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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-203902

DECEMBER 30, 1981

The Honorable John D. Dingell, Chairman
Committee on Energy and Commerce
House of Representatives

Dear Mr. Chairman:

Subject: Comments on Proposed National Export Policy Act of 1981

As you requested, we have reviewed H.R. 3173, a bill to establish a national export policy for the United States.

The enclosed comments on specific provisions of H.R. 3173 are based on our past and ongoing reviews and essentially update comments we prepared last year on similar legislation at the request of the then Committee on Interstate and Foreign Commerce. The areas addressed are cited by subject matter and appropriate section of H.R. 3173.

We are sending copies of these comments to the House Committees on Agriculture; Banking, Finance and Urban Affairs; Foreign Affairs; Small Business; the Judiciary; and Ways and Means and the Senate Committee on Banking, Housing, and Urban Affairs.

Sincerely yours,

Charles A. Bowsher

Comptroller General
of the United States

Enclosures - 3

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GAO COMMENTS ON H.R. 3173

EXPORT FINANCING

Title II of H.R. 3173 would amend existing legislation concerning Eximbank's authority to finance exports, with the stated intent of enhancing the competitiveness of U.S. exporters. Title VI, section 627, would allow Eximbank to guarantee loans by private financial institutions when secured by accounts receivable or inventories. Title VII, section 721, would place stipulations on the amount of Eximbank-provided financing for agricultural commodity exports.

Section 221

Section 221 amends Public Law 90-390, which currently authorizes Eximbank to finance exports under a special Export Expansion Facility. Currently, Eximbank makes minimal use of this authority to categorize certain loans, guarantees, and insurance for which the repayment prospects are less favorable than normal.

Section 221 would amend Public Law 90-390 to (1) modify the criteria for financing under the Export Expansion Facility, (2) double the outstanding limit on such financing from $500 million to $1 billion, and (3) capitalize the Facility by earmarking portions of Eximbank's accumulated earnings and future net income ($25 million from accumulated earnings for the first year plus the lesser of 30 percent or $20 million of net income for each year thereafter through 1986).

These proposed amendments would not meet one of the stated principal purposes of Title II, "to give the Export-Import Bank additional resources to enable United States exporters to compete in countries that are not traditional markets for United States exports * * *." (Underscoring supplied.) Instead of increasing Eximbank's resources, which would require an increase in authorization levels, the amendments would restrict Eximbank's flexibility in using its available resources. Moreover, given Eximbank's current deteriorating financial condition and the likely prospects of short-term losses from its operations, it does not appear that Eximbank will have adequate income for the proposed capitalization of the Export Expansion Facility. 1/

1/For details, see GAO's June 24, 1981, report, To Be Self-Sufficient or Competitive? Eximbank Needs Congressional Guidance (ID-81-48).

Section 627

Section 627 would allow Eximbank to guarantee loans by private financial institutions when secured by export accounts receivable or inventories of exportable goods. These guarantees would be subject to present limitations and, thus, would not increase Eximbank authorization.

Eximbank at present provides guarantees to financial institutions only on loan repayments. It does, however, cooperate with the Private Export Funding Corporation, which is owned by U.S. commercial banks and major industrial corporations and which can provide the guarantees called for in section 627. We believe that such guarantees should be extended by this Corporation unless there is an increase in Eximbank's guarantee authority.

Section 721

Section 721 would require Eximbank, unless otherwise determined by the Bank or the Secretary of Agriculture, to provide financing for agricultural commodity exports as a specified portion of its total export financing, in accordance with the ratio of agricultural exports to total U.S. exports. As discussed in our comments on section 711 of this bill (p. 11), the amount of Government financing needed in any year to support agricultural exports varies based on the level of commodities available for export and the foreign demand for credit. Historically, the Commodity Credit Corporation has been the predominate supplier of such credit and Eximbank has had only a minor role. In addition to the bill's rigid linking of Eximbank credits for agricultural exports to the ratio of these exports to total exports, we are concerned that this earmarking could reduce the availability of Eximbank credits for durable capital goods which Eximbank has traditionally financed. Section 721 might also lead to an excess availability of Government-sponsored financing of agricultural exports.

