The original documents are located in Box 12, folder "10/29/74 S3792 Export Administration Amendments of 1974" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

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APPROVED
OCT 29 1974

NO Posted 10/29

TO ARCHIVES 10/30

THE WHITE HOUSE

WASHINGTON

ACTION

Last Day - October 29

October 25, 1974

MEMORANDUM FOR: THE PRESIDENT

FROM: KEN COLE

SUBJECT: Enrolled Bill S. 3792
Export Administration
Amendments of 1974

Attached for your consideration is Senate bill, S. 3792, sponsored by Senator Stevenson, which:

- extends for two years, until September 30, 1976, the authority under the Export Administration Act to regulate exports
- requires the Secretary of Commerce to monitor certain exports and to report on the results of such monitoring
- relaxes the criteria for imposing export controls in short supply situations
- permits the President to impose export controls on countries that restrict access to supplies
- requires the Secretary of Defense to review proposed exports to communist countries; and,
- for other purposes.

Roy Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

The NSC, the Counsel's office (Chapman), Bill Timmons, and Domestic Council all recommend approval.

RECOMMENDATION

That you sign Senate bill, S. 3792 (Tab B).

No statement
[illegible]

APPROVED
OCT 29 1974

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 22 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3792 - Export Administration Amendments of 1974
Sponsor - Sen. Stevenson (D) Illinois

Last Day for Action

October 29, 1974 - Tuesday

Purpose

Extends for 2 years, until September 30, 1976, the authority under the Export Administration Act to regulate exports; requires the Secretary of Commerce to monitor certain exports and to report on the results of such monitoring; relaxes the criteria for imposing export controls in short supply situations; permits the President to impose export controls on countries that restrict access to supplies; requires the Secretary of Defense to review proposed exports to communist countries; and for other purposes.

Agency Recommendations

Office of Management and Budget	Approval
Department of Commerce	Approval
Department of State	Approval
Department of the Treasury	Approval
Department of Agriculture	Approval
Council on International Economic Policy	Approval
Office of the Special Representative for Trade Negotiations	Approval (Informally)
Department of Defense	Approves sections 9 and 14; defers on others
Atomic Energy Commission	No objection
Department of Justice	Defers to other agencies (Informally)

Discussion

The Export Administration Act of 1969 provides the basic authority for the President to use export controls. Under that Act, controls may be imposed to regulate exports of commodities in short supply and to regulate exports for foreign policy or national security reasons. The enrolled bill would extend the Act, which expired on September 30, 1974, for 2 years until September 30, 1976. The Administration had requested a 3-year extension. Until such time as the enrolled bill is approved, the President's authority to control exports is being continued by virtue of emergency authority contained in the Trading with the Enemy Act.

With regard to exports in short supply, the enrolled bill would add a new requirement to the Export Administration Act that the Secretary of Commerce monitor exports and contracts for exports of any commodity (except certain agricultural commodities subject to other statutory monitoring and reporting requirements) when such exports contribute, or could contribute, to domestic shortages or price increases which have, or could have, a serious adverse impact on the economy or any sector thereof. The Secretary would be required to report the results of such monitoring on a regular basis (i.e., weekly or monthly) and to prepare more detailed analyses, including an assessment of the domestic and international impact of price increases and shortages of monitored commodities, on a semi-annual basis. Furthermore, the Secretary would be required to consult with the Federal Energy Administration to determine whether monitoring of energy related exports would be warranted.

In its enrolled bill letter, Commerce expresses concern that some of the forecasts required on the basis of such monitoring could be misleading, that foreign data necessary to make the reports required under the bill is largely unavailable and that, as a result, the analyses published would contain unreliable estimates which could trigger substantial speculation in the market for the commodities involved. Commerce also notes that the monitoring and reporting requirements under the bill could significantly increase the Department's budgetary requirements. Even though Commerce presented these same concerns to the Congress, the Department was unsuccessful in obtaining modification of these provisions.

Other provisions in the bill relating to the use of export controls on commodities in short supply would (a) remove, as requested, the present statutory requirement that foreign demand must be "abnormal" before export controls may be imposed, (b) authorize the President to impose export license fees (similar authority was requested), and (c) permit the President to allocate a portion of export licenses on the basis of factorsother than a prior history of exportation.

The bill would also provide explicit authority, similar to that requested, for the President to impose export controls to secure the removal of restrictions that foreign countries place on access to supplies. Before resorting to export controls in such situations, the President would be required to make "every reasonable effort" to secure removal of restrictive practices through international cooperation and agreement.

Other sections in the bill would:

-- establish procedures for individuals who are adversely affected by export controls to petition for hardship relief;

-- require Commerce to approve or disapprove certain applications for high technology exports within 90 days; and

-- require the President to review all domestic laws and regulations and international safeguards relating to the export and re-export of nuclear materials and technology and to report to the Congress within 6 months on their adequacy to prevent the proliferation of nuclear capability for non-peaceful purposes.

Finally, S. 3792 would require the Secretary of Defense to review certain applications for proposed exports to "controlled" (i.e. communist) countries. If he determined that such exports would significantly increase the military capability of any "controlled" country, he would be required to recommend that the President disapprove the proposed exports. The President would be authorized to modify or overrule any unfavorable recommendation he received from the Secretary.

This amendment is similar to a rider contained in the recently enacted military procurement authorization for fiscal year 1975 (P.L. 93-365). The provision in that Act, however, permits Congress to override the President by concurrent resolution if he allows exports of certain articles contrary to a recommendation from the Secretary of Defense. President Nixon, in his signing statement of August 5, 1974, on that Act, cited the congressional veto feature as an unconstitutional exercise of legislative power. While Defense and the CIEP believe that this earlier provision is repealed by S. 3792, Justice advises that it is not prepared to take a position on the matter at this time and suggests that it be the subject of a formal Attorney General opinion. We will recommend to the interested agencies that they seek a definitive Justice ruling on this matter.

On balance, while some of the above provisions may not be desirable in statute as a matter of policy or organization, we do not believe that they are so objectionable as to warrant disapproval of the bill.

Wilfred H. Rommel

Assistant Director for
Legislative Reference

Enclosures

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

October 15, 1974

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Ash:

In reply to your request of October 11, the following report is submitted on the enrolled enactment of S. 3792, a bill "to amend and extend the Export Administration Act of 1969."

The Department recommends that the President approve the bill.

S. 3792 extends the Export Administration Act of 1969, as amended, to September 30, 1976. The amendments include: (1) elimination of the word "abnormal" from the phrase "serious inflationary impact of abnormal foreign demand" in the criteria for imposition of export controls in Sec. 3(2)(A); (2) increased requirements for export monitoring and quarterly reporting by the Secretary of Commerce, with the cooperation of the Secretary of Agriculture in the case of commodities subject to the reporting requirements of section 812 of the Agricultural Act of 1970; (3) authorization for use of export controls to secure removal of foreign restrictions on access to supplies; (4) provisions for hardship relief; and (5) authorization for the use of export license fees as one tool for implementation of export controls by the President.

We feel it important that S. 3792 be signed so that the continuity in U.S. export administration policies can be assured for another two years. The new amendments in the bill appear to be generally consistent with the Administration's requests and their enactment would present no undue administrative difficulties for this Department.

Sincerely,

J. Phil Campbell

J. Phil Campbell
Under Secretary

DEPARTMENT OF STATE

Washington, D.C. 20520

OCT 15 1974

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D.C. 20503

Dear Mr. Ash:

This is in reply to your request for the Department's comments on enrolled Bill S.3792 "Export Administration Act Amendments of 1974." The bill would continue the President's authority to protect the domestic economy from excessive drain of scarce materials, reduce inflationary impact of foreign demand, further the foreign policy of the United States, and control exports for reasons of national security. We have examined the provisions of this bill and recommend that the President sign it.

Cordially,

Linwood Holton

Linwood Holton
Assistant Secretary
for Congressional Relations

MEMORANDUM

COUNCIL ON INTERNATIONAL ECONOMIC POLICY

October 16, 1974

FOR: GEORGE GILBERT, OMB

THROUGH: SKIP HARTQUIST

FROM: DAVID M. EVANS

SUBJECT: CIEP Views on Export Administration Act

We are generally pleased with the final version of the Export Administration Act, which incorporates a number of proposals made by the Administration. We recommend that the Bill be enacted promptly, since our export control program is at present being administered temporarily under the authority of the Trading with the Enemy Act.

More specifically, the final version of the Bill provides for the expeditious processing of export license applications by requiring that decisions be made within 90 days of submission (Sec. 5), and overriding the provisions of the "Jackson Amendment" to the Military Procurement Bill which required that all license applications for exports to communist countries be reviewed by the Defense Department (Sec. 9). Another positive feature of the final version is the elimination of an earlier provision permitting a Congressional veto in cases where the President might differ with the Secretary of Defense on what types of exports should be permitted to communist countries. The Bill does contain a provision requiring the Secretary of Commerce to monitor and report on exports in short supply (Sec. 3), which the Administration did not initially seek but with which we have no major objection.

THE GENERAL COUNSEL OF THE TREASURY

WASHINGTON, D.C. 20220

OCT 16 1974

Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Sir:

Your office has asked for the views of this Department on the enrolled enactment of S. 3792, "Export Administration Amendments of 1974."

The enrolled enactment would extend the authority of the President contained in the Export Administration Act of 1969, to prohibit or curtail exports to September 30, 1976. It would also (1) direct the President to allocate a portion of export licenses on the basis of factors other than a prior history of exports; (2) direct the Secretary of Defense to review proposed exports of goods and technology to communist countries to determine whether such exports will significantly increase the military capacity of such countries and to recommend to the President whether such exports be disapproved; (3) authorize export controls when significant foreign demand results or will result in an excessive drain of scarce materials and serious inflation; (4) direct the Secretary of Commerce to monitor exports and contracts for exports of certain agricultural commodities when such exports contribute to domestic price increases or shortages which have a serious adverse impact on the domestic economy; and (5) declare it U.S. policy to use export controls to secure removal by foreign nations of restrictions on access to supplies if such restrictions have a serious impact on the economy or have been imposed to influence U.S. foreign policy.

The Department recommends that the enrolled enactment be approved by the President.

Sincerely yours,

General Counsel

UNITED STATES
ATOMIC ENERGY COMMISSION
WASHINGTON, D.C. 20545

OCT 17 1974

Mr. Roy L. Ash, Director
ATTN: Mrs. Louise Garziglia
Legislative Reference Division
Office of Management and Budget

Dear Mr. Ash:

Thank you for the opportunity to comment on S. 3792, a bill to amend and extend the Export Administration Act of 1969, as amended. Although several provisions of the bill as discussed below would have a direct impact on the functions of the Atomic Energy Commission, the AEC does not oppose enactment of S. 3792.

Section 9. of the bill would establish a new mechanism applicable to the issuance by any "export control office or agency" of licenses for export of certain goods or technology to any "controlled country" (including Yugoslavia). Under this mechanism, the Secretary of Defense, in consultation with other export control offices, is to determine the types and categories of such transactions which are to be reviewed by him, and is thereafter to be notified of any such license requests. If he determines that export of such goods or technology will significantly increase the military capability of the recipient country, he is to recommend to the President within 30 days that the President disapprove the export request. The Secretary of Defense may alternatively notify the export control office or agency that he will interpose no objection to the export if appropriate conditions are imposed, or that he will not interpose an objection. If, following receipt of a recommendation from the Secretary of Defense, the President notifies the export control office or agency that he disapproves the export, no license or other authorization may be issued. If the decision of the President in this regard is contrary to the recommendation of the Secretary of Defense, the President must submit to the Congress a statement indicating his decision together with the recommendations of the Secretary of Defense.

Section 9. of S. 3792 could directly affect the export licensing functions of the Atomic Energy Commission established by the Atomic Energy Act of 1954, as amended (the Act). Under the Act, the Commission is invested with responsibility for controlling the export of nuclear equipment, materials and technology. Exports of significant items

(e.g., nuclear reactors, special nuclear material) can be licensed only pursuant to international agreements for cooperation entered into pursuant to section 123 of the Act. The requirement for an agreement for cooperation also applies to transfer of Restricted Data abroad. Under section 123 of the Act such agreements for cooperation can be concluded only after the President has approved the agreement and made a formal written determination that the agreement will promote and will not constitute an unreasonable risk to the common defense and security. Thus, the policy of the United States with respect to export of these types of equipment, material and information are, in the first instance, subject to specific review by the President.

Less significant types of nuclear equipment and materials (e.g., source and byproduct material) may be exported pursuant to agreements for cooperation, or to a Commission decision relative to the common defense and security or the interests of the U.S. With respect to authorization for export of unclassified nuclear technology, subsection 57 b. of the Act provides that no person may "directly or indirectly engage in the production of any special nuclear material outside of the United States" except (1) under an agreement for cooperation as described above, or (2) upon authorization by the Commission after a formal determination that the activity will not be inimical to the interest of the United States.

In exercising all these responsibilities under the Act, the Commission maintains continual contact with other agencies and departments which may have an interest, including the Departments of State, Defense, and Commerce, and the Arms Control and Disarmament Agency. Moreover, significant exports of nuclear equipment, materials and technology are considered within the context of the National Security Council framework, particularly in the area of exports to Communist nations.

These procedures have operated efficiently for some twenty years to maintain close scrutiny over the above exports, and the Commission questions whether imposition of additional layers of review will serve the purposes set forth in section 9. of the bill. However, the Commission believes that these new provisions can be implemented by the affected agencies and departments in a manner which will minimize the possibility for duplication or unreasonable delay in issuing of licenses covering activities concerning which the President, or other departments and agencies having specific statutory responsibility, have previously considered. In the case of export of nuclear equipment, material or technology, such a result could be achieved if the Secretary of Defense (or the President) determines

that such activities do not need the special review authorized by Sec. 9. Therefore, in view of the flexibility granted to the Executive Branch with respect to implementation of this subsection, the Commission does not believe that these provisions will present unsurmountable barriers to continued effective implementation of the United States' program of international cooperation in atomic energy.

