintained in the future, some positive governmental action to maintain the needed levels may be necessary. Thus, section 1304 of the Administration's bill gives the President authority to require the maintenance of inventories at certain levels as required by the IEP.

Another requirement of the IEP addressed in this bill is the international allocation obligation. Under the IEP, Participating Countries are required to ensure that if a

supply disruption occurs, each Participating Country receives its fair share as provided by the Agreement. In order to ensure that the United States can carry out its obligations in this area, title XIII of the Administration bill contains two specific authorities. First, section 1312 of the bill authorizes the President to consult with oil companies in order to formulate a voluntary agreement to carry out the international allocation provisions of the IEP. A limited antitrust immunity would attach for actions required to be taken to implement the IEP, since it would be virtually impossible to arrange an international allocation system without such immunity.

As you may know, we have already started consultations with oil companies looking to the formulation of such a voluntary agreement under the authority of section 708 of the Defense Production Act. Section 1312 of the bill is similar to section 708 and both provisions require final Justice Department approval of any voluntary agreement. Since our IEP obligations are for a ten year period, however, and the Defense Production Act expires this year, new authority is necessary.

The second authority in the bill dealing with international allocation of oil is section 1311, authorizing the President to require companies subject to U. S. jurisdiction

to allocate oil to other countries in accordance with the IEP. Although we anticipate that the IEP's international allocation obligations can be accomplished through voluntary cooperation of the international oil companies, we nevertheless need the statutory authority to require such action should the voluntary approach prove inadequate.

The IEP also contains provisions for the collection of data both for planning and implementing emergency measures as well as providing current information on the situation in the international oil market.

Under section 1315 of the Administration's bill, the Administrator of FEA could provide to the Secretary of State for transmittal to the International Energy Agency the data required to be submitted by the Agreement. Several important safeguards are included to maintain competition and protect proprietary information. First, data which the President determines would prejudice competition or be inconsistent with United States national security interests can be withheld. Second, an agency which collects proprietary data protected from disclosure by statute could, in the first instance, refuse to allow the transmittal of such data to the International Energy Agency. However, if the President were to decide that the provision of such data was necessary in order to fulfill U. S. international obligations, he could direct such agency head to provide it.

The most troublesome deficiency of S. 622, compared to the Administration's bill, is that S. 622 relies in part on authorities contained in the Emergency Petroleum Allocation Act of 1973 and would extend the Allocation Act through December 31, 1980. Even if these authorities were necessary to carry out our responsibilities under the International Energy Program, such an approach is deficient as that agreement is in place until 1985. More significant, however, is the fact that it is totally unnecessary to continue the mandatory allocation program required under existing law in order to provide effective standby authorities in the event of energy emergencies. Extension of the Allocation Act, a temporary piece of legislation designed to deal with a specific set of circumstances that existed last winter, would be an unconscionable roadblock to the reduction of this nation's vulnerability to future emergencies. Its restrictions do nothing to increase domestic supplies of petroleum in the near term. Continuation of the present, rigidly formulated statutory requirement for allocation and price controls would be a regressive step to the improvement of this nation's domestic energy picture, and would present a real risk of the nation's energy and economic priorities being adjusted to meet this piece of legislation, rather than developing sound legislation designed to achieve the energy and economic goals that are necessary for the nation's long term prosperity and security.

The Standby Energy Authorities Act of 1975 builds upon the Congress' and the Administration's past efforts and provides the most effective means to deal with energy emergencies and to carry out our international obligations. Continuation of the current mandatory allocation program is unnecessary to achieve these goals. Accordingly, I urge that this Committee act promptly and favorably in reporting Title XIII of S. 594 as the first necessary step for Congressional action on this important measure. I will be happy to work with the Congress in any way I can to assist in carrying out this objective.

Thank you.