CHAPTER 66—PROMOTION OF EXPORT TRADE

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SUBCHAPTER I—EXPORT TRADING COMPANIES AND TRADE ASSOCIATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 7 sections 7257, 7258.

§ 4001. Congressional findings and declaration of purpose

(a) The Congress finds that—

(1) United States exports are responsible for creating and maintaining one out of every nine manufacturing jobs in the United States and for generating one out of every seven dollars of total United States goods produced;

(2) the rapidly growing service-related industries are vital to the well-being of the United States economy inasmuch as they create jobs for seven out of every ten Americans, provide 65 per centum of the Nation's gross national product, and offer the greatest potential for significantly increased industrial trade involving finished products;

(3) trade deficits contribute to the decline of the dollar on international currency markets and have an inflationary impact on the United States economy;

(4) tens of thousands of small- and medium-sized United States businesses produce exportable goods or services but do not engage in exporting;

(5) although the United States is the world's leading agricultural exporting nation, many farm products are not marketed as widely and effectively abroad as they could be through export trading companies;

(6) export trade services in the United States are fragmented into a multitude of separate functions, and companies attempting to offer export trade services lack financial leverage to reach a significant number of potential United States exporters;

(7) the United States needs well-developed export trade intermediaries which can achieve economies of scale and acquire expertise enabling them to export goods and services profitably, at low per unit cost to producers;

(8) the development of export trading companies in the United States has been hampered by business attitudes and by Government regulations;

(9) those activities of State and local governmental authorities which initiate, facilitate, or expand exports of goods and services can be an important source for expansion of total United States exports, as well as for experimentation in the development of innovative export programs keyed to local, State, and regional economic needs;

(10) if United States trading companies are to be successful in promoting United States exports and in competing with foreign trading companies, they should be able to draw on the resources, expertise, and knowledge of the United States banking system, both in the United States and abroad; and

(11) the Department of Commerce is responsible for the development and promotion of United States exports, and especially for facilitating the export of finished products by United States manufacturers.

(b) It is the purpose of this chapter to increase United States exports of products and services by encouraging more efficient provision of export trade services to United States producers and suppliers, in particular by establishing an office within the Department of Commerce to promote the formation of export trade associations and export trading companies, by permitting bank holding companies, bankers' banks, and Edge Act corporations and agreement corporations that are subsidiaries of bank holding companies to invest in export trading companies, by reducing restrictions on trade financing provided by financial institutions, and by modifying the application of the antitrust laws to certain export trade.

(Pub. L. 97–290, title I, § 102, Oct. 8, 1982, 96 Stat. 1233.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in original ''this Act'', meaning Pub. L. 97–290, Oct. 8, 1982, 96 Stat. 1233, which enacted this chapter and section 6a of this title and section 635a–4 of Title 12, Banks and Banking, amended section 45 of this title and sections 372 and 1843 of Title 12, and enacted provisions set out as notes under sections 1, 4001, and 4011 of this title and sections 1841 and 1843 of Title 12. For complete classification of this Act to the Code, see Tables.

Edge Act corporation, referred to in subsec. (b), is a corporation organized under section 25A of the Federal Reserve Act, as added by act Dec. 24, 1919, ch. 18, 41 Stat. 378, and amended, popularly known as the Edge Act, which is classified to subchapter II (§ 611 et seq.) of chapter 6 of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 611 of Title 12 and Tables.

SHORT TITLE

Section 101 of title I of Pub. L. 97–290 provided that: ''This title [enacting this subchapter] may be cited as the 'Export Trading Company Act of 1982'.''

§ 4002. Definitions

(a) For purposes of this subchapter—

(1) the term ''export trade'' means trade or commerce in goods or services produced in the United States which are exported, or in the course of being exported, from the United States to any other country;

(2) the term ''services'' includes, but is not limited to, accounting, amusement, architectural, automatic data processing, business, communications, construction franchising and licensing, consulting, engineering, financial, insurance, legal, management, repair, tourism, training, and transportation services;

(3) the term ''export trade services'' includes, but is not limited to, consulting, international market research, advertising, marketing, insurance, product research and design, legal assistance, transportation, including trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, financing, and taking title to goods, when provided in order to facilitate the export of goods or services produced in the United States;

(4) the term ''export trading company'' means a person, partnership, association, or similar organization, whether operated for profit or as a nonprofit organization, which does business under the laws of the United States or any State and which is organized and operated principally for purposes of—

(A) exporting goods or services produced in the United States; or

(B) facilitating the exportation of goods or services produced in the United States by unaffiliated persons by providing one or more export trade services;

(5) the term ''State'' means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(6) the term ''United States'' means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands; and

(7) the term ''antitrust laws'' means the antitrust laws as defined in section 12(a) of this title, section 45 of this title to the extent that section 45 of this title applies to unfair methods of competition, and any State antitrust or unfair competition law.