With respect to the Energy Reorganization Act of 1974 (P.L. 93-438), enacted on October 11, 1974, the Commission notes that the Energy Research and Development Administration (ERDA) will have the basic responsibility for "encouraging and participating in international cooperation in energy ...." (Sec. 103 (9)). Sec. 3(d) of S. 3792, however, requires that the Secretary of Commerce consult with the Federal Energy Administration on certain aspects relating to the export of items involved with fuels and energy (except nuclear energy). The Commission believes that any action taken pursuant to Sec. 3(d) should also require consultation with ERDA in order to permit that new Administration to effectively discharge its functions under the Reorganization Act.

Sec. 14 of the bill, S. 3792, directs the President to review all laws and regulations governing the export of nuclear equipment, materials and technology, and to report to the Congress on the adequacy of these regulations to prevent the "proliferation of nuclear capability for nonpeaceful purposes." Moreover, the President is to review domestic and international nuclear safeguards, and to report to the Congress on certain aspects of the adequacy of these safeguards. Implementation of this section will require close coordination by all departments and agencies involved with such matters in order that a comprehensive report can be prepared.

With respect to other provisions of S. 3792 not discussed above, the Commission defers to the views of those other agencies and departments which are more directly affected.

Sincerely,

Chairman

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
WASHINGTON, D. C. 20301

October 18, 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Ash:

Reference is made to your request for the views of the Department of Defense with respect to the enrolled enactment of S. 3792, 93d Congress, 2d Session, "To amend and extend the Export Administration Act of 1969."

S. 3792 would extend the Export Administration Act of 1969, as amended, until September 30, 1976 and would make numerous amendments to that Act.

The Department of Defense defers to the Department of State, the Department of Commerce and the Council on International Economic Policy on those amendments except for two of them which are of particular interest to the Department of Defense.

I. Section 9 on Interagency Review. Section 9 would repeal by implication Section 709 of the recently enacted Appropriation Authorization Act for 1975 (Public Law 93-365). It would re-enact its basic provision for an assessment to be made by the Secretary of Defense to determine whether proposed exports of U.S. goods and technology would significantly increase the military capability of controlled countries before their export would be authorized. The main differences between Section 9 of the enrolled enactment and the enacted Section 709 of the Appropriation Authorization Act for 1975 which it would repeal are:

- The limitation to Department of Defense related items would be removed so that the Secretary of Defense could assess all items for military impact.

- The controlled countries would be all communist countries rather than only the Warsaw Pact countries.

- The authority of the Secretary of Defense to add countries would be omitted.

- Time periods of 30 days are specified for the decisions of the Secretary of Defense and, when a disapproval recommendation is made to him, by the President.

- The provision for Congress by concurrent resolution to overrule the President when he disagrees with a disapproval recommendation from the Secretary of Defense is omitted.

Although the general requirement of a decision by the Secretary of Defense within 30 days of notification to him is a constraint, the provision for an extension of time for final agency action on export applications should provide for some relief in unusual circumstances. The Department of Defense has no overriding objections to either the Export Administration Act extension or to the amendments contained in Section 9 of S. 3792.

II. Section 14 on Presidential Review. This section provides as follows:

> "The President is directed to review all laws, regulations issued thereunder by the Atomic Energy Commission, the Department of Commerce, and other Government agencies, governing the export and re-export of materials, supplies, articles, technical data or other information relating to the design, fabrication, development, supply, repair or replacement of any nuclear facility or any part thereof, and to report within six months to the Congress on the adequacy of such regulations to prevent the proliferation of nuclear capability for nonpeaceful purposes. The President is also directed to review domestic and international nuclear safeguards and to report within six months to the Congress on the adequacy of such safeguards to prevent the proliferation, diversion or theft of all such nuclear materials and on efforts by the United States and other countries to strengthen international nuclear safeguards in anticipation of the Review Conference

scheduled to be held in February 1975 pursuant to Article VIII, section 3 of the Treaty on the Non-Proliferation of Nuclear Weapons."

The Department of Defense favors these reviews and is prepared to cooperate with the President and other Government agencies concerning them.

With regard to these two sections which are of particular interest to us the Department of Defense recommends that the President approve S. 3792.

Sincerely yours,

G Niederlehner

for Martin R. Hoffmann

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE
Washington, D.C. 20230

OCT 18 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Ash:

This is in reply to your request for the views of this Department concerning S. 3792, an enrolled enactment, "The Export Administration Amendments of 1974." The enrolled bill amends the Export Administration Act of 1969 in four major ways. It extends the Act for two years, adds two new policy declarations, provides for additional actions to be taken by the Secretary of Commerce, and provides for certain actions to be taken by others in the Executive branch of the government.

A. Revised policy declarations

1. The enrolled enactment states that it is policy of the United States to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

2. It also states that it is the policy of the United States to use export controls to secure removal by foreign nations of restrictions on access to supplies if such restrictions have or may have a serious impact on the economy or have been imposed for purposes of influencing U.S. foreign policy. This provision directs the President to make every reasonable effort to secure the removal or reduction of such restrictions through international cooperation and agreement before resorting to the imposition of retaliatory export controls.

B. Actions to be taken by the Secretary of Commerce

1. The authority to impose export controls for short supply reasons is amended by deleting the requirement that foreign demand which produces an excessive

drain of scarce materials need be "abnormal." Controls may now be imposed when foreign demand results or will result in an excessive drain of scarce materials and serious inflation. The Conference report indicates that it is the intent of the conferees that export regulations implementing this policy reflect that foreign demand need not be the major cause of serious inflation in the price of a commodity; it need only be a significant factor in causing inflation in the price. The report also indicates that short supply controls should be used to prevent an excessive drain of scarce materials from taking place. Controls need not be held in abeyance until such an excessive drain has actually occurred.

2. The enrolled enactment directs the Secretary of Commerce to monitor exports and contracts for exports (other than agricultural products) when such exports contribute or may contribute to domestic price increases or shortages and such price increases or shortages have or may have a serious adverse impact on the domestic economy or any sector thereof. It also requires the Secretary of Commerce to issue periodic reports indicating the results of such monitoring and analyzing the domestic and international impact of shortages and price increases. Quarterly reports to Congress shall include summaries of such reports as well as an analysis of the impact on the economy and world trade of shortages or increases in prices for all commodities subject to monitoring including agricultural products monitored by the Secretary of Agriculture.

3. The enrolled enactment states that, in controlling exports for short supply reasons, a portion should be allocated to exporters on the basis of factors other than a prior history of exportation.

4. It requires the Secretary of Commerce, upon imposing quantitative restrictions on exports, to publish in the Federal Register an invitation to all interested parties to submit written comments on the impact of such restrictions.

5. It provides for a petition procedure for hardship relief from export controls imposed on grounds of short supply, together with certain criteria to be considered in arriving at a decision with respect to granting or denying such relief.

6. It specifically authorizes the imposition of an export license fee as a means of administering short supply controls.

7. It requires the Secretary of Commerce to consult with the Federal Energy Administration to determine whether monitoring is warranted for energy-related exports.

8. It requires the Department of Commerce to approve or deny export license applications within 90 days of their submission or, in the alternative, to advise the applicant of the circumstances requiring additional processing time and give an estimate of when action will be taken.

9. It requires that representatives of the Departments of State, Defense and Commerce be members of each technical advisory committee established to advise the Secretary of Commerce on national security matters and that each committee shall be provided with adequate information pertaining to the reasons for current or contemplated national security controls for the commodities under the committee's purview.

10. It requires the Secretary of Commerce, within one year of enactment of the amendments, to report to Congress on actions, taken to expedite the processing of export license applications.

C. <u>Other actions to be taken by the Executive Branch of the Government</u>

1. The enrolled enactment authorizes and directs the Secretary of Defense to review proposed exports to communist countries to determine whether such exports will significantly increase the military capability of such countries and to recommend to the President that exports which would make such a significant increase be disapproved. It also provides that if the President modifies or overrules a negative recommendation by the Secretary of Defense, he shall submit a statement to Congress indicating his decision together with the recommendation of the Secretary of Defense.

2. The enrolled enactment requires the President to review laws and regulations governing the export and reexport of nuclear materials and technology and the adequacy of domestic and international safeguards

to prevent proliferation of such materials and technology. The President is required to report to Congress within six months on the adequacy of such laws, regulations and safeguards.

Our major concern with the enrolled enactment is with the provisions requiring monitoring and reporting of short supply situations.

These provisions would require monitoring of "contracts for exports" on the assumption that such contracts provide an accurate indication of anticipated exports. In fact, our experience in monitoring contracts for exports of agricultural commodities and ferrous scrap during the summer of 1973 has indicated that such contracts have little or no bearing on the quantities which may be exported at some future time. Thus, the forecasts and policy decisions based on such monitoring would be misleading, and could result in imposing export controls which would otherwise not have been necessary.

The enrolled enactment further requires publication of analyses which assume that it is possible to obtain access to domestic and foreign supply-demand data. The foreign data to a large extent is not available. Thus, the analyses published would amount to unreliable estimates and could trigger substantial speculation in the market for the commodity involved.

Most of the amendments, however, are either desirable or at least acceptable to the Department. In fact, the provisions regarding international cooperation, retaliatory authority, easing of short supply control criteria, and specific authority to impose export license fees were Administration requests. Also, an extension of the Act for two more years is highly desirable. On balance, notwithstanding the concern with the monitoring and reporting requirements, it is recommended that the President sign the enrolled enactment into law.

As for the anticipated costs in administering the Export Administration Act, as amended by the Export Administration Amendments of 1974, we know that additional funds and personnel will be required, but there are too many variables to permit even an educated estimate. The additional costs could well be significant in terms of both personnel and funds depending on the volume of commodities subject to monitoring and reporting requirements under the new provisions of the Act, and the volume of commodities for which short supply

controls may be imposed in the future. The current budget for the Department of Commerce does not include funds or positions which would be required to administer any additional monitoring or export licensing programs.

Sincerely,

Karl E. Bakke

General Counsel

THE SECRETARY OF COMMERCE
Washington, D.C. 20230

OCT 18 1974

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

I am enclosing for your consideration a proposed signing statement to be issued upon signing S. 3792, the "Export Administration Amendments of 1974."

I believe that the signing of this important legislation gives you an opportunity to clarify any uncertainties concerning the administration of the export control programs of the United States.

Respectfully,

/s/

Secretary of Commerce

Enclosure

THE SECRETARY OF COMMERCE
Washington, D.C. 20230

OCT 21 1974

OCT 18 1974

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

I am enclosing for your consideration a proposed signing statement to be issued upon signing S. 3792, the "Export Administration Amendments of 1974."

I believe that the signing of this important legislation gives you an opportunity to clarify any uncertainties concerning the administration of the export control programs of the United States.

Respectfully,

Secretary of Commerce

Enclosure

ASSISTANT ATTORNEY GENERAL
LEGISLATIVE AFFAIRS

Department of Justice
Washington, D.C. 20530

OCT 22 1974

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D. C. 20503

Dear Mr. Ash:

This is in response to your request for the views of the Department of Justice in regard to the enrolled bill, S. 3792 (93rd Cong. 2d Sess.), "Export Administration Amendments of 1974," which amends the Export Administration Act of 1969.

The enrolled bill offers a series of amendments to the 1969 Act which would increase the authority of the President to impose export restrictions and requires the monitoring of exports and contracts for exports which contribute or may contribute to an increase in domestic prices or a domestic shortage that is having or may have a serious impact on the economy or a section thereof.

The Department of Justice defers generally to the Departments of Commerce, Agriculture and Defense and the Federal Energy Administration in regard to the reporting procedures required by the Act.

The Department is concerned, however, with two amendments to the 1969 Act. Section 2 of the bill would amend Section 3(2)A of the 1969 Act by changing the statement that it is United States policy to use export controls "to reduce serious inflationary impact of abnormal foreign demand" by deleting the term "abnormal." The bill thus states it is United States policy to use export controls whenever foreign demand, whether increasing or decreasing, may have a significant inflationary impact. This appears overly broad and contrary to our international trade commitments. Furthermore, it may undermine the confidence other countries have in our reliability as an exporting nation.

Although the Department recognizes there may be occasions where export controls are necessary, it is generally opposed to export restrictions because they unduly restrict competition, may engender retaliation against other American businesses, and thus in both ways may deny the American public the options necessary to a free competitive society.

The Department is also concerned with section 11 of the bill, which would add to the 1969 Act that it is the policy of the United States to use export controls "to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States." The Department believes that this amendment authorizing retaliation might well lead to world economic warfare incompatible with the maintenance of free market competition. Nevertheless, there may be overriding foreign policy considerations as to which the Department defers to the views of the State Department and the Special Trade Representative.

It should also be pointed out that section 9 of the bill would add a new subsection (h) to section 4 of the Act which would provide that "nothwithstanding any other provision of law" the Secretary of Defense shall determine categories of transactions which should be reviewed by him. Whenever authority is requested for the export to a controlled country of goods or technology in such categories, the appropriate export control office receiving such request would be required to notify the Secretary who then would have 30 days to recommend to the President that he disapprove the request because the export of such goods or technology would significantly increase the military capability of the controlled country. If the President exercises his authority to modify or overrule a recommendation made by the Secretary, then the President would be required to submit to the Congress a statement of his decision together with the recommendation of the Secretary.

