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TEMPORARY SUSPENSION OF PRESIDENTIAL AUTHORITY TO IMPOSE FEES ON, OR OTHERWISE ADJUST, PETROLEUM IMPORTS

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Mr. RIBICOFF, from the Committee on Finance, submitted the following

REPORT

together with

MINORITY AND SUPPLEMENTAL VIEWS

[To accompany H.R. 1767]

The Committee on Finance, to which was referred the bill (H.R. 1767) to suspend for a 90-day period the authority of the President under section 232 of the Trade Expansion Act of 1962 or any other provision of law to increase tariffs, or to take any other import adjustment action, with respect to petroleum or products derived therefrom; to negate any such action which may be taken by the President after January 15, 1975, and before the beginning of such 90-day period, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

I. SUMMARY

The Committee's bill provides for the temporary suspension of the President's authority to adjust imports of petroleum and petroleum products for the 90-day period beginning on the date of enactment, and negates any Presidential import adjustment action taken after January 15, 1975, and before the beginning of such 90-day period.

In the case of petroleum and petroleum products the first section of the bill suspends for the 90-day period beginning on the date of enactment any authority the President might have to adjust imports of petroleum and petroleum products. Section 2 would negate any Presidential action to adjust petroleum imports taken after January 15,

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1975, and before the date of enactment, and also provides for the rebate of any duties or import fees or taxes levied and collected pursuant to any such action. Section 3 provides that the suspension of Presidential authority to adjust petroleum imports will cease if at any time during the 90-day period war is declared, a national emergency occurs, or certain situations involving the commitment of United States Armed Forces arise. Section 4 of the bill provides that H.R. 1767 shall not affect the import license fee system on petroleum and petroleum products which was in effect on January 15, 1975.

II. SUSPENSION OF ANY EXISTING AUTHORITY TO INCREASE IMPORT FEES ON OIL

A. Chronology of President's Action and Committee Response

H.R. 1767 is essentially a response to the action taken by the President on January 23, proclaiming an import fee on petroleum and petroleum products. The President's action by proclamation anticipated enactment of legislation involving taxes on certain energy resources including a $2-per-barrel tax on crude petroleum, both imported and domestically produced, and also import fees and excise taxes on petroleum products. By favorably reporting H.R. 1767, the Committee is seeking to work as an equal partner with the President on our energy problems, including the problem of the growing dependence on foreign oil.

On January 23, the President issued his Executive Order proclaiming import fees on petroleum and petroleum products which would bring in revenues of about $200 million during the first three months of 1975 and $400 million monthly by April 1975 according to the Administration.

B. Description of the President's Action and Comments on Economic Impact

Proclamation 4341 issued by the President on January 23, 1975, modifies Proclamation 3279 dated March 10, 1959, which established the mandatory oil import quota program. It also modifies amendments of that Proclamation including Proclamation 4210 of April 18, 1973, which suspended tariffs on imports of petroleum and petroleum products and replaced the mandatory oil import quota program by a system of import license fees.

Amendment of import license fee system

Proclamation 4341 provides that the phase-in schedule of import license fees under the present system and the preferential longer phase-in fee schedule for imports of motor gasoline and other finished products from Canada (established under Proclamation 4227 of June 19, 1973) will be eliminated. This means that as of February 1, 1975, the import fees under the present program will increase on crude oil from 18.0 to 21.0 cents per barrel, from 59.5 to 63.0 cents per barrel on motor gasoline, and from 42.0 to 63.0 cents per barrel on all other finished products (except ethane, propane, butanes, and asphalt). These rates would have been achieved as of November 1, 1975, under the present program.

The elimination of the longer phase-in of fees on imports from Canada means the present fee of 6.0 cents per barrel on motor gasoline and 4.2 cents per barrel on other finished products (except ethane, propane, butanes, and asphalt) rises to the uniform 63.0 cents per barrel, which was not scheduled to take effect until November 1, 1980.

New import fee schedule

Proclamation 4341 increases the import fees under the present program on crude oil by a supplemental fee of $1 per barrel effective February 1, $2 per barrel as of March 1, and $3 per barrel as of April 1. The effective supplemental fees on petroleum products will be zero as of February 1, $0.60 as of March 1, and $1.20 per barrel by April 1. For example, the total import fee on a barrel of crude oil would be $3.21 as of April 1, and $1.83 per barrel of residual fuel oil.

Proclamation 4341 reinstates the tariffs on petroleum and petroleum products as of February 1, which were suspended when the import quota system was replaced by license fees. The burden of the reinstatement is nil, however, since the tariffs are subject to refund of equivalent amounts from the total fees paid.