(b) The Secretary of Commerce may by regulation further define any term defined in subsection (a) of this section, in order to carry out this subchapter.

(Pub. L. 97–290, title I, § 103, Oct. 8, 1982, 96 Stat. 1234.)

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 4003. Office of Export Trade in Department of Commerce

The Secretary of Commerce shall establish within the Department of Commerce an office to promote and encourage to the greatest extent feasible the formation of export trade associations and export trading companies. Such office shall provide information and advice to interested persons and shall provide a referral service to facilitate contact between producers of exportable goods and services and firms offering export trade services. The office shall establish a program to encourage and assist the operation of other export intermediaries, including existing and newly formed export management companies.

(Pub. L. 97–290, title I, § 104, Oct. 8, 1982, 96 Stat. 1235; Pub. L. 100–418, title II, § 2310, Aug. 23, 1988, 102 Stat. 1346.)

AMENDMENTS

1988—Pub. L. 100–418 inserted requirement that the office establish a program to encourage and assist operation of other export intermediaries, including existing and newly formed export management companies.

SUBCHAPTER II—EXPORT TRADE CERTIFICATES OF REVIEW

§ 4011. Export trade promotion duties of Secretary of Commerce

To promote and encourage export trade, the Secretary may issue certificates of review and advise and assist any person with respect to applying for certificates of review.

(Pub. L. 97–290, title III, § 301, Oct. 8, 1982, 96 Stat. 1240.)

EFFECTIVE DATE

Section 312 of Pub. L. 97–290 provided that:

''(a) Except as provided in subsection (b), this title [enacting this subchapter] shall take effect on the date of the enactment of this Act [Oct. 8, 1982].

''(b) Section 302 and section 303 [enacting sections 4012 and 4013 of this title] shall take effect 90 days after the effective date of the rules and regulations first promulgated under section 310 [enacting section 4020 of this title].''

REPORT ON EXPORT TRADING COMPANIES

Pub. L. 100–418, title II, § 2311, Aug. 23, 1988, 102 Stat. 1346, directed Secretary of Commerce to submit a report, not later than 18 months after Aug. 23, 1988, to Committee on Banking, Housing, and Urban Affairs of Senate, and to Committee on Banking, Finance and Urban Affairs, Committee on Foreign Affairs, and Committee on the Judiciary of House of Representatives, on activities of Department of Commerce to promote and encourage formation of new and operation of existing and new export promotion intermediaries, including export management companies, export trade associations, bank export trading companies, and export trading companies, with report to include a survey of activities of export management companies, export trade associations, and those bank export trading companies and export trading companies established pursuant to amendments made by title II of the Export Trading Company Act of 1982 and pursuant to title III of that Act, but not to contain any information subject to the protections from disclosure provided in that Act.

FEDERAL COAL EXPORT COMMISSION

Pub. L. 99–83, title XIII, § 1304, Aug. 8, 1985, 99 Stat. 282, provided for establishment, membership, etc., of Federal Coal Export Commission, required Commission to convene at least four times a year for consultation on activities leading to increased cooperation among entities involved in United States coal exports, with goal of expanding the United States share of international market, specified activities of Commission, including examination of potential for small- and medium-sized companies to enter export coal trade through exporting trading companies, directed Commission to report its finding and recommendations to President and Congress within two years after its first meeting, and terminated Commission upon submission of its report.

§ 4012. Application for issuance of certificate of review

(a) Written form; limitation to export trade; compliance with regulations

To apply for a certificate of review, a person shall submit to the Secretary a written application which—

(1) specifies conduct limited to export trade, and

(2) is in a form and contains any information, including information pertaining to the overall market in which the applicant operates, required by rule or regulation promulgated under section 4020 of this title.

(b) Publication of notice of application; transmittal to Attorney General

(1) Within ten days after an application submitted under subsection (a) of this section is received by the Secretary, the Secretary shall publish in the Federal Register a notice that announces that an application for a certificate of review has been submitted, identifies each person submitting the application, and describes the conduct for which the application is submitted.