EXPORT-RELATED TAX POLICY

Title III of H.R. 3173 deals in part with taxation of Americans overseas and the use of foreign trade zones in exporting.

Section 302

Section 302 provides for several revisions to the U.S. tax code with regard to the taxation of income earned abroad. These revisions are designed to encourage U.S. businesses to engage in foreign trade by eliminating perceived tax disincentives.

In our February 27, 1981, report, American Employment Abroad Discouraged by U.S. Income Tax Laws (ID-81-29), we reported that the existing law on taxation of Americans abroad did not fully meet its goal of relieving taxes on income reflecting excessive costs of living abroad for the employees of a group of major U.S. companies. We also reported that citizens of competing countries are generally not taxed by their home countries when employed abroad and urged that Congress consider placing Americans working abroad on a comparable income tax basis. Whereas the primary intent of the existing law was to provide tax equity for Americans overseas by offsetting high local living costs with a series of deductions, the primary intent of H.R. 3173 is to provide an incentive for Americans to work overseas.

Section 111 of The Economic Recovery Tax Act of 1981 (Public Law 97-34, Aug. 13, 1981) substantially follows the approach of H.R. 3173 in liberalizing the tax treatment of foreign earned income. Beginning in 1982, the new law excludes on an annual basis $75,000 of foreign earned income, with the exclusion scheduled to increase by $5,000 per year to a maximum of $95,000. The new law makes other changes identical to those proposed in H.R. 3173; i.e., a deduction for excessive housing expenses and a change in eligibility requirements. We believe these changes will substantially correct the problems we identified in our report.

Section 307

The Foreign Trade Zone Act of 1934, as amended, authorizes the duty-free admittance of foreign merchandise into a designated foreign trade zone. Such merchandise, which may be stored, combined with other merchandise, or otherwise manipulated, may then be exported without incurring customs duties or may be entered into the Customs territory of the United States and charged applicable duties.

In practice, the zones are being used less for export than for import of foreign merchandise for domestic consumption. Through use of the zones, importers can take advantage of duty differentials. For example, importers of zone-manufactured goods can pay duty on the quantity and value of the foreign components and/or raw materials used by selecting the lower of the duty rates on the finished product or the individual components. The consequent duty savings may be considerable.

Prior to 1974, foreign trade zones were rarely used. Since then, both the number of zones and the level of zone activity have significantly increased. At the end of fiscal year 1974, 11 zones had been approved, and by January 1981 the number of approved zones had increased to 59 with an additional 8 applications pending. The value of the merchandise withdrawn from the zones also increased during this period. During fiscal year 1974, $200 million in merchandise was withdrawn while during fiscal year 1980, $2.4 billion was withdrawn.

During fiscal year 1980, $1.7 billion (66 percent) of the merchandise entering zones was of foreign origin while $887 million (34 percent) came from domestic sources. More importantly, only $433 million (18 percent) of the merchandise leaving the zones was exported while $2 billion (82 percent) was imported into the commerce of the United States. Five firms that use the zones for the production of automobiles, petroleum products, clothing, typewriters, and motorcycles accounted for 61 percent of the total value of merchandise leaving the zones, of which 97 percent was imported into the United States. New zones for the production of automobiles, tractors, airplane engines, and steel products are in the developmental stage.

Section 307 of the proposed legislation would in effect overrule the U.S. Customs Court's decision of Hawaiian Independent Refinery v. United States, 460 F. Supp. 1249 (1978). That decision held that customs duties could not be imposed upon fuel brought into a foreign trade zone and consumed there as part of a manufacturing process since "foreign merchandise in a zone is not subject to duty until it actually enters the customs territory of the United States." The Customs Service, however, does not consider this decision applicable to machinery and materials brought into the zone for manufacturing purposes and therefore has continued to assess and collect import duties on such machinery and materials. The Customs Service contends that these are not "merchandise" under the Foreign Trade Zone Act and thus are fully dutiable.

