90TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1951

RENEGOTIATION AMENDMENTS ACT OF 1968, ETC.

OCTOBER 3, 1968.—Ordered to be printed

Mr. MILLS, from the committee of conference submitted the following

CONFERENCE REPORT

[To accompany H.R. 17324]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17324) to extend and amend the Renegotiation Act of 1951, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11, and agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE II—ADMINISTRATION OF THE ANTIDUMPING ACT, 1921

Determinations Under the Antidumping Act, 1921

SEC. 201. (a) Nothing contained in the International Antidumping Code, signed at Geneva on June 30, 1967, shall be construed to restrict the discretion of the United States Tariff Commission in performing its duties and functions under the Antidumping Act, 1921, and in performing their duties and functions under such Act the Secretary of the Treasury and the Tariff Commission shall—

(1) resolve any conflict between the International Antidumping Code and the Antidumping Act, 1921, in favor of the Act as applied by the agency administering the Act, and

(2) take into account the provisions of the International Antidumping Code only insofar as they are consistent with the Antidumping Act, 1921, as applied by the agency administering the Act.

(b) No later than August 1, 1969, the President shall submit to the House of Representatives and United States Senate a report for the period beginning on July 1, 1968, and ending on June 30, 1969, which shall—

(1) set out the text of all determinations made by the Secretary of the Treasury and the United States Tariff Commission under the Antidumping Act, 1921, in such period;

(2) analyze with respect to each determination in such period the manner in which the Antidumping Act, 1921, has been administered to take into account the provisions of the International Antidumping Code;

(3) summarize antidumping actions taken by other countries in such period against United States exports and relate such actions to the provisions of the International Antidumping Code; and

(4) include such recommendations as the President determines appropriate concerning the administration of the Antidumping Act, 1921.

And the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

On page 8 of the Senate engrossed amendments, strike out lines 13 through 24, and in lieu thereof insert the following:

(b) The President shall cause to be published promptly in the Federal Register (1) a copy of each complaint filed under subsection (a), (2) the results of the investigation made with respect to each such complaint and his findings thereunder, and (3) in the case of each complaint with respect to which he makes an affirmative finding of discrimination, or threat thereof, any rules and regulations made by the Federal Maritime Commission pursuant to subsection (a) and each subsequent finding made by him under such subsection.

And the Senate agree to the same.

Senate amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14 and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE IV—MISCELLANEOUS AMENDMENT

SEC. 401. (a) Section 103(c)(6) of the Internal Revenue Code of 1954 (relating to exemption for certain small issues in the case of industrial development bonds) is amended by adding at the end thereof the following new subparagraphs:

"(D) $5,000,000 LIMIT IN CERTAIN CASES.—At the election of the issuer, made at such time and in such manner as the Secretary or his delegate shall by regulations prescribe, with respect to any issue this paragraph shall be applied—

"(i) by substituting '$5,000,000' for '$1,000,000' in subparagraph (A), and

"(ii) in determining the aggregate face amount of such issue, by taking into account not only the amount described in subparagraph (B), but also the aggregate amount of capital expenditures with respect to facilities described in subparagraph (E) paid or incurred during the 6-year period beginning 3 years before the date of such issue and ending 3 years after such date (and financed otherwise than out of the proceeds of outstanding issues to which subparagraph (A) applied), as if the aggregate amount of such capital expenditures constituted the face amount of a prior outstanding issue described in subparagraph (B).

"(E) FACILITIES TAKEN INTO ACCOUNT.—For purposes of subparagraph (D)(ii), the facilities described in this subparagraph are facilities—

"(i) located in the same incorporated municipality or located in the same county (but not in any incorporated municipality), and

"(ii) the principal user of which is or will be the same person or two or more related persons.

For purposes of clause (i), the determination of whether or not facilities are located in the same governmental unit shall be made as of the date of issue of the issue in question.

"(F) CERTAIN CAPITAL EXPENDITURES NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (D)(ii), any capital expenditure—

"(i) to replace property destroyed or damaged by fire, storm, or other casualty, to the extent of the fair market value of the property replaced,

"(ii) required by a change made after the date of issue of the issue in question in a Federal or State law or local ordinance of general application or required by a change made after such date in rules and regulations of general application issued under such a law or ordinance, or

"(iii) required by circumstances which could not be reasonably foreseen on such date of issue or arising out of a mistake of law or fact (but the aggregate amount of expenditures not taken into account under this clause with respect to any issue shall not exceed $250,000),

shall not be taken into account.