(2) Not later than seven days after an application submitted under subsection (a) of this section is received by the Secretary, the Secretary shall transmit to the Attorney General—

(A) a copy of the application,

(B) any information submitted to the Secretary in connection with the application, and

(C) any other relevant information (as determined by the Secretary) in the possession of the Secretary, including information regarding the market share of the applicant in the line of commerce to which the conduct specified in the application relates.

(Pub. L. 97–290, title III, § 302, Oct. 8, 1982, 96 Stat. 1240.)

EFFECTIVE DATE

Section effective 90 days after effective date of rules and regulations first promulgated under section 4020 of this title, see section 312(b) of Pub. L. 97–290 set out as a note under section 4011 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4013, 4018 of this title.

§ 4013. Issuance of certificate

(a) Requirements

A certificate of review shall be issued to any applicant that establishes that its specified export trade, export trade activities, and methods of operation will—

(1) result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,

(2) not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,

(3) not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and

(4) not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

(b) Time for determination; specification in certificate

Within ninety days after the Secretary receives an application for a certificate of review, the Secretary shall determine whether the applicant's export trade, export trade activities, and methods of operation meet the standards of subsection (a) of this section. If the Secretary, with the concurrence of the Attorney General, determines that such standards are met, the Secretary shall issue to the applicant a certificate of review. The certificate of review shall specify—

(1) the export trade, export trade activities, and methods of operation to which the certificate applies,

(2) the person to whom the certificate of review is issued, and

(3) any terms and conditions the Secretary or the Attorney General deems necessary to assure compliance with the standards of subsection (a) of this section.

(c) Expedited action

If the applicant indicates a special need for prompt disposition, the Secretary and the Attorney General may expedite action on the application, except that no certificate of review may be issued within thirty days of publication of notice in the Federal Register under section 4012(b)(1) of this title.

(d) Notification of denial; request for reconsideration

(1) If the Secretary denies in whole or in part an application for a certificate, he shall notify the applicant of his determination and the reasons for it.

(2) An applicant may, within thirty days of receipt of notification that the application has been denied in whole or in part, request the Secretary to reconsider the determination. The Secretary, with the concurrence of the Attorney General, shall notify the applicant of the determination upon reconsideration within thirty days of receipt of the request.

(e) Return of documents upon request after denial

If the Secretary denies an application for the issuance of a certificate of review and thereafter receives from the applicant a request for the return of documents submitted by the applicant in connection with the application for the certificate, the Secretary and the Attorney General shall return to the applicant, not later than thirty days after receipt of the request, the documents and all copies of the documents available to the Secretary and the Attorney General, except to the extent that the information contained in a document has been made available to the public.

(f) Fraudulent procurement of certificate

A certificate shall be void ab initio with respect to any export trade, export trade activities, or methods of operation for which a certificate was procured by fraud.

(Pub. L. 97–290, title III, § 303, Oct. 8, 1982, 96 Stat. 1241.)

EFFECTIVE DATE

Section effective 90 days after effective date of rules and regulations first promulgated under section 4020 of this title, see section 312(b) of Pub. L. 97–290 set out as a note under section 4011 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4014, 4016, 4017 of this title.

§ 4014. Reporting requirement; amendment of certificate; revocation

(a) Report of changes in matters specified; application to amend; treatment as application for issuance

(1) Any applicant who receives a certificate of review—

(A) shall promptly report to the Secretary any change relevant to the matters specified in the certificate, and

(B) may submit to the Secretary an application to amend the certificate to reflect the effect of the change on the conduct specified in the certificate.

(2) An application for an amendment to a certificate of review shall be treated as an application for the issuance of a certificate. The effective date of an amendment shall be the date on which the application for the amendment is submitted to the Secretary.

(b) Request for compliance information; failure to provide; notice of noncompliance; revocation or modification; antitrust investigation; no civil investigative demand

(1) If the Secretary or the Attorney General has reason to believe that the export trade, export trade activities, or methods of operation of a person holding a certificate of review no longer comply with the standards of section 4013(a) of this title, the Secretary shall request such information from such person as the Secretary or the Attorney General deems necessary to resolve the matter of compliance. Failure to comply with such request shall be grounds for revocation of the certificate under paragraph (2).