This provision is almost identical in effect to section 709 of Public Law 93-365, the Department of Defense Appropriation Authorization Act, 1975, except that the enrolled bill omits a provision contained in section 709 that the Presidential decision lie before the Congress for sixty days during which time the Congress could in effect veto the Presidential decision by the passage of a concurrent resolution.

The obvious question of the extent to which section 709 of Public Law 93-365 would remain effective after Executive approval of S. 3792 is one which this Department would prefer to address in the context of a request for an opinion of the Attorney General rather than in an enrolled bill report. While the general rule is that statutory repeals by implication are not favored, see Committee for Nuclear Responsibility, Inc. v. Seaborg, 463 F.2d 783, 785 (D.C. Cir. 1971), the matter is not

altogether clear, see Payne v. Washington Metropolitan Area Transit Commission, 415 F.2d 901, 908 (D.C. Cir. 1968). In this case the question is further complicated by the fact that we regard the concurrent resolution veto mechanism as unconstitutional. See the Department's August 2, 1974, enrolled bill report on H.R. 14592, the bill which became Public Law 93-365.

Sincerely,

W. Vincent Rakestraw
Assistant Attorney General

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 686

Date: October 22, 1974 Time: 3:00 p.m.

FOR ACTION: ✓Geoff Shepard
✓Phil Buchen
✓Bill Timmons
✓NSC/S
Paul Theis

cc (for information): Warren K. Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, October 25, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill S. 3792 - Export Administration Amendments of 1974

10/29

No Statement

ACTION REQUESTED:

____ For Necessary Action

XX For Your Recommendations

____ Prepare Agenda and Brief

____ Draft Reply

____ For Your Comments

____ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

WASHINGTON

Date 10/21

TO: Jerry Jones

FROM: WILLIAM TIMMONS

FOR YOUR INFORMATION _____

FOR YOUR COMMENTS _____

FOR APPROPRIATE HANDLING ✓

OTHER Will you pls get this in the system?

THE WHITE HOUSE

WASHINGTON

10/24/74

TO: W. Headsuks

This is a proposed signing statement for S.3792 -- last day -- 29th

John J. Ratchford

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 686

Date: October 22, 1974 Time: 3:00 p.m.

FOR ACTION: Geoff Shepard
Phil Buchen
Bill Timmons
NSC/S
Paul Theis

cc (for information): Warren K. Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, October 25, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill S. 3792 - Export Administration Amendments of 1974

ACTION REQUESTED:

____ For Necessary Action

XX For Your Recommendations

____ Prepare Agenda and Brief

____ Draft Reply

____ For Your Comments

____ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

no objection
10/23

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

THE WHITE HOUSE

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D.C.

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Warren K. Hendriks
For the President

THE WHITE HOUSE

WASHINGTON

October 23, 1974

MEMORANDUM FOR: MR. WARREN HENDRIKS

FROM: WILLIAM E. TIMMONS

SUBJECT: Action Memorandum - Log No. 686
Enrolled Bill S. 3762 - Export Administration Amendments of 1974

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment

THE WHITE HOUSE

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Warren K. Hendriks
For the President

ACTION

Last Day - October 29

October 25, 1974

MEMORANDUM FOR: THE PRESIDENT

FROM: KEN COLE

SUBJECT: Enrolled Bill S. 3792
Export Administration
Amendments of 1974

Attached for your consideration is Senate bill, S. 3792, sponsored by Senator Stevenson, which:

- extends for two years, until September 30, 1976, the authority under the Export Administration Act to regulate exports
- requires the Secretary of Commerce to monitor certain exports and to report on the results of such monitoring
- relaxes the criteria for imposing export controls in short supply situations
- permits the President to impose export controls on countries that restrict access to supplies
- requires the Secretary of Defense to review proposed exports to communist countries; and,
- for other purposes.

Roy Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

The NSC, the Counsel's office (Chapman), Bill Timmons, and Domestic Council all recommend approval.

RECOMMENDATION

That you sign Senate bill, S. 3792 (Tab B).

PROPOSED STATEMENT TO BE ISSUED BY THE PRESIDENT UPON SIGNING S. 3792, THE "EXPORT ADMINISTRATION AMENDMENTS OF 1974"

I am signing today S. 3792, legislation to amend the Export Administration Act of 1969 and extend through September 30, 1976, the authority to impose export controls on grounds of national security, foreign policy or domestic short supply.

I wish to emphasize at this time my determination to use export controls as sparingly as possible. I recognize that any government interference with exports is detrimental to many segments of our economy and to our balance of trade. At the same time, there are from time to time circumstances in which concerns for national security, foreign policy, and short supply ~~must~~ override the government's reluctance to intervene in our free market economy.

First, I want to stress my determination to maintain vigilance over exports of U.S. technology and commodities which could have an adverse impact on our national security. Any export that would contribute significantly to the military capability of a Communist country has not been and will not be licensed. If the Secretary of Defense or the head of another appropriate agency determines that, in the interest of national security, a license should not be granted and there is any

disagreement on this issue among the other agencies involved, I shall make the ultimate decision whether or not the export should be allowed with national security concerns foremost in mind.

On the other hand, I do not agree with those who believe that any trade whatsoever with the Communist countries is harmful to our security or our economy. In my opinion, closer commercial ties between the United States and the Communist world contribute substantially to the development of peaceful relations. Moreover, U.S. exports of peaceful goods to these countries have meant more jobs for American workers and greater prosperity for the American firms who employ them. Accordingly, I intend to make every effort to expand our trade in peaceful goods with such countries.

Second, we must continue to carry out certain export control programs which further U.S. foreign policy. For example, we have used this authority both to implement United Nations Resolutions calling for restrictions on trade with certain countries and to control exports of commodities and technology in support of the Limited Nuclear Test Ban Treaty.

Third, public attention has focused over the past two years on controls designed to assure adequate domestic supply of commodities in world shortage. Critical world

shortages are a matter of serious concern to all of us. Whenever feasible, these shortages should be alleviated through international cooperation rather than unilateral action. At the same time, I shall continue to place primary emphasis on the basic needs of the American consumer.

I am pleased that mandatory export controls proved to be unnecessary in dealing with the recent purchases of grain contemplated by the Soviet Union. I am well aware of the disruptive effect which controls over exports of agricultural commodities can have on our domestic and foreign markets. I am hopeful that with the cooperation of American grain exporters, the voluntary program recently established by Secretary Butz will avoid the need for imposing mandatory export controls.

Finally, I want to assure the Congress and the American people that any authority conferred under this Act will be used only after carefully weighing the many factors involved in determining what is in our national interest. Now that Congress has reaffirmed its commitment to selective regulation of export transactions that would be detrimental to this nation, I urge prompt passage of the Trade Reform Act to facilitate the general expansion of international trade in the interest of both a healthy world economy and maintaining our historic role as a major trading power.

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Calendar No. 985

93D CONGRESS
2d Session

SENATE

REPORT
No. 93-1024

EXPORT ADMINISTRATION ACT AMENDMENTS OF 1974

REPORT

OF THE

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 3792

JULY 22, 1974.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1974

38-010

★★(Star Print)

Calendar No. 985

93D CONGRESS, *2d Session* } SENATE { REPORT No. 93-1024

EXPORT ADMINISTRATION AMENDMENTS OF 1974

JULY 22, 1974.—Ordered to be printed

Mr. STEVENSON, from the Committee on Banking, Housing and Urban Affairs, submitted the following

REPORT

[To accompany S. 3792]

The Committee on Banking, Housing and Urban Affairs favorably reports a Committee bill, S. 3792, to amend and extend the Export Administration Act of 1969, as amended ("the Act").

HISTORY OF THE LEGISLATION

S. 3282 was introduced in the Senate on April 1, 1974 and referred to the Committee. The International Finance Subcommittee held extensive hearings on export controls and United States international economic policy on April 2nd, 5th, 23rd, 25th, 26th, and May 2nd and 3rd, 1974.

On June 12, 1974, the Committee met in open markup to consider all export control proposals pending before the Committee, including S. 3282 and an alternative Subcommittee proposal. After amending the Subcommittee proposal, the Committee agreed to report the measure with modifications as a new Committee bill.

EXPLANATION OF THE LEGISLATION

SHORT TITLE

Section 1 provides that the bill, when enacted, may be cited as the Export Administration Amendments of 1974.

SHORT SUPPLY POLICY

Section 2 would amend section 3(2)(A) of the Act by striking the word "abnormal." Section 3(2)(A) sets forth Congressional policy on the use of export controls in situations of short domestic supply. As amended, it would read as follows:

> It is the policy of the United States to use export controls (A) to the extent necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of (abnormal) foreign demand . . .

This change was proposed by the Committee in H.R. 8547 in October, 1973. As explained in the Committee report on H.R. 8547, the purpose of the amendment is as follows:

> In the past, one of the impediments to effective use of export controls has been the need to show that the foreign demand which produced an excessive drain of scarce materials and serious inflation was "abnormal." The term "abnormal" suggested the need to show, by reference to some earlier period, that the pattern or magnitude of foreign demand had changed significantly. However, determination of an appropriate reference point for assessing whether foreign demand is normal or abnormal is impossible to do with any degree of certainty since trade patterns fluctuate. Moreover, in some situations, an excessive drain of scarce materials and serious inflation can result even if foreign demand levels have not changed significantly. This could occur where total supply declines for one reason or another. In that circumstance, even if foreign demand is at pre-existing levels, there can be an excessive drain of scarce materials and serious inflation.

Under the change proposed by the Committee in this bill, it will no longer be necessary for foreign demand to be abnormal before export controls may be imposed. Instead, controls may be used when foreign demand results or will result in both an excessive drain of scarce materials and serious inflation. However, as at present, foreign demand must be a significant factor in present or prospective inflation in the economy before controls may be imposed.

The Committee also wishes to reiterate its intent that the authority contained in the Export Administration Act be used flexibly. As pointed out in the Report on H.R. 8547,

> [T]he Committee believes that the Executive Branch in the past has taken too rigid a view of that authority. It is not necessary that there presently be in existence a drain of scarce materials and serious domestic inflation. The Act expressly states that it is the policy of the United States to use export controls "to the extent necessary to *protect* the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal foreign demand . . ." Accordingly, it is not necessary that the economy actually be damaged before action can be taken. Congress intends that the Executive Branch anticipate and guard against the development of adverse situations and instructs the Executive Branch to exercise the authority contained in the Export Administration Act of 1969 and other laws in such a manner as to ensure that export controls do not have to be imposed in the tardy and hastily conceived manner of last summer [when an embargo was imposed on soybean exports.] Such action generated unnecessary ill will both at home and abroad.

MONITORING

Section 3 would amend sections 4, 5, and 10 of the Act to improve the ability of the government to fulfill the policies of the Export Administration Act. Section 3 would require the Secretary of Commerce to monitor exports under specified conditions, to publish reports on such monitoring, to prepare analyses of the economic impact of shortages and increased prices of materials subject to monitoring, and to require other departments and agencies of the Federal government to cooperate in rendering necessary advice and information.

Materials covered and conditions

Section 3(a) would add a new subsection 4(c) to the Act. Paragraph (1) of the new subsection would require the Secretary of Commerce to monitor exports and contracts for exports of all materials not subject to the reporting requirements of section 812 of the Agricultural Act of 1970. Monitoring must occur when the volume of exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage and such price increase or shortage has, or may have, a serious adverse impact on the economy.

Information furnished the Secretary under this subsection is to be confidential except as it is required to be published in aggregate form in the reports prepared by the Secretary under paragraph 2 of this subsection.

Weekly reports

Paragraph 2 of new subsection 4(c) would require that, to the extent practicable, information obtained through monitoring be aggregated and set forth in weekly reports. Such reports must describe actual and anticipated exports of the monitored material, the destination by country, and domestic and worldwide price, supply and demand. The Secretary of Commerce may make monthly reports if he determines there is insufficient information to justify weekly reports, or if weekly reports are otherwise impracticable.

Semiannual reports

Section 3(b)(2) would add a new subsection 10(b) to the Act to require that the quarterly report for the first quarter of 1975 and semi-annually thereafter include summaries of the information contained in the reports required by new subsection 4(c). In addition, such quarterly reports are to contain the Secretary's analysis of the impact on the economy and world trade of shortages or increased prices for materials subject to monitoring under the Act, (2) the probable duration of such shortages or increased prices, (3) the worldwide supply of such materials, and (4) actions taken by other countries in response to such shortages or increased prices.

The purpose of this subsection is to expand and improve the Department of Commerce's analysis of developing short supply situations so that the government will be in a position to take effective action before a crisis develops. Such analysis should also be used to devise alternative strategies to export controls. For example, if export demand produces serious domestic price increases or shortages, the gov-

ernment should tailor its programs and activities so as to encourage the development of alternative sources of supply both at home and abroad.

A wide variety of tools are available to the government under existing law to accomplish these objectives. Government tax and export financing policies can have a substantial impact. In addition, cooperation with other nations can help to relieve the pressures of export demand. International cooperation can also improve access to sources of supply. A prerequisite to such action is the careful analysis called for by this section.

Concern has been expressed that publication of the Secretary's analysis of the probable duration of shortages or increased prices might encourage speculation by signaling the impending imposition or expected duration of any export controls. Concern has also been expressed that the information available to the Secretary may not be sufficiently accurate or reliable to permit competent analysis.

