

consultation with other Federal agencies and committees of Congress.

#### MONITORING OF WOOD EXPORTS

Pub. L. 100-418, title II, §2432, Aug. 23, 1988, 102 Stat. 1363, directed Secretary of Commerce, for a period of 2 years beginning on Aug. 23, 1988, to monitor exports of processed and unprocessed wood to all countries of the Pacific Rim, and to include results of such monitoring in monthly reports to Congress, setting forth, with respect to each item monitored, actual exports, destination by country, and domestic and worldwide price, supply, and demand.

#### UNPROCESSED RED CEDAR EXEMPT FROM EXPORT REGULATIONS

Pub. L. 98-411, title V, §514, Aug. 30, 1984, 98 Stat. 1575, provided that: "None of the funds appropriated or made available by this Act [Pub. L. 98-411] may be used to enforce or give effect to any restriction on the export of unprocessed western red cedar harvested from State lands pursuant to a harvesting contract entered into prior to October 1, 1979."

Pub. L. 96-126, title III, §308, Nov. 27, 1979, 93 Stat. 980, provided that: "Notwithstanding the provisions of any other law, the State of Alaska is exempted from application of the provisions of section 7(i) of the Export Administration Act of 1979 (Public Law 96-72) [subsec. (i) of this section]."

In making continuing appropriations for fiscal year 1981, Pub. L. 96-536, §§101(o), 102, Dec. 16, 1980, 94 Stat. 3169, as amended by Pub. L. 97-12, §401, June 5, 1981, 95 Stat. 95, provided in part for the period Dec. 15, 1980, to Sept. 30, 1981: "such amounts as may be necessary for programs, projects, and activities provided for in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1981 (H.R. 7584), to the extent and in the manner provided for in such Act as enacted by the Congress." H.R. 7584, which was enacted by the Congress and vetoed by the President Dec. 13, 1980, contained a section 610 that read: "None of the funds appropriated or made available by this Act may be used to enforce or give effect to the quantitative restrictions required to be imposed by subsection 7(i)(1) of the Export Administration Act of 1979 (Public Law 96-72) [subsec. (i)(1) of this section] in any way which would make such restrictions applicable to the export of: (a) up to ninety million board feet (computed without regard to exports or export authorizations made prior to the effective date of this Act) of unprocessed western red cedar harvested from State or Federal lands pursuant to a harvesting contract entered into prior to October 1, 1979, or any extension thereof; or (b) lumber of American Lumber Standards Grades of Number 3 dimensions or better, of Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 Common or better." Continuing appropriations for fiscal year 1982 were made, subject to specified provisions and under the authority and conditions provided in the above cited appropriation Act for fiscal 1981, as follows: For the period Oct. 1, 1981, to Dec. 15, 1981, by Pub. L. 97-51, §§101(a)(1), (4), 102, Oct. 1, 1981, 95 Stat. 958, 959, 961, as amended by Pub. L. 97-85, Nov. 23, 1981, 95 Stat. 1098; and for the period Dec. 15, 1981, to Sept. 30, 1982, by Pub. L. 97-92, §§101(h), 102, Dec. 15, 1981, 95 Stat. 1190, 1193, as amended by Pub. L. 97-161, Mar. 31, 1982, 96 Stat. 22.

### § 2407. Foreign boycotts

#### (a) Prohibitions and exceptions

(1) For the purpose of implementing the policies set forth in subparagraph (A) or (B) of paragraph (5) of section 3 of this Act [section 2402(5)(A) or (B) of this Appendix], the President shall issue regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the

United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotting country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the import of

goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms, other than with respect to carriers or route of shipment as may be permitted by such regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his own use, including the performance of contractual services within that country, as may be defined by such regulations.

(3) Regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) This section shall apply to any transaction or activity undertaken, by or through a United

States person or any other person, with intent to evade the provisions of this section as implemented by the regulations issued pursuant to this subsection, and such regulations shall expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

**(b) Foreign policy controls**

(1) In addition to the regulations issued pursuant to subsection (a) of this section, regulations issued under section 6 of this Act [section 2405 of this Appendix] shall implement the policies set forth in section 3(5) [section 2402(5) of this Appendix].

(2) Such regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) [section 2402(5) of this Appendix] shall report that fact to the Secretary, together with such other information concerning such request as the Secretary may require for such action as the Secretary considers appropriate for carrying out the policies of that section. Such person shall also report to the Secretary whether such person intends to comply and whether such person has complied with such request. Any report filed pursuant to this paragraph shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any goods or technology to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary, considers appropriate for carrying out the policies set forth in section 3(5) of this Act [section 2402(5) of this Appendix].

**(c) Preemption**

The provisions of this section and the regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, or any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

(Pub. L. 96-72, § 8, Sept. 29, 1979, 93 Stat. 521.)

PRIOR PROVISIONS

A prior section 2407, Pub. L. 91-184, § 8, Dec. 30, 1969, 83 Stat. 846; Pub. L. 95-52, title II, § 203(b), June 22, 1977, 91 Stat. 247, relating to exemption from administrative procedure and judicial review provisions, expired on Sept. 30, 1979.

DELEGATION OF FUNCTIONS

Functions conferred upon President under this section delegated to Secretary of Commerce by Ex. Ord.

No. 12214, May 2, 1980, 45 F.R. 29783, set out under section 2403 of this Appendix.

**§ 2408. Procedures for hardship relief from export controls**

**(a) Filing of petitions**

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

**(b) Decision of Secretary**

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

**(c) Factors to be considered**

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

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

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

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

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

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

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

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

(2) The effect a finding in favor of the applicant would have on attainment of the basic

objectives of the short supply control program.

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

(Pub. L. 96-72, §9, Sept. 29, 1979, 93 Stat. 524.)

PRIOR PROVISIONS

A prior section 2408, Pub. L. 91-184, §9, Dec. 30, 1969, 83 Stat. 846, relating to providing information to exporters, expired on Sept. 30, 1979.

**§ 2409. Procedures for processing export license applications; other inquiries**

**(a) Primary responsibility of Secretary**

(1) All export license applications required under this Act [sections 2401 to 2420 of this Appendix] shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedures provided in this section.

(2) It is the intent of the Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other department or agency of the Government.

(3) To the extent necessary, the Secretary shall seek information and recommendations from the Government departments and agencies concerned with aspects of United States domestic and foreign policies and operations having an important bearing on exports. Such departments and agencies shall cooperate fully in rendering such information and recommendations.

**(b) Initial screening**

Within 10 days after the date on which any export license application is submitted pursuant to subsection (a)(1), the Secretary shall—

(1) send the applicant an acknowledgment of the receipt of the application and the date of the receipt;

(2) submit to the applicant a written description of the procedures required by this section, the responsibilities of the Secretary and of other departments and agencies with respect to the application, and the rights of the applicant;

(3) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this section;

(4) determine whether it is necessary to refer the application to any other department or agency and, if such referral is determined to be necessary, inform the applicant of any such department or agency to which the application will be referred; and

(5) determine whether it is necessary to submit the application to a multilateral review