(2) If the Secretary or the Attorney General determines that the export trade, export trade activities, or methods of operation of a person holding a certificate no longer comply with the standards of section 4013(a) of this title, or that such person has failed to comply with a request made under paragraph (1), the Secretary shall give written notice of the determination to such person. The notice shall include a statement of the circumstances underlying, and the reasons in support of, the determination. In the 60-day period beginning 30 days after the notice is given, the Secretary shall revoke the certificate or modify it as the Secretary or the Attorney General deems necessary to cause the certificate to apply only to the export trade, export trade activities, or methods of operation which are in compliance with the standards of section 4013(a) of this title.

(3) For purposes of carrying out this subsection, the Attorney General, and the Assistant

Attorney General in charge of the antitrust division of the Department of Justice, may conduct investigations in the same manner as the Attorney General and the Assistant Attorney General conduct investigations under section 1312 of this title, except that no civil investigative demand may be issued to a person to whom a certificate of review is issued if such person is the target of such investigation.

(Pub. L. 97–290, title III, § 304, Oct. 8, 1982, 96 Stat. 1242.)

EFFECTIVE DATE

Section effective Oct. 8, 1982, see section 312 of Pub. L. 97–290, set out as a note under section 4011 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4015, 4017 of this title.

§ 4015. Judicial review; admissibility

(a) District court review of grants or denials; erroneous determination

If the Secretary grants or denies, in whole or in part, an application for a certificate of review or for an amendment to a certificate, or revokes or modifies a certificate pursuant to section 4014(b) of this title, any person aggrieved by such determination may, within 30 days of the determination, bring an action in any appropriate district court of the United States to set aside the determination on the ground that such determination is erroneous.

(b) Exclusive provision for review

Except as provided in subsection (a) of this section, no action by the Secretary or the Attorney General pursuant to this subchapter shall be subject to judicial review.

(c) Inadmissibility in antitrust proceedings

If the Secretary denies, in whole or in part, an application for a certificate of review or for an amendment to a certificate, or revokes or amends a certificate, neither the negative determination nor the statement of reasons therefor shall be admissible in evidence, in any administrative or judicial proceeding, in support of any claim under the antitrust laws.

(Pub. L. 97–290, title III, § 305, Oct. 8, 1982, 96 Stat. 1243.)

EFFECTIVE DATE

Section effective Oct. 8, 1982, see section 312 of Pub. L. 97–290, set out as a note under section 4011 of this title.

§ 4016. Protection conferred by certificate of review

(a) Protection from civil or criminal antitrust actions

Except as provided in subsection (b) of this section, no criminal or civil action may be brought under the antitrust laws against a person to whom a certificate of review is issued which is based on conduct which is specified in, and complies with the terms of, a certificate issued under section 4013 of this title which certificate was in effect when the conduct occurred.

(b) Special restraint of trade civil actions; time limitations; certificate governed conduct presumed in compliance; award of costs to successful defendant; suit by Attorney General

(1) Any person who has been injured as a result of conduct engaged in under a certificate of review may bring a civil action for injunctive relief, actual damages, the loss of interest on actual damages, and the cost of suit (including a reasonable attorney's fee) for the failure to comply with the standards of section 4013(a) of this title. Any action commenced under this subchapter shall proceed as if it were an action commenced under section 15 or section 26 of this title, except that the standards of section 4013(a) of this title and the remedies provided in this paragraph shall be the exclusive standards and remedies applicable to such action.

(2) Any action brought under paragraph (1) shall be filed within two years of the date the plaintiff has notice of the failure to comply with the standards of section 4013(a) of this title but in any event within four years after the cause of action accrues.

(3) In any action brought under paragraph (1), there shall be a presumption that conduct which is specified in and complies with a certificate of review does comply with the standards of section 4013(a) of this title.

(4) In any action brought under paragraph (1), if the court finds that the conduct does comply with the standards of section 4013(a) of this title, the court shall award to the person against whom the claim is brought the cost of suit attributable to defending against the claim (including a reasonable attorney's fee).

(5) The Attorney General may file suit pursuant to section 25 of this title to enjoin conduct threatening clear and irreparable harm to the national interest.

(Pub. L. 97–290, title III, § 306, Oct. 8, 1982, 96 Stat. 1243.)

EFFECTIVE DATE

Section effective Oct. 8, 1982, see section 312 of Pub. L. 97–290, set out as a note under section 4011 of this title.