The Committee is sensitive to the problem but believes that the ready availability of accurate information about shortages, prices, and supply can actually reduce the uncertainty which gives rise to speculation. The Committee also believes that adequate steps can be taken to satisfy the expressed concerns. The analysis which is essential to effective action to alleviate shortages need not convey information about the timing, the kind, or the duration of export controls. Indeed, the Committee is aware that private sector responses to predictions about export controls can have adverse domestic supply consequences. It, therefore, does not expect the Secretary to disclose information which indicates the Government's export control intentions. In addition, where the information available to the Secretary is sufficiently unreliable to permit competent analysis, or where publication of analyses based on such information would have serious adverse consequences due to highly volatile markets for the material involved, the Committee expects the Secretary to so indicate in his report and does not expect him to proceed further with any analysis at that time.

Semi-Annual Reports on Agricultural Commodities

Section 3(b)(2) would also add a new subsection 10(c) to the Act which requires a semi-annual analysis by the Secretary of Commerce of information obtained from the Secretary of Agriculture regarding commodities subject to the reporting requirements of section 812 of the Agricultural Act of 1970. The need for careful and systematic governmental assessment of developing shortages and the long term supply and demand situation applies to agricultural as well as non-agricultural commodities. As in the analysis required by subsection 10(b), the analysis of agricultural commodities must show the impact on the economy and world trade of shortages or increased prices, for such commodities, the probable duration of such shortages or increased prices, the worldwide supply of such commodities, and actions taken by other nations in response to such shortages or increased prices.

Since agricultural commodities are a major U.S. export, such analysis is essential. The need for an embargo on soybean exports in the summer of 1973 was in part the result of a failure to foresee increased export demand for soybeans. It also reflected a failure to foresee the consequences which would follow from an abrupt termination of U.S. soybean supplies to the rest of the world, especially to established

trading partners. Increased worldwide demand for wheat in the face of dwindling carryover stocks raises similar problems. The analysis required by this subsection is intended to assist the Government in devising appropriate policies before a crisis materializes and before options short of a complete embargo are foreclosed.

To facilitate the efforts of the Secretary of Commerce this subsection makes it clear that the Secretary of Agriculture is to cooperate fully with the Secretary of Commerce in making available all the information he requires to complete the analyses.

Consultation

Section 3(c) would amend subsection 5(a) of the Act by making it clear that the consultation provisions of the Act apply to determinations regarding which exports are to be monitored, as well as to determinations concerning which exports are to be controlled.

Subsection 5(a) would also be amended to require all executive departments and independent agencies to cooperate fully in rendering advice and information to those charged with making determinations under the Act.

INTERNATIONAL COOPERATION TO SECURE ACCESS TO SUPPLIES

Section 4 would amend the findings and policy provisions of the Act in order to deal with the growing problems of politically and economically motivated restrictions on access to supplies. When imposed on essential raw materials such as oil, such restrictions can seriously jeopardize world-wide economic growth and political and social stability. Regardless of the material involved, such restrictions signal a breakdown in the international trading system. The purpose of this section is to recognize the dangers and to establish U.S. policy firmly in opposition to unreasonable restrictions on access to supplies and firmly in favor or international cooperation to combat such restrictions.

Congressional findings

Section 4(a) would add to section 2 of the Act a Congressional finding that unreasonable restrictions on access to supplies can cause political and economic instability, interfere with free international trade, and retard economic growth and development. The Committee expects the President and the Secretary of Commerce to take this new finding into account in implementing the Act and evaluating export restrictions imposed by United States as well as other countries. In both the imposition of export controls on U.S. materials and in responding to export controls established by other nations, the serious dangers which unreasonable export restrictions present for all nations should play an important role in the President's deliberations.

U.S. cooperation with all nations

Section 4(b) would amend section 3(3)(A) of the Act by striking the words "with which the United States has defense commitments." The purpose of this amendment is to make it United States policy to cooperate with *all* nations, not only those with which it has defense commitments, in assuring reasonable access to world supplies.

Declaration of policy

Section 4(c) would amend section 3(5) of the Act to provide that it is United States policy to foster international rules and institutions

which will assure reasonable access to world supplies by all nations. Internationally agreed-upon rules, implemented through international institutions, present the best hope for dealing with growing problems of resource scarcity. The Committee expects that earnest efforts on the part of the President and the Secretary to develop and encourage such international arrangements will form a basic part of official United States policy.

HIGH TECHNOLOGY EXPORTS

Section 5 would amend sections 4 and 5 of the Act in order to reduce delays in the processing of license applications for materials subject to national security export controls and to improve the functioning of the technical advisory committees.

Licensing processing

Section 5(a) would add a new subsection (g) to section 4 of the Act to require that applications for licenses to export goods and technology subject to national security controls under the Act be approved or disapproved within 90 days after submission of the application. If additional time for decision is required, the applicant must be informed of the reasons for the delay. The applicant must also be given an estimate of when a decision will be made.

This provision was added because of the increasing delays experienced by exporters seeking final action on license applications for exports of high technology goods and services. Such delays cause uncertainty, and ultimately impede United States' export potential. By requiring a decision within ninety days, with reasons to be given if additional time is required, the Committee expects the situation to be rectified.

The Committee recognizes that some improvement has been made by the Department of Commerce in the processing of export license applications. Nevertheless, the Committee is disturbed by testimony that other departments and agencies have failed to exercise their export licensing responsibilities in the inter-agency review process with adequate dispatch and that insufficient facilities and personnel are allocated to the administration of export restrictions both in the Department of Commerce and in the Department of Defense. It notes that while the volume of export license applications has risen, the number of personnel employed by the Office of Export Administration has dropped and that the number of Defense Department personnel involved in high technology export controls has remained the same. The Committee is also aware that some of the Commerce Department personnel who usually work on high technology export applications have become involved in the administration of short supply controls. It also appears that export licensing officers do not have sufficient access to computers and other management aids to expedite license applications. As a result, there are unnecessary delays in the processing of export license applications.

The Committee believes that the Department of Commerce, with the cooperation of other agencies and departments, can make further improvements in its license application procedure to ensure that decisions are made promptly and fairly and with full recognition of the burdens placed on American business by unnecessary delays in the decision-making process. The Committee directs the Secretary of Commerce to eliminate unnecessary delays by taking all appropriate steps, including, if necessary, the hiring of additional staff. In addition, the Secretary should bring to the attention of other Administration officials any inadequacies in other departments which contribute to delay.

The Composition of Technical Advisory Committees

Section 5(b) would amend section 5(c)(1) of the Act to make it clear that representatives of the Department of Commerce, Defense, and State, as well as other appropriate government departments and agencies should serve on the technical advisory committees established by this paragraph. The Committee believes that the statutory inclusion of these agencies is necessary since the Department of Defense and State, along with the Department of Commerce, are the major agencies involved in the formulation of national security policy.

Report to Congress

Section 5(d) would direct the Secretary of Commerce to report, within a year after the enactment of this bill, on the steps he has taken to expedite the processing of licensing applications as required by new paragraph 4(g) of the Act.

Disclosure of information

Section 5(c) would add a new paragraph to subsection 5(c) of the Act to require the Secretary of Commerce, in conjunction with other departments and agencies involved in the administration of export controls, to disclose to the technical advisory committees information on the reasons for export controls which are in effect or are contemplated for the material within each committee's purview. This amendment was adopted because the Committee received testimony that the technical advisory committees are frequently handicapped by a lack of adequate information. Without adequate information about the reasons for export controls which they are expected to review, the technical advisory committees are unable to perform fully the functions contemplated for them by the Congress. The Committee expects the Executive Branch to rectify the situation, consistent, of course, with national security considerations.

OPPORTUNITY TO COMMENT ON LICENSING

Section 6 would amend subsection 5(b) of the Act by adding a new paragraph which requires the Secretary of Commerce to give interested parties an opportunity to comment when export controls are imposed for short supply purposes. The provision requires the Secretary to publish his invitation to comment in the Federal Register and gives interested parties 15 days to submit written comments. The purpose is to give the Secretary, in the least cumbersome way possible, all relevant information on the impact of any export controls which he may have imposed and their method of implementation. It is expected that he will carefully review all such information and make such export control adaptations as may be indicated.

TECHNICAL AND CONFORMING CHANGES

Section 7 would amend redesignated subsection 4(d) of the Act (formerly subsection 4(c)) to make it clear that no special authority

is necessary to carry on export transactions unless the President has promulgated contrary regulations to implement the policies set forth in section 3 of the Act. The existing provision was defective because it did not refer to all the policy reasons for imposing export controls set forth in section 3.

HARDSHIP RELIEF

Section 8 would add a new section 4A which provides a procedure by which certain persons adversely affected by export controls may petition the Secretary of Commerce for exemption from controls. The intent is to provide an opportunity for relief under prescribed circumstances for persons who have historically exported materials made subject to export controls. The provision codifies existing hardship procedures under Department of Commerce regulations.

Eligibility

New subsection 4A(a) would describe those persons eligible to petition for relief. They consist of any person engaged in a domestic business which utilizes products obtained from abroad but which are made from United States materials made subject to export controls as well as all other persons who have historically exported materials subject to the controls. The need for a hardship relief opportunity may be most acute where domestic companies are deprived of critical components or materials which are historically manufactured outside the United States from commodities exported from the United States. Hardship relief may also be appropriate, however, for persons historically engaged in the export of a material made subject to controls. The particular circumstances of each case will govern, and relief may be granted only after consideration of the factors described below.

Procedure

New subsection 4A(b) would set forth the applicable procedure. Within 30 days after receiving the petition, the Secretary of Commerce is required to notify the petitioner in writing of his decision, together with a statement of reasons.

The Secretary may grant the exemption subject to any conditions he considers appropriate.

Factors to be considered in granting relief

New subsection 4A(c) would set forth the specific factors the Secretary of Commerce is expected to take into account in making his decision, in addition to any other factors he considers relevant. They are: (i) the adverse affect of the controls on domestic employment, (ii) the probability of insolvency of the petitioner due to the controls, (iii) the fact that the controls may interfere with the import of a product essential to the domestic business of the petitioner or some other party or may unduly disrupt a domestic business, (iv) the burden or adverse effect of the controls on a domestic business which manufactures in the United States a product which includes a critical component produced outside the United States from a commodity subject to controls.

INTERAGENCY REVIEW

Section 9 would add a new subsection 4(h)(1) to section 4 of the Act to establish review procedures for exports of goods and technology to

"controlled countries" (defined to mean Communist countries as specified in section 620(f) of the Foreign Assistance Act, except for Yugoslavia, Rumania, and Poland. This section is a modification of an amendment to the Military Procurement Authorization bill adopted by the Senate on June 11, 1974. The purpose is to insure that the Department of Defense has an adequate opportunity to consider the military and national security implications of exports to Communist countries and that the Congress has a voice in the decision in the event of White House and Department of Defense disagreement.

Paragraph (h)(1) contains a Congressional finding that the defense posture of the United States may be compromised if goods and technology are exported to controlled countries without an adequate assessment of their impact on the military capability of the recipient country. It also reinforces existing practice by specifically authorizing the Secretary of Defense to review any such proposed export and to recommend against it if he determines that it will significantly increase the military capability of such country.

Under paragraph (h)(2), the Secretary of Defense must be notified of all requests for licenses for exports to controlled countries. No license may be issued until thirty days after the Secretary of Defense has been notified and the time for Presidential and Congressional review, if applicable, has been exhausted. If the Secretary determines that the export would significantly improve the military capability of the recipient country, he must recommend to the President that he disapprove the export. Alternatively, the Secretary may notify the appropriate export control office or agency that he will interpose no objection, or that he will interpose no objection if appropriate conditions designed to achieve the purposes of the Act are imposed.

If the President notifies the administering office or agency within thirty days after receiving the recommendation of the Secretary of Defense that he disapproves the export, the export is prohibited. But, under new paragraph (h)(3), if the President modifies or overrules the Secretary of Defense, he must submit his decision to review by the Congress. Congress has a period of thirty days of continuous session of both Houses thereafter to disapprove the President's decision by majority vote.

Paragraph (h)(4) requires that in determining whether exports will significantly increase the military capability of a controlled country, the Secretary of Defense must take into account all potential end uses, not just the immediately intended use, as well as the likelihood of an end use other than that indicated by the export applicant.

Paragraph (h)(5) requires that the removal of any category of goods or technology from an export license requirement or other authorization for export to a controlled country must be approved by the President.

Paragraph (h)(6) permits the President to disagree to modifications of so-called COCOM international lists, if he determines that such modifications are likely to result in a significant increase in the military capability of any controlled country.

Paragraph (h)(7) defines the terms "goods and technology", "export control office", and "controlled country."

Paragraph (h)(8) requires the Secretary of Defense to submit a semi-annual report on the administration and implementation of this section.

EXPORT FEES AND LICENSES

Section 10 would amend section 4 of the Act to add a new subsection (i) which authorizes the President to use license fees or the auction of export licenses as a means of carrying out the purposes of the Act. License fees and license auctioning will constitute one of the many tools available to the Secretary of Commerce when circumstances justify the imposition of export controls.

Use of license fees and auctions as a means of export control can overcome the difficulties associated with allocations under present short-supply export control programs. On the other hand, the Committee is aware that the use of license fees and auction systems can have adverse effects on small business exporters and underdeveloped nations. Therefore, the Committee wishes to stress that this new authority is permissive, not mandatory. The Committee does not intend its use where it would work a hardship on small businesses. The Committee also does not intend its use where it would deprive developing countries of access to adequate food supplies. In these, and perhaps other unique circumstances, the Secretary of Commerce should continue to rely on the existing practice of allocating export licenses among exporters and distributing export allocations on a country-by-country basis in order to insure an equitable allocation of American supplies of scarce goods throughout the world. In doing so, however, the Committee expects market prices to prevail insofar as possible.

