

**The original documents are located in Box 5, folder “Minerals (1)” of the Norman Ross Files, 1974-75
at the Gerald R. Ford Presidential Library.**

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Norman E. Ross, Jr. donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

NATIONAL ARCHIVES AND RECORDS SERVICE
WITHDRAWAL SHEET (PRESIDENTIAL LIBRARIES)

FORM OF DOCUMENT	CORRESPONDENTS OR TITLE	DATE	RESTRICTION
	1. <u>Case File Fred Dent to William Eberle, 8/29/74</u>		
1a. Memo	Fred Dent to William Eberle re critical imported commodities - NSSM 197/CIEPSM 33 (2 pp.) <i>opened 8/10/09</i>	8/29/74	A
1b. Summary	Department of Commerce Views on Remaining Options and Recommendations in the Inter-agency Study of Critical Imported Non-fuel Materials (5 pp.)	Undated (ca. Aug. 1974)	A

FILE LOCATION

Domestic Council
Norman Ross Files
Interior and Environmental Agencies File - Minerals (1)

RESTRICTION CODES

- (A) Closed by Executive Order 11652 governing access to national security information.
(B) Closed by statute or by the agency which originated the document.
(C) Closed in accordance with restrictions contained in the donor's deed of gift.

WHM, 2/18/82

CONFIDENTIAL



THE SECRETARY OF COMMERCE
Washington, D.C. 20230

AUG 29 1974

RECEIVED

10

MEMORANDUM FOR WILLIAM D. EBERLE
Executive Director
Council on International
Economic Policy

AUG 30 1974

W. D. EBERLE

SUBJECT: Critical Imported Commodities: NSSM 197/CIEPSM 33

Thank you for your joint memorandum of July 26, 1974, requesting the Department of Commerce's comments on the subject study.

This Department is in general agreement with the analysis and findings of the study. We recognize that it represents the concentrated input of the considerable expertise available in the Government in Washington and we are pleased to have been closely associated with the study from its inception.

The overall thrust of the study is that economic conditions in the world market are such that, for almost all the critical commodities considered, embargoes, price gouging or cartel-like actions by exporting countries directed at the U.S. and other importing countries are either not likely to be viable or are so costly in terms of longer-term producer interests that they are improbable. The possible exceptions identified by the study are bauxite, chromium and platinum. A further related, major conclusion is that direct government intervention to achieve a quantum jump in self-sufficiency in non-fuel minerals is not warranted at this time.

We concur in these conclusions at this time. However, we believe two points are worth keeping firmly in mind. One is that nothing is more certain than that situations are subject to unpredictable change. Hence the continued validity of the conclusions in the study cannot be taken for granted and must be subject to continuous review. Second, the options presented in the study represent principles and approaches for action and still remain to be converted into concrete plans. The possibility of an economic stockpile is a good example of what I mean.

Accordingly, in reviewing the options presented in the paper, we believe that the most critical ones are those that relate to the question of how the Government organizes itself in order to follow through on the report; namely, those identified as Options 4-A and 4-B. The former is to establish a standing interagency body on

DECLASSIFIED

AUTHORITY 92-11-2-6
BY WJH NARA DATE 2/10/09
1/30/07

~~CONFIDENTIAL~~

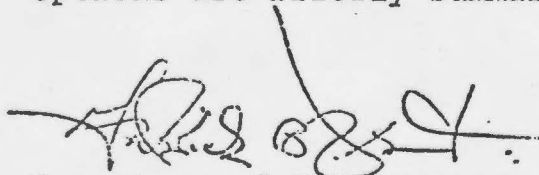


critical imported raw materials problem, supported by a small secretariat under the aegis of CIEP or NSC; the latter is to augment the analytical capacity of one of the executive departments (State, Interior and Commerce are mentioned) with specialists in imported raw materials policy.

In our view, however, these options are not mutually-exclusive but rather complementary. For our part, we are already taking steps to augment our analytical capabilities in the resources field but it does not seem realistic to expect that any existing Department could satisfactorily cover or monitor all aspects of the materials problem single-handedly.

Accordingly, Commerce favors Option 4-A and is prepared to join the other Departments in implementing it at an early date.

Once a standing interagency body is established one of its first tasks could be to refine further, or develop concrete measures for implementing, such other options as may be generally agreed on. I would welcome a discussion of the study and its options at a meeting of principals. The Department's views on the remaining options are briefly summarized in the attached paper.



Secretary of Commerce

Attachment

~~CONFIDENTIAL~~



GERALD R. FORD LIBRARY

This form marks the file location of item number 16 as listed
on the pink sheet (GSA form 7122 Withdrawal Sheet) at the front of the
folder.

W.A.M. 2/18/82

Staff Comments on Minerals Initiatives

Introduction

Minerals initiatives, in general, should be undertaken in context with a number of other related policy areas affecting and/or affected by them. Some of the more significant areas included are the proposed international trade legislation now before the Congress, the report of the Commission on Supplies and Shortages, the U.S. initiatives on international energy programs, the proposed legislation (S. 32) on National Policy and Priorities for Science and Technology and various legislative proposals on recycling of materials.

A.1. Minerals Analysis and Policy System (MAPS)

a. Aluminum

(1) The remaining surplus stockpile of aluminum, which at the beginning of 1974 was approximately 1.1 billion pounds, has been totally committed and it is expected that the major portion will be shipped out by the end of the year. The aluminum objective is zero and all metal previously held under the objective has been sold under the disposal program. The aluminum stockpile disposal program initiated in 1965 has been completed.

(2) Eight primary aluminum producers have joined with the Bureau of Mines as co-sponsors in a 3-year research program aimed at the economically feasible extraction of alumina from domestic ores such as clays, anorthosite, alunite and dawsonite.

A.

1. Mineral Analysis and Policy System (MAPS)

b. Chromium

(1) The 1.2 million S.T. contained chromium is equivalent to 3.65 million S.T. of metallurgical ore of standard



48% chrome oxide. This quantity represents about 4 years requirement at the 1973-74 level of steel demand (which is at near capacity raw steel operations). The proposal to hold this material "in the forms reflecting consumption patterns" seems too rigid, it tends to fix the inventory composition at the point in time when the inventory is established. It is more sensible to maintain the greater proportion of the inventory in the ore form rather than holding it all in the alloy form. This mix will greatly improve the flexibility to move from one pattern of use to another as technological changes arise. It will also make disposal (or exchange) of the alloy forms not required, or less required, much easier.

(2) The recycling of chromium is presently a most efficient operation, mainly because its principal uses are in stainless and alloy steels and superalloys. It is recycled in the form of scrap from two main areas: self-generated or "home" and prompt industrial scrap. Only in stainless steel is obsolete scrap a factor. Chromium salvage in stainless is principally obtained from scrap dealers or brokers; in alloy steel largely by segregation, or separation at the steel mill; in superalloys mainly by return from user direct to supplier. Very little alloy steel or superalloy chrome-bearing scrap is recovered in the commercial scrap markets.

Research should be directed to substituting the properties of chromium, which are heat, corrosion and oxidation resistance, hardener, strengthener, creep and creep rupture inhibitor, etc. It is unlikely that another single element or material will be found having all the properties of chromium. It may be necessary then to substitute two or more materials for chromium. Another area of development might be in the reduced use per unit of product, i.e., cladding, surface deposition by vapor or otherwise. This latter can be used where only surface protection is desired and not strength or hardness.



I. Minerals Analysis and Policy System (MAPS)

d. Platinum and Palladium

It appears that the auto companies have already arranged flexible supply commitments from South African producers, either directly or through major domestic suppliers, to meet their projected requirements. However, any release of government stocks should take into account to our dependence upon imported material, and the importance of these metals to petro-chemical and electrical industries.

There is a constant search for substitute materials for all uses of precious metals. In fact, intensive R & D efforts towards development of platinum-palladium substitutes has been a major factor in maintaining a relatively stable producer price.

A.3. Mineral Resources and Reserves, Land and Sea

Federal land use legislation is fragmented. Congress, over the years, has shown its concern for preserving areas of natural beauty, ecological rarity and wildlife habitat by passage of legislation such as the Wilderness Act, Wild and Scenic Rivers Act, and the Alaska Native Claims Settlement Act; the latter providing for Federal land retention of 80 million acres in Alaska alone. These acts, for the most part, provide for single purpose environmentally oriented land use.

Current legislation contains schedules for withdrawing huge land tracts in Alaska from exploration as well as exploitation. Budgetary restrictions virtually preclude Federal agencies (Interior and Forest Service) from making fuels and mineral evaluations on these tracts prior to their withdrawal. As a case in point, it has been estimated that existing and proposed



single purpose Federal land withdrawals in Alaska will lock up a conservatively estimated eleven billion bbls and 40 TCF of onshore oil and gas. These withdrawals would also prevent extraction of an estimated \$30-40 billion worth of hard minerals and 62 billion tons of recoverable coal.

It seems clear in view of present domestic fuels and minerals shortages that multiple use of Federal lands under proper environmental safeguards should be given careful consideration by both Legislative and Executive Branches of the government.

B. Initiate "Reserve Inventory" Policy

1. Guidelines for Disposal of Excess Strategic Inventories

Existing statutory authority for stockpile administration provides only for consideration of military and strategic issues in determining stockpile objectives and in obtaining legislative approval for disposing of stockpile excesses. Similarly, the existing authority requires that acquisition and disposal activities be conducted only without disruption to the domestic and international marketplace. Use of the stockpile commodities for the recommended purpose would require new legislative authority and is the subject of current debate and study within the Federal Government and the Congress. Any authority for further significant stockpile disposals will probably have to await completion of the consideration of economic stockpiling that has been mandated to the National Commission on Supplies and Shortages, as well as completion of other investigations on the subject that are currently underway. This consideration will involve many complex questions relating to the Government's involvement in stockpiling activities, which range from philosophical to procedural in nature and which emphasize the need for in-depth cost-benefit analysis.



With respect to the discussion on private inventories vs. public stockpiles, it should be noted that the concept of encouraging private stocks at industry sites is one of the considerations for any potential economic stockpiling plan. Many other problems could arise from such a plan. These might include questions about the fair distribution of materials stocks, particularly as this distribution might affect small businesses in tight supply markets, as well as questions about government encouragement of "windfall profits" and unequal tax benefits created by these inventories. Additional problems might be envisioned which relate to private industry inventory management and accounting procedures, as well as industry's desire to build these stocks, which must be financed at prevailing interest rates, affecting company liquidity.

In a separate context, the problem and the solution presented would appear contradictory, since protective inventory building would seem unnecessary if the materials required for the stocks were available in the first place.

B.2. Tax Incentives for Industry to Hold Selected Inventories

The concept of providing tax incentives for private inventories has been considered as one potential form of economic stockpiling. It is currently being utilized in Sweden, which has initiated a program permitting accelerated write-offs of inventories and allowing the changing costs of inventory acquisition to be spread over a lengthy period.

The proposal as recommended would appear simplistic and raises several questions. A simple percentage write-off would not be sufficient encouragement for industry to build extra stocks, particularly in light of the lost liquidity and the added financing burden created by the plan. Secondly, it does not take into consideration the entire realm of inventory management and accounting methods currently used for inventory valuations,



or the current practice of using inventory values for current period and future period profits determination. Finally, any proposal must consider what commodities should be inventorized or in what stage of process.

The question of who should hold the inventories - producer or consuming industry - remains unanswered. Traditionally, inventories of raw materials and metal products held by consuming industries are drawn down during periods of depressed demand, with the results of slowed or ceased buying from producers. Hence, the financing burden of carrying these stocks is shifted to the producing industry, compounding the problems of low demand. Similarly, rising stock levels can have depressing effect on these markets and be a major deterrent to new capacity investment.



C. Encourage Long-Run Supplies from Domestic Sources

1. Guaranteed Minimum Price

It is questionable whether an open ended government purchase price guarantee is practical or possible, particularly under the Defense Production Act provisions. Even if such a program were deemed desirable, a cut-off point, either in terms of a time limit or quantity that the government would accept at the guaranteed price seems inescapable, and if the guaranteed price was at a level high enough to be of any effect, it could convert the program to a short-term, first-come-first-served competitive production race, rather than encouraging a long-run supply capability.

3. Targeted public R&D

Targeted public R&D to encourage the development of alternative sources for critical minerals and/or substitutes should be considered for areas in which private bodies cannot hope to realize an adequate return on their R&D investments.

D. Introduce Revisions to the Basic Mining and Mineral Leasing Laws

General. In addition to "providing stringent environmental protection," one of the professed purposes and objectives in revising these laws given in the draft statement on "Mineral Initiatives" is to "further encourage mineral development on public lands." All of the proposals presented, appear to result in a restraint and additional burden on mineral development. This Department generally favors appropriate legislative or administrative changes to the basic mining and mineral leasing laws which result in increased mineral development and the application of a multi-use concept.

1. Mining Laws (Revision of)

a. Although possibly required for efficient environmental control supervision, restrictions on prospecting might reduce the possibilities of discovering new mineral reserves. Public



lands which have been withdrawn pursuant to wilderness, scenic river, ecological preserve, and other land withdrawal acts have resulted in vast land areas, potentially rich in minerals, which cannot be surveyed, prospected or mined. Permitting surveying and controlled prospecting in these areas could provide the necessary information for reconsidering withdrawal from a materials availability point-of-view.



d. It is not clear whether "operations" also includes production activity. If so, the requirements for filing, approval, amending and following a prescribed operations plan could be highly burdensome if not impractical for long term, large scale exploitation; although acceptable for prospecting and some preliminary "development" as defined in earlier proposals in this area. Even in the latter case, "development" must be defined; in open-pit mining for instance, development (waste stripping and pit development) cannot be disassociated from ore extraction.

e. Unless "legitimate miners" is carefully and adequately defined, this effort to eliminate the use of mining claims as an ownership vehicle for lumber, water rights or even summer or vacation home sites could have significant restraining effect on mineral exploration and development, not all of which is or has been done by "legitimate miners."

E. Development of Minerals From the Seabeds

The U.S. has an interest in the prompt development of minerals from the seabeds. Of the four principal metals contained in deep sea nodules, the U.S. is dependent on imports for over 85 percent of its needs in three of them. The technology of mining nodules from the floor of the deep sea and of extracting the metals of chief commercial interest is at an advanced stage with United States companies at the forefront. These companies expect to be ready to commence mining during the period 1977-1980.

It is essential that an institutional framework be promptly established which will enable the U.S. deep seabed mining industry to proceed with its programs in an environmentally sound manner. With respect to the latter point, the Department of Commerce has initiated a program to study the environmental impact of deep ocean mining. In the coming year, the program will be accelerated so that industry will be in a position to develop these mineral resources in a timely manner.