"(G) LIMITATION ON LOSS OF TAX EXEMPTION.—In applying subparagraph (D)(ii) with respect to capital expenditures made after the date of any issue, no obligation issued as a part of such issue shall be treated as an obligation not described in subsection (a)(1) by reason of any such expenditure for any period before the date on which such expenditure is paid or incurred.

"(H) CERTAIN REFINANCING ISSUES.—In the case of any issue described in subparagraph (A)(ii), an election may be made under subparagraph (D) only if all of the prior issues being redeemed are issues to which subparagraph (A) applies. In applying subparagraph (D)(ii) with respect to such a refinancing issue, capital expenditures shall be taken into

account only for purposes of determining whether the prior issues being redeemed qualified (and would have continued to qualify) under subparagraph (A)."

(*b*) *The amendment made by subsection (a) shall apply with respect to obligations issued after the date of the enactment of this Act.*

And the Senate agree to the same.

Amend the title so as to read: "An Act to extend and amend the Renegotiation Act of 1951, and for other purposes."

WILBUR D. MILLS,
HALE BOGGS,
FRANK M. KARSTEN,
JOHN W. BYRNES,
THOMAS B. CURTIS,
Managers on the Part of the House.

RUSSELL B. LONG,
GEORGE SMATHERS,
CLINTON ANDERSON,
ALBERT GORE,
HERMAN TALMADGE,
VANCE HARTKE,
JOHN J. WILLIAMS,
FRANK CARLSON,
WALLACE F. BENNETT,
CARL T. CURTIS,
Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17324) to extend and amend the Renegotiation Act of 1951, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

RENEGOTIATION AMENDMENTS ACT OF 1968

Amendments Nos. 1, 2, 3, and 4: These are clerical amendments. The House recedes.

Amendments Nos. 5 and 9: These amendments relate to the definition of the terms "standard commercial article" and "standard commercial class of articles". Under the bill, as passed both by the House and the Senate, the price of an item must not be in excess of the lowest price at which it is sold in similar quantity by the contractor or subcontractor for civilian industrial or commercial use, except for any excess attributable to the cost of accelerated delivery or other circumstances. The bill as passed by the House specifies "unusual" circumstances, the Senate amendments specify "significantly different" circumstances. The House recedes.

Amendments Nos. 6, 7, 8, and 10: In defining the terms "standard commercial article", "standard commercial service", "service which is reasonably comparable with a standard commercial service", and "standard commercial class of articles", the bill as passed by the House required that at least 50 percent of the receipts or accruals from the sales or services be from sales or performance for civilian industrial or commercial use or purposes. Under the Senate amendments, at least 55 percent of the receipts and accruals must be receipts and accruals which are not subject to the Renegotiation Act. The House recedes.

Amendment No. 11: This is a technical clarifying amendment. The House recedes.

ADMINISTRATION OF THE ANTIDUMPING ACT, 1921

Senate amendment numbered 12 adds a new section to the bill. Subsection (a) provides that until otherwise provided by law hereafter enacted—

(1) the Secretary of the Treasury shall perform his duties and functions under the Antidumping Act, 1921, in accordance with the regulations prescribed under such act as in effect on June 30, 1968; and

(2) the United States Tariff Commission shall perform its duties and functions under the Antidumping Act, 1921, in accord-

ance with precedents established in affirmative determinations made under such act by the Commission before June 30, 1968.

For purposes of paragraph (1), the duties and functions of the Secretary of the Treasury (A) are not to include determinations as to whether the quantity of merchandise deemed to have been sold at less than fair value is more than insignificant, and (B) are not to include the acceptance of assurances (i) of price revisions to eliminate the likelihood of sales below fair value, or (ii) that sales in the United States of merchandise at less than fair value have terminated and will not be resumed.

Subsection (b) requires the Secretary of the Treasury and the U.S. Tariff Commission to perform their duties and functions under the Antidumping Act, 1921, without regard to the provisions of the International Antidumping Code, signed at Geneva on June 30, 1967, until such time as legislation enacted to implement the provisions of such Code becomes effective.