"Entitlements" program

The "Old Crude Oil Allocation Program," established under Federal Energy Administration (FEA) regulations issued in December 1974, will continue to apply under the new program to equalize substantially the costs of crude oil to refiners while the domestic two-tier price controls remain in effect. The purpose of this so-called "entitlements" program is to reduce the cost differentials between refiners with access to lower cost "old" oil (currently under a price ceiling averaging about $5.25 per barrel) and refiners dependent on more costly imported and "new" domestic crude oil not subject to price controls (averaging over $11 per barrel). The cost disparity is reduced by allocating low-priced "old" oil proportionately among all refiners by issuing entitlements each month to refiners granting them access to price-controlled "old" crude oil. The entitlements to each refiner will be equal to the national average ratio of "old" crude oil to new domestic plus imported crude, calculated monthly by the FEA. Additional entitlements will be issued to small refiners. The FEA will publish a list of the number of entitlements issued each refiner.

Refiners with a lower share of "old" oil than the national average in a particular month, for example, refiners heavily dependent on imported crude oil, sell entitlements to refiners with more than their share of low-priced crude, up to the amount of the national average ratio. The proceeds from the sales are used by the refiners to reduce their cost of higher-priced imported or domestic oils. The refiners' customers pay prices that reflect the cost of the imported crude oil reduced by the value of the entitlement sales for the particular month. In turn, refiners with more "old" oil than the national average must purchase such entitlements in order to process their "old" oil. The goal is for all refiners' product prices to reflect approximately the same proportion of low-priced domestic crude oil regardless of geographic location or source of crude oil supply.

Under the present allocation regulations, residual fuel oil and No. 2 fuels (heating oil and diesel fuel), receive an entitlement valued at approximately one-third of the crude entitlement value. These regulations are bei.ıg amended to eliminate such entitlements for products. Entitlements for products are replaced by reductions in fees to importers of *all* petroleum products subject to the supplemental fees. The supplemental fees charged on products will be reduced from the levels of fees on crude by $1.00 per barrel on February 1, $1.40 per barrel on March 1, and $1.80 per barrel on April 1.

This system of lesser fees on products is designed to equalize as much as possible the costs of imported fuel oils and other imports of petroleum products with domestic production while price controls remain in effect. It is also intended to reduce the impact of large fees in regions heavily dependent on product imports.

About 60 percent of the total national supply of crude oil is either imported, "new" domestic production, or stripper well production not subject to price controls. Under the entitlements program, each refiner is allocated the equivalent of approximately 40 percent of its crude oil runs as price-controlled "old" oil. In other words, refiners will be reimbursed, in effect, under the entitlements program by about 40 cents for each $1.00 increase in the fee on imported crude oil and incur a net 60 cent price increase for each $1.00 increase in the fee. To maintain an equal cost relationship between domestic refiners and importers of refined products, the import fee on products is computed initially at 60 cents instead of the $1.00 crude level to match the effective 60-cent net fee cost for refiners. In turn, importers have had benefits under the present entitlements program equivalent to 60 cents per barrel of imported product. Since this entitlement will be eliminated under the new program, the import fee on products will be reduced by an equivalent 60 cents.

Effective import fees

Consequently, the net effective import fee on petroleum products will be zero in February; in March the corresponding initial fee is $1.20 instead of the $2.00 crude level (i.e., the reimbursement to refiners of the crude oil fee under the entitlements program is 80 cents) minus 60 cents for current entitlement benefits, for a net fee of $0.60; and in April the net fee of $1.20 excludes $1.80 for the crude oil entitlement and 60 cents for the current product entitlement. The FEA Administrator has authority under the Proclamation to reduce the fee by these or by other amounts as he may determine necessary to achieve the objectives of the Proclamation and the Emergency Petroleum Allocation Act of 1973.

The fees are payable by the last day of the month following the month the imports are released from customs or entered or withdrawn from warehouse. Under current price regulations, there will be a minimum time lag of one month between importation or payment of the fees on imported crude oil products and pass-through of the price increase by the refiner or importer. For example, the first fee on petroleum products would not be passed through until April.

Under the present license fee system, fees are refunded on imports which are refined into products for export or incorporated into petrochemicals exported. This drawback authority is extended under the new program to the supplemental fees. The Administration is given discretion to refund fees in certain other instances, including imports of unfinished oils incorporated into petrochemicals for export and fees on imports of crude oil manufactured into asphalt.

However, under the present system, imports of crude oil and petroleum products are generally exempt from license fees on the volumes under the allotments of the old import quota program. About 90 percent of crude imports and over 90 percent of residual fuel oil imports for example, are currently fee exempt. These fee-free allocations, as well as the long-term allocations of imports into Puerto Rico and those made by the Oil Import Appeals Board, will continue in effect for the revised existing fees but will phase out gradually until the allocation system terminates in 1980. All petroleum and petroleum products imports will be subject, however, to the new supplemental fees.

Finally, the Proclamation provides for the Administrator of the FEA to evaluate the structure and scope of elements of the existing mandatory oil import program which will remain in effect with a view to possible simplification. He is to submit recommendations to the President within three months.

Economic Impact

According to the Federal Energy Administration, the United States now imports about 4.1 million barrels per day of crude oil and about 2.6 million barrels per day of fuel oil and other refinery products. The Administration estimates that the increase of $3.00 per barrel on imported crude oil and $1.20 on imported petroleum products will increase average imported petroleum prices by about $.035 per gallon. This estimate refers only to the effects of the new import fees, and it does not consider the impact on uncontrolled domestic oil or the effects subsequently of other parts of the Administration proposal.