It should be noted that the NSC Interagency Task Force on the Law of the Sea has under review the question of deep seabed mining under an international regime as well as during the period before a multilateral treaty is negotiated and comes into force. In this regard, the Task Force is now in the process of preparing instructions for the March-May 1975 session of the Law of the Sea Conference.



F. Improve Health and Safety Programs

1. Propose Amendments to Mining Health and Safety Legislation

No objections can be made to proper and reasonable health and safety regulations. Although the Coal Health and Safety Act revisions appear to be administrative clarifications and consistency changes, these and any proposed changes in the Metal and nonmetallic Mine Safety Act cannot be commented on until they are available for consideration.

G. Support-Related Programs of Other Federal Agencies

1. Transportation

Interagency coordination and cooperation on transportation policies impacting on mineral availabilities is important. The Department of Commerce and GSA have interests that affect transportation policies and, therefore, should be included in any interagency efforts to improve coordination and efforts to improve coordination and cooperation. Such efforts should be directed toward finding ways and taking actions to improve the physical distribution system for minerals and fuels, including recyclable secondary materials.

3. Environment

Badly needed, both legislatively and in the regulatory area, is a systems approach to environmental problems. Both the Clean Water Amendments and the Clean Air Act have land use implications; the latter of a particularly pervasive nature. Both pieces of legislation and the regulatory follow-on have taken the narrow approach without particular regard to land impacts and land use preclusions for mineral extraction and processing.

Cooperation among Federal agencies can always be improved and every effort should be made to do so. However, until a comprehensive Federal land use policy is developed that considers the environment, land, air and water, as one entity with interactions between media and with an economic price to be paid for each action that internalizes environmental costs, areas of cooperation will remain circumscribed. Executive Order 11821, November 29, 1974, requiring inflation impact statements for all major legislative proposals, regulations and rules emanating from the



executive branch, should prove an excellent mechanism. By requiring cost/benefit analyses, a comprehensive look at trade-offs is possible with optimum land use patterns emerging therefrom.



File

NATIONAL SCIENCE FOUNDATION
WASHINGTON, D.C. 20550



SCIENCE AND TECHNOLOGY
POLICY OFFICE

November 22, 1974

MEMORANDUM FOR

Norman Ross, Jr.
Staff, Domestic Council

SUBJECT: Materials Policy Issues - Domestic Aspects.

I am writing to confirm my earlier suggestion that it is timely to activate a coherent mechanism by which these issues can be addressed and options evaluated. One possible route is the Sub-Committee on Minerals and Materials Policy. However, as some rechartering of its scope and membership appears desirable in the light of changed circumstances and needs, other means may prove more appropriate. The latter is especially the case if both mineral and renewable (or "natural") resources are to be addressed properly.

The following notes on current materials-related activities in the Congress only emphasize the need for effecting a suitable mechanism at this time:

The 93rd Congress has proved to be more active on materials issues than any of its predecessors. The materials-related legislation introduced up to the recent recess can be categorized as follows:

Materials Management -	22 separate	20 identical
Materials Recycling -	33 separate	68 identical
Materials Shortages -	60 separate	84 identical
Materials Stockpile -	<u>26</u> separate	<u>48</u> identical
	(361 total)	

Actual action on legislation has created the National Commission on Supplies and Shortages, and the bill recently passed on recycling tax incentives for paper, textiles, glass and non-ferrous metals.

For the 94th Congress, present circumstances, probably reinforced by the new make-up of the Congress, suggest that much of the present legislation may be reintroduced. Also, serious attention is likely to be given to (1) a federal mechanism(s) to respond to



concerns with materials shortages; (2) a major bill on recycling and (3) legislation on stockpiling that would be responsive to both strategic and economic concerns. Furthermore, the question of legislation for a DENR or its analog presumably will be raised again.

The following are other relevant items:

The current Senate discussion with GAO about conducting a cross-cut analysis (including evaluation) of Federal expenditures on materials R&D - probably through the Senate Committee on Government Operations. Senator Tunney (Commerce Committee, nominated with Senator Brock for the Commission Supplies and Shortages) has evidenced personal interest in materials issues and the role of R&D. He has been active in related hearings and legislation. Senator Tunney is reportedly meeting shortly with groups of eminent technologists and other professionals in Cambridge, Massachusetts and Los Angeles. He is also exploring the possibility of a national meeting on resource issues. Further and improved legislative proposals appear likely.

In the House, the analysis commissioned through CRS, for the House Committee on Science and Astronautics, of the "health" of the basic materials industries and corresponding needs for legislative action (study is through the National Materials Advisory Board, National Academy of Sciences and the report is expected in January 1975); The House Committee is planning for hearings on materials R&D in Spring 1975.

The Office of Technology Assessment, in direct response to specific Congressional interest, has initiated a study of materials information systems. It is commissioning studies on the consequences of alternative stockpile policies, on institutional barriers to, and incentives for, achieving substantial resource recovery from urban wastes; on access to mineral resources in relation to the uses of land; and on materials conservation through reducing loss by corrosion, wear and breakage.

The forthcoming report of the Committee on Minerals and the Environment, NAS, will deal principally with the following areas: The role of technology in materials conservation; the quality of estimates of mineral reserves and resources; the health and



environmental aspects of mineral production; and the demand for fuel and non-fuel minerals. Given recent experience and the new make-up of the Congress, there are several aspects of the report analyses that appear likely to spark Congressional activity: proper exploitation of technological options for materials conservation, uncertainties in knowledge of the U.S. "resource base", the wisdom and practicality of continued growth in per capita materials consumption.

The preceding notes address principally the current and anticipated Congressional activities on materials-related issues. We have discussed previously the other relevant ~~national~~ activities and the domestic implications of international developments. I am aware that some of the latter are being covered through several ad hoc groups in response to some of the issues raised in the recently completed "Vulnerable Commodities" analysis. However, it is not at all clear that this response is adequate to the problem at hand.

I believe that the above arguments provide a convincing rationale for giving some priority of attention within the activities of the Domestic Council to the clearer delineation of the nation's policies on materials issues - as they are and as they might be changed to better meet current and anticipated conditions.



S. Victor Radcliffe



UNITED STATES GOVERNMENT

Memorandum

Department of the Treasury
Washington, D.C. 20220

File

DATE: January 30, 1975

Mineerals

TO : Ed Hullander, CIEP

FROM : Mark D. Coler *Wfk for*

SUBJECT: Draft of Options to Diversify Raw Materials Supply
Through Increased Financing

Attached is the draft you requested of the Treasury Department's view of available options regarding increased diversification of sources of critical raw materials imports through utilization of existing facilities for circulation and comment in the SRG. In addition to the options themselves, the attached paper states its assumptions, specifies that the direct impact of any of the options could not be expected to be felt for at least two years, and offers a cautionary note as to the net effect a change in ExImbank policy might have.

Strictly speaking, none of these options would require legislative approval. However, it would perhaps be prudent to advise the Hill on any change of policy of either OPIC or ExImbank, especially given the difficulties each of these organizations had the last time Congressional authorization was sought. The option regarding the World Bank and like institutions would not require Congressional approval, expressed or implied. However, we may want to bring to Congressional attention the role these institutions can play in reducing the risk of commodity actions the next time appropriations are sought.

These options are not mutually exclusive and there does not appear to be any reason why they all could not be undertaken simultaneously. The trade off between stockpiling and financial constraints you requested would be difficult to measure with any precision. The difficulty lies essentially in the dichotomy of approach where stockpiling is intended as a short run response to a "commodity action" and the augmentation of funds for raw materials projects is long run in scope with the intended effect of preventing commodity actions. Perhaps the most that can be said is that



5010-106

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

as supply sources do diversify as investment increases, the likelihood of a cartel would decline and so with it the need for a stockpile.

As part of a package, however, financing diversification can complement economic stockpiling. Where the commodities selected for diversification are the same as those being stockpiled, diversification can be regarded as a long-term policy complementary to the basically short-term policy of stockpiling. (A stockpile release is a short-term defense against a commodity action already in progress, although the possibility of a release may deter commodity action for a long period.) The progressive diversification of sources of critical commodity imports might, in fact, ultimately eliminate the need for economic stockpiles of certain commodities.

Your question as to the probability of success of any of these options is also difficult to estimate because it would be a function of Executive policy, the demand for capital funds in the raw materials industry, and the degree to which funds coming from the institutions and the funds they attracted to a particular project were additional (i.e., would not have been spent by the private sector in roughly the same period of time.) We can, however, offer an estimate of the relative effect of each of the options i.e., which of the organizations is likely to have the greatest impact on the industry should the Executive decide to alter present policies. The greatest impact could probably be expected from ExImbank because such a role would be very attractive to Chairman Casey and there is no need for additional legislation, only Executive direction and initiative. The IFIs would be second primarily because they are already inclined along these lines, and it is the USG which has been the most recalcitrant. Getting the National Advisory Council to change its recommendation would be difficult from here, but if an effective case can be made to those on high, there should be no problem. OPIC would be last because of the high risk of extractive industries which would be amplified by recent Congressional concern as to the risks consequent to such underwriting.

Attachment



Options on Diversifying Raw Material Supplies through
Increasing Funds Available to the Raw Materials Industry

The options here presented supported by the limited facts available assume that geographical diversity of supply of certain raw materials can be a function of the availability of capital to fund the international raw material extraction industry. They further assume that the greater diversity of supplier countries the lower is the probability of the supply side of raw material market coming under the control of a cartel. These assumed, the paper presents several options open to the USG within the existing institutional framework in an attempt to increase the diversity of raw material supply to reduce the likelihood of supply disruptions due to supplier cartels.

At the current time there are five international credit institutions whose policies are influenced in varying degrees by the USG and whose impact on the amount of funds available for financing raw material projects is or could be significant. The policies of the Export-Import Bank of the United States (Eximbank) and Overseas Private Investment Corporation (OPIC) are determined by the USG.



However, the policies of the International Bank for Reconstruction and Development (World Bank), the Inter-American Development Bank (IDB), and the Asian Development Bank (ADB) are determined by their respective Board of Governors with the advice of their Executive Directors. In each of these international financial institutions (IFIs) the USG is a dominant or principal participant, but its effect on policy is somewhat less than in the cases of the Eximbank or OPIC.

Before proceeding to what steps or options the USG might take to encourage these institutions in the future to look more favorably on certain raw material projects than they did in the past it must be emphasized that in all five cases the overwhelming majority of their activity is in long run projects whose direct impact on commodity prices or on diversification of supply could not be expected for two years at a minimum. Also, in the case of Eximbank, a caution as to marginality must be offered. Eximbank's function in raw material projects is essentially to maintain the competitive position of U. S. equipment suppliers and thus could be said to play a passive role in most development projects because such projects rarely if ever depend on the financing policy of any one country's export credit facility. Conversely, should Eximbank in the future significantly



increase the percent of its loans to the raw materials sector, it would be difficult in most cases to demonstrate that some other country's export credit facility would not have made the necessary funds available, or for that matter, that private financing could not have been secured by a foreign supplier. However, in the most general sense, each additional dollar Eximbank makes available to the raw materials industry frees the resources of another country's export credit facility as well as the resources of the private market which could very well be placed in additional raw material projects. Of greater significance, perhaps, is the steadily increasing size of most extractive projects and the risks attendant to the increased level of nationalization in many lesser developed countries which may permit the Eximbank to play a more catalytic role by organizing credit were it would otherwise not be present. More work is needed in this area to determine more precisely what the trends are in financing extractive projects.

Option 1: Special consideration in Eximbank lending for projects diversifying overseas production of identified critical materials where the potential exists for supply or price manipulation. For example, a specified percentage of Eximbank funds might be reserved for financing raw materials projects.



At present, bauxite/alumina, platinum, and chrome would be identified as the critical commodities, although the prospects for diversifying chrome or platinum production are very limited. In the future the selection of critical commodities for diversification might be linked to our economic stockpile policy.

Advantages:

1. The USG has complete control of the Eximbank and its multi-billion dollar resources. It seems unlikely that there would be any difficulty on the Hill with altering Eximbank policy to the degree necessary. In fact, it would not even require legislative approval.
2. Eximbank loans can go to more countries than those of the IFI's which are limited to lesser developed countries as are OPIC guarantees.

Disadvantages:

1. Departure from Eximbank's long established practice of financing credit worthy projects without priorities based on the projects' purpose.
2. Would not increase diversification in those frequent cases where the project is already committed and the Eximbank's role is primarily to give an American supplier a competitive edge.



A weaker version of this option, more consistent with Eximbank's regular operating criteria, would be for Eximbank to give special attention (but not exceptional financing terms) to projects involving increasing overseas supply of problem materials. U. S. Government oversight machinery concerning critical materials in short supply would keep Eximbank advised with as much lead time as possible as to which materials potentially could be in short supply for the United States, in how many years the supply will be felt, and any planned projects of particular benefit to alleviate the scarcity. Eximbank should, while giving necessary consideration to its legislative requirements, resource availabilities and global exposure constraints, give special attention to applications which would involve supply of the critical scarce materials as identified by the oversight machinery. Ex-Im Bank would not expect to allocate any specified amounts to any particular scarce materials sectors nor to offer preferential credit terms, but would pay attention to possible beneficial effects of particular materials projects on supply and price trends.

Option 2: Priority in OPIC investment guarantees and financing (in terms of risk assumed, amount of coverage) for projects increasing overseas production of the same targeted problem commodities.



Advantages

1. Increased supply of investment is more probable than in the case of Eximbank as presently operated because OPIC is in the business of insuring private risks some of which presumably would not be undertaken without the OPIC guarantee.
2. Unlike Eximbank, OPIC coverage is not limited to financing equipment.

Disadvantages

1. The USG stands the risk of losses exceeding premiums with extractive industry investment being particularly expropriation prone. While it is premature to attempt to make even a preliminary estimate of OPIC's net cost or profit in Chile, at one time it appeared that total insurance claims of more than \$300 million were in prospect against OPIC resources of approximately \$100 million. The balance would have come from the USG.
2. While other forms of investment are possible, insurance tends to encourage direct investment, which is not necessary to meet objective of increased supply, but raises risk of seizure and thus political complications and insurance loss.

Option 3: Endorse active IFI minerals development in developing countries.



The Bank has considered, and committed itself in principle to, an expanded role in lending for minerals projects (both exploration and development).

Advantages

1. Has the advantage of being acceptable in a number of countries where private capital may be unwilling to enter on its own or is unwelcome.
2. Such projects could in any case include private capital and investors, for their part, might welcome World Bank participation (if they see the Bank as a form of "insurance" against rash host government action).