Section 307(a) would provide explicitly for the "duty-free entry" into a zone of machinery, materials, and fuel used or consumed solely in the manufacture or production of goods in a zone only if such goods are subsequently exported. A stated objective of this proposal is to increase the use of foreign trade zones for export expansion. 1/ Customs duties would continue to be levied on machinery and materials which do not leave the foreign trade zone but are used or consumed in the manufacture of goods later imported into the United States from the zone. Fuel consumed in the manufacture of imported goods would also be subject to duty under this proposal.

1/When Congress first authorized manufacturing in the zones, one of several objectives of the authorization was to assist American business by enabling it to manufacture products for export under more favorable cost conditions. H.R. Rep. No. 957, 81st Cong., 1st Sess. 1-2 (1949); S. Rep. No. 1107, 81st Cong., 1st Sess. 1-2 (1949).

The implication of section 307(a) is that the applicable tariff event is not the importation of machines, materials, and fuel into the customs territory but their use or consumption in the zone to make goods that will be imported. Subsection (e) provides that machinery, fuel, materials, and manufactured goods are subject to regular duty rates once they are imported. However, we assume that subsection (e) does not refer to machinery, materials, and fuel used to produce goods in the zone for importation. As we understand the bill, machinery, materials, and fuel in this category would be tariffed while in the zone and before importation into the customs territory. If that is not the case, the intended operation of subsection (e) should be clarified.

Section 307(b) requires the Foreign Trade Zone Board to make four separate economic determinations before approving an application for duty-free entry and requires further that approved applications be reevaluated every 6 years. It should be recognized, however, that the required determinations call for a largely subjective evaluation of competing and, in some cases conflicting, economic interests. Moreover, section 307(b) would restrict what can be brought into a zone. Foreign machinery, materials, and fuel would be permitted only if comparably priced domestic machinery, materials, and fuel are not available.

Finally, we suggest that the Committee make a technical amendment to section 307(a), pages 29 and 30 of the printed bill as referred. The language "[t]he Secretary is authorized" and "[t]he Secretary shall approve" should read "[t]he Secretary of the Treasury is authorized" and "[t]he Secretary of the Treasury shall approve," respectively, to conform to the terminology of existing law. After Board approval of a grantee application, such merchandise would enter the zone under the supervision and regulations prescribed by the Secretary of the Treasury.

BUSINESS ACCOUNTING AND FOREIGN TRADE SIMPLIFICATION

Part 2 of Title V of H.R. 3173 concerns amendments to the Securities Exchange Act of 1934, as amended by the Foreign Corrupt Practices Act. (Related amendments are contained in S. 708, which recently passed the Senate.) Specifically, sections 523 and 525(a) of H.R. 3173 address the accounting provisions while sections 524, 525, and 526 address the antibribery provisions. Section 528 concerns the use of international agreements on bribery.

The Congress passed the Foreign Corrupt Practices Act in response to disclosures of widespread corporate bribery and questionable payments through use of off-book slush funds to pay off foreign officials and to make illegal domestic political contributions. The act contains two important provisions: (1) standards for maintenance of records and systems of internal accounting controls and (2) bribery prohibition.

On March 4, 1981, we issued a report on the impact of the Foreign Corrupt Practices Act on U.S. business (AFMD-81-34). Our questionnaire survey of 250 companies randomly selected from the Fortune 1000 list of the largest U.S. industrial firms showed that the act has brought about efforts to strengthen corporate codes of conduct and systems of internal accounting controls. There is, however, extensive dissatisfaction with the clarity of the accounting provisions.