According to the Administration the entire energy package is expected to cause a one-time increase in the price indexes of approximately 2 percent. (Others anticipate a much larger effect.) This Treasury Department estimate combines the primary and ripple effects of the total $30 billion energy conservation taxes and fees package. In calendar year 1975, the import fees are expected to total $3.2 billion, or 12.2 percent of the total energy tax receipts. In calendar year 1976, the import fees are projected to be $4.1 billion, or 13.6 percent of the total. Therefore, the Administration considers the potential inflation impact of the oil import fee portion of the energy package to be small.

Energy costs are marked up through layer upon layer of the manufacturing, distribution and retailing systems which results in products embodying energy having their prices raised by more than the actual increase in energy costs. Many wages and other payments like social security are tied to the change in prices, hence, compounding the rise in energy prices' effect on the general price level. The ripple effect is estimated to be 1.5 to 2.0 times the primary effect, implying that, potentially, the Administration's total energy package's primary and secondary effects could cause a high inflation rate to continue through 1975.

C. Description of Provisions Regarding Import Fee on Petroleum

The first section of H.R. 1767 provides that the President's authority to adjust imports of petroleum and petroleum products under section 232 of the Trade Expansion Act of 1962 (the national security provision) or under any other provision of law, is to be suspended for a period of 90 days beginning on the date of enactment. It is intended that no further Executive action be taken in the form of an import quota, tax, tariff, or fee or other type of import restraint during the 90-day period that would have the effect of increasing the price of imported petroleum and petroleum products.

In this context, petroleum and petroleum products or, as stated in the bill, "petroleum or any product derived therefrom," means imported crude oil, crude oil derivatives, and products and related products derived from natural gas and coal tar, and as employed in proclamations issued under section 232 of the Trade Expansion Act of 1962 for the purpose of adjusting imports. It should be noted that section 4 provides that the Act is not to have any effect on proclamations or Executive orders issued before January 15, 1975 by the President under section 232 of the Trade Expansion Act of 1962. Thus, it is not intended that the Act affect the status of the existing import license fee system under Proclamation No. 4210.

Section 2(a) would repeal any Executive order or proclamation issued by the President after January 15, 1975 and before the date of enactment under section 232(b) of the Trade Expansion Act of 1962 or any other provision of law resulting in the imposition of a rate of duty on imports of petroleum or any product derived therefrom. On or after the date of enactment, petroleum and petroleum products made subject to a rate of duty by such action would enter free of any such duty. In addition, section 2(a)(2) would provide for the rebate of any duty paid on imports of petroleum or petroleum products imposed by the President pursuant to any action by him after January 15, 1975, and before the date of enactment, under section 232 or any other provision of law.

Section 2(b) is similar to section 2(a) except that it will repeal the import fee proclaimed by the President on January 23, 1975, or any similar action taken after January 15, 1975, and before the date of enactment involving the imposition of a tax or fee on the imports of petroleum or any products derived therefrom under section 232(b) of the Trade Expansion Act of 1962 or any other provision of law. Likewise, on and after the date of enactment, the tax or fee imposed on imports of petroleum and products derived therefrom shall be only the tax or fee in effect as a result of action taken before January 16, 1975. As in section 2(a)(2), any tax or fee imposed on imports of petroleum and petroleum products which exceeds the tax or fee imposed on January 15, 1975, is to be rebated upon application to the appropriate Federal agency.

In providing a rebate of duties or fees, the Committee intends that there should be no increase in the price of imported petroleum or any product derived therefrom under a tariff or import fee imposed prior to the enactment of this Act. Since importers will be assured that the duties or fees will be rebated, there will be no need for importers to pass along the fee to the customers through an increase in price. In any event, the Committee is informed that under the President's Proclamation, the import fee on crude oil will not be collected immediately and the fee on products will not begin to be collected until April or even later.

Section 3 provides that the 90-day suspension of the President's authority to adjust imports of petroleum or any product derived therefrom under section 232 of the Trade Expansion Act of 1962 or any other provision of law shall terminate under certain circumstances involving engagement of the United States armed forces in hostilities. The circumstances are: (1) should the Congress declare war; (2) should United States armed forces be introduced into hostilities pursuant to specific statutory authority; (3) should a national emergency be created by attack upon the United States, its territories or possessions, or its armed forces; or (4) should United States armed forces be introduced into such hostilities, situations, or places, or are enlarged in any foreign nation under circumstances which require a report by the President to the Congress pursuant to section 4(a) of the War-Powers Resolution (50 U.S.C. 1453(a)).

Thus, under Section 3, the President's power to act under Section 232 of the Trade Expansion Act in time of national emergency involving armed conflict would be preserved, despite the suspension period of 90 days provided in Section 1 of the bill.