Disadvantages

1. Availability of IBRD financing could further accelerate the trend to LDC government ownership of minerals production.
2. IBRD financing cannot be targeted for specific materials but will have to be available for minerals exploration and development generally in developing countries.
3. The endorsement of an active role by the IFIs would require a change in the USG's stated position on this subject since the USG had expressed some rather strong reservations about increased IFI participation in minerals development at the World Bank in early

- 8 -

1974 in response to a non-fuel minerals sector
paper prepared by that institution.



EXPANSION OF DOMESTIC PRODUCTION

Expansion of domestic production and/or productive capacity, where feasible, offers some measure of protection against interference with imports. The need for expansion of domestic production for defense purposes (including industrial uses) is clearly recognized in the Strategic and Critical Materials Stock Piling Act of 1946 as amended and the Defense Production Act of 1950 as amended (marked copies attached). Further, the need for expansion of domestic production and the utilization of domestic resources for general peace-time economic industrial purposes is clearly spelled out in the recent Mining and Minerals Policy Act of 1970 (marked copy attached).

In considering the possibilities of domestic expansion, it is important to consider not only the situation in the case of a given discrete or unique material, but also the situation with respect to feasible substitute or alternate materials. For example, while chromium is an essential ingredient in most stainless steels, there are stainless steel formulations which could use more nickel, vanadium, or other materials, supplies of which could conceivably be expanded more readily domestically (including the seabeds) than a single effort aimed only at chromium. A proper domestic supply expansion program to protect against interference with one imported material should in most cases embrace domestic expansion of several proved substitute or alternate materials along with the single imported material of concern.



For one or more critical materials development of an unproven mining or processing operation up to the proven stage thence to be placed on standby condition may be the preferred approach, where production from such source is currently subeconomic. This has aspects of stockpiling "time" since ordinarily 3-to-5 years are required from time a development decision is made until production comes on stream. (Modification on some of the methods for expansion listed below can accommodate this mode). (Likewise all methods providing for Government procurement guarantees from privately owned facilities would carry a recapture clause providing that the Government may pay the undepreciated balance of the facility cost and place it in a productive capacity reserve).

Once a decision is made to expand domestic productive capacity of one or more materials in order to provide protection against the actual or threatened import disturbance, a variety of mechanisms are theoretically possible to accomplish the desired results, ranging from Government corporations on the one extreme (as were successfully used for synthetic rubber in World War II) to unlimited self-certifying tax incentives on the other extreme (as is presently provided by the Internal Revenue Code for pollution control equipment, slum housing, railroad equipment, and coal mine face equipment). Proponents of one scheme or another will argue the merits of their particular solution, but the sine qua non of all schemes is that the necessary funds for investment in capital facilities must come from somewhere or nothing will be expanded. And, if the authorizing authorities can really estimate costs, or design arrangements which reflect changing costs, almost any method that is

successful will involve about the same amount of money over time. The question then becomes "Whose money and under what conditions?" The advantages and disadvantages of several different methods follow briefly:

Government Corporations:

Advantages

Assures full Government control, no industrial secrecy, maximum patent dissemination to all, limits profits and excess profits.

Disadvantages

Government bureaucracies are created that are difficult to staff with competent people at current salary levels and government conflict of interest procedures, and that live on after their period of usefulness is over. Government corporations are most susceptible to political considerations which could make for inefficiencies and higher costs. Government then interferes most directly in world commodity markets. Also there is an immediate Government cash outflow.

Cost-plus fixed fee contract with industry:

Advantages

Limits profits, but brings industry know-how to the fore quickly. There is no expenditure before material is delivered.

Disadvantages

Little incentive to limit costs, patent rights may accrue unfairly. Government interferes in world commodity markets directly.

Cost-plus percent of cost contract with industry:

Advantages

Industry goes all-out. No expenditure is made before material is delivered.

Disadvantages

No incentive to limit costs, patent rights may accrue unfairly. Government interferes in world commodity markets directly.

Negotiated contract to buy and guarantee a fixed profit:

Advantages

Industry will work hard, and windfall profits are prevented.
No expenditures are made before material is delivered.

Disadvantages

Patent rights may accrue unfairly. Government interferes in world commodity markets directly.

Broad Government guarantee to take from all domestic supplies at a certain floor price:

Advantages

This type of arrangement was used in the Korean War period in the case of several domestic materials, notably tungsten, manganese, mica, and chromite. It is most useful where there are a number of relatively small producers and considerable uncertainty about the extent and grade of small scattered mineral deposits, which precludes negotiated contracts. It avoids direct expenditures except on the downside of the market, and it interferes in the market only on the downside at which point interference is welcome by producers (but not consumers). No expenditure before material is delivered; if domestic price is higher than floor there is no expenditure at all.

Disadvantages

If the program is really successful in expanding supplies of the material, or in a period of economic downturn there are great pressures to continue after the needed quantities are on hand, or the domestic expansion accomplished.

Negotiated Contract to buy material which cannot be sold elsewhere:

Advantages

Most useful for large well defined mineral deposits where extent and grade are known and where mining and metallurgical processing are in the developed stage. Minimum Government interference with normal market. Allows Government to expand at least-cost if done openly to all comers. Sharing of technology developed can be made a condition of participation. No expenditure before material is delivered. If domestic price higher than guarantee, no expenditure at all.

Disadvantages

There is always the problem of what to do with material acquired in a period of downturn of the economy.

Loans and Guaranteed Loans:

Advantages

Popular, since front-end money is always sought.

Disadvantages

Very susceptible to political pressure, and money can be paid out in big quantities with little to show for it, in contrast to buy mechanisms where no money is paid out unless something is actually delivered. Government cash outlay is immediate before production comes on stream.

Tax Incentives:

Advantages

If of the self-certifying type, permit industry to go ahead with minimum lost time and red tape. If of the Government function or case-by-case certified type, they can still be expeditiously granted. Of advantage to those with money as in the case of loss carry forward. Government has no present cash outlay. Government shares in any profits through increased income tax.

Disadvantages

Often not sufficient incentive, particularly if all industry enjoys 7% investment credit (to go to 12%) and relatively fast write-off by sum-of-years digits, double declining balance, or other methods. Discriminates against new entrants. Inhibits broad sharing of "know-how" or patents.

Tariffs:

These historically were of great value, but the present trend toward reduction of trade barriers makes them unlikely instruments at this time.

Advantages

Government gets income therefrom.

Disadvantages

Tends to increase price to consumer.

Import Quotas:

Advantages

A strong tool when used to encourage more domestic production if there is the possibility of a domestic industry.

Disadvantages

They require that all activities by U.S. companies in that material be subject to foreign government control, quotas are usually given out by country, thus forcing the host nation to exercise direct control of production and exports to the United States.

Government Land Policies:

The conditions under which mineral deposits on the public lands are made available to private industry can strongly influence the development of minerals domestically.

Advantages

Domestic resources are put to use. There is no cash outflow, indeed sales or bonuses bring in cash inflow.

Other Government Policies

The furnishing of electric power (as by TVA or Bonneville) can be used to stimulate domestic mineral development. The right of eminent domain can be used to facilitate transportation. The dredging of rivers and harbors can assist mineral development. The building of roads can assist mineral development. The exploration and mapping work of the U.S. Geological Survey, and the mining and metallurgy research of the U.S., Bureau of Mines can be directed to mineral development to overcome specific import problems.

Disadvantages

Appropriations are required to fund these activities.

Conclusion:

Fortunately, much of the dilemma of which route to use has been solved by the Congress in the 1970 Mining and Minerals Policy Act which states that it is:

in the national interest to foster and encourage private enterprise in (1) the development of economically sound and stable domestic mining, minerals, metal, and mineral reclamation industries (2) the orderly and economic development of domestic mineral resources, reserves, and reclamation of metals and minerals to help assure satisfaction of industrial, security, and environmental needs. . . .

Consequently, the options for maximum Government interference in the free market, such as Government corporations would seem to be negated, and the options that do most to foster private enterprise, i.e., tax concessions first, followed by procurement arrangements of the "we (the Government) will buy it at a certain upset price if it cannot be sold elsewhere" type are the mechanisms favored by the Bureau of Mines.

These mechanisms have worked in the past - most recently in the Korean War period \$37 billion of domestic facilities expansion was realized through rapid tax write-offs, authorized by Section 124A of the Internal Revenue Code (later Section 168) \$8 billion of supply expansion contracts (often in conjunction with rapid write-offs) were accomplished under the Defense Production Act.

[PUBLIC LAW 520—79TH CONGRESS]

[CHAPTER 590—2D SESSION]

[S. 752]

AN ACT

To amend the Act of June 7, 1939 (53 Stat. 811), as amended, relating to the acquisition of stocks of strategic and critical materials for national defense purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of June 7, 1939 (53 Stat. 811), as amended, is hereby amended to read as follows:

"That the natural resources of the United States in certain strategic and critical materials being deficient or insufficiently developed to supply the industrial, military, and naval needs of the country for common defense, it is the policy of the Congress and the purpose and intent of this Act to provide for the acquisition and retention of stocks of these materials and to encourage the conservation and development of sources of these materials within the United States and thereby decrease and prevent whatever loss to the national economy and costly dependence of the United States upon foreign nations for supplies of these materials in times of national emergency.

"SEC. 2. (a) To effectuate the policy set forth in section 1 hereof the Secretary of War, the Secretary of the Navy, and the Secretary of the Interior, acting jointly through the agency of the Army and Navy Munitions Board, are hereby authorized and directed to determine, from time to time, which materials are strategic and critical under the provisions of this Act and to determine, from time to time, the quality and quantities of such materials which shall be stock piled under the provisions of this Act. In determining the materials which are strategic and critical and the quality and quantities of same to be acquired the Secretaries of State, Treasury, Agriculture, and Commerce shall each designate representatives to cooperate with the Secretary of War, the Secretary of the Navy, and the Secretary of the Interior in carrying out the provisions of this Act.

"(b) To the fullest extent practicable the Secretary of War, the Secretary of the Navy, and the Secretary of the Interior, acting jointly, shall appoint industry advisory committees selected from the industries concerned with the materials to be stock piled. It shall be the general function of the industry advisory committees to advise with the Secretary of War, the Secretary of the Navy, and the Secretary of the Interior and with any agencies through which they may exercise any of their functions under this Act with respect to the purchase, sale, care, and handling of such materials. Members of the industry advisory committees shall receive a per diem allowance of not to exceed \$10 for each day spent at conferences held upon the call of the Secretary of War, the Secretary of the Navy, and the Secretary of the Interior, plus necessary traveling and other expenses while so engaged.

"Sec. 3. The Secretary of War and the Secretary of the Navy shall direct the Secretary of the Treasury, through the medium of the Procurement Division of his Department, to—

"(a) make purchases of strategic and critical materials with due regard to the objectives set forth in section 1 of this Act and pursuant to the determinations as provided in section 2 hereof, which purchases (1) shall be made, so far as is practicable, from supplies of materials in excess of the current industrial demand and (2) shall be made in accordance with title III of the Act of March 3, 1933 (47 Stat. 1520), but may be made without regard to section 3709 of the Revised Statutes. A reasonable time (not to exceed one year) shall be allowed for production and delivery from domestic sources and in the case of any such material available in the United States but which has not been developed commercially, the Secretary of War and the Secretary of the Navy may, if they find that the production of such material is economically feasible, direct the purchase of such material without requiring the vendor to give bond;

"(b) provide for the storage, security, and maintenance of strategic and critical materials for stock-piling purposes on military and naval reservations, or other locations, approved by the Secretary of War and the Secretary of the Navy;

"(c) provide through normal commercial channels for the refining or processing of any materials acquired or transferred under this Act when the Secretary of War and the Secretary of the Navy deem such action necessary to convert such materials into a form best suitable for stock piling, and such materials may be refined, processed, or otherwise beneficiated either before or after their transfer from the owning agency;

"(d) provide for the rotation of any strategic and critical materials constituting a part of the stock pile where necessary to prevent deterioration by replacement of acquired stocks with equivalent quantities of substantially the same material with the approval of the Secretary of War and the Secretary of the Navy;

"(e) dispose of any materials held pursuant to this Act which are no longer needed because of any revised determination made pursuant to section 2 of this Act, as hereinafter provided. No such disposition shall be made until six months after publication in the Federal Register and transmission of a notice of the proposed disposition to the Congress and to the Military Affairs Committee of each House thereof. Such notice shall state the reasons for such revised determination, the amounts of the materials proposed to be released, the plan of disposition proposed to be followed, and the date upon which the material is to become available for sale or transfer. The plan and date of disposition shall be fixed with due regard to the protection of the United States against avoidable loss on the sale or transfer of the material to be released and the protection of producers, processors, and consumers against avoidable disruption of their usual markets: *Provided*, That no material constituting a part of the stock piles may be disposed of without the express approval of the Congress except where the revised determination is by reason of obsolescence of that material for use in time of war. For the purposes of this paragraph a

revised determination is by reason of obsolescence if such determination is on account of (1) deterioration, (2) development or discovery of a new or better material or materials, or (3) no further usefulness for use in time of war. "

"Sec. 4. The Secretary of War and the Secretary of the Navy shall submit to the Congress, not later than six months after the approval of this Act, and every six months thereafter a written report detailing the activities with respect to stock piling under this Act, including a statement of foreign and domestic purchases, and such other pertinent information on the administration of the Act as will enable the Congress to evaluate its administration and the need for amendments and related legislation.

"Sec. 5. The stock piles shall consist of all such materials heretofore purchased or transferred to be held pursuant to this Act, or hereafter transferred pursuant to section 6 hereof, or hereafter purchased pursuant to section 3 hereof, and not disposed of pursuant to this Act. Except for the rotation to prevent deterioration and except for the disposal of any material pursuant to section 3 of this Act, materials acquired under this Act shall be released for use, sale, or other disposition only (a) on order of the President at any time when in his judgment such release is required for purposes of the common defense, or (b) in time of war or during a national emergency with respect to common defense proclaimed by the President, on order of such agency as may be designated by the President.