The act's antibribery provisions have also been criticized as vague and ambiguous. Of the more than 30 percent of our respondents who reported that the act caused a decrease in their overseas business, approximately 70 percent rated the clarity of at least one of the antibribery provisions as inadequate or very inadequate. A general perception exists that because of these ambiguities, American companies may have forgone legitimate business opportunities. Because of the uncertainty over what constitutes compliance with the antibribery provisions, we called for the development of alternative ways of addressing the ambiguities by providing additional guidance to business through use of hypothetical situations and/or legislation.

Companies also believe they are suffering a competitive disadvantage due to the lack of an international antibribery agreement.

Our comments on specific sections of Part 2, Title V are as follows.

Sections 523 and 525(a)

Sections 523 and 525(a) would explicitly establish a standard of materiality related to financial disclosure for the recordkeeping and internal accounting control requirements. Present law does not explicitly contain such a defined standard.

Controversy exists over whether the accounting provisions currently include a materiality standard. An American Bar Association committee guide to the accounting provisions says yes; the Securities and Exchange Commission (SEC) says no. Irrespective of whether such a standard exists, it is widely held by the business community that such a standard is needed to avoid unnecessary cost burdens. In our report, we noted that over 70 percent of our questionnaire respondents and all the accounting officials contacted believe that without a materiality standard, the amount and kind of effort required to comply with the accounting provisions would be too costly.

We believe that without guidance on the factors and criteria to be considered in assessing compliance, business may incur unnecessary compliance costs. To avoid potential noncompliance and possible enforcement action, companies may go to greater extremes in keeping books and establishing controls than the Congress intended.

We consequently share the concern of the bill's sponsors that without further clarification of the present law as to what is expected, business may incur unnecessary compliance costs under the accounting provisions. On the other hand, we would like to point out for the Committee's consideration that the application of the materiality standard contained in the bill could create a minimum threshold below which errors and intentional acts would be allowed, which for many large companies would be quite high.

Civil and criminal liability under the bill's accounting standards would be limited to intentional falsification of any book or record, intentional failure to maintain adequate internal control systems, and intentional attempts to circumvent the internal accounting controls. Present law makes an issuer potentially liable if books are not kept properly, irrespective of intent or knowledge. We believe that criminal penalties should not be associated with violation of the law except for the most serious violations, such as the type of flagrant abuses that gave rise to the passage of the accounting provisions. Companies may incur excessive compliance costs because of their apprehension over the potential application of criminal penalties to what are essentially intended to be management judgments over recordkeeping and internal control systems. The accounting provisions were designed to prevent the use of corporate assets for corrupt purposes. Subjecting corporate management to potential criminal penalties for noncompliance with what is essentially a preventive measure could be counterproductive.

We recommended in our March 1981 report that the existing criminal penalties attached to the accounting provisions should be repealed and the Congress should consider legislation to establish criminal penalties for the knowing and willful falsification of corporate books and records and the intentional circumvention of internal accounting controls. This would cover situations where corporate books and records are falsified to make a payment--either material or immaterial in amount--prohibited by the law. Our recommendation differs from the bill's approach in that the bill seems to link material amounts to the intentional falsification of books or records.

Section 523(b) would also require an issuer holding 50 percent or less of the equity capital of a domestic or foreign firm to proceed in good faith in influencing the controlled firm to comply with the act. The present act's provisions appear to make the issuer/parent company responsible for any unlawful actions of its subsidiaries. (For consistency, we suggest that the word "person" in line 22 on page 74 (section 523(b)(5)) be changed to "issuer.")

Section 524

Section 524 addresses the issue of shared enforcement of the antibribery provisions--an issue which we said in our report is a policy determination for the Congress to make. Currently, SEC has civil enforcement authority for issuers registering under the Securities Exchange Act of 1934 that violate the antibribery provisions and the Department of Justice has enforcement authority for all other cases. Section 524 of the bill repeals section 30A of the Securities Exchange Act of 1934 and makes all concerns liable under section 104 of the act. In essence, this will consolidate responsibility for enforcing the antibribery provisions in the Department of Justice. Since section 526 of the bill requires the Attorney General to administer a review procedure, we believe that enforcement should rest with those responsible for interpreting requirements. Therefore, we support the bill's approach to centralize enforcement authority. The Department of Justice does not, however, have the civil investigative powers available to SEC. We note that the Senate bill (S. 708) proposes to give substantive civil investigative powers to the Justice Department.