The House recedes with an amendment. Under the conference agreement, nothing contained in the International Antidumping Code, signed at Geneva on June 30, 1967, shall be construed to restrict the discretion of the U.S. Tariff Commission in performing its duties and functions under the Antidumping Act, 1921, and in performing their duties and functions under such act the Secretary of the Treasury and the Tariff Commission shall—

(1) resolve any conflict between the International Antidumping Code and the Antidumping Act, 1921, in favor of the act as applied by the agency administering the act; and

(2) take into account the provisions of the International Antidumping Code only insofar as they are consistent with the Antidumping Act, 1921, as applied by the agency administering the act.

Also under the conference agreement, no later than August 1, 1969, the President shall submit to the House of Representatives and U.S. Senate a report for the period beginning on July 1, 1968, and ending on June 30, 1969, which shall—

(1) set out the text of all determinations made by the Secretary of the Treasury and the U.S. Tariff Commission under the Antidumping Act, 1921, in such period;

(2) analyze with respect to each determination in such period the manner in which the Antidumping Act, 1921, has been administered to take into account the provisions of the International Antidumping Code;

(3) summarize antidumping actions taken by other countries in such period against United States exports and relate such actions to the provisions of the International Antidumping Code; and

(4) include such recommendations as the President determines appropriate concerning the administration of the Antidumping Act, 1921.

INTERNATIONAL COFFEE AGREEMENT ACT OF 1968

Amendment No. 13: Senate amendment numbered 13 adds a new title III to the bill, which provides authority for implementation of

the International Coffee Agreement, 1968. Except as noted below, the text of title III is the same as the text of H.R. 18299, as reported to the House (H. Rept. 1704).

Under H.R. 18299, the authority conferred on the President to carry out and enforce the International Coffee Agreement, 1968, would terminate September 30, 1973. Under the Senate amendment, the authority terminates September 30, 1970.

Both H.R. 18299 and the Senate amendment require the President to submit to the Congress an annual report on the International Coffee Agreement, 1968. In addition to the information specifically required by H.R. 18299, the Senate amendment requires the report to include full information with respect to matters pertaining to the transportation of coffee from exporting countries to the United States.

The Senate amendment includes a section (Sec. 306, for which there is no corresponding provision in H.R. 18299) relating to the prevention of discrimination against U.S.-flag ships in the shipping of coffee to the United States. The amendment requires the President, upon complaint, to make an investigation to determine whether any exporting country which is a member of the International Coffee Organization (or group of exporting countries which includes any member of such Organization) is taking action which, directly or indirectly, discriminates, or threatens to discriminate, against vessels registered under the laws of the United States in the shipping of coffee to the United States. If the President finds that discrimination, or threat thereof, exists, he is required to notify the Federal Maritime Commission and it is required to promptly make appropriate rules and regulations under section 19 of the Merchant Marine Act, 1920 (relating, in general, to rules and regulations to adjust or meet general or special conditions unfavorable to shipping in the foreign trade). If, within a reasonable time after the notice to the Commission, the President finds that the effect of discrimination, or threat thereof, still exists, the authority conferred on the President by the bill to carry out the International Coffee Agreement Act of 1968, is to cease to apply until such time as the President finds that the effect of discrimination, or threat thereof, has ceased to exist.

The amendment also requires the President to inform the Committee on Ways and Means and the Committee on Finance of complaints made and action taken under the section.

The House recedes with an amendment. The conference agreement retains the text of the Senate amendment except that, in lieu of reporting to the Committee on Ways and Means and the Committee on Finance, the President is to cause information with respect to complaints made and action taken under section 306 to be published promptly in the Federal Register.

INDUSTRIAL DEVELOPMENT BOND SMALL ISSUE EXEMPTION

Amendment No. 14: Section 107 of the Revenue and Expenditure Control Act of 1968 amended section 103 of the 1954 Code (relating to interest on certain governmental obligations) by inserting a new subsection (c). Under this subsection, the general rule is that industrial development bonds (as defined in the subsection) are to be

treated as obligations which are not the obligations of a State or political subdivision. Subsection (c) also contains exceptions to this general rule, including (in paragraph (6) of subsection (c)) an exception for certain small issues, that is, issues where the aggregate authorized face amount is $1,000,000 or less and substantially all of the proceeds are to be used (1) for the acquisition, construction, or improvement of land or depreciable property, or (2) for the redemption of a prior issue described in clause (1) or this clause.