§ 4017. Guidelines

(a) Issuance; content

To promote greater certainty regarding the application of the antitrust laws to export trade, the Secretary, with the concurrence of the Attorney General, may issue guidelines—

(1) describing specific types of conduct with respect to which the Secretary, with the concurrence of the Attorney General, has made or would make, determinations under sections 4013 and 4014 of this title, and

(2) summarizing the factual and legal bases in support of the determinations.

(b) Administrative rulemaking requirements not applicable

Section 553 of title 5 shall not apply to the issuance of guidelines under subsection (a) of this section.

(Pub. L. 97–290, title III, § 307, Oct. 8, 1982, 96 Stat. 1244.)

EFFECTIVE DATE

Section effective Oct. 8, 1982, see section 312 of Pub. L. 97–290, set out as a note under section 4011 of this title.

§ 4018. Annual reports

Every person to whom a certificate of review is issued shall submit to the Secretary an annual report, in such form and at such time as the Secretary may require, that updates where necessary the information required by section 4012(a) of this title.

(Pub. L. 97–290, title III, § 308, Oct. 8, 1982, 96 Stat. 1244.)

EFFECTIVE DATE

Section effective Oct. 8, 1982, see section 312 of Pub. L. 97–290, set out as a note under section 4011 of this title.

§ 4019. Disclosure of information

(a) Exemption

Information submitted by any person in connection with the issuance, amendment, or revocation of a certificate of review shall be exempt from disclosure under section 552 of title 5.

(b) Protection of potentially harmful confidential information; exceptions: Congress; judicial or administrative proceedings; consent; necessity for determination; Federal law; regulations

(1) Except as provided in paragraph (2), no officer or employee of the United States shall disclose commercial or financial information submitted in connection with the issuance, amendment, or revocation of a certificate of review if the information is privileged or confidential and if disclosure of the information would cause harm to the person who submitted the information.

(2) Paragraph (1) shall not apply with respect to information disclosed—

(A) upon a request made by the Congress or any committee of the Congress,

(B) in a judicial or administrative proceeding, subject to appropriate protective orders,

(C) with the consent of the person who submitted the information,

(D) in the course of making a determination with respect to the issuance, amendment, or revocation of a certificate of review, if the Secretary deems disclosure of the information to be necessary in connection with making the determination,

(E) in accordance with any requirement imposed by a statute of the United States, or

(F) in accordance with any rule or regulation promulgated under section 4020 of this title permitting the disclosure of the information to an agency of the United States or of a State on the condition that the agency will disclose the information only under the circumstances specified in subparagraphs (A) through (E).

(Pub. L. 97–290, title III, § 309, Oct. 8, 1982, 96 Stat. 1244.)

EFFECTIVE DATE

Section effective Oct. 8, 1982, see section 312 of Pub. L. 97–290, set out as a note under section 4011 of this title.

§ 4020. Rules and regulations

The Secretary, with the concurrence of the Attorney General, shall promulgate such rules and regulations as are necessary to carry out the purposes of this chapter.

(Pub. L. 97–290, title III, § 310, Oct. 8, 1982, 96 Stat. 1245.)

REFERENCES IN TEXT

This chapter, referred to in text, was in original ''this Act'', meaning Pub. L. 97–290, Oct. 8, 1982, 96 Stat. 1233, which enacted this chapter and section 6a of this title and section 635a–4 of Title 12, Banks and Banking, amended section 45 of this title and sections 372 and 1843 of Title 12, and enacted provisions set out as notes under sections 1, 4001, and 4011 of this title and sections 1841 and 1843 of Title 12. For complete classification of this Act to the Code, see Tables.

EFFECTIVE DATE

Section effective Oct. 8, 1982, see section 312 of Pub. L. 97–290, set out as a note under section 4011 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4012, 4019 of this title.