By appropriate modification, it may be possible to use export fees and license auctioning without working such undue hardship or deprivation. In the case of small businesses, for example, a proportion of available licenses could be set aside for allocation exclusively to small businesses or a delay in the time for payment could be arranged in order to reduce any financial burden. In the case of developing countries, reduced license fees or specific exemption from any fees may be possible. In either case, before implementing a license fee or auction system, the Secretary should devise ways to satisfy the special needs of small businesses and developing countries.

The Committee is aware of the potential Constitutional problem presented by Article 1, section 9, clause 5 of the Constitution which provides that "No tax or duty shall be paid on Articles exported from any State." However, the Committee believes that a license fee or auctioning system can be structured under appropriate circumstances to avoid Constitutional infirmity. Under no circumstances are license fees or auctioning to be used as a revenue raising measures; their purpose is to provide a convenient and flexible way of administering an export control program where the Secretary determines that their use would simplify and improve export control operations. It is expected that the Secretary will take the necessary steps to minimize the possibility of Constitutional challenge.

EXPIRATION DATE

Section 11 would extend the authority to impose export controls under the Act for three more years from July 30, 1974 to June 30, 1977.

Changes in Existing Law

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Export Administration

a. The Export Administration Act of 1969, as amended

Public Law 91-184 [H.R. 4293], 83 Stat. 841, approved December 30, 1969, as amended by Public Law 92-284 [S.J. Res. 218], 86 Stat. 133, approved April 29, 1972; and by Public Law 92-412 [S. 3726], 86 Stat. 644, approved August 29, 1972

AN ACT To provide for continuation of authority for regulation of exports

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Export Administration Act of 1969".

FINDINGS

Sec. 2. The Congress makes the following findings:

(1) The availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States.

(2) The unrestricted export of materials, information, and technology without regard to whether they make a significant contribution to the military potential of any other nation or nations may adversely affect the national security of the United States.

(3) The unwarranted restriction of exports from the United States has a serious adverse effect on our balance of payments, particularly when export restrictions applied by the United States are more extensive than export restrictions imposed by countries with which the United States has defense treaty commitments.

(4) The uncertainty of policy toward certain categories of exports has curtailed the efforts of American business in those categories to the detriment of the overall attempt to improve the trade balance of the United States.

(5) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

DECLARATION OF POLICY

SEC. 3. The Congress makes the following declarations:

(1) It is the policy of the United States both (A) to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest, and (B) to restrict the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States.

(2) It is the policy of the United States to use export controls (A) to the extent necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of [abnormal] foreign demand, (B) to the extent necessary to further significantly the foreign policy of the United States and to fulfill its international responsibilities and (C) to the extent necessary to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States.

(3) It is the policy of the United States (A) to formulate, reformulate, and apply any necessary controls to the maximum extent possible in cooperation with all nations [with which the United States has defense treaty commitments.] and, (B) to formulate a unified trade control policy to be observed by all such nations.

(4) It is the policy of the United States to use its economic resources and trade potential to further the sound growth and stability of its economy as well as to further its national security and foreign policy objectives.

(5) It is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States, [and] (B) to encourage and request domestic concerns engaged in the export of articles, materials, supplies, or information, to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States, *and (C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.*

(6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular articles, materials, or supplies, including technical data or other information, to United States export controls should be subjected to review by consultation with representatives of appropriate United States Government agencies and qualified experts from private industry.

AUTHORITY

SEC. 4. (a)(1) The Secretary of Commerce shall institute such organizational and procedural changes in any office or division of the Department of Commerce which has heretofore exercised functions

relating to the control of exports and continues to exercise such controls under this Act as he determines are necessary to facilitate and effectuate the fullest implementation of the policy set forth in this Act with a view to promoting trade with all nations with which the United States is engaged in trade, including trade with (A) those countries or groups of countries with which other countries or groups of countries having defense treaty commitments with the United States have a significantly larger percentage of volume of trade than does the United States, and (B) other countries eligible for trade with the United States but not significantly engaged in trade with the United States. In addition, the Secretary shall review any list of articles, materials or supplies, including technical data or other information, the exportation of which from the United States, its territories and possessions, was heretofore prohibited or curtailed with a view to making promptly such changes and revisions in such list as may be necessary or desirable in furtherance of the policy, purposes, and provisions of this Act. The Secretary shall include a detailed statement with respect to actions taken in compliance with the provisions of this paragraph in the second quarterly report (and in any subsequent report with respect to actions taken during the preceding quarter) made by him to the Congress after the date of enactment of this Act pursuant to section 10.

(2) The Secretary of Commerce shall use all practicable means available to him to keep the business sector of the Nation fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging the widest possible trade.

(b)(1) To effectuate the policies set forth in section 3 of this Act, the President may prohibit or curtail the exportation from the United States, its territories and possessions, of any articles, materials, or supplies, including technical data or any other information, except under such rules and regulations as he shall prescribe. To the extent necessary to achieve effective enforcement of this Act, these rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation therein by any person. Rules and regulations may provide for denial of any request or application for authority to export articles, materials, or supplies, including technical data, or any other information, from the United States, its territories and possessions, to any nation or combination of nations threatening the national security of the United States if the President determines that their export would prove detrimental to the national security of the United States, regardless of their availability from nations other than any nation or combination of nations threatening the national security of the United States, but whenever export licenses are required on the ground that considerations of national security override considerations of foreign availability, the reasons for so doing shall be reported to the Congress in the quarterly report following the decision to require such licenses on that ground to the extent consideration of national security and foreign policy permit. The rules and regulations shall implement the provisions of section 3(5) of this Act and shall require that all domestic concerns receiving requests for the furnishing of information or the signing of agreements as specified in that section must report this fact to the Secretary

of Commerce for such action as he may deem appropriate to carry out the purpose of that section.

(2) the Secretary of Commerce, in cooperation with appropriate United States Government departments and agencies and the appropriate technical advisory committees established under section 5(c), shall undertake an investigation to determine which articles, materials, and supplies, including technical data and other information, should no longer be subject to export controls because of their significance to the national security of the United States. Notwithstanding the provisions of paragraph (1), the President shall remove unilateral export controls on the export from the United States of articles, materials, or supplies, including technical data or other information, which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, except that any such control may remain in effect if the President determines that adequate evidence has been presented to him demonstrating that the absence of such a control would prove detrimental to the national security of the United States. The nature of such evidence shall be included in the special report required by paragraph (4).

(3) In conducting the investigation referred to in paragraph (2) and in taking the action required under such paragraph, the Secretary of Commerce shall give priority to those controls which apply to articles, materials, and supplies, including technical data and other information, for which there are significant potential export markets.

(4) Not later than nine months after the date of enactment of the Equal Export Opportunity Act, the Secretary of Commerce shall submit to the President and to the Congress a special report of actions taken under paragraphs (2) and (3). Such report shall contain—

(A) a list of any articles, materials, and supplies, including technical data and other information, which are subject under this Act to export controls greater than those imposed by nations with which the United States has defense treaty commitments, and the reasons for such greater controls; and

(B) a list of any procedures applicable to export licensing in the United States which may be or are claimed to be more burdensome than similar procedures utilized in nations with which the United States has defense treaty commitments, and the reasons for retaining such procedures in their present form.

(c) (1) To effectuate the policy set forth in section 3(2) (A) of this Act, the Secretary of Commerce shall monitor exports, and contracts for exports, of any article, material, or supply (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970)
when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase, or shortage has, or may have, a serious adverse impact on the economy or any sector thereof. Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection.

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each article, material, or supply monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports.

(d) Nothing in this Act or the rules or regulations thereunder shall be construed to require authority or permission to export, except where required by the President to effect the policies set forth in section 3 of this Act.

(e) The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may deem appropriate.

(f) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval af the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by him to be in excess of the requirements of the domestic economy, except to the extent the President determined that such exercise of authority is required to effectuate the policies set forth in clause (B) or (C) of paragraph (2) of section 3 of this Act.

(g) Any export license application required by the exercise of authority under this Act to effectuate the policies of section 3(1) (B) or 3(2) (C) shall be approved or disapproved not later than 90 days after its submission. If additional time is required, the Secretary of Commerce or other official exercising authority under this Act shall inform the applicant of the circumstances requiring such additional time and give an estimate of when his decision will be made.

(h) (1) The Congress finds that the defense posture of the United States may be seriously compromised if the Nation's goods and technology are exported to a controlled country without an adequate and knowledgeable assessment being made to determine whether export of such goods and technology will significantly increase the military capability of such country. It is the purpose of this section to provide for such an assessment and to authorize the Secretary of Defense to review any proposed export of goods or technology to any such country and, whenever he determines that the export of such goods or technology will significantly increase the military capability of such country, to recommend to the President that such exports be disapproved.

(2) Notwithstanding any other provision of law, whenever a request for a license or other authority is required by any person to export any goods or technology to any controlled country, the appropriate export control office or agency to whom such request is made shall notify the Secretary of Defense of such request, and such office may not issue any license or other authority pursuant to such request prior to the expiration of the period within which the President may disapprove such export, or prior to the expiration of the period within which the Congress may disapprove an action of the President, if applicable. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this subsection and, not later than 30 days after notification of the request, shall—

(A) recommend to the President that he disapprove any request for the export of any goods or technology to any controlled

country if he determines that the export of such goods or technology will significantly increase the military capability of such country;

(B) notify such office or agency that he will interpose no objection if appropriate conditions designed to achieve the purposes of this Act are imposed; or

(C) indicate that he does not intend to interpose an objection to the export of such goods or technology.

If the President notifies such office or agency, within thirty days after receiving a recommendation from the Secretary, that he disapproves such export, no license or other authorization may be issued for the export of such goods or technology to such country.

(3) Whenever the President exercises his authority under this subsection to modify or overrule a recommenation made by the Secretary of Defense pursuant to this section, the President shall submit to the Congress a statement indicating his decision. The Congress shall have a period of thirty calendar days of continuous session of both Houses after the date on which the statement is transmitted to the Congress to disapprove, by majority vote of both Houses, the action of the President.

(4) In determining whether the export of any goods or technology to any controlled country will significantly increase the military capability of such country, the Secretary of Defense shall take into account all potential end uses, and the likelihood of an end use other than the end use indicated by the applicant for the export of such goods or technology.

(5) Effective on July 1, 1974, the removal of any category of goods or technology requiring an export license or other authorization shall require the approval of the President.

(6) The President is authorized, on behalf of the United States, to disagree to any modification of the so-called COCOM international lists (or interpretations thereof) if he determines that such modification would likely result in a significant increase in the military capability of any controlled country.

(7) As used in this section—

(A) the term "goods and technology" includes but is not limited to—

(i) machinery, equipment, durable goods, and computer software;

(ii) any license or other arrangement for the use of any patent, trade secret, design, or plan;

(iii) the so-called know-how or knowledge of any individual, firm, corporation, or other entity;

(iv) assistance in planning and joint venture arrangements; and

(v) arrangements under which assistance is provided in developing a manufacturing capability, including so-called turnkey arrangements;

(B) the term "export control office" means any office or agency of the United States Government whose approval or permission is required pursuant to existing law for the export of goods or technology; and

(C) the term "controlled country" means a Communist country as defined in section 620(f) of the Foreign Assistance Act of 1961, except for Yugoslavia, Rumania, and Poland.

(8) The Secretary of Defense shall submit to the Congress every six months a report on the implementation and administration of this section.

(i) In imposing export controls to effectuate the policy stated in section 3(2)(A) of this Act, the President's authority shall include, but not be limited to, the imposition of export license fees and the auction of export licenses.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

SEC. 4A. (a) Any person who, in his domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a commodity historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a commodity, may transmit a petition of hardship to the Secretary of Commerce requesting an exemption from such controls in order to alleviate any hardship resulting from the imposition of such controls. A petition under this section shall be in such form as the Secretary of Commerce shall prescribe and shall contain information demonstrating the need for the relief requested.

(b) Not later than 30 days after receipt of any petition under subsection (a), the Secretary of Commerce shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Secretary's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Secretary deems appropriate.

(c) For purposes of this section, the Secretary's decision with respect to the grant or denial of relief from hardship resulting directly or indirectly from the imposition of controls shall reflect the Secretary's consideration of such factors as—

(1) the adverse effect on employment within a region or locality of the United States;

(2) the probability of insolvency of the petitioner;

(3) any interference with the importation of a product which is essential to the petitioner's or other domestic business or which causes undue disruption of the petitioner's or other domestic business;

(4) any burden or other adverse effect such controls impose on a domestic business concern which manufactures or assembles a product which includes a critical component produced outside of the United States in whole or in part from a commodity subject to the controls; and

(5) any other factors which the Secretary deems relevant.

CONSULTATION AND STANDARDS

SEC. 5. (a) In determining what shall be controlled [hereunder] *or monitored under this Act*, and in determining the extent to which exports shall be limited, any department, agency, or official making these determinations shall seek information and advice from the several executive departments and independent agencies concerned with aspects

of our domestic and foreign policies and operations having an important bearing on exports. *Such departments and agencies shall fully cooperate in rendering such advice and information.* Consistent with considerations of national security, the President shall from time to time seek information and advice from various segments of private industry in connection with the making of these determinations.

(*b*) (*1*) In authorizing exports, full utilization of private competitive trade channels shall be encouraged insofar as practicable, giving consideration to the interests of small business, merchant exporters as well as producers, and established and new exporters, and provision shall be made for representative trade consultation to that end. In addition, there may be applied such other standards or criteria as may be deemed necessary by the head of such department, or agency, or official to carry out the policies of this Act.