Senate amendment numbered 14 raised the $1,000,000 limit in paragraph (6) to $5,000,000.

The House recedes with an amendment which is a substitute for the amendment proposed by the Senate. Under the conference substitute, the $1,000,000 is raised to $5,000,000 but only in certain specified circumstances, which are set forth in new subparagraphs (D), (E), (F), (G), and (H) of section 103(c)(6).

New subparagraph (D) provides that the governmental unit which is the issuer of the issue in question must elect to have the $5,000,000 limit apply to this issue in lieu of the $1,000,000 limit. If it makes this election, then in testing whether this issue comes within the $5,000,000 limit, there must be taken into account not only the prior outstanding issues which have to be taken into account under section 103(c)(6)(B) of the Code, but also certain capital expenditures made during the 6-year period which begins 3 years before the date of issue of the issue in question and ends 3 years after such date. The capital expenditures which are to be so taken into account are expenditures which meet all three of the following tests:

(1) They are made with respect to facilities described in new subparagraph (E), that is, facilities (A) the principal user of which is or will be the same person or related persons, and (B) which (on the date of issue) are located in the same incorporated municipality or in the same county (outside of the incorporated municipalities in such county);

(2) They are not financed out of the proceeds of issues which (at the time the $5,000,000 limit is being tested) are outstanding and to which section 103(c)(6)(A) of the Code applied; and

(3) They are properly chargeable to capital account (determined, for this purpose, without regard to any rule of the 1954 Code which permits expenditures properly chargeable to capital account to be treated as current expenses).

Each such capital expenditure is to be taken into account beginning with the time when it is paid or incurred, and is to be taken into account in the amount so paid or incurred.

The new subparagraph (F) added to section 103(c)(6) of the 1954 Code by the conference substitute provides that the following capital expenditures are not to be taken into account in applying the $5,000,000 limit:

(1) Capital expenditures to replace property damaged or destroyed by fire, storm, or other casualty, to the extent that these expenditures do not exceed in dollar amount the fair market value (determined immediately before the casualty) of the property so damaged or destroyed.

(2) Any capital expenditure required by a change made after the date of issue in a Federal or State law, or a local ordinance,

which applies generally, or required by a change made after such date in rules and regulations of general application issued under such a law or ordinance.

(3) Capital expenditures required by circumstances which could not reasonably be foreseen on the date of issue or arising out of a mistake of law or fact (such as a mistake pursuant to which an item is treated as a repair and deducted rather than capitalized).

New subparagraph (F)(iii) contains a limitation of $250,000 with respect to any issue on the aggregate amount not taken into account under such provision.

New subparagraph (G) provides a limitation on the loss of tax exemption which may arise under the $5,000,000 by reason of capital expenditures made after the date of issue. As previously indicated, under the new subparagraph (D)(ii) there must be taken into account not only capital expenditures made during the 3-year period before the date of the issue in question, but also during the 3-year period following such date. Thus, subsequent expenditures may have the effect of making taxable an issue which at the time of issue qualifies for exemption. New subparagraph (G) provides that in such a case the loss of tax-exemption for the interest will begin only with the date on which the expenditure which caused the issue to cease to qualify under the $5,000,000 limit was paid or incurred.

New subparagraph (H) relates to certain issues substantially all of the proceeds of which are to be used to redeem prior issues. The first sentence of the new subparagraph (H) provides that the election of the $5,000,000 limit (in lieu of the $1,000,000 limit) may be made only if all of the prior issues being redeemed are issues to which section 103(c)(6)(A) applies, that is, each prior issue must be one which qualified under subparagraph (A) itself (or which qualified under subparagraph (A) by reason of a $5,000,000 election made under subparagraph (D) and which would have continued to so qualify if the redemption had not taken place). The second sentence of new subparagraph (H) provides that in applying the capital expenditure test of subparagraph (D)(ii) to refinancing issues, capital expenditures are to be taken into account only for purposes of determining whether those prior issues which were made under a subparagraph (D) election qualified under subparagraph (A) and would have continued to qualify under subparagraph (A) but for the redemption.

Subsection (b) of section 401 of the conference substitute provides that the amendment made by subsection (a) is to apply with respect to obligations issued after the date of the enactment of the bill.

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FRANK M. KARSTEN,
JOHN W. BYRNES,
THOMAS B. CURTIS,
Managers on the Part of the House.