Section 524(d) would also remove the "reason to know" provision of the act and establish a "directing" or "authorizing" standard to govern company-agent relations. Thus, the bribery prohibition would extend to gifts to any person with the intention of directing or authorizing that such gifts offered to any foreign official would influence an official act. About 37 percent of the respondents to our questionnaire commented that the "reason to know" provision did not clearly explain what was expected of a company in dealing with agents.

Section 525

Under section 525, prohibited payments would not include courtesy items, marketing education, or expenses related to the demonstration or explanation of products. Present law does not specifically exclude these payments.

Additionally, under this section, if a payment is not legally considered a bribe in the foreign country in which it was made, it would not be considered unlawful under the proposed amendments. This section also establishes the antibribery provisions as the exclusive substantive prohibition governing overseas bribery, precluding the use of any other law in bringing civil or criminal proceedings against an entity or person suspected of foreign bribery.

Section 526

Section 526 requires an interagency task force to describe specific types of conduct that would be considered in compliance with the law as well as precautionary procedures that will ensure compliance. In addition, the Justice Department will establish a review procedure for responding to specific inquiries concerning its enforcement intentions. All documents submitted by issuers and domestic concerns participating in this review procedure will be exempt from disclosure under the Freedom of Information Act and will be either returned or destroyed. This section encourages issuers and domestic concerns to come forward and ask their questions without worrying about whether information will be publicly disclosed.

The Department of Justice currently has a voluntary program to give guidance to business concerning the antibribery provisions of the Foreign Corrupt Practices Act. However, the guidance program has yet to effectively address the ambiguities and it is doubtful it will in its present format. The program has been criticized by some because of the lack of SEC participation. Justice and SEC share enforcement authority for the act's antibribery provisions. SEC declined Justice's invitation to join in the review program. As a result, business was concerned that SEC could initiate an investigation against an SEC registrant even though the company had obtained a review letter stating that Justice had no intention of seeking enforcement action. In late August 1980, SEC announced that it would accept Justice's statements of enforcement intention for contemplated transactions under the act. Although SEC still does not participate in the formulation of Justice's advance rulings, it will not prosecute corporations for transactions that receive Justice clearance. This bill resolves this issue by centralizing enforcement of the antibribery provisions in Justice.

In section 526, the Department of Justice is directed to provide assistance by explaining to exporters and small businesses the accounting provisions that SEC registrants must comply with. This provision may be contrary to the stated intent of the bill to eliminate conflicting agency interpretations. The Congress may wish to consider designating the SEC as responsible for explaining the accounting requirements necessary to comply with the act.

Under section 526 (page 80, line 25) all documents provided to the Attorney General can be used only in preparing a response to a specific inquiry unless the domestic concern or issuer making the request gives express written permission for other use of the documents. We believe that the bill should contain a provision making it clear that GAO has access to such documents for carrying out its review activities. This is especially important if GAO is to provide assistance to the Congress for the oversight review mandated by section 528.

Section 528

The proposed legislation expresses the sense of Congress that the President should pursue the negotiation of bilateral and multilateral agreements to establish international business practices and report to Congress on the progress of these negotiations. Although the United Nations has been working on an international antibribery agreement for more than 4 years, it has been unable to achieve one. Without an effective international ban against bribery, unfair competitive advantage could be given to non-U.S. firms. Over 50 percent of our questionnaire respondents believed that an international agreement would strengthen America's competitive position abroad. Over 60 percent of these respondents believed that, assuming all other conditions were similar, American companies could not successfully compete against foreign competitors who are bribing foreign officials. Section 528 also requires Congress to undertake oversight review of the act. We believe it is important for Congress to monitor the status of current U.S. efforts to reach an international antibribery agreement, and we recommended such action in our report.