The Committee has been informed that a suit has been instituted to test the validity of the President's action of January 23, 1975, under section 232(b) of the Trade Expansion Act of 1962 for the purpose of adjusting imports of petroleum and products derived therefrom. The Committee does not intend that its action in reporting out H.R. 1767, and in setting forth the views contained in this report with respect to the action taken by the President on January 23, 1975, should affect in one way or another the determination in this suit or in any other proceeding which has been instituted (or which may be instituted) on the merits of issues relating to the scope of Presidential authority or the validity of any particular exercise of that authority under section 232(b) of the Trade Expansion Act of 1962 or any other provision of law.

Furthermore, it is not the purpose of this Act to limit, expand or otherwise alter the authority delegated to the President under Section 232 of the Trade Expansion Act of 1962, as amended. Nor is it the purpose of this Act to confirm or ratify that the President, purportedly acting under the authority of the national security provision of Section 232 of the Trade Expansion Act, as amended, either with or without public hearings, has lawfully imposed, or may lawfully impose, monetary charges, however denominated, on imports whether by Proclamation or otherwise.

D. Reasons for Suspending the President's Authority

The Committee has not had the opportunity to analyze in detail the many ramifications of the Presidential proclamation of January 23, 1975. It is clear, however, that the import fees now imposed on crude petroleum are not due to be collected until the last of February. The payment of fees on products is to be delayed an additional month to the end of March or the first part of April. The degree of import restraint gained by the Executive action is a small contribution to the overall goal of reduction of oil imports.

Early and effective action to reduce our reliance on oil imports is essential. However, the double challenge of inflation and recession are serious threats to our economic welfare as well. These problems too are joint responsibilities of the Congress and the President. Reliance on

Executive action under the national security clause, Section 232 of the Trade Expansion Act, without adequate public notice and in the absence of consultations with the Congress, could place Congress in a position where it would have no choice but to adopt the President's approach, or alternatively, to assume the responsibility for not responding to the need for an effective energy program.

To allow the President's proclamation of January 23, 1975, to stand could keep Congress from effectively examining the choices that are available to it in developing its own approach to energy conservation through the tax system.

As indicated above, the President's energy tax package appears to be inflationary in its effect on energy cost for individuals and/or business, much more so than first estimated. Moreover, its negative impact on the effective demand for other goods may have been underestimated by the Administration. Alternatives to the President's program are available and must be considered, as well as the general inflationary effect of the Administration program on all energy costs, the secondary cost effects on products embodying energy, and the intensification of the recession that will result from the reduction in consumer purchasing power.

E. Suspension of Authority Places Heavy Responsibility on the Congress

In suspending the President's national security authority and negating his recent action under it with respect to imports of petroleum, the Congress is assuming a heavy responsibility to propose and enact energy legislation. By its action of favorably reporting H.R. 1767, the Committee is accepting its responsibility to develop and report legislation on petroleum and petroleum products (both imports and domestically produced) that is responsive to our energy requirement and coordinated with broad tax changes that are needed to stimulate economic activity and alleviate the inequities stemming from the inflationary pressures of the past year and a half.

III. COSTS OF CARRYING OUT THE BILL AND VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the costs incurred in carrying out this bill.

If it is assumed that at the end of the 90-day period beginning on the date of enactment the President reproclaims the import fees on petroleum and petroleum products which were proclaimed on January 23, 1975, and if it is assumed that the Congress takes no further action with respect to imports of petroleum and petroleum products, it is estimated that the loss in revenue for calendar year 1975 that would result from the enactment of Sections 1 through 4 of H.R. 1767 would amount to no more than $600 million.

If it is assumed that at the end of the 90-day period beginning on the date of enactment the President does not reproclaim the import fees on petroleum and petroleum products which were proclaimed on

January 23, 1975, and if it is assumed that the Congress takes no further action with respect to imports of petroleum and petroleum products, it is estimated that the loss in revenue for calendar year 1975 that would result from the enactment of Sections 1 through 4 of H.R. 1767 would amount to no more than $3.8 billion.

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the record vote by the committee of the motion to report the bill.

The bill was ordered reported by a recorded vote of 14 ayes and 3 nays, as follows:

In favor—14 (Messrs. Long, Talmadge, Hartke, Ribicoff, Byrd of Virginia, Nelson, Mondale, Gravel, Bentsen, Hathaway, Haskell, Curtis, Hansen and Roth).

Opposed—3 (Messrs. Dole, Packwood and Brock).

MINIORITY VIEWS

These miniority views are limited to a discussion of the oil import fee imposed by the President which would be nullified by the enactment of H.R. 1767. The other proposals of the President relating to our energy problems can only be initiated by affirmative action of the Congress. Hence, any opinions about the President's other proposals relating to petroleum, their impact on our economy, their merits or demerits and their costs to the consumers are not relevant to the issue raised by H.R. 1767.

In our opinion, H.R. 1767 is bad legislation which deals in a negative fashion with a major crisis facing our Nation.

H.R. 1767 would block the President's legal authority to impose import fees on crude oil for a period of ninety days. This is an authority which originated in the Senate Finance Committee as an amendment to the 1955 Trade Agreements Extension Act. During the intervening 20 years the Congress has reviewed this authority on a number of occasions and has consistently reaffirmed the President's mandate to take appropriate action against the importation of an article which threatens national security.