"Sec. 6. (a) Pursuant to regulations issued by the War Assets Administration or its successor, every material determined to be strategic and critical pursuant to section 2 hereof, which is owned or contracted for by the United States or any agency thereof, including any material received from a foreign government under an agreement made pursuant to the Act of March 11, 1941 (55 Stat. 31), as amended, or other authority, shall be transferred by the owning agency, when determined by such agency to be surplus to its needs and responsibilities, to the stock piles established pursuant to this Act, so long as the amount of the stock pile for that material does not exceed the quantities determined therefor pursuant to section 2 hereof. There shall be exempt from this requirement such amount of any material as is necessary to make up any deficiency of the supply of such material for the current requirements of industry as determined by the Civilian Production Administration or its successor. There shall also be exempt from this requirement (1) any material which constitutes contractor inventory if the owning agency shall not have taken possession of such inventory, (2) such amount of any material as the Army and Navy Munitions Board determines (i) are held in lots so small as to make the transfer thereof economically impractical; or (ii) do not meet or cannot economically be converted to meet, stock-pile requirements determined in accordance with section 2 of this Act. The total material transferred to the stock piles established by this Act in accordance with this section during any fiscal year beginning more than twelve months after this Act becomes law shall not exceed in value (as determined by the Secretary of the Treasury on the basis of the fair market value at the time of each transfer) an amount to be fixed by the appropriation Act or Acts relating to the acquisition of materials under this Act.



"(b) Any transfer made pursuant to this section shall be made without charge against or reimbursement from the funds available under this Act, except that expenses incident to such transfer may be paid or reimbursed from such funds, and except that, upon any such transfer from the Reconstruction Finance Corporation, or any corporation organized by virtue of the authority contained in the Act of January 22, 1932 (47 Stat. 5), the Secretary of the Treasury shall cancel notes of Reconstruction Finance Corporation, and sums due and unpaid upon or in connection with such notes at the time of such cancellation, in an amount equal to the fair market value as determined by the Secretary of the Treasury of the material so transferred.

"(c) Effective whenever the Secretary of the Treasury shall cancel any notes pursuant to subsection (b) of this section, the amount of notes, debentures, bonds, or other such obligations which the Reconstruction Finance Corporation is authorized and empowered to have outstanding at any one time under the provisions of existing law shall be deemed to be reduced by the amount of the notes so canceled.

"(d) Subsection (b) of section 14 of the Act of October 3, 1944 (58 Stat. 765), is hereby amended to read as follows:

"(b) Subject only to subsection (c) of this section, any owning agency may dispose of—

"(1) any property which is damaged or worn beyond economical repair;

"(2) any waste, salvage, scrap, or other similar items;

"(3) any product of industrial, research, agricultural, or livestock operations, or of any public works construction or maintenance project, carried on by such agency;

which does not consist of materials which are to be transferred in accordance with the Strategic and Critical Materials Stock Piling Act, to the stock piles established pursuant to that Act.

"(e) Section 22 of the Act of October 3, 1944 (58 Stat. 765), is hereby repealed: *Provided*, That any owning agency as defined in that Act having control of materials that, when determined to be surplus, are required to be transferred to the stock piles pursuant to subsection (a) hereof, shall make such determination as soon as such materials in fact become surplus to its needs and responsibilities.

"Sec. 7. (a) The Secretary of the Interior, through the Director of the Bureau of Mines and the Director of Geological Survey, is hereby authorized and directed to make scientific, technologic, and economic investigations concerning the extent and mode of occurrence, the development, mining, preparation, treatment, and utilization of ores and other mineral substances found in the United States or its Territories or insular possessions, which are essential to the common defense or the industrial needs of the United States, and the quantities or grades of which are inadequate from known domestic sources, in order to determine and develop domestic sources of supply, to devise new methods for the treatment and utilization of lower grade reserves, and to develop substitutes for such essential ores and mineral products: on public lands and on privately owned lands, with the consent of the owner, to explore and demonstrate the extent and quality of deposits of such minerals, including core drilling, trenching, test-pitting, shaft sinking, drifting, cross-cutting, sampling, and metallurgical investi-

gations and tests as may be necessary to determine the extent and quality of such deposits, the most suitable methods of mining and beneficiating them, and the cost at which the minerals or metals may be produced.

"(b) The Secretary of Agriculture is hereby authorized and directed to make scientific, technologic, and economic investigations of the feasibility of developing domestic sources of supplies of any agricultural material or for using agricultural commodities for the manufacture of any material determined pursuant to section 2 of this Act to be strategic and critical or substitutes therefor.

"Sec. 8. For the procurement, transportation, maintenance, rotation, storage, and refining or processing of the materials to be acquired under this Act, there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as the Congress, from time to time, may deem necessary to carry out the provisions of this Act. The funds so appropriated, including the funds heretofore appropriated, shall remain available to carry out the purposes for which appropriated until expended, and shall be expended under the joint direction of the Secretary of War and the Secretary of the Navy.

"Sec. 9. Any funds heretofore or hereafter received on account of sales or other dispositions of materials under the provisions of this Act, except funds received on account of the rotation of stocks, shall be covered into the Treasury as miscellaneous receipts.

"Sec. 10. This Act may be cited as the 'Strategic and Critical Materials Stock Piling Act'."

Approved July 23, 1946.



THE DEFENSE PRODUCTION ACT OF 1950,¹ AS AMENDED:²

AN ACT To establish a system of priorities and allocations for materials and facilities, authorize the seizure and control of such materials and facilities, provide financial assistance for expansion of productive capacity and supply, provide for price and wage stabilization, provide for the settlement of labor disputes, strengthen controls over credit, and by these measures facilitate the production of goods and services necessary for the national security, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles, may be cited as "the Defense Production Act of 1950."

TABLE OF CONTENTS

Title I.	Priorities and allocations.
Title II.	Authority to requisition and condemn. ³
Title III.	Expansion of productive capacity and supply.
Title IV.	Price and wage stabilization. ⁴
Title V.	Settlement of labor disputes. ⁵
Title VI.	Control of consumer and real estate credit. ⁶
Title VII.	General provisions.

DECLARATION OF POLICY

SEC. 2. In view of the present international situation and in order to provide for the national defense and national security, our mobilization effort continues to require some diversion of certain materials and facilities from civilian use to military and related purposes. It also requires the development of preparedness programs and the expansion of productive capacity and supply beyond the levels needed to meet the civilian demand, in order to reduce the time required for full mobilization in the event of an attack on the United States.

In order to insure productive capacity in the event of such an attack on the United States, it is the policy of the Congress to encourage the geographical dispersal of the industrial facilities of the United States in the interest of the national defense, and to discourage the concentration of such productive facilities within limited geographical areas which are vulnerable to attack by an enemy of the United States. In the construction of any Government-owned industrial facilities, in the rendition of any Government financial assistance for the construction, expansion, or improvement of any industrial facilities, and in the procurement of goods and services, under this or any other Act, each department and agency of the Executive Branch shall apply, under the coordination of the Office of Defense Mobilization, when practicable and consistent with existing law and the desirability for maintaining a sound economy, the principle of the geographical dispersal of such facilities in the interest of national defense. Nothing contained in this paragraph shall preclude the use of existing industrial facilities.

¹ Public Law 774, 81st Cong., 64 Stat. 795, Sept. 8, 1950, 50 U.S.C. App. 11201-2163.
² Joint Resolution of June 30, 1951, 75 Stat. 110; Defense Production Act Amendments of 1951, 65 Stat. 131, July 31, 1951; Defense Housing and Communities Program Act of 1951, 65 Stat. 131, July 31, 1951; Defense Production Act Amendments of 1952, 66 Stat. 295, June 30, 1952; Defense Production Act Amendments of 1953, 67 Stat. 122, June 30, 1953; Federal Employers' Liability Act of 1953, sec. 12(c)(1), 67 Stat. 120, June 30, 1953; Joint Resolution of June 30, 1953, 67 Stat. 225; Defense Production Act Amendments of 1954, 68 Stat. 549, August 1, 1954; Act of June 30, 1955, 69 Stat. 453; Act of June 30, 1955, 69 Stat. 211; Act of June 30, 1956, 70 Stat. 182; Small Business Act Amendments of 1951, sec. 1(b), 75 Stat. 607, Sept. 20, 1951; Act of June 30, 1952, 73 Stat. 112; Act of June 30, 1954, 78 Stat. 235; Act of June 30, 1956, 80 Stat. 135; Act of July 1, 1958, 82 Stat. 279; Act of Dec. 23, 1959, 83 Stat. 376; Act of June 30, 1970, 84 Stat. 367; Act of Aug. 1, 1970, 84 Stat. 604; Defense Production Act Amendments of 1972, 86 Stat. 86, June 30, 1972.

³ Authority to condemn added July 31, 1951; title terminated at the close of June 30, 1953.

⁴ Authority terminated at the close of April 30, 1953.

⁵ Control of consumer credit terminated June 30, 1952. Control of real estate credit terminated at the close of June 30, 1953.

3/ including

Public Law 93-426
93rd Congress, S. 3270
September 30, 1974

See Act

at appropriate places.

To amend the Defense Production Act of 1950 and to establish a National Commission on Supplies and Shortages Act of 1974.



THE JOINT COMMITTEE ON DEFENSE PRODUCTION

TITLE I—PRIORITIES AND ALLOCATIONS

Sec. 101. (a) The President is hereby authorized (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.

(b) The powers granted in this section shall not be used to control the general distribution of any material in the civilian market unless the President finds (1) that such material is a scarce and critical material essential to the national defense, and (2) that the requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship.

Sec. 102. In order to prevent hoarding, no person shall accumulate (1) in excess of the reasonable demands of business, personal, or home consumption, or (2) for the purpose of resale at prices in excess of prevailing market prices, materials which have been designated by the President as scarce materials or materials the supply of which would be threatened by such accumulation. The President shall order published in the Federal Register, and in such other manner as he may deem appropriate, every designation of materials the accumulation of which is unlawful and any withdrawal of such designation. In making such designations the President may prescribe such conditions with respect to the accumulation of materials in excess of the reasonable demands of business, personal, or home consumption as he deems necessary to carry out the objectives of this Act. This section shall not be construed to limit the authority conferred in sections 101 and 704 of this Act.

Sec. 103. Any person who willfully performs any act prohibited, or willfully fails to perform any act required, by the provisions of this title or any rule, regulation, or order thereunder, shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than one year, or both.

Sec. 104. [The authority contained in this section was added by the Defense Production Act Amendments of 1951, 65 Stat. 132, July 31, 1951. The authority was terminated at the close of June 30, 1953, by section 11 of the Defense Production Act Amendments of 1953, 67 Stat. 131, June 30, 1953.]

TITLE II—AUTHORITY TO REQUISITION AND CONDEMN

[The authority to condemn was added by section 102 of the Defense Production Act Amendments of 1951, 65 Stat. 132-133, July 31, 1951. The title was terminated at the close of June 30, 1953, by section 11 of the Defense Production Act Amendments of 1953, 67 Stat. 131, June 30, 1953.]

TITLE III—EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

Sec. 301. (a) In order to expedite production and deliveries or services under Government contracts, the President may authorize, subject to such regulations as he may prescribe, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Commerce, and such other agencies of the United States engaged in procurement for the national defense as he may designate (hereinafter referred to as "guaranteeing agencies"), without regard to provisions of law relating to the making, performance, amendment, or modification of contracts, to guarantee in whole or in part any public or private financing institution (including any Federal Reserve bank), by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made by such financing institution for the purpose of financing any contractor, subcontractor, or other person in connection with the performance of any contract or other operation deemed by the guaranteeing agency to be necessary to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense, or for the purpose of financing any contractor, subcontractor, or other person in connection



THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

tion with or in contemplation of the termination, in the interest of the United States, of any contract made for the national defense; but no small-business concern (as defined in section 714(a)(1) of this Act) shall be held ineligible for the issuance of such a guaranty by reason of alternative sources of supply.

(b) Any Federal agency or any Federal Reserve bank, when designated by the President, is hereby authorized to act, on behalf of any guaranteeing agency, as fiscal agent of the United States in the making of such contracts of guarantee and in otherwise carrying out the purposes of this section. All such funds as may be necessary to enable any such fiscal agent to carry out any guarantee made by it on behalf of any guaranteeing agency shall be supplied and disbursed by or under authority from such guaranteeing agency. No such fiscal agent shall have any responsibility or accountability except as agent in taking any action pursuant to or under authority of the provisions of this section. Each such fiscal agent shall be reimbursed by each guaranteeing agency for all expenses and losses incurred by such fiscal agent in acting as agent on behalf of such guaranteeing agency, including among such expenses, notwithstanding any other provision of law, attorneys' fees and expenses of litigation.

(c) All actions and operations of such fiscal agents under authority of or pursuant to this section shall be subject to the supervision of the President, and to such regulations as he may prescribe; and the President is authorized to prescribe, either specifically or by maximum limits or otherwise, rates of interest, guarantee and commitment fees, and other charges which may be made in connection with loans, discounts, advances, or commitments guaranteed by the guaranteeing agencies through such fiscal agents, and to prescribe regulations governing the forms and procedures (which shall be uniform to the extent practicable) to be utilized in connection with such guarantees.

(d) Each guaranteeing agency is hereby authorized to use for the purposes of this section any funds which have heretofore been appropriated or allocated or which hereafter may be appropriated or allocated to it, or which are or may become available to it, for such purposes or for the purpose of meeting the necessities of the national defense.

(e) (1) Except with the approval of the Congress, the maximum obligation of any guaranteeing agency under any loan, discount, advance, or commitment in connection therewith, entered into under this section shall not exceed \$20,000,000.

(2) The authority conferred by this section shall not be used primarily to prevent the financial insolvency or bankruptcy of any person, unless

(A) the President certifies that the insolvency or bankruptcy would have a direct and substantially adverse effect upon defense production; and

(B) a copy of such certification, together with a detailed justification thereof, is transmitted to the Congress and to the Committees on Banking and Currency of the respective Houses at least ten days prior to the exercise of that authority for such use.

SEC. 302. To expedite production and deliveries or services to aid in carrying out Government contracts for the procurement of materials or the performance of services for the national defense, the President may make provision for loans (including participations in or guarantees of loans) to any person or enterprise (including a partnership or corporation) not organized for profit and the expansion of capacity, the replacement of equipment, or the production of essential materials, products, or information, development, and shipment of strategic and critical metals and minerals, and manufacture of newsprint. Such loans may be made without regard to the limitations of existing law and on such terms and conditions as the President deems necessary, except that financial assistance may be extended only to the extent that it is not otherwise available on reasonable terms.

SEC. 303. (a) To assist in carrying out the objectives of this Act, the President may make provision (1) for purchases of or commitments to purchase metals, minerals, and other materials for Government use or resale; and (2) for the encouragement of exportation, development, and mining of critical and strategic minerals and products; provided, however, that purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced except insofar as such com-

* Subsection (e) of Section 301 added by Defense Production Act Amendments of 1970, supra.