EXPORT COMPETITIVENESS STATEMENTS

Section 531

Section 531 of H.R. 3173 provides for the preparation of an export competitiveness impact statement whenever an "issuing authority takes a significant action which, in the judgment of the issuing authority, could affect adversely exports of United States goods and services * * *." We are concerned that this section as written may be too broad, as many actions may have some effect on exports. Furthermore, impact on trade should be considered as part of a comprehensive analysis of all significant costs and benefits. We would therefore suggest that the Congress further define the level of impact to which this provision would apply and instead of requiring a special statement, call for including the evaluation of significant trade impacts in the general impact statements that agencies now prepare.

EXPORT PROMOTION PROGRAMS

Title VI of H.R. 3173 focuses on export promotion programs and would, for example, encourage the formation of export trading companies and provide for the establishment of joint marketing agreements.

Section 626

Section 626 would direct the Economic Development Administration and the Small Business Administration to give "special weight" to export-related benefits when considering export trading company loan or guarantee applications or operating grants to nonprofit organizations. The section would also authorize an appropriation of $10 million in each fiscal year 1982 through 1986 to meet the purposes of this section. Section 626 does not, however, specify how much would be appropriated to each agency or provide guidance on how the funds would be disbursed (grants or loans) or what interest rates to be charged when loans are made.

Joint export marketing assistance:
sections 641 through 644

Section 643 would authorize the Secretary of Commerce to enter into an agreement to share the cost of an entity's 1/ approved marketing proposal for a period not to exceed 3 years. The section stipulates that the Federal share of participation in any such agreement should not exceed 50 percent of reasonable costs and that the entity should repay the Federal share over a 5-year period beginning at the expiration of the Federal participation. Section 643 does not, however, clearly spell out the details of such Federal participation. For example, the 50-percent limit provides no indication of actual authorization levels. The section is also silent on the full terms for repayment of the Federal share and could be construed to authorize interest-free loans. We believe that if this is the intent of the section, it should be clearly stated.

AGRICULTURAL EXPORTS

Title VII of H.R. 3173 provides for the establishment of an agricultural export credit revolving fund.

Section 711

Section 711 would amend the Commodity Credit Corporation Charter Act to establish a revolving fund for financing U.S.

1/Described as interested industrial corporations or groups of noncompeting corporations.

agricultural exports under programs now authorized under the Corporation's charter authority and the Food for Peace Act of 1966, as amended. These programs are the Commodity Credit Corporation's (CCC) Export Credit Sales Program (which provides credits for 6 months to 3 years) and its Intermediate Credit Program (credits for 3 to 10 years). These programs were financed 1/ by CCC borrowings from the Treasury; the proposed amendment would replace this funding source with appropriations and earmarking of outstanding repayments for the revolving fund.

The idea of a separate revolving fund has been under consideration for at least 5 years. The principal advantages claimed are that (1) program managers would have more control over program policies and operations and interest rates charged, (2) the credit program would be under separate accountability, and (3) the fund, once established, would not require continuing budget allocations but instead would rely on self-generated repayment funds.

Our specific comments on the proposed revolving fund follow.

Purposes of the fund: Section 711 would not add to CCC's existing authority to finance agricultural exports. In fact, by lack of specific reference, it may exclude funding of CCC's intermediate credits for exports of breeding animals. That is, section 711 refers only to use of the revolving fund for (1) "carrying out the provisions of section 5(f) of this [CCC] Act" (CCC general authority to assist agricultural exports) and (2) making loans for the construction or acquisition of facilities in foreign countries, which was one of the purposes of intermediate credits as authorized in the Agricultural Trade Act of 1978.