(*2*) *Upon imposing quantitative restrictions on exports of any article, material, or supply to carry out the policy stated in section 3(2)(a) of this Act, the Secretary of Commerce shall publish a notice in the Federal Register inviting all interested parties to submit written comments within fifteen days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.*

(c) (1) Upon written request by representatives of a substantial segment of any industry which produces articles, materials and supplies, including technical data and other information, which are subject to export controls or are being considered for such controls because of their significance to the national security of the United States, the Secretary of Commerce shall appoint a technical advisory committee for any grouping of such articles, materials, and supplies, including technical data and other information, which he determines is difficult to evaluate because of questions concerning technical matters, worldwide availability and actual utilization of production and technology, or licensing procedures. [Each such committee shall consist of representatives of United States industry and government.] *Each such committee shall consist of representatives of United States industry and government, including the Departments of Commerce, Defense, and State, and when appropriate, other government departments and agencies.* No person serving on any such committee who is representative of industry shall serve on such committee for more than two consecutive years.

(2) It shall be the duty and function of the technical advisory committees established under paragraph (1) to advise and assist the Secretary of Commerce and any other department, agency, or official of the Government of the United States to which the President has delegated power, authority, and discretion under section 4(d) with respect to actions designed to carry out the policy set forth in section 3 of this Act. Such committees shall be consulted with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to any articles, materials, or supplies, including technical data or other information, and including those whose export is subject to multilateral controls undertaken with nations with which the United States has

defense treaty commitments, for which the committees have expertise. Such committees shall also be consulted and kept fully informed of progress with respect to the investigation required by section 4(b)(2) of this Act. Nothing in this subsection shall prevent the Secretary from consulting, at any time, with any person representing industry or the general public regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary of Commerce, to present evidence to such committees.

(3) Upon request of any member of any such committee, the Secretary may, if he determines it appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by him in connection with his duties as a member.

(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the Chairman, unless the Chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this Act. Each such committee shall be terminated after a period of two years, unless extended by the Secretary for additional periods of two years. The Secretary shall consult each such committee with regard to such termination or extension of that committee.

(*5*) *To facilitate the work of the technical advisory committees, the Secretary of Commerce, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the grouping of articles, materials, and supplies with respect to which that committee furnishes advice.*

VIOLATIONS

SEC. 6. (a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than $10,000 or imprisoned not more than one year, or both. For a second or subsequent offense, the offender shall be fined not more than three times the value of the exports involved or $20,000, whichever is greater, or imprisoned not more than five years, or both.

(b) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any Communist-dominated nation, shall be fined not more than five times the value of the exports involved or $20,000, whichever is greater, or imprisoned not more than five years, or both.

(c) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $1,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(d) The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege

granted or to be granted to the person upon whom such penalty is imposed.

(e) Any amount paid in satisfaction of any penalty imposed pursuant to subsection (c) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within two years after payment, on the ground of a material error of fact or law in the imposition. Notwithstanding section 1346(a) of title 28 of the United States Code, no action for the refund of any such penalty may be maintained in any court.

(f) In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. In any such action, the court shall determine de novo all issues necessary to the establishment of liability. Except as provided in this subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(g) Nothing in subsection (c), (d), or (f) limits—

(1) the availability of other administrative or judicial remedies with respect to violations of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act, or any regulation, order, or license issued under this Act; or

(3) the authority to compromise, remit, or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

SEC. 7. (a) To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpoena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46) shall apply with respect to any individual who specifically claims such privilege.

(c) No department, agency, or official exercising any functions under this Act shall publish or disclose information obtained hereunder which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, unless the head of such department or agency determines that the withholding thereof is contrary to the national interest.

(d) In the administration of this Act, reporting requirements shall be so designated as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology. A detailed statement with respect to any action taken in compliance with this subsection shall be included in the first quarterly report made pursuant to section 10 after such action is taken.

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 8. The functions exercised under this Act are excluded from the operation of sections 551, 553–559, and 701–706, of title 5, United States Code.

INFORMATION TO EXPORTERS

SEC. 9. In order to enable United States exporters to coordinate their business activities with the export control policies of the United States Government, the agencies, departments, and officials responsible for implementing the rules and regulations authorized under this Act shall, if requested, and insofar as it is consistent with the national security, the foreign policy of the United States, the effective administration of this Act, and requirements of confidentiality contained in this Act—

(1) inform each exporter of the considerations which may cause his export license request to be denied or to be the subject of lengthy examination;

(2) in the event of undue delay, inform each exporter of the circumstances arising during the Government's consideration of his export license application which are cause for denial or for further examination;

(3) give each exporter the opportunity to present evidence and information which he believes will help the agencies, departments, and officials concerned to resolve any problems or questions which are, or may be, connected with his request for a license; and

(4) inform each exporter of the reasons for a denial of an export request.

QUARTERLY REPORT

SEC. 10. (*a*) The head of any department or agency, or other official exercising any functions under this Act, shall make a quarterly report, within forty-five days after each quarter, to the President and to the Congress of his operations hereunder.

(*b*) (*1*) *The quarterly report required for the first quarter of 1975 and every second report thereafter shall include summaries of the information contained in the reports required by section 4(c)(2) of this Act, together with an analysis by the Secretary of Commerce of (A) the impact on the economy and world trade of shortages or increased prices for articles, materials, or supplies subject to monitoring under this Act, (B) the probable duration of such shortages or increased prices, (C) the worldwide supply of such articles, materials, and supplies, and (D) actions taken by other nations in response to such shortages or increased prices.*

(*2*) *Each such quarterly report shall also contain an analysis by the Secretary of Commerce of (A) the impact on the economy and world trade of shortages or increased prices for commodities subject to the reporting requirements of section 812 of the Agricultural Act of 1970, (B) the probable duration of such shortages or increased prices, (C) the worldwide supply of such commodities, and (D) actions being taken by other nations in response to such shortages or increased prices. The Secretary of Agriculture shall fully cooperate with the Secretary of Commerce in providing all information required by the Secretary of Commerce in making such analysis.*

DEFINITION

SEC. 11. The term "person" as used in this Act includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof.

EFFECT ON OTHER ACTS

SEC. 12. (a) The Act of February 15, 1936 (49 Stat. 1140), relating to the licensing of exports of tinplate scrap, is hereby superseded; but nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) The authority granted to the President under this Act shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934).

EFFECTIVE DATE

SEC. 13. (a) This Act takes effect upon the expiration of the Export Control Act of 1949.

(b) All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 or section 6 of the Act of July 2, 1940 (54 Stat. 714), shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act.

TERMINATION DATE

SEC. 14. The authority granted by this Act terminates on June 30, [1974] *1977*, or upon any prior date which the Congress by concurrent resolution or the President by proclamation may designate.

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93D CONGRESS 2d Session } HOUSE OF REPRESENTATIVES { REPORT No. 93-1412

EXPORT ADMINISTRATION ACT AMENDMENTS

OCTOBER 2, 1974.—Ordered to be printed

Mr. PATMAN, from the Committee of Conference, submitted the following

CONFERENCE REPORT

[To accompany S. 3792]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3792) to amend and extend the Export Administration Act of 1969, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Export Administration Amendments of 1974".

SHORT SUPPLY POLICY

SEC. 2. Section 3(2)(A) of the Export Administration Act of 1969 is amended by striking out "abnormal".

MONITORING AND CONSULTATION

SEC. 3. (a) Section 4 of the Export Administration Act of 1969 is amended by redesignating subsections (c) through (e) thereof as subsections (d) through (f), respectively, and by inserting after subsection (b) a new subsection (c) as follows:

"(c)(1) To effectuate the policy set forth in section 3(2)(A) of this Act, the Secretary of Commerce shall monitor exports, and contracts for exports, of any article, material, or supply (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such ex-

ports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy or any sector thereof. Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection.

"(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each article, material, or supply monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports."

(b) Section 10 of such Act is amended—

(1) by inserting "(a)" after "SEC. 10."; and

(2) by adding at the end thereof the following:

"(b)(1) The quarterly report required for the first quarter of 1975 and every second report thereafter shall include summaries of the information contained in the reports required by section 4(c)(2) of this Act, together with an analysis by the Secretary of Commerce of (A) the impact on the economy and world trade of shortages or increased prices for articles, materials, or supplies subject to monitoring under this Act, (B) the worldwide supply of such articles, materials, and supplies, and (C) actions taken by other nations in response to such shortages or increased prices.

"(2) Each such quarterly report shall also contain an analysis by the Secretary of Commerce of (A) the impact on the economy and world trade of shortages or increased prices for commodities subject to the reporting requirements of section 812 of the Agricultural Act of 1970, (B) the worldwide supply of such commodities, and (C) actions being taken by other nations in response to such shortages or increased prices. The Secretary of Agriculture shall fully cooperate with the Secretary of Commerce in providing all information required by the Secretary of Commerce in making such analysis.".

(c) Section 5(a) of such Act is amended—

(1) by striking out "hereunder" in the first sentence and inserting in lieu thereof the words "or monitored under this Act"; and

(2) by inserting immediately after such first sentence the following: "Such departments and agencies shall fully cooperate in rendering such advice and information.".

(d) Section 5(a) of such Act is further amended by adding the following at the end thereof: "In addition, the Secretary of Commerce shall consult with the Federal Energy Administration to determine whether monitoring under section 4 of this Act is warranted with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefication, and gasification

plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.".

INTERNATIONAL COOPERATION TO SECURE ACCESS TO SUPPLIES

SEC. 4. (a) Section 2 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new paragraph:

"(5) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations."

(b) Section 3(3)(A) of such Act is amended by striking out "with which the United States has defense treaty commitments".

(c) Section 3(5) of such Act is amended—

(1) by striking out the word "and" immediately preceding clause (B); and

(2) by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and (C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.".

HIGH TECHNOLOGY EXPORTS

SEC. 5. (a) Section 4 of the Export Administration Act of 1969, as amended by section 3 of this Act, is amended by adding at the end thereof the following new subsection:

"(g) Any export license application required by the exercise of authority under this Act to effectuate the policies of section 3(1)(B) or 3(2)(C) shall be approved or disapproved not later than 90 days after its submission. If additional time is required, the Secretary of Commerce or other official exercising authority under this Act shall inform the applicant of the circumstances requiring such additional time and give an estimate of when his decision will be made."

(b) Section 5(c)(1) of such Act is amended by striking out the next to the last sentence thereof and inserting in lieu thereof the following: "Each such committee shall consist of representatives of United States industry and Government, including the Departments of Commerce, Defense, and State, and, when appropriate, other Government departments and agencies.".

(c) Section 5(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) To facilitate the work of the technical advisory committees, the Secretary of Commerce, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the grouping of articles, materials, and supplies with respect to which that committee furnishes advice.".

(d) Not later than one year after the date of enactment of this Act, the Secretary of Commerce shall include in a quarterly report under

section 10 of the Export Administration Act of 1969 an accounting of actions taken to expedite the processing of export license applications as required under section 4(g) of the Export Administration Act of 1969.

OPPORTUNITY TO COMMENT ON LICENSING

SEC. 6. Section 5(b) of the Export Administration Act of 1969 is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following:

"(2) Upon imposing quantitative restrictions on exports of any article, material, or supply to carry out the policy stated in section 3(2)(A) of this Act, the Secretary of Commerce shall include in his notice published in the Federal Register an invitation to all interested parties to submit written comments within fifteen days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.".

TECHNICAL AND CONFORMING CHANGES

SEC. 7. Section 4(d) of the Export Administration Act of 1969, as redesignated by section 3 of this Act, is amended to read as follows:

"(d) Nothing in this Act or the rules or regulations thereunder shall be construed to require authority or permission to export, except where required by the President to effect the policies set forth in section 3 of this Act.".

HARDSHIP RELIEF

SEC. 8. The Export Administration Act of 1969 is amended by inserting after section 4 the following new section:

"PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

"SEC. 4A. (a) Any person who, in his domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a commodity historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a commodity, may transmit a petition of hardship to the Secretary of Commerce requesting an exemption from such controls in order to alleviate any unique hardship resulting from the imposition of such controls. A petition under this section shall be in such form as the Secretary of Commerce shall prescribe and shall contain information demonstrating the need for the relief requested.

"(b) Not later than 30 days after receipt of any petition under subsection (a), the Secretary of Commerce shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Secretary's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Secretary deems appropriate.

"(c) For purposes of this section, the Secretary's decision with respect to the grant or denial of relief from unique hardship resulting directly or indirectly from the imposition of controls shall reflect the Secretary's consideration of such factors as—

"(1) Whether denial would cause a unique hardship to the applicant which can be alleviated only by granting an exception to the applicable regulations. In determining whether relief shall be granted, the Secretary will take into account:

"(A) ownership of material for which there is no practicable domestic market by virtue of the location or nature of the material;

"(B) potential serious financial loss to the applicant if not granted an exception;

"(C) inability to obtain, except through import, an item essential for domestic use which is produced abroad from the commodity under control;

"(D) the extent to which denial would conflict, to the particular detriment of the applicant, with other national policies including those reflected in any international agreement to which the United States is a party;

"(E) possible adverse effects on the economy (including unemployment) in any locality or region of the United States; and

"(F) other relevant factors, including the applicant's lack of an exporting history during any base period that may be established with respect to export quotas for the particular commodity.

"(2) The effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

In all cases, the desire to sell at higher prices and thereby obtain greater profits will not be considered as evidence of a unique hardship, nor will circumstances where the hardship is due to imprudent acts or failure to act on the part of the appellant.".