THE JOINT COMMITTEE ON DEFENSE PRODUCTION

tically produced supply may be purchased for resale for industrial uses or stockpiling, and no commodity purchased under this subsection shall be sold at less than the established ceiling price for such commodity (except that minerals and metals shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower) or, if no ceiling price has been established, the higher of the following: (i) The current domestic market price for such commodity, or (ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation as provided in section 407 of Public Law 430, 81st Congress: *Provided further, however*, That no purchase or commitment to purchase any imported agricultural commodity shall be made calling for delivery more than one year after the expiration of this Act.

(b) Subject to the limitations in subsection (a), purchases and commitments to purchase and sales under such subsection may be made without regard to the limitations of existing law, for such quantities, and on such terms and conditions, including advance payments, and for such periods, but not extending beyond June 30, 1955⁴⁴, as the President deems necessary, except that purchases or commitments to purchase involving higher than established ceiling prices (or if there be no established ceiling prices, currently prevailing market prices) or anticipated loss on resale shall not be made unless it is determined that supply of the materials could not be effectively increased at lower prices or on terms more favorable to the Government, or that such purchases are necessary to assure the availability to the United States of overseas supplies.

(c) If the President finds—

(1) that under generally fair and equitable ceiling prices for any raw or unprocessed material, there will result a decrease in supplies from high-cost sources of such material, and that the continuation of such supplies is necessary to carry out the objectives of the Act; or

(2) that an increase in cost of transportation is temporary in character and threatens to impair maximum production or supply in any area at stable prices of any materials,

he may make provision for subsidy payments on any such domestically produced material other than an agricultural commodity in such amounts and in such manner (including purchases of such material and its resale at a loss without regard to the limitations of existing law), and on such terms and conditions, as he determines to be necessary to insure that supplies from such high-cost sources are continued, or that maximum production or supply in such area at stable prices of such materials is maintained, as the case may be.

(d) The procurement power granted to the President by this section shall include the power to transport and store and have processed and refined any materials procured under this section.

(e) When in his judgment it will aid the national defense, the President is authorized to install additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the United States Government, and to install Government owned equipment in plants, factories, and other industrial facilities owned by private persons.

(f) Notwithstanding any other provision of law to the contrary, metals, minerals, and materials acquired pursuant to the provisions of this section which, in the judgment of the President, are excess to the needs of programs under this Act, shall be transferred to the national stockpile established pursuant to the Act of June 7, 1950, as amended (50 U.S.C. 98-98h), when the President deems such action to be in the public interest.

Transfers made pursuant to this subsection shall be made without charge against or reimbursement from funds available under such act of June 7, 1950, as amended, except that costs incident to such transfer other than acquisition costs shall be paid or reimbursed from such funds, and the acquisition costs of such metals, minerals, and materials transferred shall be deemed to be net losses incurred by the transferring agency and the notes payable issued to the Secretary of the Treasury representing the amounts thereof shall be canceled. Upon the cancellation of any such notes the aggregate amount of borrowing which may be outstanding at any one time under section 304(b) of this Act, as amended, shall be reduced in an amount equal to the amount of any notes so canceled.

(g) When in his judgment it will aid the national defense, and upon a certification by the Secretary of Agriculture or the Secretary of the Interior that

⁴⁴ Extended from 1975 by Defense Production Act Amendments of 1972, June 30, 1972, 86 Stat. 330.

THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

a particular strategic and critical material is likely to be in short supply in time of war or other national emergency, the President may make provision for the development of substitutes for such strategic and critical materials.

Sec. 304. (a) For the purposes of sections 302 and 303, the President is hereby authorized to utilize such existing departments, agencies, officials, or corporations of the Government as he may deem appropriate, or to create new agencies (other than corporations).

(b) Any agency created under this section, and any department, agency, official, or corporation utilized pursuant to this section is authorized, subject to the approval of the President, to borrow from the Treasury of the United States, such sums of money as may be necessary to carry out its functions under sections 302 and 303. *Provided*, That the amount borrowed under the provisions of this section by all such borrowers shall not exceed an aggregate of \$2,100,000,000 outstanding at any one time: *Provided further*, That when any contract, agreement, loan, or other transaction heretofore or hereafter entered into pursuant to section 302 or 303 imposes contingent liability upon the United States, such liability shall be considered for the purposes of sections 3079 and 3732 of the Revised Statutes, as amended, as an obligation only to the extent of the probable ultimate net cost to the United States under such transaction; and the President shall submit a report to the Congress not less often than once each year¹ setting forth the gross amount of each such transaction entered into by any agency of the United States Government under this authority and the basis for determining the probable ultimate net cost to the United States hereunder. For the purpose of borrowing as authorized by this subsection, the borrower may issue to the Secretary of the Treasury its notes, debentures, bonds, or other obligations to be redeemable at its option before maturity in such manner as may be stipulated in such obligations. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of the obligations: *Provided*, That no new purchases or commitments to purchase under section 303 shall be made or entered into after June 30, 1964 (except purchases made pursuant to commitments entered into on or before such date), unless the President makes a finding that such new purchases or commitments are essential to the national security: *Provided further*, That the total of such new purchases and commitments, including contingent liabilities, made or incurred under section 303 after June 30, 1964, shall not exceed \$100,000,000. The Secretary of the Treasury is authorized and directed to purchase such obligations and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include any purchases of obligations hereunder.

TITLE IV—PRICE AND WAGE STABILIZATION

[Title terminated at the close of April 30, 1953, by section 121(b) of the Defense Production Act Amendments of 1952, 66 Stat. 306, June 30, 1952.]

TITLE V—SETTLEMENT OF LABOR DISPUTES

[Title terminated at the close of April 30, 1953, by section 121(b) of the Defense Production Act Amendments of 1952, 66 Stat. 306, June 30, 1952.]

TITLE VI—CONTROL OF CONSUMER AND REAL ESTATE CREDIT

[Authority for the control of consumer credit terminated June 30, 1952, by section 116(a) of the Defense Production Act Amendments of 1952, 66 Stat. 305, June 30, 1952.]

[Authority for the control of real estate credit terminated at the close of June 30, 1953, by section 11 of the Defense Production Act Amendments of 1953, 67 Stat. 131, June 30, 1953.]

¹ Public Law 89-348, Nov. 8, 1965, sec. 2(8).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Defense Production Act Amendments of 1974".

Sec. 2. (a) Subsection (b) of section 304 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2094), is repealed.

(b) Such section 304 is amended by adding at the end thereof the following new subsections:

"(b) The Secretary of the Treasury is authorized and directed to cancel the outstanding balance of all unpaid notes issued to the Secretary of the Treasury pursuant to this section, together with interest accrued and unpaid on such notes.

"(c) Any cash balance remaining on June 30, 1974, in the borrowing authority previously authorized by this section, and any funds thereafter received on transactions heretofore or hereafter entered into pursuant to sections 302 and 303 shall be covered into the Treasury as miscellaneous receipts."

FROM: PL
93-426
Defense Production Act Amendments of 1974.
50 USC app. 2094 note.
Repeal.
69 STAT. 1166
89 STAT. 1167

50 USC app. 2092, 2093.

THE JOINT COMMITTEE ON DEFENSE PRODUCTION

TITLE VII—GENERAL PROVISIONS

SEC. 701. (a) It is the sense of the Congress that small-business enterprises be encouraged to make the greatest possible contribution toward achieving the objectives of this Act.

(b) In order to carry out this policy—

(i) the President shall provide small-business enterprises with full information concerning the provisions of this Act relating to, or of benefit to, such enterprises and concerning the activities of the various departments and agencies under this Act;

(ii) such business advisory committees shall be appointed as shall be appropriate for purposes of consultation in the formulation of rules, regulations, or orders, or amendments thereto issued under authority of this Act, and in their formation there shall be fair representation for independent small, for medium, and for large business enterprises, for different geographical areas, for trade association members and nonmembers, and for different segments of the industry;

(iii) in administering this Act, such exemptions shall be provided for small-business enterprises as may be feasible without impeding the accomplishment of the objectives of this Act; and

(iv) in administering this Act, special provision shall be made for the expeditious handling of all requests, applications, or appeals from small-business enterprises.

(c) Whenever the President invokes the powers given him in this Act to allocate any material in the civilian market, he shall do so in such a manner as to make available, so far as practicable, for business and various segments thereof in the normal channel of distribution of such material, a fair share of the available civilian supply based, so far as practicable, on the share received by such business under normal conditions during a representative period preceding any future allocation of materials: *Provided*, That the President shall, in the allocation of materials in the civilian market, give due consideration to the needs of new concerns and newly acquired operations, undue hardships of individual businesses, and the needs of smaller concerns in an industry.

(d) In order to further the objectives and purposes of this section, the Office of Defense Mobilization is directed to investigate the distribution of defense contracts with particular reference to the share of such contracts which has gone and is now going to small business, either directly or by subcontract; to review the policies, procedures, and administrative arrangements now being followed in order to increase participation by small business in the mobilization program; to explore all practical ways, whether by amendments to laws, policies, regulations, or administrative arrangements, or otherwise, to increase the share of defense procurement going to small business; to get from the departments and agencies engaged in procurement, and from other appropriate agencies including the Small Business Administration, their views and recommendations on ways to increase the share of procurements going to small business; and to make a report to the President and the Congress, not later than six months after the enactment of the Defense Production Act Amendments of 1955, which report shall contain the following: (i) a full statement of the steps taken by the Office of Defense Mobilization in making investigations required by this subsection; (ii) the findings of the Office of Defense Mobilization with respect to the share of procurement which has gone and is now going to small business; (iii) a full and complete statement of the actions taken by the Office of Defense Mobilization and other agencies to increase such small business share; (iv) a full and complete statement of the recommendations made by the procurement agencies and other agencies consulted by the Office of Defense Mobilization; and (v) specific recommendations by the Office of Defense Mobilization for further action to increase the share of procurement going to small business.

SEC. 702. As used in this Act—

(a) The word "person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing: *Provided*, That no punishment provided by this Act shall apply to the United States, or to any such government, political subdivision, or government agency.

THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

(b) The word "materials" shall include raw materials, articles, commodities, products, supplies, components, technical information, and processes.

(c) The word "facilities" shall not include farms, churches or other places of worship, or private dwelling houses.

(d) The term "national defense" means programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity.

(e) The words "wages, salaries, and other compensation" shall include all forms of remuneration to employees by their employers for personal services, including, but not limited to, vacation and holiday payments, night shift and other bonuses, incentive payments, year-end bonuses, employer contributions to or payments of insurance or welfare benefits, employer contributions to a pension fund or annuity, payments in kind, and premium overtime payments.

(f) The term "defense contractor" means any person who enters into a contract with the United States for the production of material or the performance of services for the national defense.

SEC. 703. (a) Except as otherwise specifically provided, the President may delegate any power or authority conferred upon him by this Act to any officer or agency of the Government, including any new agency or agencies (and the President is hereby authorized to create such new agencies, other than corporate agencies, as he deems necessary), and he may authorize such delegations by that officer or agency as the President may deem appropriate. The President is authorized to appoint heads and assistant heads of any such new agencies, and other officials therein of comparable status, and to fix their compensation, without regard to the Classification Act of 1949, as amended, the head of one such agency to be paid at a rate comparable to the compensation paid to the heads of executive departments of the Government and other such heads, assistant heads, and officials at rates comparable to the compensation paid to the heads and assistant heads of independent agencies of the Government. Any officer or agency may employ civilian personnel for duty in the United States, including the District of Columbia, or elsewhere, without regard to section 14 of the Federal Employees Pay Act of 1946 (60 Stat. 219), as the President deems necessary to carry out the provisions of this Act.

(b) The head and assistant heads of any independent agency created to administer the authority conferred by title IV of this Act shall be appointed by the President, by and with the advice and consent of the Senate. There shall be included among the policy-making officers of each regional office administering the authority conferred by title IV of this Act a resident of each State served by such office whose Governor requests such representation.

SEC. 704. The President may make such rules, regulations, and orders as he deems necessary or appropriate to carry out the provisions of this Act. Any regulation or order under this Act may be established in such form and manner, may contain such classification and differentiations, and may provide for such adjustments and reasonable exceptions as in the judgment of the President are necessary or proper to effectuate the purposes of this Act, or to prevent circumvention or evasion, or to facilitate enforcement of this Act, or any rule, regulation, or order issued under this Act. No rule, regulation, or order issued under this Act which restricts the use of natural gas (either directly or by restricting the use of facilities for the consumption of natural gas, or in any other manner) shall apply in any State in which a public regulatory agency has authority to restrict the use of natural gas and certifies to the President that it is exercising that authority to the extent necessary to accomplish the objectives of this Act.

SEC. 705. (a) The President shall be entitled, while this Act is in effect and for a period of two years thereafter, by regulation, subpoena, or otherwise, to obtain such information from, require such reports and 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, and administer oaths and affirmations to, any person as may be necessary or appropriate, in his discretion, to the enforcement or the administration of this Act and the regulations or orders issued thereunder. The President shall issue regulations insuring that the authority of this subsection will be utilized only after the scope and purpose of the investigation, inspection, or inquiry to be made have been defined by competent authority, and it is assured that no adequate and authoritative data are available from

* Subsection (f) added by Defense Production Act Amendments of 1970, *supra*.

THE JOINT COMMITTEE ON DEFENSE PRODUCTION

any Federal or other responsible agency. In case of contumacy by, or refusal to obey a subpoena served upon, any person referred to in this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the President, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, 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 requirement under this section or from attending and testifying or from producing books, papers, documents, and other evidence in obedience to a subpoena before any grand jury or in any court or administrative proceeding based upon or growing out of any alleged violation of this Act on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to penalty or forfeiture; but no natural person shall be prosecuted or subjected to any penalty or forfeiture in any court, for or on account of any transaction, matter, or thing concerning which he is so compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such natural person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying: *Provided*, That the immunity granted herein from prosecution and punishment and from any penalty or forfeiture shall not be construed to vest in any individual any right to priorities assistance, to the allocation of materials, or any other benefit which is within the power of the President to grant under any provision of this Act.

(c) The production of a person's books, records, or other documentary evidence shall not be required at any place other than the place where such person usually keeps them, if, prior to the return date specified in the regulations, subpoena, or other document issued with respect thereto, such person furnishes the President with a true copy of such books, records, or other documentary evidence (certified by such person under oath to be a true and correct copy) or enters into a stipulation with the President as to the information contained in such books, records, or other documentary evidence. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(d) Any person who willfully performs any act prohibited or willfully fails to perform any act required by the above provisions of this section, or any rule, regulation, or order thereunder, shall upon conviction be fined not more than \$1,000 or imprisoned for not more than one year or both.

(e) Information obtained under this section which the President deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information shall not be published or disclosed unless the President determines that the withholding thereof is contrary to the interest of the national defense, and any person willfully violating this provision shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than one year, or both.