§ 4021. Definitions

As used in this subchapter—

(1) the term ''export trade'' means trade or commerce in goods, wares, merchandise, or services exported, or in the course of being exported, from the United States or any territory thereof to any foreign nation,

(2) the term ''service'' means intangible economic output, including, but not limited to—

(A) business, repair, and amusement services,

(B) management, legal, engineering, architectural, and other professional services, and

(C) financial, insurance, transportation, informational and any other data-based services, and communication services,

(3) the term ''export trade activities'' means activities or agreements in the course of export trade,

(4) the term ''methods of operation'' means any method by which a person conducts or proposes to conduct export trade,

(5) the term ''person'' means an individual who is a resident of the United States; a partnership that is created under and exists pursuant to the laws of any State or of the United States; a State or local government entity; a corporation, whether organized as a profit or nonprofit corporation, that is created under and exists pursuant to the laws of any State or of the United States; or any association or combination, by contract or other arrangement, between or among such persons,

(6) the term ''antitrust laws'' means the antitrust laws, as such term is defined in section 12 of this title, and section 45 of this title (to the extent that section 45 of this title prohibits unfair methods of competition), and any State antitrust or unfair competition law,

(7) the term ''Secretary'' means the Secretary of Commerce or his designee, and

(8) the term ''Attorney General'' means the Attorney General of the United States or his designee.

(Pub. L. 97–290, title III, § 311, Oct. 8, 1982, 96 Stat. 1245.)

EFFECTIVE DATE

Section effective Oct. 8, 1982, see section 312 of Pub. L. 97–290, set out as a note under section 4011 of this title.

SUBCHAPTER III—EXPORT PROMOTION PROGRAMS

§ 4051. Requirement of prior authorization

(a) General rule

Notwithstanding any other provision of law, money appropriated to the Department of Commerce for expenses to carry out any export promotion program may be obligated or expended only if—

(1) the appropriation thereof has been previously authorized by law enacted on or after July 12, 1985; or

(2) the amount of all such obligations and expenditures does not exceed an amount previously prescribed by law enacted on or after such date.

(b) Exception for later legislation authorizing obligations or expenditures

To the extent that legislation enacted after the making of an appropriation to carry out any export promotion program authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) of this section shall have no effect.

(c) Provisions must be specifically superseded

The provisions of this section shall not be superseded except by a provision of law enacted after July 12, 1985, which specifically repeals, modifies, or supersedes the provisions of this section.

(d) "Export promotion program" defined

For purposes of this subchapter, the term ''export promotion program'' means any activity of the Department of Commerce designed to stimulate or assist United States businesses in marketing their goods and services abroad competitively with businesses from other countries, including, but not limited to—

(1) trade development (except for the trade adjustment assistance program) and dissemination of foreign marketing opportunities and other marketing information to United States producers of goods and services, including the expansion of foreign markets for United States textiles and apparel and any other United States products;

(2) the development of regional and multilateral economic policies which enhance United States trade and investment interests, and the provision of marketing services with respect to foreign countries and regions;

(3) the exhibition of United States goods in other countries;

(4) the operations of the United States and Foreign Commercial Service, or any successor agency; and

(5) the Market Development Cooperator Program established under section 4723 of this title, and assistance for trade shows provided under section 4724 of this title.

(e) Printing outside United States

(1) Notwithstanding the provisions of section 501 of title 44, and consistent with other applicable law, the Secretary of Commerce, in carrying out any export promotion program, may authorize—

(A) the printing, distribution, and sale of documents outside the contiguous United States, if the Secretary finds that the implementation of such export promotion program would be more efficient, and if such documents will be distributed primarily and sold exclusively outside the United States; and

(B) the acceptance of private notices and advertisements in connection with the printing and distribution of such documents.

(2) Any fees received by the Secretary pursuant to paragraph (1) shall be deposited in a separate account or accounts which may be used to defray directly the costs incurred in conducting activities authorized by paragraph (1) or to repay or make advances to appropriations or other funds available for such activities.

(Pub. L. 99–64, title II, § 201, July 12, 1985, 99 Stat. 157; Pub. L. 100–418, title II, §§ 2305(a), 2308(a), Aug. 23, 1988, 102 Stat. 1344, 1346.)

CODIFICATION

Section was enacted as part of the Export Administration Amendments Act of 1985, and not as part of Pub. L. 97–290 which enacted this chapter.

AMENDMENTS

1988—Subsec. (d)(5). Pub. L. 100–418, § 2305(a), added par. (5).

Subsec. (e). Pub. L. 100–418, § 2308(a), added subsec. (e).

§ 4052. Authorization of appropriations

There are authorized to be appropriated to the Department of Commerce to carry out export promotion programs such sums as are necessary for fiscal years 1995 and 1996.