INTERAGENCY REVIEW

SEC. 9. Section 4 of the Export Administration Act of 1969, as amended by sections 3 and 5 of this Act, is amended by adding at the end thereof the following new subsection:

"(h)(1) The Congress finds that the defense posture of the United States may be seriously compromised if the Nation's goods and technology are exported to a controlled country without an adequate and knowledgeable assessment being made to determine whether export of such goods and technology will significantly increase the military capability of such country. It is the purpose of this subsection to provide for such an assessment and to authorize the Secretary of Defense to review any proposed export of goods or technology to any such country and, whenever he determines that the export of such goods or technology will significantly increase the military capability of such country, to recommend to the President that such export be disapproved.

"(2) *Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the export control office to which licensing requests are made, the types and categories of transactions which should be reviewed by him to carry out the purpose of this subsection. Whenever a license or other authority is requested for the export of such goods or technology to any controlled country, the appropriate export control office or agency to whom such request is made shall notify the Secretary of Defense of such request, and such office may not issue any license or other authority pursuant to such request prior to the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this subsection and, not later than 30 days after notification of the request shall—*

"(A) *recommend to the President that he disapprove any request for the export of any goods or technology to any controlled country if he determines that the export of such goods or technology will significantly increase the military capability of such country;*

"(B) *notify such office or agency that he will interpose no objection if appropriate conditions designed to achieve the purposes of this Act are imposed; or*

"(C) *indicate that he does not intend to interpose an objection to the export of such goods or technology.*

If the President notifies such office or agency, within 30 days after receiving a recommendation from the Secretary, that he disapproves such export, no license or other authorization may be issued for the export of such goods or technology to such country.

"(3) *Whenever the President exercises his authority under this subsection to modify or overrule a recommendation made by the Secretary of Defense pursuant to this section, the President shall submit to the Congress a statement indicating his decision together with the recommendation of the Secretary of Defense.*

"(4) *As used in this subsection—*

"(A) *the term 'goods or technology' means—*

"(i) *machinery, equipment, capital goods, or computer software; or*

"(ii) *any license or other arrangement for the use of any patent, trade secret, design, or plan with respect to any item described in clause (i);*

"(B) *the term 'export control office' means any office or agency of the United States Government whose approval or permission is required pursuant to existing law for the export of goods or technology; and*

"(C) *the term 'controlled country' means any Communist country as defined under section 620(f) of the Foreign Assistance Act of 1961.*"

EXPORT FEES AND LICENSES

Sec. 10. Section 4 of the Export Administration Act of 1969, as amended by sections 3, 5, and 9 of this Act, is amended by adding at the end thereof the following:

"(i) *In imposing export controls to effectuate the policy stated in section 3(2)(A) of this Act, the President's authority shall include but not be limited to, the imposition of export license fees.*"

ECONOMIC POLICY ACTIONS

Sec. 11. Section 3 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new paragraph:

"(7) *It is the policy of the United States to use export controls, including license fees, to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make every reasonable effort to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before resorting to the imposition of controls on the export of materials from the United States: Provided, That no action taken in fulfillment of the policy set forth in this paragraph shall apply to the export of medicine or medical supplies.*"

ALLOCATION OF LICENSES

Sec. 12. Section 4(b)(1) of the Export Administration Act of 1969 is amended by adding at the end thereof the following: "In curtailing the exportation of any articles, materials, or supplies to effectuate the policy set forth in section 3(2)(A) of this Act, the President is authorized and directed to allocate a portion of export licenses on the basis of factors other than a prior history of exportation."

EXPIRATION DATE

Sec. 13. Section 14 of the Export Administration Act of 1969 is amended by striking "September 30, 1974" and inserting in lieu thereof "September 30, 1976".

PRESIDENTIAL REVIEW

Sec. 14. The President is directed to review all laws, regulations issued thereunder by the Atomic Energy Commission, the Department of Commerce, and other Government agencies, governing the export and re-export of materials, supplies, articles, technical data or other information relating to the design, fabrication, development, supply, repair or replacement of any nuclear facility or any part thereof, and to report within six months to the Congress on the adequacy of such regulations to prevent the proliferation of nuclear capability for non-

peaceful purposes. The President is also directed to review domestic and international nuclear safeguards and to report within six months to the Congress on the adequacy of such safeguards to prevent the proliferation, diversion or theft of all such nuclear materials and on efforts by the United States and other countries to strengthen international nuclear safeguards in anticipation of the Review Conference scheduled to be held in February 1975 pursuant to Article VIII, section 3 of the Treaty on the Non-Proliferation of Nuclear Weapons."

And the House agree to same.

WRIGHT PATMAN,
THOMAS L. ASHLEY,
THOMAS M. REES,
PARREN MITCHELL,
FERNAND J. ST GERMAIN,
RICHARD HANNA,
EDWARD I. KOCH,
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Managers on the Part of the House.

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BOB PACKWOOD,
BILL BROCK,
EDWARD W. BROOKE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3792) to amend and extend the Export Administration Act of 1969 submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House struck out all of the Senate bill after the enacting clause and inserted a substitute amendment:

The Committee of Conference has agreed to a substitute for both the Senate bill and the House amendments. Except for clarifying, clerical, and conforming changes, the differences are noted below:

The House amendment did not contain a short title. The Senate bill contained a short title. The conferees agreed to accept the Senate short title.

The Senate bill contained a provision amending Section 3(2)(A) of the Export Administration Act of 1969 by striking the word "abnormal". There was no comparable provision in the House amendment. The conferees accepted the Senate provision.

In the past, one of the impediments to effective use of export controls has been the need to show that the foreign demand which produces an excessive drain of scarce materials and serious inflation is "abnormal." The term "abnormal" suggests the need to show, by reference to some earlier period, that the pattern or magnitude of foreign demand has changed significantly. However, determination of an appropriate reference point for assessing whether foreign demand is normal or abnormal is impossible to do with any degree of certainty, since trade patterns fluctuate. Moreover, in some situations, an excessive drain of scarce materials and serious inflation can result even if foreign demand levels have not changed significantly. This could occur when total supply declines for one reason or another. In that circumstance, even if foreign demand is at pre-existing levels, there can be an excessive drain of scarce materials and serious inflation.

It is the intent of the conferees that foreign demand need not be abnormal before export controls may be imposed. Instead, controls may be used when foreign demand results or will result in an excessive drain of scarce materials and serious inflation. However, as at present, foreign demand must be a significant factor in present or prospective inflation before controls may be imposed.

It is the intent of the conferees that export regulations implementing this policy reflect that foreign demand need not be the major cause of serious inflation in the price of a commodity as a condition to permit the use of export controls. It is sufficient that such demand be a

significant factor in causing inflation in the price. It is also the intent of the conferees that controls should be imposed to prevent an excessive drain of scarce materials from taking place and that controls need not be held in abeyance until such an excessive drain has actually occurred.

The authority to control exports in fulfillment of this policy should be implemented within the context of an international economic policy that places long-term priority on the maintenance of an open international trading system with a minimum of governmental interference.

Export controls, when required, should be imposed in a timely manner, with consideration of the impact of the controls upon sectors of the domestic economy and upon traditional foreign purchasers. Embargoes should be avoided except in extraordinary circumstances and quantitative limitations should be imposed sufficiently early to effectively cushion adverse effects on the domestic economy and at a level that would minimize the disruptive effects on historical supply relationships. To the extent feasible, the imposition of export limitations should be preceded by consultations with the principal importing countries affected by such limitations.

The Senate bill contained a provision directing the Secretary of Commerce to monitor exports and contracts for exports (other than for commodities subject to Section 812 of the Agricultural Act of 1970) when such exports contribute or may contribute to domestic price increases or shortages and such price increases or shortages have or may have a serious adverse impact on the domestic economy or any sector thereof. The provision further requires that the Secretary issue periodic reports indicating the results of such monitoring and analyzing the domestic and international impact of shortages and price increases. The provision further requires that the Secretary consult with the Federal Energy Administration to determine whether such monitoring is warranted for energy-related exports. There was no comparable provision in the House amendment. The conferees accepted the Senate provision with an amendment deleting the requirement that the Secretary of Commerce report his analysis of the probable duration of shortages or increased prices.

The Senate bill contained a provision which makes it national policy to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies. The House amendment contained no comparable provision. The conferees accepted the Senate provision.

The Senate bill contained a provision requiring that export license applications required pursuant to national security policy provisions of the Export Administration Act be approved or disapproved within 90 days of their submission or, in the alternative, that the applicant be informed of the circumstances requiring additional processing time. The Senate provision further specifies that the Departments of Commerce, Defense, and State be represented on the technical advisory committees with respect to such exports. The provision further requires that such technical advisory committees be provided with adequate information, consistent with national security, to facilitate their work. The House amendment contained no comparable provision. The conferees accepted the Senate provision.

The Senate bill contained a provision requiring the Secretary of Commerce, upon imposing quantitative restrictions on exports pursuant to the policy stated in Section 3(2)(A) of the Export Administration Act, to publish in the Federal Register an invitation to all interested parties to submit written comments on the impact of such restrictions. There was no comparable provision in the House amendment. The conferees accepted the Senate provision.

The Senate bill provided for a petition procedure for hardship relief from export controls, together with certain criteria to be considered by the Secretary of Commerce in decisions with respect to the granting or denial of such relief. The House amendment contained no comparable provision. The conferees accepted the Senate provision.

The conferees recognize that export controls may in certain situations work a hardship on domestic manufacturers and their employees. For example, one domestic manufacturer, American Motors, stated that, as a result of export controls on scrap steel, its continued domestic production of a major consumer product has been endangered with potential dislocation of the economy and employment. A critical component of this manufacturer's final product is provided by its facility in Canada pursuant to the terms of the United States-Canada Automotive Products Agreement of 1965. This component, the engine block, is produced in part from scrap steel exported from the United States. Such scrap is presently subject to controls. Relief in the past has been unavailable to the manufacturer, and there has existed a threat that the manufacturer's American production lines would be closed as a consequence of the export control program.

It is the intent of the conferees that the Secretary consider relief in situations such as may be represented by a domestic manufacturer who produces or causes to be produced from materials exported to a foreign subsidiary, division or firm, a critical component of the product which it assembles or manufactures in the United States with domestic labor. Exemption from export controls is warranted in such a case because the domestic economy benefits through the uninterrupted and efficient production of the domestic product. In such instances, the exported commodity or material is returned for use in a domestic product and sold for use in the United States. Alternatively, it may be exported, with a value greater than the value of the component raw material otherwise restricted from export, thus contributing favorably to the balance of payments.

The Senate bill contained a provision authorizing and directing the Secretary of Defense to review proposed exports of goods or technology to certain countries to determine whether such exports will significantly increase the military capability of such countries and to recommend to the President that exports which would make such a significant increase be disapproved. The Senate provision authorized the President to overrule the Secretary provided that the President submits to the Congress a statement indicating his decision, together with the recommendation of the Secretary. The Senate provision specified that the Congress may disapprove the action of the President by concurrent resolution within 60 days of such a statement. The Senate provision further required that any modification of the COCOM international commodity control lists require agreement of

the President and that any such action be subject to disapproval by the Congress within 60 days of such agreement.

The House receded to the Senate provision with an amendment which eliminated references to modification of the COCOM lists and to Congressional disapproval and which specified that the Secretary of Defense determine, in consultation with the export control office to which licensing requests are made, the types and categories of transactions which should be reviewed.

The Senate bill contained a provision specifying that, in imposing export controls to effectuate the policy stated in Section 3(2)(A) of the Export Administration Act, the President's authority shall include, but not be limited to, the imposition of export license fees and the auction of export licenses. The House amendment contained no similar provision. The House receded to the Senate with an amendment which eliminated explicit reference to the auction of export licenses.

The Senate bill contained a provision requiring the Secretary of Commerce to establish regulations for the licensing of all police, law enforcement, or security equipment manufactured for use in surveillance, eavesdropping, crowd control, interrogations, or penal retribution. The provision required that any license for such exports be reviewed by the Attorney General and submitted to Congress with an opportunity for disapproval by resolution of either House within 60 days. The Senate provision further provided for exemption of individual countries and specific categories of equipment from the Congressional review and disapproval provision upon a finding by the Secretary of Commerce that exports of such equipment would not threaten fundamental human and civil liberties. The House amendment contained no comparable provision. The Senate conferees receded to the House.

The Senate bill contained a provision directing the President to review laws and regulations governing the export and re-export of nuclear materials and technology and the adequacy of domestic and international safeguards to prevent proliferation of such materials and technology and further required that the President report to the Congress within six months on the adequacy of such laws, regulations and safeguards. The House amendment contained no similar provision. The House receded to the Senate.

The Senate bill provided for an extension of the Export Administration Act of 1969 to June 30, 1977. The House amendment provided for an extension to September 30, 1976. The Senate receded to the House.

In granting this extension, the conferees intend and expect that the Department of Commerce will more fully comply with its responsibility to report to the Congress. The Export Administration Act requires that the President and the Congress be provided with a quarterly report of operations performed under the Act. Before 1973, the Office of Export Administration was responsible for preparing and publishing the report, but in 1973 control of the report was shifted to the Bureau of East-West Trade.

Placing responsibility for the report in the Bureau of East-West Trade produced a change in its subject matter. The report now focuses on the expansion of East-West Trade and relegates the subject of

export controls to one chapter. The primary emphasis of that chapter is on strategic export controls.

The report provides only a limited description of short supply export control actions and does not provide substantive analysis and assessment of the domestic and international impact of export control decisions. Moreover, quarterly reports have not been published in a timely manner and not within 45 days of the end of the calendar quarter, as specified in the Act. The conferees expect these situations to be promptly remedied.

The Senate bill contained a provision directing the Comptroller General to conduct a continuous review of the effectiveness of procedures of the Secretary of Commerce in administering export controls and further directing the Comptroller General to report to Congress when he determines that there is a domestic shortage of a commodity. The House amendment contained no similar provision. The Senate receded to the House.