Despite this history, H.R. 1767 would negate the President's positive action without offering any alternative. We believe this is a cavalier and irresponsible way to deal with a legitimate crisis of national security which is daily growing worse, not better. Consider the following facts:

(1) Petroleum is a unique commodity, entering into almost every facet of our economy, either as the fuel for transportation of goods and people or as the raw material for a myriad of products like fertilizer and petrochemicals. It is hardly an exaggeration to say that petroleum has become the lifeblood of our economy.

(2) Because our demands for energy have been outstripping the growth in domestic production, we have become increasingly reliant upon foreign sources of oil. We are now importing about 40% of our total petroleum consumption; by 1985, if present trends continue, we would be dependent on foreign nations for more than half of the oil we consume.

(3) Only a small portion of these imports can be deemed to be secure from interruption in the event of a political or military crisis, and recent history strongly indicates that such a crisis is by no means a remote possibility in an area where two-thirds of the world's known petroleum reserves are located.

(4) Most of the countries which export the oil that we import are organized into a cartel which has managed to raise international oil prices to a level four times above that which prevailed prior to the 1973–1974 embargo.

(5) The outflow of U.S. funds to those oil-rich countries greatly enhances their economic and political power and weakens our own and

that of our allies. In 1970 our total bill for foreign oil was $2.7 billion. In 1974, that figure shot up to approximately $24 billion. Unless we act to restrict imports, the bill will rise quickly to more than $30 billion a year.

(6) At the present time, we cannot safely stop the import of all petroleum to this country. We can, however, reduce our imports by about 350,000 barrels a day without significantly damaging our economy by use of the proposed tariff.

In the face of these facts and of our rapidly deteriorating international economic position, neither the Executive Branch nor the Congress, over the last year, has taken any action of more than marginal effect. Meanwhile, the problem is steadily growing more acute. The "fuse" of payments outflow, continued reliance upon insecure oil, and subjection to political blackmail is burning, and, unless extinguished, will result in an explosive crisis at some time. The only question is when.

The President has determined that we have waited long enough and must start to extinguish the fuse. No program designed to cut down use of a vital commodity will satisfy everyone. At a minimum, however, hopefully everyone can agree that the burden of increased costs for petroleum products would be geographically equalized. We believe that the basic program is well designed to achieve this equalization.[1]

We certainly do not believe that Congress should now tell the President: "We are not sure that the action taken is the best possible, so we would rather do-nothing while an admittedly untenable situation is aggravated in order to see whether we can do any better." Nor should Congress delude itself or the Nation into believing that, by postponing a decision, the problem will go away.

We have here a situation where there is a Congressional mandate that requires the President, after a finding of threatened national security resulting from an imported article, to take such action "as he deems necessary to adjust the imports of such article . . " The President has taken such action. Now the majority of this Committee, without seriously questioning the fact that our national security is threatened, want to tell the President that they do not like his taking independent action. Had the President taken less action than he was obligated to take, they could have criticized his failure to recognize the magnitude of the problem.

We would suggest that Congress, instead of playing politics while the fuse continues to burn, address itself to the remainder of the proposed energy program. If, in the course of doing so, a better solution appears, we will be the first to embrace it by supporting positive legislation, rather than the do-nothing approach which the majority now

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[1] Assuming that the increased cost of the fees is passed through on a proportional basis, the following retail pricing effects are anticipated, after equalization becomes effective:

Gasoline per gallon, distillate per gallon, and residual per barrel

	cents
February	0
March	1.4
April	2.8
May	4.3

recommends. In the meantime, by supporting the present program, we have demonstrated to our allies the strength of our commitment and our capability to take necessary action to conserve petroleum and to free ourselves from dependency on petroleum imports.

We urge the defeat of H.R. 1767.

CARL T. CURTIS,
PAUL FANNIN,
CLIFFORD P. HANSEN,
ROBERT DOLE,
BOB PACKWOOD,
BILL BROCK.

SUPPLEMENTAL VIEWS OF MESSRS. CURTIS, FANNIN, HANSEN, DOLE, AND BROCK TO H.R. 1767

Support in Committee to report H.R. 1767, given by some of us, was only to clear the bill for consideration by the Senate. In its present form, we will vote against the bill for the following reasons:

1. It will delay consideration by the appropriate Committees of the House and Senate of the major parts of the President's energy program.
2. It will pre-empt the President's authority to take even the first step toward freeing the domestic petroleum industry from the stifling effects of Federal regulation and price controls.
3. With imports now running at the rate of almost 7 million barrels a day—4 million crude and 3 million refined products—a 90 day delay would cost the President's program over $900 million.
4. The effect of a $1.00 tariff on domestic gasoline prices will be only about 1¢ per gallon according to FEA (rather than the added recessionary effects predicted by some). All other taxes and other provisions of the President's program except the tariff on imports are subject to Congressional approval or amendment.
5. Most experts believe in the concept of price elasticity and the market place as the most effective way to reduce demand through encouragement of conservation. Any quantitative cut-back in imports, without the other provisions of the President's program, would result in continuation of mandatory allocation or rationing.
6. Suspension or revocation of the $1.00 tariff might well encourage the OPEC bloc to add that much on to their already quadrupled prices.