(Pub. L. 99–64, title II, § 202, July 12, 1985, 99 Stat. 158; Pub. L. 99–633, § 2, Nov. 7, 1986, 100 Stat. 3522; Pub. L. 100–418, title II, § 2305(b)(1), Aug. 23, 1988, 102 Stat. 1344; Pub. L. 102–429, title II, § 208, Oct. 21, 1992, 106 Stat. 2205; Pub. L. 103–392, title III, § 301, Oct. 22, 1994, 108 Stat. 4099.)

CODIFICATION

Section was enacted as part of the Export Administration Amendments Act of 1985, and not as part of Pub. L. 97–290 which enacted this chapter.

AMENDMENTS

1994—Pub. L. 103–392 amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated to the Department of Commerce—

''(1) to carry out export promotion programs—

''(A) $190,000,000 for fiscal year 1993; and

''(B) $200,000,000 for fiscal year 1994; and

''(2) to carry out section 4723 of this title, $5,500,000 for each of fiscal years 1993 and 1994.''

1992—Pub. L. 102–429 amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated to the Department of Commerce to carry out export promotion programs $123,922,000 for the fiscal year 1988, and $146,400,000 for each of the fiscal years 1989 and 1990.''

1988—Pub. L. 100–418 amended section generally. Prior to amendment, section read as follows: ''There is au-

thorized to be appropriated $123,922,000 for each of the fiscal years 1987 and 1988 to the Department of Commerce to carry out export promotion programs.''

1986—Pub. L. 99–633 substituted provisions authorizing appropriations of $123,922,000 for each of the fiscal years 1987 and 1988 for provisions authorizing appropriations of $113,273,000 for each of the fiscal years 1985 and 1986.

§ 4053. Barter arrangements

(a) Report on status of Federal barter programs

The Secretary of Agriculture and the Secretary of Energy shall, not later than 90 days after July 12, 1985, submit to the Congress a report on the status of Federal programs relating to the barter or exchange of commodities owned by the Commodity Credit Corporation for materials and products produced in foreign countries. Such report shall include details of any changes necessary in existing law to allow the Department of Agriculture and, in the case of petroleum resources, the Department of Energy, to implement fully any barter program.

(b) Authorities of President

The President is authorized—

(1) to barter stocks of agricultural commodities acquired by the Government for petroleum and petroleum products, and for other materials vital to the national interest, which are produced abroad, in situations in which sales would otherwise not occur; and

(2) to purchase petroleum and petroleum products, and other materials vital to the national interest, which are produced abroad and acquired by persons in the United States through barter for agricultural commodities produced in and exported from the United States through normal commercial trade channels.

(c) Other provisions of law not affected

In the case of any petroleum, petroleum products, or other materials vital to the national interest, which are acquired under subsection (b) of this section, nothing in this section shall be construed to render inapplicable the provisions of any law then in effect which apply to the storage, distribution, or use of such petroleum, petroleum products, or other materials vital to the national interest.

(d) Conventional markets not to be displaced by barters

The President shall take steps to ensure that, in making any barter described in subsection (a) or (b)(1) of this section or any purchase authorized by subsection (b)(2) of this section, existing export markets for agricultural commodities operating on conventional business terms are safeguarded from displacement by the barter described in subsection (a), (b)(1), or (b)(2) of this section, as the case may be. In addition, the President shall ensure that any such barter is consistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade.

(e) Report to Congress

The Secretary of Energy shall report to the Congress on the effect on energy security and on domestic energy supplies of any action taken under this section which results in the acquisition by the Government of petroleum or petroleum products. Such report shall be submitted to the Congress not later than 90 days after such acquisition.

(Pub. L. 99–64, title II, § 203, July 12, 1985, 99 Stat. 158.)

CODIFICATION

Section was enacted as part of the Export Administration Amendments Act of 1985, and not as part of Pub. L. 97–290 which enacted this chapter.

CHAPTER 67—ARCTIC RESEARCH AND POLICY

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(a) The Congress finds and declares that—

(1) the Arctic, onshore and offshore, contains vital energy resources that can reduce the Nation's dependence on foreign oil and improve the national balance of payments;

(2) the Arctic is critical to national defense;

(3) the renewable resources of the Arctic, specifically fish and other seafood, represent one of the Nation's greatest commercial assets;

(4) Arctic conditions directly affect global weather patterns and must be understood in order to promote better agricultural management throughout the United States;

(5) industrial pollution not originating in the Arctic region collects in the polar air mass, has the potential to disrupt global weather patterns, and must be controlled through international cooperation and consultation;