Fund size: The CCC budget for export credits has varied significantly from year to year, ranging from a low of $415 million in 1974 to $1.7 billion in 1978. In contrast, the proposed revolving fund would have a more predictable size, at least in the first year of proposed operation, fiscal year 1982. The amount available in that year would be $2 billion in appropriations plus principal and interest repayments from previous credits for a total of $2.626 billion. Amounts available for subsequent years would be determined by appropriations and the repayments of existing and new credits.

1/The administration's budget for fiscal years 1981 and 1982 suspended these credit programs in favor of an all-risk Government guarantee program.

As the history of CCC's Export Credit Sales Program shows, 1/ the amount of credits provided in any year is a judgmental decision based on the export availability of commodities and the foreign demand for credit. Too little credit might contribute to the accumulation of agricultural surpluses while too much credit risks the replacement of cash sales. It is difficult to judge whether the proposed revolving fund would be of an appropriate size. Nevertheless, it should be noted that its initial size ($2.6 billion) would be about 50 percent higher than the 1978 peak year for the Export Credit Program.

Budgetary implications: Several budgetary implications of the proposed revolving fund may not be immediately evident.

First, the earmarking for the fund of repayments from outstanding credits would require equivalent new appropriations to offset the increase in CCC's overall operating deficit. As previously mentioned, CCC's export credit programs are now financed by borrowings from Treasury. Since CCC generally provided credits at higher interest rates than the rates at which it borrowed, the credit programs were self-supporting in that the returns to the Treasury exceeded CCC's borrowings plus interest. CCC's overall operations (e.g., crop support payments), however, are run at a loss which is reimbursed by annual appropriations. The fiscal year 1982 loss is estimated at $2.3 billion. If repayments from outstanding export credits were earmarked for the revolving fund, CCC losses and resulting need for appropriations would increase by an amount equivalent to the estimated repayments, or about $0.626 billion, making the overall loss about $2.9 billion. Similarly, earmarking of repayments due in later fiscal years would correspondingly increase CCC's overall deficit and need for appropriations.

Second, the proposed amendment provides for abolishing the fund effective October 1, 1984, and transferring all unobligated funds as of September 30, 1984, to miscellaneous receipts of the Treasury. The amendment, however, is silent on the treatment of outstanding credits as of the date of abolishment.

Finally, the amendment proposes a revolving fund but offers no guidance on interest rates to be charged. This could significantly affect the fund's viability, particularly if rates were set too low to recover the fund's administrative costs.

1/For details on this Program, see GAO's Oct. 25, 1979, report, Stronger Emphasis on Market Development Needed in Agriculture's Export Credit Sales Program (ID-80-01).

GAO REPORTING REQUIREMENT

Section 991 of H.R. 3173 would require the Comptroller General of the United States, within 12 months of enactment of this legislation, to (1) report to the Congress on the organization of U.S. international trading and financing programs, (2) analyze the effectiveness of export promotion programs, (3) evaluate the trade activities of various Government agencies and departments, and (4) make recommendations as needed with respect to export promotion agencies and/or new programs.

We believe that GAO's work concerning international trade-related programs and agencies fully supports the intent and objectives of section 991 and that GAO has allocated sufficient staff resources to cover the matters addressed by section 991. For example, in the past year GAO has issued reports on the lending policies of Eximbank, the taxation of Americans overseas, and the Foreign Corrupt Practices Act and is currently conducting reviews of the Foreign Commercial Service and Government programs to counter foreign subsidies. (See encls. II and III for lists of relevant GAO reports and current reviews.)

Moreover, we believe that GAO can more effectively analyze and report on the areas addressed by section 991 through detailed examination of specific programs rather than through a more general and broader treatment within a short timeframe. We therefore recommend that Congress delete this provision of H.R. 3173.

SELECTED GAO REPORTS ON

H.R. 3173-RELATED SUBJECTS

The Growing Role of Trade as a Development Mechanism (ID-81-46, Aug. 11, 1981).