All information obtained by the Office of Price Stabilization under this section 705, as amended, and not made public prior to April 30, 1953, shall be deemed confidential and shall not be published or disclosed, either to the public or to another Federal agency except the Congress or any duly authorized committee thereof, and except the Department of Justice for such use as it may deem necessary in the performance of its functions, unless the President determines that the withholding thereof is contrary to the interests of the national defense, and any person willfully violating this provision shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(f) Any person subpoenaed under this section shall have the right to make a record of his testimony and to be represented by counsel.

Sec. 706. (a) Whenever in the judgment of the President any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act, he may make application to the appropriate court for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, and upon a showing by the President that such person has engaged or is about to engage in any such acts or practices a permanent or temporary injunction, restraining order, or other order, with or without such injunction or restraining order, shall be granted without bond.

THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

(b) The district courts of the United States and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction of violations of this Act or any rule, regulation, order, or subpoena thereunder, and of all civil actions under this Act to enforce any liability or duty created by, or to enjoin any violation of, this Act or any rule, regulation, order, or subpoena thereunder. Any criminal proceeding on account of any such violation may be brought in any district in which any act, failure to act, or transaction constituting the violation occurred. Any such civil action may be brought in any such district or in the district in which the defendant resides or transacts business. Process in such cases, criminal or civil, may be served in any district wherein the defendant resides or transacts business or wherever the defendant may be found; the subpoena for witnesses who are required to attend a court in any district in such case may run into any other district. The termination of the authority granted in any title or section of this Act, or of any rule, regulation, or order issued thereunder, shall not operate to defeat any suit, action, or prosecution, whether theretofore or thereafter commenced, with respect to any right, liability, or offense incurred or committed prior to the termination date of such title or of such rule, regulation, or order. No costs shall be assessed against the United States in any proceeding under this Act. All litigation arising under this Act or the regulations promulgated thereunder shall be under the supervision and control of the Attorney General.

Sec. 707. No person shall be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with a rule, regulation, or order issued pursuant to this Act notwithstanding that any such rule, regulation, or order shall thereafter be declared by judicial or other competent authority to be invalid. No person shall discriminate against orders or contracts to which priority is assigned or for which materials or facilities are allocated under title I of this Act or under any rule, regulation, or order issued thereunder, by charging higher prices or by imposing different terms and conditions for such orders or contracts than for other generally comparable orders or contracts, or in any other manner.

Sec. 708. (a) The President is authorized to consult with representatives of industry, business, financing, agriculture, labor, and other interests, with a view to encouraging the making by such persons with the approval by the President of voluntary agreements and programs to further the objectives of this Act.

(b) No act or omission to act pursuant to this Act which occurs while this Act is in effect, if requested by the President pursuant to a voluntary agreement or program approved under subsection (a) and found by the President to be in the public interest as contributing to the national defense shall be construed to be within the prohibition of the antitrust laws or the Federal Trade Commission Act of the United States.*

(c) The authority granted in subsection (b) shall be delegated only (1) to officials who shall for the purpose of such delegation be required to be appointed by the President by and with the advice and consent of the Senate, unless otherwise required to be so appointed, and (2) upon the condition that such officials consult with the Attorney General and with the Chairman of the Federal Trade Commission not less than ten days before making any request or finding thereunder, and (3) upon the condition that such officials obtain the approval of the Attorney General to any request thereunder before making the request. For the purpose of carrying out the objectives of title I of this Act, the authority granted in subsection (b) of this section shall not be delegated except to a single official of the Government.

(d) Upon withdrawal of any request or finding made hereunder, or upon withdrawal by the Attorney General of his approval of the voluntary agreement or program on which the request or finding is based, the provisions of this section shall not apply to any subsequent act or omission to act by reason of such finding or request.

(e) The Attorney General is directed to make, or request the Federal Trade Commission to make for him, surveys for the purpose of determining any factors which may tend to eliminate competition, create or strengthen monopolies, in-

* The original Defense Production Act of 1950, Public Law 774, 81st Cong. (64 Stat. 798, Sept. 8, 1950), provided under Section 708(b) exemption from prohibition of the antitrust laws and the Federal Trade Commission. The Defense Production Act Amendments of 1955 (69 Stat. 580, Aug. 9, 1955), inserted a proviso limiting the application of the exemption. This proviso was repealed by Public Law 91-151 (83 Stat. 376, Dec. 23, 1969).

THE JOINT COMMITTEE ON DEFENSE PRODUCTION

jure small business, or otherwise promote undue concentration of economic power in the course of the administration of this Act. Such surveys shall include studies of the voluntary agreements and programs authorized by this section. The Attorney General shall submit to the Congress and the President at least once every year¹⁰ reports setting forth the results of such studies of voluntary agreements and programs authorized by this section.¹¹

SEC. 709. The functions exercised under this Act shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) except as to the requirements of section 3 thereof. Any rule, regulation, or order, or amendment thereto, issued under authority of this Act shall be accompanied by a statement that in the formulation thereof there has been consultation with industry representatives, including trade association representatives, and that consideration has been given to their recommendations, or that special circumstances have rendered such consultation impracticable or contrary to the interest of the national defense, but no such rule, regulation, or order shall be invalid by reason of any subsequent finding by judicial or other authority that such a statement is inaccurate.

SEC. 710(a). [Subsec. (a) was repealed by section 12(c)(1) of the Federal Employees Salary Increase Act of 1955, 69 Stat. 150, June 25, 1955.]

(b) (1) The President is further authorized, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act, and subject to such regulations as he may issue, to employ persons of outstanding experience and ability without compensation;

(2) The President shall be guided in the exercise of the authority provided in this subsection by the following policies—

(i) So far as possible, operations under the Act shall be carried on by full-time salaried employees of the Government, and appointments under this authority shall be to advisory or consultative positions only.

(ii) Appointments to positions other than advisory or consultative may be made under this authority only when the requirements of the positions are such that the incumbent must personally possess outstanding experience and ability not obtainable on a full-time, salaried basis.

(iii) In the appointment of personnel and in assignment of their duties, the head of the department or agency involved shall take steps to avoid, to as great an extent as possible, any conflict between the governmental duties and the private interests of such personnel.

(3) Appointees under this subsection (b) shall, when policy matters are involved, be limited to advising appropriate full-time salaried Government officials who are responsible for making policy decisions.

(4) Any person employed under this subsection (b) is hereby exempted, with respect to such employment, from the operation of sections 251, 253, 254, 434, and 1914 of title 18, United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99),¹² except that—

(i) exemption hereunder shall not extend to the negotiation or execution, by such appointee, of Government contracts with the private employer of such appointee or with any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

(ii) exemption hereunder shall not extend to making any recommendation or taking any action with respect to individual applications to the Government for relief or assistance, on appeal or otherwise, made by the private employer of the appointee or by any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

(iii) exemption hereunder shall not extend to the prosecution by the appointee, or participation by the appointee in any fashion in the prosecution, of any claims against the Government involving any matter concerning which the appointee had any responsibility during his employment under this subsection, during the period of such employment and the further period of two years after the termination of such employment; and

¹⁰ Public Law 80-348; Nov. 8, 1965, see sec. 2(10).

¹¹ Public Law 91-151 (83 Stat. 378, 380) repealed Section 705(f) which contained a prohibition against credit controls by voluntary programs or agreements enacted in the Defense Production Act Amendments of 1952 (66 Stat. 296, June 30, 1952).

¹² These sections were repealed and supplanted by sections 203-209 of title 18 of the United States Code; see sections 2 and 3 of Public Law 87-849, October 23, 1962 (76 Stat. 1110, 1120).

THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

(iv) exemption hereunder shall not extend to the receipt or payment of salary in connection with the appointee's Government service hereunder from any source other than the private employer of the appointee at the time of his appointment hereunder.

(5) Appointments under this subsection (b) shall be supported by written certification by the head of the employing department or agency—

(i) that the appointment is necessary and appropriate in order to carry out the provisions of the Act;

(ii) that the duties of the position to which the appointment is being made require outstanding experience and ability;

(iii) that the appointee has the outstanding experience and ability required by the position; and

(iv) that the department or agency head has been unable to obtain a person with the qualifications necessary for the position on a full-time salaried basis.

(6) The heads of the departments or agencies making appointments under this subsection (b) shall file with the Division of the Federal Register for publication in the Federal Register a statement including the name of the appointee, the employing department or agency, the title of his position and the name of his private employer, and the appointee shall file with such Division for publication in the Federal Register a statement listing the names of any corporations of which he is an officer or director or within 60 days preceding his appointment has been an officer or director, or in which he owns, or within 60 days preceding his appointment has owned, any stocks, bonds, or other financial interests and the names of any partnerships in which he is, or was within 60 days preceding his appointment, a partner, and the names of any other businesses in which he owns, or within such 60-day period has owned, any similar interest. At the end of each succeeding 6-month period the appointee shall file with such Division for publication in the Federal Register a statement showing any changes in such interests during such period.

(7) At least once every year,¹³ the Chairman of the United States Civil Service Commission shall survey appointments made under this subsection and shall report his findings to the President and the Joint Committee on Defense Production and make such recommendations as he may deem proper.

(8) Persons appointed under the authority of this subsection may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence while away from their homes or regular places of business pursuant to such appointment.

(c) The President is authorized, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act, to employ experts and consultants or organizations thereof, as authorized by section 55a of title 5 of the United States Code. Individuals so employed may be compensated at rates not in excess of \$50 per diem and while away from their homes or regular places of business they may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence and other expenses while so employed. The President is authorized to provide by regulation for the exemption of such persons from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U.S.C. 93).¹⁴

(d) The President may utilize the services of Federal, State, and local agencies and may utilize and establish such regional, local, or other agencies, and utilize such voluntary and uncompensated services, as may from time to time be needed; and he is authorized to provide by regulation for the exemption of persons whose services are utilized under this subsection from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U.S.C. 93).¹⁴

(e) The President is further authorized to provide for the establishment and training of a nucleus executive reserve for employment in executive positions in Government during periods of emergency. Members of this executive reserve who are not full-time Government employees may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence while away from their homes or regular places of business for the purpose of participating in the executive reserve training program. The President is authorized to provide by

¹³ Public Law 80-348, Nov. 8, 1965, section 2(11).

¹⁴ These sections were repealed and supplanted by sections 203-209 of title 18 of the United States Code; see section 2 and 3 of Public Law 87-849, Oct. 23, 1962 (76 Stat. 1119, 1126).

THE JOINT COMMITTEE ON DEFENSE PRODUCTION

regulation for the exemption of such persons who are not full-time Government employees from the operation of sections 261, 263, 264, 434, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U.S.C. 93)."

(f) Whoever, being an officer or employee of the United States or any department or agency thereof (including any Member of the Senate or House of Representatives), receives, by virtue of his office or employment, confidential information, and (1) uses such information in speculating directly or indirectly on any commodity exchange, or (2) discloses such information for the purpose of aiding any other person so to speculate, shall be fined not more than \$10,000 or imprisoned not more than one year, or both. As used in this section, the term "speculate" shall not include a legitimate hedging transaction, or a purchase or sale which is accompanied by actual delivery of the commodity.

(g) The President, when he deems such action necessary, may make provision for the printing and distribution of reports, in such number and in such manner as he deems appropriate, concerning the actions taken to carry out the objectives of this Act.

SEC. 711. There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes of this Act by the President and such agencies as he may designate or create. Funds made available for the purposes of this Act may be allocated or transferred for any of the purposes of this Act, with the approval of the Bureau of the Budget, to any agency designated to assist in carrying out this Act. Funds so allocated or transferred shall remain available for such period as may be specified in the Acts making such funds available.

SEC. 712. (a) There is hereby established a joint congressional committee to be known as the Joint Committee on Defense Production (hereinafter referred to as the committee), to be composed of ten members as follows:

(1) Five members who are members of the Committee on Banking and Currency of the Senate, three from the majority and two from the minority party, to be appointed by the chairman of the committee; and

(2) Five members who are members of the Committee on Banking and Currency of the House of Representatives, three from the majority and two from the minority party, to be appointed by the chairman of the committee.

A vacancy in the membership of the committee shall be filled in the same manner as the original selection. The committee shall elect a chairman and a vice chairman from among its members, one of whom shall be a Member of the Senate and the other a Member of the House of Representatives.

(b) It shall be the function of the committee to make a continuous study of the programs and of the fairness to consumers of the prices authorized by this

See below.



THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

(f) The Secretary of Commerce shall make a special investigation and study of the production, allocation, distribution, use of nickel, of its resale as scrap, and of other aspects of the current situation with respect to supply and marketing of nickel, with particular attention to, among other things, the adequacy of the present system of nickel allocation between defense and civilian users. The Secretary of Commerce shall consult with the Joint Committee on Defense Production during the course of such investigation and study with respect to the progress achieved and the results of the investigation and study, and shall make an interim report on the results of the investigation and study on or before August 15, 1956, and shall, on or before December 31, 1956, make a final report on the results of such investigation and study, together with such recommendations as the Secretary of Commerce deems advisable. Such reports shall be made to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House of Representatives if the House is not in session).

SEC. 713. The provisions of this Act shall be applicable to the United States, its Territories and possessions, and the District of Columbia.

SEC. 714. [The Small Defense Plants Administration created by this section, added by the Defense Production Act amendments of 1951, was terminated at the close of July 31, 1953, and was succeeded by the Small Business Administration created under the Small Business Act of 1953. For purposes of section 301(a) of this Act, section 714(a)(1) defined a small-business concern thusly: "... a small-business concern shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation." and provided that, "The Administration, in making a detailed definition, may use these criteria, among others: independency of ownership and operation, number of employees, dollar volume of business, and nondominance in its field."]

SEC. 715. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 716. That no person may be employed under this Act who engages in a strike against the Government of the United States or who is a member of an organization of Government employees that asserts the right to strike against the Government of the United States, or who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence: *Provided*, That for the purposes hereof an affidavit shall be considered prima facie evidence that the person making the affidavit has not contrary to the provisions of this section engaged in a strike against the Government of the United States, is not a member of an organization of Government employees that asserts the right to strike against the Government of the United States or that such person does not advocate, and is not a member of an organization that advocates, the overthrow of the Government of the United States by force or violence: *Provided further*, That any person who engages in a strike against the Government of the United States or who is a member of an organization of Government employees that asserts the right to strike against the Government of the United States, or who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence and accepts employment the salary or wages for which are paid from any appropriation or fund contained in this Act shall be guilty of a felony and, upon conviction, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penalty clause shall be in addition to, and not in substitution for, any other provisions of existing law.