While we do not fully agree with all of the specifics of the President's program and will propose some changes, the tariff plan is a central part of the whole carefully integrated program and should be retained intact.

To those who say the U.S. economy cannot stand the sudden shock of the import cut-backs envisioned in the President's program, we say we cannot afford the continued outpouring of U.S. dollars—more than $2 billion per month last year and steadily increasing.

Those dollars are taking jobs out of this country. For each barrel of oil we import, we commit ourselves to exchange more of our goods and services. The average American will have to work longer and produce more to acquire the same amount of petroleum. Anyway you look at it, this translates into a lower standard of living.

Other parts of the President's plan will require legislation. Moving from foreign dependency to domestic sufficiency and security is an urgent national goal.

The most attractive part of the President's plan is the promise of increased domestic energy through decontrol of oil and gas. Congress will spell out the terms by which this is accomplished. They should include plowback allowances for reinvestment of profits in domestic exploration and development.

We agree that Congress should determine by legislation when the funds are to be returned to the economy, how the funds are to be returned and to whom the funds will be returned.

The President's tariff plan is an integral part of the means of raising those funds and moving ahead as fast as possible in development of our own abundant energy resources. This bill will be paid by Americans to America. It will be far less than the compounding costs of the mounting dollar drain going to other countries so long as we do nothing. We can't afford three more months of doing nothing.

There is no painless way to cure our misery of energy dependence.

The President has acted.

He has used the power Congress mandated him to employ in protecting our national security.

The individual views of the Democratic Majority Whip, Dan Rostenkowski in the House report on H.R. 1767 uphold the President's authority to impose the import fee.

Quoting from Congressman Rostenkowski's views in the report: "I have no doubt that his office did all that was necessary to comply with the requirements of the law."

The Majority Whip concluded:

> In conclusion, I believe that if we in the Congress are going to oppose the President's program at this most critical time, we should oppose it only if we are able to substitute a positive program of our own. We should not spend hours searching for a mere technicality to block his action, or days complaining how unfair it is for him to take the initiative, using every discretionary tool available to him.

We fully agree with the House Majority Whip's conclusions and recommend that the Senate reject the 90 day suspension of the President's authority to adjust imports of petroleum and petroleum products so that Congress may get on with the job of amending or changing the other parts of his energy program as it sees fit.

Each day lost means $10 million less in rebates to achieve the objectives.

CARL T. CURTIS,
PAUL J. FANNIN,
CLIFFORD P. HANSEN,
ROBERT DOLE,
BILL BROCK.

SUPPLEMENTAL VIEWS OF MR. BROCK

It has been over one year since the Arab embargo—an "Economic Pearl Harbor". If the Senate approves H.R. 1767 it will again show the American people its lack of willingness to come to grips with an effective energy policy. Even though thousands of hours have been spent in debating the merits of every conceivable policy option, this bill offers the American people nothing but more delays.

We must act responsibly and soon; there is no other choice. Only a massive increase in farm exports last year allowed us to earn most of the more than $50 million which leaves this nation every day to pay for our energy requirements. While this drain on America's wealth has to be stopped, we must do so without worsening our already severe economic ills.

At the time the President proposed his program, there was broad, bipartisan agreement on the need to conserve one million barrels of oil a day by the end of 1975. The only controversy was over the best means of achieving this goal.

In the few weeks since the State of the Union Address, the overall economic situation has changed considerably. Unemployment, once forecast as peaking at 8%, is now 8.2% and may go much higher. Because of this dramatic shift in the economy, the focus of the energy debate has changed. The real issue is no longer how to conserve a million barrels a day. Rather, it is how much energy conservation the American economy can stand without impeding economic recovery.

Energy policy cannot be divorced from economic policy: the two are inseparable. The price and amount of energy available for the economy affects all sectors of our country and all income groups. For instance, gasoline sales alone account for 5% of the nation's disposable income.

To those who stress the importance of energy conservation for foreign policy reasons, it must be pointed out that America's economic health and the economic health of the Western world are closely related. Neither the IMF nor the OECD foresee a return to economic growth in the West until the latter half of 1975. Our primary goal must be to assist economic recovery in everyway possible. Little will be accomplished by adopting overly stringent conservation measures that would lead the world into a deeper slump.

Thus, energy conservation measures cannot be considered without reference to the domestic and world economic situation. I will not argue about the need for such measures; I stress only that they should be phased in gradually in order to avoid aggravating our macroeconomic ills. It is a fair question to ask how quickly we should do the phase in. Such a question must be the subject of intensive public discussion in the coming weeks.

Preceeding carefully with energy conservation does not mean that we need to take no immediate action on energy policy. On the contrary, there are a number of steps that this Committee, together with other Congressional committees, can take to stimulate domestic supplies and therefore reduce our dependence on foreign supplies. These include supply measures, such as those outlined in the State of the Union Address, to make greater use of our domestic coal and to open up Elk Hills Naval Petroleum Reserve.

