Public Law 93-500

October 29, 1974
[S. 3792]

AN ACT

To amend and extend the Export Administration Act of 1969.

Export Administration Amendments of 1974.

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

SHORT TITLE

50 USC app. 2402 note.

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

SHORT SUPPLY POLICY

50 USC app. 2402.

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

MONITORING AND CONSULTATION

50 USC app. 2403.

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.

7 USC 612c-3.

Reports.

"(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."

Shortages and increased prices, quarterly report.
50 USC app. 2409.

(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.

Supra.

"(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

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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— 50 USC app. 2404.

(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.". Fuel and energy, facilities and equipment. 50 USC app. 2403.

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: 50 USC app. 2401.

"(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". 50 USC app. 2402.

(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: 50 USC app. 2403.

"(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.". 50 USC app. 2404.

(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.".

50 USC app. 2409 note.

(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.

50 USC app. 2409.

Ante, p. 1553.

OPPORTUNITY TO COMMENT ON LICENSING

50 USC app. 2404.

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:

Publication in Federal Register.

"(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.".

50 USC app. 2402.

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

50 USC app. 2403a.

"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.

Recommendation to President.

"(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.

Presidential disapproval.

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.

Presidential statement to Congress.

"(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.

Definitions.

"(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:

50 USC app. 2402.

"(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

50 USC app. 2402.

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." Medicine, exemption.

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." 50 USC app. 2403. 50 USC app. 2402.

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". 50 USC app. 2413.

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." 42 USC 2153 note. Report to Congress. 21 UST 483.

Approved October 29, 1974.

Public Law 93-501

AN ACT

To authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes.

October 29, 1974 [S. 3838]

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

Debt obligations. Issuance and sale, regulation.

TITLE I—REGULATION OF INTEREST RATES ON CERTAIN OBLIGATIONS

SEC. 101. Section 19(a) of the Federal Reserve Act (12 U.S.C. 461) is amended by inserting "and, regardless of the use of the proceeds," immediately before "shall be deemed a deposit".

(b) The amendment made by subsection (a) shall not apply to any bank holding company which has filed prior to the date of enactment of this Act an irrevocable declaration with the Board of Governors of the Federal Reserve System to divest itself of all of its banks under section 4 of the Bank Holding Company Act, or to any debt obligation which is an exempted security under section 3(a)(3) of the Securities Act of 1933. 12 USC 461 note. 12 USC 1843. 15 USC 77c.