SEC. 717. (a) Title I (except section 104), title III, and title VII (except sections 708,¹⁹ 714 and 719) of this Act, and all authority conferred thereunder shall terminate at the close of June 30, 1974.²⁰ Section 714 of this Act, and all authority conferred thereunder, shall terminate at the close of July 31, 1953. Section 104, title II, and title VI of this Act, and all authority conferred thereunder, shall terminate at the close of June 30, 1953. Title IV and V of this Act, and all authority conferred thereunder, shall terminate at the close of April 30, 1953.

(b) Notwithstanding the foregoing—

¹⁹ Authority of the President to approve certain voluntary agreements made permanent, May 18, 1951, by 85 Stat. 35.

²⁰ The Defense Production Act was granted two simple extensions as follows: to July 30, 1970, 84 Stat. 267 and to August 15, 1970, 84 Stat. 624. The Act was further extended as follows: to June 30, 1972, 84 Stat. 756 and to June 30, 1974, 85 Stat. 390.

SEC. 1. The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2163(a)) is amended by striking out "June 30, 1974" and inserting in lieu thereof "June 30, 1975".

FROM:
SEL 4
PL 93-126

THE JOINT COMMITTEE ON DEFENSE PRODUCTION

(1) The Congress by concurrent resolution or the President by proclamation may terminate this Act prior to the termination otherwise provided therefor.

(2) The Congress may also provide by concurrent resolution that any section of this Act and all authority conferred thereunder shall terminate prior to the termination otherwise provided therefor.

(3) Any agency created under this Act may be continued in existence for purposes of liquidation for not to exceed six months after the termination of the provision authorizing the creation of such agency.

(c) The termination of any section of this Act, or of any agency or corporation utilized under this Act, shall not affect the disbursement of funds under, or the carrying out of, any contract, guarantee, commitment or other obligation entered into pursuant to this Act prior to the date of such termination, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this Act, or the taking of any action (including the making of new guarantees) deemed by a guaranteeing agency to be necessary to accomplish the orderly liquidation, adjustment, or settlement of any loans guaranteed under this Act, including actions deemed necessary to avoid undue hardship to borrowers in reconvertng to normal civilian production; and all of the authority granted to the President, guaranteeing agencies, and fiscal agents, under section 391 of this Act shall be applicable to actions taken pursuant to the authority contained in this subsection.

Notwithstanding any other provision of this Act, the termination of title VI or any section thereof shall not be construed as affecting any obligation, condition, liability, or restriction arising out of any agreement heretofore entered into pursuant to, or under the authority of, section 602 or section 605 of this Act, or any issuance thereunder, by any person or corporation and the Federal Government or any agency thereof relating to the provision of housing for defense workers or military personnel in an area designated as a critical defense housing area pursuant to law.

(d) No action for the recovery of any cooperative payment made to a cooperative association by a Market Administrator under an invalid provision of a milk marketing order issued by the Secretary of Agriculture pursuant to the Agricultural Marketing Agreement Act of 1937 shall be maintained unless such action is brought by producers specifically named as party plaintiffs to recover their respective share of such payments within ninety days after the date of enactment of the Defense Production Act Amendments of 1952 with respect to any cause of action heretofore accrued and not otherwise barred, or within ninety days after accrual with respect to future payments, and unless each claimant shall allege and prove (1) that he objected at the hearing to the provisions of the order under which such payments were made and (2) that he either refused to accept payments computed with such deduction or accepted them under protest to either the Secretary or the Administrator. The district courts of the United States shall have exclusive original jurisdiction of all such actions regardless of the amount involved. This subsection shall not apply to funds held in escrow pursuant to court order. Notwithstanding any other provision of this Act, no termination date shall be applicable to this subsection.

SEC. 718. The Comptroller General, in cooperation with the Secretary of Defense and the Director of the Bureau of the Budget, shall undertake a study to determine the feasibility of applying uniform cost accounting standards to be used in all negotiated prime contract and subcontract defense procurements of \$100,000 or more. In carrying out such study the Comptroller General shall consult with representatives of the accounting profession and with representatives of that segment of American industry which is actively engaged in defense contracting. The results of such study shall be reported to the Committees on Banking and Currency and the Committees on Armed Services of the Senate and House of Representatives at the earliest practicable date, but in no event later than eighteen months after the date of enactment of this section.³¹

COST-ACCOUNTING STANDARDS BOARD

SEC. 719.³² (a) There is established, as an agent of the Congress, a Cost-Accounting Standards Board which shall be independent of the executive departments and shall consist of the Comptroller General of the United States who

³¹ Sec. 718 added by Defense Production Act Amendments of 1965, July 1, 1968, 82 Stat. 279.

³² Sec. 719 added by Defense Production Act Amendments of 1970, *supra*, August 15, 1970.

THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

shall serve as Chairman of the Board and four members to be appointed by the Comptroller General. Of the members appointed to the Board, two, of whom one shall be particularly knowledgeable about the cost accounting problems of small business, shall be from the accounting profession, one shall be representative of industry, and one shall be from a department or agency of the Federal Government who shall be appointed with the consent of the head of the department or agency concerned. The term of office of each of the appointed members of the Board shall be four years, except that any member appointed to fill a vacancy in the Board shall serve for the remainder of the term for which his predecessor was appointed. Each member of the Board appointed from private life shall receive compensation at the rate of one two-hundred-sixtieth of the rate prescribed for level IV of the Federal Executive Salary Schedule for each day (including traveltime) in which he is engaged in the actual performance of duties vested in the Board.

(b) The Board shall have the power to appoint, fix the compensation of, and remove an executive secretary and two additional staff members without regard to chapter 51, subchapters III and VI of chapter 53, and chapter 75 of title 5, United States Code, and those provisions of such title relating to appointment in the competitive service. The executive secretary and the two additional staff members may be paid compensation at rates not to exceed the rates prescribed for levels IV and V of the Federal Executive Salary Schedule, respectively.

(c) The Board is authorized to appoint and fix the compensation of such other personnel as the Board deems necessary to carry out its functions.

(d) The Board may utilize personnel from the Federal Government (with the consent of the head of the agency concerned) or appoint personnel from private life without regard to chapter 51, subchapters III and VI of chapter 53, and chapter 75 of title 5, United States Code, and those provisions of such title relating to appointment in the competitive service, to serve on advisory committees and task forces to assist the Board in carrying out its functions and responsibilities under this section.

(e) Except as otherwise provided in subsection (a), members of the Board and officers or employees of other agencies of the Federal Government utilized under this section shall receive no compensation for their services as such but shall continue to receive the compensation of their regular positions. Appointees under subsection (d) from private life shall receive compensation at rates fixed by the Board, not to exceed one two-hundred-sixtieth of the rate prescribed for level V in the Federal Executive Salary Schedule for each day (including traveltime) in which they are engaged in the actual performance of their duties as prescribed by the Board. While serving away from their homes or regular place of business, Board members and other appointees serving on an intermittent basis under this section shall be allowed travel expenses in accordance with section 5703 of title 5, United States Code.

(f) All departments and agencies of the Government are authorized to cooperate with the Board and to furnish information, appropriate personnel with or without reimbursement, and such financial and other assistance as may be agreed to between the board and the department or agency concerned.

(g) The Board shall from time to time promulgate cost-accounting standards designed to achieve uniformity and consistency in the cost-accounting principles followed by defense contractors and subcontractors under Federal contracts. Such promulgated standards shall be used by all relevant Federal agencies and by defense contractors and subcontractors in estimating, accumulating, and reporting costs in connection with the pricing, administration and settlement of all negotiated prime contract and subcontract national defense procurements with the United States in excess of \$100,000, other than contracts or subcontracts where the price negotiated is based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. In promulgating such standards the Board shall take into account the probable costs of implementation compared to the probable benefits.

(h) (1) The Board is authorized to make, promulgate, amend, and rescind rules and regulations for the implementation of cost-accounting standards promulgated under subsection (g). Such regulations shall require defense contractors and subcontractors as a condition of contracting to disclose in writing their cost-accounting principles, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs, and to agree to a

THE JOINT COMMITTEE ON DEFENSE PRODUCTION

contract price adjustment, with interest, for any increased costs paid to the defense contractor by the United States because of the defense contractor's failure to comply with duly promulgated cost-accounting standards or to follow consistently his disclosed cost-accounting practices in pricing contract proposals and in accumulating and reporting contract performance cost data. Such interest shall not exceed 7 per centum per annum measured from the time such payments were made to the contractor or subcontractor to the time such price adjustment is effected. If the parties fail to agree as to whether the defense contractor or subcontractor has complied with cost-accounting standards, the rules and regulations relating thereto, and cost adjustments demanded by the United States, such disagreement will constitute a dispute under the contract dispute clause.

(2) The Board is authorized, as soon as practicable after the date of enactment of this section, to prescribe rules and regulations exempting from the requirements of this section such classes or categories of defense contractors or subcontractors under contracts negotiated in connection with national defense procurements as it determines, on the basis of the size of the contracts involved or otherwise, are appropriate and consistent with the purposes sought to be achieved by this section.

(3) Cost-accounting standards promulgated under subsection (g) and rules and regulations prescribed under this subsection shall take effect not earlier than the expiration of the first period of sixty calendar days of continuous session of the Congress following the date on which a copy of the proposed standards, rules, or regulations is transmitted to the Congress; if, between the date of transmittal and the expiration of such sixty-day period, there is not passed by the two Houses a concurrent resolution stating in substance that the Congress does not favor the proposed standards, rules, or regulations. For the purposes of this subparagraph, in the computation of the sixty-day period there shall be excluded the days on which either House is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die. The provisions of this paragraph do not apply to modifications of cost accounting standards, rules, or regulations which have become effective in conformity with those provisions.

(i) (A) Prior to the promulgation under this section of rules, regulations, cost-accounting standards, and modifications thereof, notice of the action proposed to be taken, including a description of the terms and substance thereof, shall be published in the Federal Register. All parties affected thereby shall be afforded a period of not less than thirty days after such publication in which to submit their views and comments with respect to the action proposed to be taken. After full consideration of the views and comments so submitted the Board may promulgate rules, regulations, cost-accounting standards, and modifications thereof which shall have the full force and effect of law and shall become effective not later than the start of the second fiscal quarter beginning after the expiration of not less than thirty days after publication in the Federal Register.

(B) The functions exercised under this section are excluded from the operation of sections 551, 552-559, and 701-706 of title 5, United States Code.

(C) The provisions of paragraph (A) of this subsection shall not be applicable to rules and regulations prescribed by the Board pursuant to subsection (h) (2).

(J) For the purpose of determining whether a defense contractor or subcontractor has complied with duly promulgated cost-accounting standards and has followed consistently his disclosed cost-accounting practices, any authorized representative of the head of the agency concerned, of the Board, or of the Comptroller General of the United States shall have the right to examine and make copies of any documents, papers, or records of such contractor or subcontractor relating to compliance with such cost-accounting standards and principles.

(k) The Board shall report to the Congress, not later than twenty-four months after the date of enactment of this section, concerning its progress in promulgating cost-accounting standards under subsection (g) and rules and regulations under subsection (h). Thereafter, the Board shall make an annual report to the Congress with respect to its activities and operations, together with such recommendations as it deems appropriate.

(l) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 5. The Defense Production Act of 1950 is amended by adding 50 USC app. 2061.
at the end thereof the following new section:

"NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES

"SEC. 720. (a) SHORT TITLE.—This section may be cited as the
I 'National Commission on Supplies and Shortages Act of 1974'.

National Com-
mission on Sup-
plies and Short-
ages Act of
1974.
50 USC app. 21.

"(b) FINDINGS.—(1) The United States is increasingly dependent on the importation from foreign nations of certain natural resources vital to commerce and the national defense.

88 STAT. 1167
88 STAT. 1168

"(2) Nations that export such resources can alone or in association with other nations arbitrarily raise the prices of such resources to levels which are unreasonable and disruptive of domestic and foreign economies.

"(3) Shortages of resources and commodities are becoming increasingly frequent in the United States, and such shortages cause undue inconvenience and expense to consumers and a burden on interstate commerce and the Nation's economy.

"(4) Existing institutions do not adequately identify and anticipate such shortages and do not adequately monitor, study, and analyze other market adversities involving specific industries and specific sectors of the economy.

"(5) Data with respect to such shortages and adversities is collected in various agencies of the Government for various purposes, but is not systematically coordinated and disseminated to the appropriate agencies and to the Congress.

"(c) PURPOSES.—It is the purpose of this Act to establish a national commission to facilitate more effective and informed responses to resource and commodity shortages and to report to the President and the Congress on needed institutional adjustments for examining and predicting shortages and on the existence or possibility of shortages with respect to essential resources and commodities.

National Com-
mission on
Supplies and
Shortages.
Establishment;
membership.

"(d) ESTABLISHMENT OF COMMISSION.—There is established as an independent instrumentality of the Federal Government a National Commission on Supplies and Shortages (hereinafter referred to as the 'Commission'). The Commission shall be comprised of thirteen members selected for such period of time as such Commission shall continue in existence (except that any individual appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term) as follows:

Appointments.

"(1) The President, in consultation with the majority and minority leaders of the Senate and the majority and minority leaders of the House of Representatives, shall appoint five members of the Commission from among persons in private life;

"(2) The President shall designate four senior officials of the executive branch to serve without additional compensation;

"(3) The President of the Senate, after consultation with the majority and minority leaders of the Senate, shall appoint two Senators to be members of the Commission and the Speaker of the House of Representatives, after consultation with the majority and minority leaders of the House of Representatives, shall appoint two Representatives to be members of the Commission to serve without additional compensation.

"(c) CHAIRMAN AND VICE CHAIRMAN.—The President, in consultation with the majority and minority leaders of the Senate and the House of Representatives shall designate a Chairman and Vice Chairman of the Commission.

"(f) COMPENSATION.—Each member of the Commission appointed pursuant to subsection (d)(1) of this section shall be entitled to be compensated at a rate equal to the per diem equivalent of the rate for an individual occupying a position under level III of the Executive Schedule under section 5314 of title 5, United States Code, when engaged in the actual performance of duties as such a member, and all members of the Commission shall be entitled to reimbursement for

83 Stat. 863.

Expenses, re-
imbursement.



travel, subsistence, and other necessary expenses incurred in the performance of their duties.

"(g) FUNCTIONS OF THE COMMISSION.—It shall be the function of the Commission to make reports to the President and to the Congress with respect to—

Report to President and Congress. Contents.