In the face of a national emergency, Congress was once able to move quickly and decisively within 100 days. It must do so again.

In return for such a commitment to action, I would hope that the President would voluntarily rescind the import fee. If, at the end of 100 days, Congress has still not acted, then maybe it is incapable of acting. With the cooperation of the Executive Branch, I believe it can.

The President and Congressional leaders have expressed a willingness to compromise. As my good friend, Senator Bob Dole from Kansas, has said, "confrontation aids no one". Let us put aside H.R. 1767 and begin work on the real problems facing America today.

BILL BROCK.

SUPPLEMENTAL VIEWS OF MR. DOLE

The passage of H.R. 1767 in its present form will lead to a confrontation between the Administrative and Legislative branches over a minor portion of President Ford's energy program. When the American people fervently hope that their elected representatives will work together to solve the serious economic and energy problems facing our nation, there is little evidence of any such effort.

The most urgent problem among energy issues is our overdependence on foreign oil, and this problem has been widely recognized in Congress, the public media, and elsewhere. The steady erosion of our economic vitality due to the sharply increased dollar outflow for foreign petroleum and the threat to our national security due to a possible embargo are the most serious dangers.

I agree with the President's initiative in taking prompt action to reduce these dangers. But in view of strong and possibly successful opposition, a measure that both the Congress and the President can agree on is needed to keep this initiative going.

Inaction Dangerous

In view of passage in the House of Representatives of H.R. 1767, and cosponsorship of S. J. Res. 12 by more than half of the Senate, the majority in Congress has demonstrated an intent to suspend for 90 days any oil tariff increase in order to give time for consideration of the President's energy program or alternatives to it. It has now been over 30 days since the President's energy proposals were made public on January 15, 1975, and it has been nearly a month since H.R. 1767 and S. J. Res. 12 were introduced on January 23, 1975. Time for debate and final passage in the Senate, veto by the President, and veto override procedures could take several more weeks before final action on the 90-day tariff suspension proposal is completed.

In short, the 90 days sought by some Senators and Representatives in Congress for due consideration will have passed or nearly have passed by the time action on this single issue is completed. And during this time, the dangers mentioned above continue to exist or possibly even could be aggravated by a growing volume of oil imports.

Rather than wasting time in coming to grips with the problem, a middle ground should be reached now.

If Congress and the Executive would each give a little, an accomodation might be fashioned. Several Members of Congress—Democrats and Republicans—have expressed an interest in working with the Administration to formulate energy policy, and similar sentiments have come from the Executive Branch.

Nation Loses

Yet, the rhetorical support for compromise and cooperation has not been reflected in legislation. The majority appears insistent on sending legislation to the White House that the President will veto. If the veto is sustained, the opponents to the import fee program will have gained nothing. If the veto is over-ridden, the President's initiative would be barred for 90 days after enactment. So a comprehensive response to the energy problem could be delayed for months, even beyond the 90 days due to the slowness of legislative procedures.

In either event, the nation loses, because there is no response to the basic problem. Instead of the delay that will result from passage of H.R. 1767, the country needs prompt action on a comprehensive solution to the dangers of a high volume of oil imports, as mentioned earlier. A compromise on the tariff issue is the first step. It would facilitate early action by Congress and would let us focus on the major legislation yet to come.

I have drafted a tariff compromise amendment that would essentially freeze the first phase of the President's oil import duty order for 90 days. Other compromise amendments have been devised and, of course, others could be formulated.

My approach would give Congress the 90 days being sought for congressional consideration and preserve the President's initiative, thereby encouraging expeditious action by Congress.

Many have expressed concern about the imported oil duty and its cost to consumers. A compromise measure could alleviate that concern.

If the $1 tariff were frozen, as I have proposed, the revenue collected would be $120 million per month for a total of $360 million during the 90 days sought by some in Congress, compared to a total of $854.4 million to be collected in the first 90 days of the President's import duty order. The tariff would be passed on directly or indirectly to consumers as has been described in analyses presented to the Committee. These estimates made by the FEA are based on present import levels of 4 million barrels of crude oil and 2.6 million barrels of refined product daily.

A compromise amendment accepted by Congress and the President could be a meaningful step toward reducing the economic dangers of over-dependence on oil imports mentioned earlier if it maintained the President's initiative, even though in a moderate form. A delay with no action at all means the country will continue to be without any program to reduce our dependence on oil imports at all.

Special Provision for Northeast

New Englanders have shown particular concern because of their reliance on imported petroleum products. Detailed analysis has shown that because of special action taken to prevent unusual hardship in that area, the northeastern United States will suffer somewhat less from the import oil duty than the rest of the nation. This special consideration is accomplished under the FEA's "Old Oil Allocation Program" and is more fully explained in the attached appendix.

When H.R. 1767 is considered in the Senate, I hope that a majority of Senators will agree on some compromise. Only then can the Congress and the President begin to cooperate in finding effective and equitable solutions to our urgent economic and energy problems.

Robert Dole.