The Senate bill contained a provision amending the Mineral Leasing Act of 1920 to prohibit the export of domestically produced crude oil transported by pipeline over federally-granted rights of way unless the President finds that such export will not, directly or indirectly, increase the price thereof to domestic petroleum purchasers. The House amendment contained no similar provision. The Senate receded to the House.

The Senate bill contained a provision requiring the Secretary of Agriculture, within 90 days after the beginning of a crop year, to determine which commodities subject to the reporting requirements of Section 812 of the Agricultural Act of 1970 are likely to be in short supply, and to submit, with the concurrence of the Secretary of Commerce, his findings to Congress together with a plan to cope with the anticipated shortage. The House amendment contained no similar provision. The Senate receded to the House.

The Senate bill contained a provision making it the policy of the United States to use export controls to secure removal by foreign nations of restrictions on access to supplies if such restrictions have or may have a serious impact on the economy or have been imposed for purposes of influencing U.S. foreign policy. The provision directs the President to make every reasonable effort to secure the removal or reduction of such restrictions through international cooperation and agreement before resorting to the imposition of retaliatory export controls. The provision further required that the President consult with the Tariff Commission and congressional committees before exercising his authority thereunder. The House amendment contained no similar provision. The House receded to the Senate with an amendment deleting reference to prior consultation with the Tariff Commission and congressional committees.

It is the intent of the conferees that the exercise of the authority conferred by this provision be implemented, whenever feasible, through international cooperation rather than unilateral action.

The House amendment contained a provision authorizing and directing the President to allocate a portion of export licenses on the basis of factors other than prior export history in effecting the policy set

forth in Section 3(2)(A) of the Export Administration Act. The Senate bill contained no similar provision. The Senate receded to the House.

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S. 3792

Ninety-third Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the twenty-first day of January, one thousand nine hundred and seventy-four

An Act

To amend and extend the Export Administration Act of 1969.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Export Administration Amendments of 1974".

SHORT SUPPLY POLICY

SEC. 2. Section 3(2)(A) of the Export Administration Act of 1969 is amended by striking out "abnormal".

MONITORING AND CONSULTATION

SEC. 3. (a) Section 4 of the Export Administration Act of 1969 is amended by redesignating subsections (c) through (e) thereof as subsections (d) through (f), respectively, and by inserting after subsection (b) a new subsection (c) as follows:

"(c)(1) To effectuate the policy set forth in section 3(2)(A) of this Act, the Secretary of Commerce shall monitor exports, and contracts for exports, of any article, material, or supply (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy or any sector thereof. Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection.

"(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each article, material, or supply monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports."

(b) Section 10 of such Act is amended—

(1) by inserting "(a)" after "SEC. 10."; and

(2) by adding at the end thereof the following:

"(b)(1) The quarterly report required for the first quarter of 1975 and every second report thereafter shall include summaries of the information contained in the reports required by section 4(c)(2) of this Act, together with an analysis by the Secretary of Commerce of (A) the impact on the economy and world trade of shortages or increased prices for articles, materials, or supplies subject to monitoring under this Act, (B) the worldwide supply of such articles, materials, and supplies, and (C) actions taken by other nations in response to such shortages or increased prices.

"(2) Each such quarterly report shall also contain an analysis by the Secretary of Commerce of (A) the impact on the economy and world trade of shortages or increased prices for commodities subject to the reporting requirements of section 812 of the Agricultural Act of 1970, (B) the worldwide supply of such commodities, and (C) actions being taken by other nations in response to such shortages or increased prices. The Secretary of Agriculture shall fully cooperate

with the Secretary of Commerce in providing all information required by the Secretary of Commerce in making such analysis.".

(c) Section 5(a) of such Act is amended—

(1) by striking out "hereunder" in the first sentence and inserting in lieu thereof the words "or monitored under this Act"; and

(2) by inserting immediately after such first sentence the following: "Such departments and agencies shall fully cooperate in rendering such advice and information.".

(d) Section 5(a) of such Act is further amended by adding the following at the end thereof: "In addition, the Secretary of Commerce shall consult with the Federal Energy Administration to determine whether monitoring under section 4 of this Act is warranted with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefication, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.".

INTERNATIONAL COOPERATION TO SECURE ACCESS TO SUPPLIES

SEC. 4. (a) Section 2 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new paragraph:

"(5) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations."

(b) Section 3(3)(A) of such Act is amended by striking out "with which the United States has defense treaty commitments".

(c) Section 3(5) of such Act is amended—

(1) by striking out the word "and" immediately preceding clause (B); and

(2) by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and (C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.".

HIGH TECHNOLOGY EXPORTS

SEC. 5. (a) Section 4 of the Export Administration Act of 1969, as amended by section 3 of this Act, is amended by adding at the end thereof the following new subsection:

"(g) Any export license application required by the exercise of authority under this Act to effectuate the policies of section 3(1)(B) or 3(2)(C) shall be approved or disapproved not later than 90 days after its submission. If additional time is required, the Secretary of Commerce or other official exercising authority under this Act shall inform the applicant of the circumstances requiring such additional time and give an estimate of when his decision will be made."

(b) Section 5(c)(1) of such Act is amended by striking out the next to the last sentence thereof and inserting in lieu thereof the following: "Each such committee shall consist of representatives of United States industry and Government, including the Departments of Commerce, Defense, and State, and, when appropriate, other Government departments and agencies.".

(c) Section 5(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) To facilitate the work of the technical advisory committees, the Secretary of Commerce, in conjunction with other departments

and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the grouping of articles, materials, and supplies with respect to which that committee furnishes advice.".

(d) Not later than one year after the date of enactment of this Act, the Secretary of Commerce shall include in a quarterly report under section 10 of the Export Administration Act of 1969 an accounting of actions taken to expedite the processing of export license applications as required under section 4(g) of the Export Administration Act of 1969.

OPPORTUNITY TO COMMENT ON LICENSING

SEC. 6. Section 5(b) of the Export Administration Act of 1969 is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following:

"(2) Upon imposing quantitative restrictions on exports of any article, material, or supply to carry out the policy stated in section 3(2)(A) of this Act, the Secretary of Commerce shall include in his notice published in the Federal Register an invitation to all interested parties to submit written comments within 15 days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.".

TECHNICAL AND CONFORMING CHANGES

SEC. 7. Section 4(d) of the Export Administration Act of 1969, as redesignated by section 3 of this Act, is amended to read as follows:

"(d) Nothing in this Act or the rules or regulations hereunder shall be construed to require authority or permission to export, except where required by the President to effect the policies set forth in section 3 of this Act.".

HARDSHIP RELIEF

SEC. 8. The Export Administration Act of 1969 is amended by inserting after section 4 the following new section:

"PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

"SEC. 4A. (a) Any person who, in his domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a commodity historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a commodity, may transmit a petition of hardship to the Secretary of Commerce requesting an exemption from such controls in order to alleviate any unique hardship resulting from the imposition of such controls. A petition under this section shall be in such form as the Secretary of Commerce shall prescribe and shall contain information demonstrating the need for the relief requested.

"(b) Not later than 30 days after receipt of any petition under subsection (a), the Secretary of Commerce shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Secretary's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Secretary deems appropriate.

"(c) For purposes of this section, the Secretary's decision with respect to the grant or denial of relief from unique hardship resulting

directly or indirectly from the imposition of controls shall reflect the Secretary's consideration of such factors as—

"(1) Whether denial would cause a unique hardship to the applicant which can be alleviated only by granting an exception to the applicable regulations. In determining whether relief shall be granted, the Secretary will take into account:

"(A) ownership of material for which there is no practicable domestic market by virtue of the location or nature of the material;

"(B) potential serious financial loss to the applicant if not granted an exception;

"(C) inability to obtain, except through import, an item essential for domestic use which is produced abroad from the commodity under control;

"(D) the extent to which denial would conflict, to the particular detriment of the applicant, with other national policies including those reflected in any international agreement to which the United States is a party;

"(E) possible adverse effects on the economy (including unemployment) in any locality or region of the United States; and

"(F) other relevant factors, including the applicant's lack of an exporting history during any base period that may be established with respect to export quotas for the particular commodity.

"(2) The effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

In all cases, the desire to sell at higher prices and thereby obtain greater profits will not be considered as evidence of a unique hardship, nor will circumstances where the hardship is due to imprudent acts or failure to act on the part of the appellant.".

INTERAGENCY REVIEW

SEC. 9. Section 4 of the Export Administration Act of 1969, as amended by sections 3 and 5 of this Act, is amended by adding at the end thereof the following new subsection:

"(h)(1) The Congress finds that the defense posture of the United States may be seriously compromised if the Nation's goods and technology are exported to a controlled country without an adequate and knowledgeable assessment being made to determine whether export of such goods and technology will significantly increase the military capability of such country. It is the purpose of this subsection to provide for such an assessment and to authorize the Secretary of Defense to review any proposed export of goods or technology to any such country and, whenever he determines that the export of such goods or technology will significantly increase the military capability of such country, to recommend to the President that such export be disapproved.

"(2) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the export control office to which licensing requests are made, the types and categories of transactions which should be reviewed by him to carry out the purpose of this subsection. Whenever a license or other authority is requested for the export of such goods or technology to any controlled country, the appropriate export control office or agency to whom such request is made shall notify the Secretary of Defense of such request, and such office may not issue any license or other authority pursuant to such request prior to the expiration of the period within which the

President may disapprove such export. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this subsection and, not later than 30 days after notification of the request shall—

"(A) recommend to the President that he disapprove any request for the export of any goods or technology to any controlled country if he determines that the export of such goods or technology will significantly increase the military capability of such country;

"(B) notify such office or agency that he will interpose no objection if appropriate conditions designed to achieve the purposes of this Act are imposed; or

"(C) indicate that he does not intend to interpose an objection to the export of such goods or technology.

If the President notifies such office or agency, within 30 days after receiving a recommendation from the Secretary, that he disapproves such export, no license or other authorization may be issued for the export of such goods or technology to such country.

"(3) Whenever the President exercises his authority under this subsection to modify or overrule a recommendation made by the Secretary of Defense pursuant to this section, the President shall submit to the Congress a statement indicating his decision together with the recommendation of the Secretary of Defense.

"(4) As used in this subsection—

"(A) the term 'goods or technology' means—

"(i) machinery, equipment, capital goods, or computer software; or

"(ii) any license or other arrangement for the use of any patent, trade secret, design, or plan with respect to any item described in clause (i);

"(B) the term 'export control office' means any office or agency of the United States Government whose approval or permission is required pursuant to existing law for the export of goods or technology; and

"(C) the term 'controlled country' means any Communist country as defined under section 620(f) of the Foreign Assistance Act of 1961."

EXPORT FEES AND LICENSES

SEC. 10. Section 4 of the Export Administration Act of 1969, as amended by sections 3, 5, and 9 of this Act, is amended by adding at the end thereof the following:

"(i) In imposing export controls to effectuate the policy stated in section 3(2)(A) of this Act, the President's authority shall include but not be limited to, the imposition of export license fees."

ECONOMIC POLICY ACTIONS

SEC. 11. Section 3 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new paragraph:

"(7) It is the policy of the United States to use export controls, including license fees, to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make every reasonable effort to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before resorting to the imposition of controls on the export of materials from the United States:

Provided, That no action taken in fulfillment of the policy set forth in this paragraph shall apply to the export of medicine or medical supplies."

ALLOCATION OF LICENSES

SEC. 12. Section 4(b)(1) of the Export Administration Act of 1969 is amended by adding at the end thereof the following: "In curtailing the exportation of any articles, materials, or supplies to effectuate the policy set forth in section 3(2)(A) of this Act, the President is authorized and directed to allocate a portion of export licenses on the basis of factors other than a prior history of exportation."

EXPIRATION DATE

SEC. 13. Section 14 of the Export Administration Act of 1969 is amended by striking "September 30, 1974" and inserting in lieu thereof "September 30, 1976".

PRESIDENTIAL REVIEW

SEC. 14. The President is directed to review all laws, regulations issued thereunder by the Atomic Energy Commission, the Department of Commerce, and other Government agencies, governing the export and re-export of materials, supplies, articles, technical data or other information relating to the design, fabrication, development, supply, repair or replacement of any nuclear facility or any part thereof, and to report within six months to the Congress on the adequacy of such regulations to prevent the proliferation of nuclear capability for non-peaceful purposes. The President is also directed to review domestic and international nuclear safeguards and to report within six months to the Congress on the adequacy of such safeguards to prevent the proliferation, diversion or theft of all such nuclear materials and on efforts by the United States and other countries to strengthen international nuclear safeguards in anticipation of the Review Conference scheduled to be held in February 1975 pursuant to Article VIII, section 3 of the Treaty on the Non-Proliferation of Nuclear Weapons."

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

October 17, 1974

Dear Mr. Director:

The following bills were received at the White House on October 17th:

S.J. Res. 236	S. 2840	H.R. 7768	H.R. 14225
S.J. Res. 250	S. 3007	H.R. 7780	H.R. 14597
S.J. Res. 251	S. 3234	H.R. 11221	H.R. 15148
S. 355	S. 3473	H.R. 11251	H.R. 15427
S. 605	S. 3698	H.R. 11452	H.R. 15540
S. 628	S. 3792	H.R. 11830	H.R. 15643
S. 1411	S. 3838	H.R. 12035	H.R. 16857
S. 1412	S. 3979	H.R. 12281	H.R. 17027
S. 1769	H.R. 6624	H.R. 13561	
S. 2348	H.R. 6642	H.R. 13631	

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.