To Be Self-Sufficient or Competitive? Eximbank Needs Congressional Guidance (ID-81-48, June 24, 1981).

Impact of Foreign Corrupt Practices Act on U.S. Business (AFMD 81-34, Mar. 4, 1981).

OPIC: Its Role in Trade and Development (ID-81-21, Feb. 27, 1981).

American Employment Abroad Discouraged By U.S. Income Tax Laws (ID-81-29, Feb. 27, 1981).

Letter Report, Increased Management Action Needed to Help TDP [Trade and Development Program] Meet Its Objectives (ID-81-20, Jan. 6, 1981).

Promoting Agricultural Exports to Latin America (ID-81-05, Dec. 11, 1980).

Financial and Other Constraints Prevent Eximbank From Consistently Offering Competitive Financing for U.S. Exports (ID-80-16, Apr. 30, 1980).

Stronger Emphasis on Market Development Needed in Agriculture's Export Credit Sales Program (ID-80-1, Oct. 26, 1979).

Perspectives on Trade and International Payments--Executive Summary (ID-79-11, Oct. 10, 1979).

Government Programs and Organization Affecting Exports (ID-79-41, Aug. 17, 1979).

Letter Report, Export Sales Reporting System of the Department of Agriculture (ID-79-38, June 5, 1979).

Impact on Trade of Changes in Taxation of U.S. Citizens Employed Overseas (ID-78-13, Feb. 21, 1978).

Issues Surrounding the Management of Agricultural Exports (ID-76-87, May 2, 1977).

Letter Report, New Orleans Foreign Trade Zone (ID-76-86, Sept. 22, 1976).

SELECTED GAO REVIEWS IN PROCESS ON

H.R. 3173-RELATED SUBJECTS

Foreign Trade Zones

We are currently reviewing selected foreign trade zone operations in light of the Foreign Trade Zone Act of 1934, as amended, and U.S. Customs regulations. As part of the review, we will be exploring the economic impact of zones on competing domestic manufacturers, overall U.S. employment, and the collection of Customs duties.

Target reporting date: Spring 1982

The Department of Commerce's Foreign Commercial Service

Responsibility for U.S. Government overseas commercial activities was transferred to the Department of Commerce from the Department of State as part of the President's Reorganization Plan #3. This transfer of responsibility became effective on April 1, 1980, with the formation of Commerce's Foreign Commercial Service. This review examines the transfer of responsibility and the export facilitation activities of the Service.

Target reporting date: Spring 1982

Export Assistance for Small and Medium Businesses

The United States assists its small business exporters through a variety of programs. The Commerce Department provides information on overseas business opportunities, the Small Business Administration offers management guidance, the Overseas Private Investment Corporation provides insurance against foreign confiscation of U.S. investments, and Eximbank offers a limited amount of financing plus insurance and loan guarantees. Small business officials complain, however, that they need more and better Government help.

We issued a letter report (B-172255, June 22, 1973) to the Secretary of Commerce and the Administrator of the Small Business Administration summarizing our review of (1) the services needed to assist small business to export and (2) the Government's responsiveness to these needs. Our current review is designed to assess certain Federal and State efforts to meet the needs of small business in exporting.

Target reporting date: Summer 1982

Effectiveness of Government Programs to Counter Foreign Trade Subsidies

Many countries subsidize their export industries to gain an unfair advantage in international competitiveness. A number of U.S. laws and international treaties provide the legal framework needed to counter such subsidies through (1) removal by negotiation, (2) neutralization by countervailing duties, or (3) retaliation by counter-subsidies. This review will evaluate the effectiveness of the Government's organization, policies, and procedures for countering foreign trade subsidies. It will assess the adequacy of systems to identify and quantify foreign subsidies; examine the nature and adequacy of efforts to enforce U.S. treaty rights pertaining to subsidies; and evaluate the appropriateness and timeliness of unilateral responses in the form of countervailing duties and counter-subsidies.

Target reporting date: Summer 1982