APPENDIX

Impact on New England of Freezing the President's Oil Import Fee at One Dollar

New England relies heavily on imported residual oil and distillates for its energy. There have been various reports that New England would be discriminated against under the President's Energy Program. In order to assess the impact of the President's program it is necessary to consider the situation prior to February 1, the effective date of the first stage of the President's scheduled imposition of oil import fees.

In November 1974 the FEA instituted the Old Oil Allocation Program, sometimes referred to as the crude oil equalization or entitlements program. The reasoning underlying this program is as follows: Old oil which is price controlled at about \$5.25 a barrel, accounts for about 40% of the domestic refinery input. Imported crude oil and uncontrolled domestic crude oil, which accounts for about 60% of domestic refinery input, sells for about \$11.50 a barrel. It was decided that a fair and equitable policy requires that refiners and importers of petroleum products share equally in access to the lower priced controlled crude oil, or the equivalent of such access. The Old Oil Allocation Program attempts to achieve this objective by the device of a system of "entitlements."

Under the Old Oil Allocation Program all domestic refiners are given "entitlements" to old or controlled oil equal to approximately 40% of the total crude oil which they refined during a particular month. Domestic refiners can only use controlled oil for which they hold entitlements. In the case of integrated oil companies with more controlled oil than they hold entitlements for, they may either sell such excess of controlled oil to persons holding such entitlements, or, and this is the normal case, they may purchase entitlements from other refiners who use less old or controlled oil than their entitlements. Entitlements to old oil will have a value approximately equal to the difference between the old or controlled oil price of \$5.25 and the price of uncontrolled oil. The effect of selling entitlements to old oil to a major oil company which desires to use more controlled crude than it has entitlements for, is to allow the seller to go into the market and purchase an equivalent amount of uncontrolled domestic crude from independent producers or imported crude at a net cost of \$5.25 a barrel (i.e., by offsetting the proceeds of a sale of the entitlements against the higher price of the uncontrolled crude).

The Old Oil Allocation Program has a system of "product" entitlements to permit importers of petroleum products to participate in the lower price of products which may result from the refining of crude oil, 40% of which has a cost of \$5.25 a barrel and 60% a price of \$11.50

a barrel. These product entitlements are issued on the basis of ratio, (derived from a comparison of domestically produced residuals and distillates with the prices of imported residuals and distillates), which results in residual and distillate products having a 30% weight when compared to a barrel of crude oil. The effect of such product entitlements is that importers' costs are reduced by 60 cents a barrel. In other words, the Old Oil Allocation Program provides a subsidy of 60 cents a barrel for the importation of residual and distillate oil products.

Since the Old Oil Allocation Program has only recently taken effect, consumer prices of imported residual and distillate fuels did not reflect the 60 cents a barrel subsidy as of the end of January, although there should be some effect in February.

How the $1 Per Barrel Import Fee Affects Imported Products

The effect of a $1 per barrel import fee on crude oil will be an increase by $1 per barrel in the cost of 60 percent (on a national average) of domestic refinery input. As explained above, controlled oil accounts for about 40 percent of domestic refinery input. Since uncontrolled domestic crude will rise to the price of imported crude, including the $1 import fee, about 60 percent of domestic refinery input will reflect the $1 per barrel increase in cost. The net price increase (net fee cost) with respect to domestic refinery products, after the $1 per barrel additional cost of 60 percent of crude is averaged with the 40 percent of controlled crude, will be 60 cents per barrel $1 x 60%).

In order that the price of imported petroleum products will also reflect such 60 cents net fee cost, an additional 60 cents per barrel fee should be imposed on imported products. However, the equivalent of imposition of a 60 cents a barrel import fee on imported products is achieved by eliminating the 60 cents a barrel subsidy for imported products under the Old Oil Allocation Program described above. Hence, under the first stage of the President's oil import fee program, no import fee is imposed on imported petroleum products.

As indicated above, as of the end of January 1975 the consumer price of imported residual and distillate products had not reflected the 60 cents per barrel subsidy under the Old Oil Allocation Program. Since the 60 cents per barrel subsidy is eliminated as of February 1st under the President's program, and no import fee is imposed on imported residual and distillate products in the first stage, the price of imported residual and distillate products to consumers in New England should decline in February and March as the 60 cents subsidy under the Old Oil Allocation Program works its way down to the consumer. Some time around the end of March or early April the price of such imported residuals and distillates to New England consumers should rise to the pre-February 1st levels as the impact of withdrawal of the 60 cents per barrel subsidy is reflected in consumer prices. This ignores other factors which may cause such prices to rise or decline.

In conclusion, if the President's authority under Section 232 of the Trade Expansion Act of 1962 is restricted to the oil import duties which went into effect on February 1, 1975, New England consumers of imported residuals and distillates will lose the benefit of the 60 cents a barrel subsidy of imported products. However, the pre-February 1st prices of such imported residuals and distillages will be unaffected by the President's program since the 60 cents per barrel subsidy eliminated under the President's program on February 1st had not been reflected in the January prices paid by New England consumers or imported residuals and distillates.

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