"(1) the existence or possibility of any long- or short-term shortages; employment, price or business practices; or market adversities affecting the supply of any natural resources, raw agriculture commodities, materials, manufactured products (including any possible impairment of productive capacity which may result from shortages in materials, resources, commodities, manufactured products, plant or equipment, or capital investment, and the causes of such shortages, practices, or adversities);

"(2) the adverse impact or possible adverse impact of such shortages, practices, or adversities upon consumers, in terms of price and lack of availability of desired goods;

"(3) the need for, and the assessment of, alternative actions necessary to increase the availability of the items referred to in paragraph (1) of this subsection, to correct the adversity or practice affecting the availability of any such items, or otherwise to mitigate the adverse impact or possible adverse impact of shortages, practices, or adversities upon consumers referred to in paragraph (2) of this subsection;

"(4) existing policies and practices of Government which may tend to affect the supply of natural resources and other commodities;

"(5) necessary legislative and administrative actions to develop a comprehensive strategic and economic stockpiling and inventories policies which facilitates the availability of essential resources;

"(6) the means by which information with respect to paragraphs (1), (2), (3), (4) of this subsection can be most effectively and economically gathered and coordinated.

"(h) REPORTS OF THE COMMISSION.—The Commission shall report not later than March 1, 1975, to the President and the Congress on specific recommendations with respect to institutional adjustments, including the advisability of establishing an independent agency to provide for a comprehensive data collection and storage system, to aid in examination and analysis of the supplies and shortages in the economy of the United States and in relation to the rest of the world. The Commission may, until June 30, 1975, prepare, publish and transmit to the President and the Congress such other reports and recommendations as it deems appropriate.

"(i) ADVISORY COMMITTEE.—(1) The Commission is authorized to establish such advisory committees as may be necessary or appropriate to carry out any specific analytical or investigative undertakings on behalf of the Commission. Any such committee shall be subject to the relevant provisions of the Federal Advisory Committee Act.

Establishment.

"(2) The Commission shall establish an advisory committee to develop recommendations as to the establishment of a policy making process and structure within the executive and legislative branches of the Federal Government as a means to integrate the study of supplies and shortages of resources and commodities into the total problem of balanced national growth and development, and a system for coordinating these efforts with appropriate multi-State, regional and State governmental jurisdictions. For the purpose of carrying out the provision of this paragraph there is authorized to be appropriated not to exceed \$75,000 for the fiscal year ending June 30, 1975.

5 USC app. I.

Appropriation.



"(j) STAFF AND POWERS OF THE COMMISSION.—(1) Subject to such rules and regulations as it may adopt, the Commission, through its Chairman, shall—

63 Stat. 863.

5 USC 101 et
seq.

5 USC 5101,
5331.

5 USC 5332
note.

"(A) appoint and fix the compensation of an Executive Director at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code, and such additional staff personnel as is deemed necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and the General Schedule under section 5332 of such title; and

"(B) be authorized to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

Hearings.

"(2) The Commission or any subcommittee thereof is authorized to hold hearings and to sit and act at such times and places, as it may deem advisable.

Data, reports,
and other infor-
mation, avail-
ability.
USC. proc.
title. 1.

"(k) ASSISTANCE OF GOVERNMENT AGENCIES.—Each department, agency, and instrumentality of the Federal Government, including the Congress, consistent with the Constitution of the United States, and independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman, such data, reports, and other information as the Commission deems necessary to carry out its functions under this Act.

"(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commission not to exceed \$500,000 for the fiscal year ending June 30, 1975, to carry out the provisions of this Act."

Approved September 30, 1974.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 93-1121 accompanying H.R. 13044 (Comm. on Banking and Currency).

SENATE REPORT No. 93-922 (Comm. on Banking, Housing and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 120 (1974):

June 13, considered and passed Senate.

Aug. 1, considered and passed House, amended, in lieu of H.R. 13044.

Aug. 20, Senate concurred in House amendment with an amendment.

Sept. 17, House concurred in Senate amendments with amendments; Senate concurred in House amendments to Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 10, No. 40:

Oct 1, Presidential statement.



Public Law 91-631
91st Congress, S. 719
December 31, 1970

An Act

84 STAT. 1876

To establish a national mining and minerals policy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Mining and Minerals Policy Act of 1970".

Mining and
Minerals Policy
Act of 1970.

SEC. 2. The Congress declares that it is the continuing policy of the Federal Government in the national interest to foster and encourage private enterprise in (1) the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries, (2) the orderly and economic development of domestic mineral resources, reserves, and reclamation of metals and minerals to help assure satisfaction of industrial, security and environmental needs, (3) mining, mineral, and metallurgical research, including the use and recycling of scrap to promote the wise and efficient use of our natural and reclaimable mineral resources, and (4) the study and development of methods for the disposal, control, and reclamation of mineral waste products, and the reclamation of mined land, so as to lessen any adverse impact of mineral extraction and processing upon the physical environment that may result from mining or mineral activities.

For the purpose of this Act "minerals" shall include all minerals and mineral fuels including oil, gas, coal, oil shale and uranium. "Minerals."

It shall be the responsibility of the Secretary of the Interior to carry out this policy when exercising his authority under such programs as may be authorized by law other than this Act. For this purpose the Secretary of the Interior shall include in his annual report to the Congress a report on the state of the domestic mining, minerals, and mineral reclamation industries, including a statement of the trend in utilization and depletion of these resources, together with such recommendations for legislative programs as may be necessary to implement the policy of this Act.

Report to
Congress.

Approved December 31, 1970.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 91-1442 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 91-390 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 115 (1969): Sept. 5, considered and passed Senate.

Vol. 116 (1970): Sept. 21, considered and passed House, amended.
Oct. 14, Dec. 18, Senate concurred in House amendments.



DEPUTY UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON

January 30, 1975

MEMORANDUM

TO: Mr. Norman Ross
Domestic Council
The White House

Expanding Information About Foreign Mineral
Resources

The sharp rises in world prices of many mineral raw materials during 1973/74 heightened concern in the U.S. regarding the adequacy and availability of information about future foreign mineral supplies.

The Government's principal sources of such information are three full-time Minerals Attaches plus a network of Foreign Service economic/commercial reporting officers who report regularly to State, Interior and other user agencies. In the past decade or so, AID-sponsored technical missions in many countries also developed much information on resources not normally available to reporting officers. Interior evaluates this information to assess resources development and potential in other countries, and provides such information to the rest of the Government and the private sector through regular publications and personal contact. State also draws upon the information for policy-making purposes and for informing interested private citizens.

Minerals Attaches not only supervise the collection of basic statistical information but also establish and maintain contact with resources agencies and scientific or technical organizations, study and assess mineral possibilities, and conduct extensive surveys of anticipated developments affecting minerals in foreign countries. They are expected to be alert to new geological and exploration programs, to new discoveries or mineral targets, to new mining and



processing techniques as well as developments in transportation, infrastructure, commercial practices, foreign Governments' policies in fields like production incentives, export subsidization and expropriation. In addition, they serve our Ambassadors as their experts in negotiations with foreign Governments when U.S. interests are involved. They would also represent the United States in meetings of multilateral organizations in which now, because of travel restrictions, we are not adequately represented.

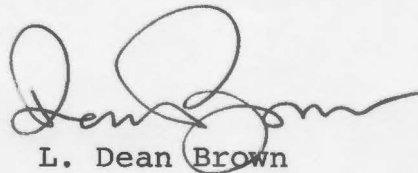
The personnel resources abroad devoted to collecting the needed information are inadequate to the needs of today. They are even less adequate for the situation foreseen for the future in which rising worldwide demand will sharpen shortage problems. State has taken steps, within its present personnel ceiling, to increase the present number of attaches from 3 (located in New Delhi, India; Johannesburg, South Africa; and Rio de Janeiro, Brazil) to 6. The additional 3 will be assigned one each to Lima, Peru; Canberra, Australia; and Kinshasa, Zaire. There is an urgent need to expand that number to at least 18.

Before the President's directive of January 18, 1968..."to reduce activities which unnecessarily create the need for maintaining or increasing overseas staff, e.g., reporting requirements", we had Minerals Attaches in 8 countries in 1965. The reduction to 3 has inevitably meant a deterioration in the quantity and quality of information received in Washington, and the flow of information from the less-developed countries has been reduced also by a cut-back in the AID assistance program in the mineral sector. Interior and State have, working together, tried to make up the gap by placing heavier responsibilities on the Foreign Service's regular economic officers who generally have no background in minerals and who have other reporting responsibilities. Detailed instructions are sent out regularly by the two Departments in order to assist these officers.

The inadequacy of these arrangements is highlighted by the recent classified CIEP Report and the report of the National Commission on Materials Policy (pertinent excerpts from the NCMP report attached).



There is a growing realization of the need for an increase in the number of Department of State positions to cover the minerals attache function. State has reprogrammed to add three additional positions. We will continue to review priorities to determine whether it may be possible to carry out further reprogramming from within present resources. In addition, we will, at the first opportunity, submit budget proposals to cover the additional requirements because of the recognized need to further expand the number of attache positions. The attaches should be persons with considerable background of education and/or experience in minerals disciplines who are also able to operate effectively abroad, represent the U.S. interests, advise and assist Ambassadors and facilitate the legitimate operations of American investors and operators.



L. Dean Brown

Attachment:

Excerpts from NCMP report



Activities at the master station would be similar but within a national frame of reference. The national system, however, would depend on data acquired and processed in the regional stations. Development, control, and coordination of the system would be a function of the master station, subject to participation by regional interests.

ACQUISITION AND PROCESSING OF DATA

The processes of filing, storage, search, and retrieval, though difficult, are manageable by computer technology. The acquisition and classification of reliable and comprehensive data is the heart of the system. Acquisition of data, however, is largely a human and social operation, and classification is an intellectual task. Much information on mineral reserves and resources is patchy, inaccurate, or obsolete. Many of the available data are obsolete. To be useful, data must be accurate, timely, and complete before processing. The basic task is to establish standard terms and parameters, methods of collecting data based on those standards, and systems for organizing or filing the data so that programs for processing or analyzing it may be founded on reality. At every state of the operation, performance must be conscientious and disciplined.

- *Basic data collection* includes repetitive canvassing for statistical information relating to domestic and international mineral production and consumption, for eventual processing. Arrangements with international, Federal, State, and industrial management can minimize canvassing and stimulate contributions of items germane to the program.
- *Verification* of data is pursued through onsite investigations, personal inquiries, and statistical methods. Statistical techniques often furnish reasonable estimates in the absence of full or accurate reporting. The verification of data includes frequent checks on the process of filing and sorting reports.
- *Correlations* are the product of a variety of manipulations of data on file.
- *Analysis and evaluation* of data ensue as informed investigators examine the correlations and relate them to the many factors that influence the materials systems.

- *Interpretations* of data obtained by analysis and evaluation is released periodically and on demand, as it serves Federal, State, local, industrial, and public needs. In publications and personal communications, the information assists all users of the system on matters concerning minerals and related activities.

Domestic Data Acquisition

Although summary data should be readily available to all qualified users, confidential data, for the protection of individual rights, should be accessible only at the core for official use. The sources of these data must have assurances that their trust will be inviolate. Otherwise, much of the mineral data needed by the system will remain locked in the files of the major resources-producing companies. In order to acquire these necessary data, the following actions are needed:

- Enact Federal and State laws requiring public filing of specified data.
- Designate Federal and State organizations as agents to develop or acquire the necessary data through independent investigation.
- Acquire the cooperation of the sources through negotiations by high Government officials and industry leaders, with assurances of confidentiality as a quid pro quo for the benefits of the system.
- Establish an independent earth science organization to collect and monitor mineral resources data from industry without violation of confidentiality.
- Provide incentives in the form of tax writeoffs for confidential data given to the Government.

International Data Acquisition

The acquisition of international resource data is even more difficult than domestic collection. In the absence of international sanctions, international resource data may be obtained by search of the literature or other accessible sources, by negotiation, and by field studies.

Many data have been acquired and published by international agencies such as the United Nations, the World Bank, and Federal agencies, including AID, the Geological Survey, and the Bureau of Mines.

forei
sific

port
banl
ince
deve
banl

We
1
na
cc

1.
a Ch
2.
8, 1

3.
Ref
Bur

4
The

5
Dra
D



The acquisition of detailed information from foreign sources, particularly that which will be classified, implies specific operating conditions:

- A central organization must be responsible for coordinating and acquiring foreign data through the proper channels.
- Data must be classified and occasions of access to and release of classified foreign data must be carefully monitored and controlled with respect, in particular, to the amount and form of data that may be released.

Negotiations for foreign data will be supported by exchanges of data from the U.S. data bank to answer provincial questions. Early in the inception of the system, it will be desirable to develop case studies that show how the U.S. data bank serves other nations.

We recommend that

12.1 . . . as an immediate step toward a national minerals inventory system, a national computerized mineral inventory be organized

under the control of the Department of Interior, until a comprehensive Department of Natural Resources is established.

12.2 . . . a qualified staff be permanently established for the interpretation and testing of the accuracy, reliability, timeliness, and completeness of the data and its adequacy for policy decisions.

12.3 . . . the mineral inventory system include economic, technological, environmental, and social elements that influence the availability and utilization of resources.

12.4 . . . the mineral inventory system, where practical, be installed on existing computer facilities not being used to capacity.

12.5 . . . the mineral inventory system incorporate those existing systems (CRIB, MERIT, and MAS) to a degree practicable without unduly impairing operations of these programs.

REFERENCES

1. Brady, Edward L. and Lewis M. Branscomb. "Information for a Changing Society," *Science*, March 3, 1972, pp 961-966.
2. "Computerized Resources Information Bank (CRIB)," Revision 8, United States Geological Survey, July 1972.
3. *Critical Evaluation of Data in the Physical Sciences - A Status Report on the National Standard Reference Data System*, National Bureau of Standards Technical Note 747, June 1972.
4. Ediger, N.M. and D.A. Sharp. "Canada Gets Computer Link," *The Oil and Gas Journal*, February 19, 1968.
5. "Geological Data Files, Results of An International Inquiry," Draft, International Union of Geological Sciences, GOGEO DATA, Doc. 31, December 1971.
6. Hubaux, A. "A New Geological Tool - The Data," *Earth Science Reviews*, July, 1972.
7. *Input Document User's Manual*, Mineral Availability System (MAS), U.S. Bureau of Mines, September 1972.
8. Position Paper from the Numerical Data Advisory Board to National Commission on Materials Policy, November 1972.
9. "Synopsis of the Feasibility Study on a World Science Information System," Paris, UNISIST, UNESCO, 1971.
10. Zwantendyk, J. "What is 'Mineral Endowment' and How Should We Measure It?" *Mineral Bulletin MR 126*, Mineral Resources Branch, Department of Energy, Mines and Resources, Ottawa, April 1972.