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Date: 5/28/98

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
1. memo 5/6	Malcolm Baldridge to RR re The Shipping Act of 1981, 6p.	11/18/81	~~P5~~
2. memo 5/9	Craig L. Fuller to RR re Davis-Bacon Act, 2p.	8/11/81	~~P5~~ KB 10/26/00

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]
- P-1 National security classified information [(a)(1) of the PRA].
- P-2 Relating to appointment to Federal office [(a)(2) of the PRA].
- P-3 Release would violate a Federal statute [(a)(3) of the PRA].
- P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA].
- P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA].
- P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA].

C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]
- F-1 National security classified information [(b)(1) of the FOIA].
- F-2 Release could disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA].
- F-3 Release would violate a Federal statue [(b)(3) of the FOIA].
- F-4 Release would disclose trade secrets or confidential commercial or financial information [(b)(4) of the FOIA].
- F-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA].
- F-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA].
- F-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA].
- F-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA].

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The President has seen____

THE WHITE HOUSE

WASHINGTON

February 15, 1982

MEMORANDUM FOR THE PRESIDENT

FROM: CRAIG L. FULLER

SUBJECT: Federal Property Review Program Decisions

During last week's meeting of the Cabinet Council on Economic Affairs, Darrell Trent presented recommendations concerning the Federal Property Review Program. These recommendations and the program have been designed by a working group of the Cabinet Council and have been thoroughly considered by the departments and agencies involved. They have also been reviewed by members of the White House staff.

You will recall that there were no objections registered at the Cabinet Council meeting and none have been received by Dick Darman or by me.

In order to move forward, your approval is required on pages 2, 3 and 4.

I might note that the final draft of the executive order is being prepared and should be ready for your signature this week.

Thank you.

cc: Ed Meese, Jim Baker

Attachment

THE WHITE HOUSE

WASHINGTON

February 9, 1982

MEMORANDUM FOR THE PRESIDENT

FROM: THE CABINET COUNCIL ON ECONOMIC AFFAIRS

SUBJECT: Federal Property Review Program

This memorandum presents recommendations developed by the Cabinet Council on Economic Affairs Working Group on the Sale of Federal Property for an Administration program to: (1) review the real property holdings of the federal government; (2) improve the management of this property; (3) expedite the sale of unneeded property; and (4) use the proceeds to begin reducing the national debt.

BACKGROUND

The real property holdings of the federal government are extensive and estimates of their market value exceed $1 trillion. Current federal accounting methods greatly understate the market value of these properties because they are based on original costs to the government, even if the property was acquired in the 18th century.

These properties are managed by numerous individual departments and agencies with limited government-wide oversight. There are virtually no incentives for a department or agency to release its federal properties. Federal property transfers must pass through an elaborate procedure that almost ensures that another federal agency or state or local government entity will claim it at no cost. Under present law, there is no requirement for fair market payment or even reimbursement of the federal government's acquisition cost.

The Cabinet Council Working Group recommends developing new federal property management procedures requiring that every conveyance include, in one form or another, market value compensation to the federal government. The group also recommends developing incentives for federal departments and agencies to sell unneeded property either to another governmental entity or to individuals or entities in the private sector.

ESTABLISHING A PROPERTY REVIEW BOARD

In restructuring the federal property management system, it is essential to involve the highest levels of the executive

branch in developing and implementing an integrated program that will improve property managment in every department and agency.

The Working Group has prepared a draft Executive Order establishing a Presidential Property Review Board with responsibility for reviewing and developing federal real property acquisition, utilization, and disposal policies to ensure that unneeded and under-utilized federal property is released for sale at fair market value to the private sector or conveyed to support priority federal programs with appropriate compensation. The draft executive order is attached at Tab A.

The Board would coordinate and establish annual property target sales and management savings for each executive agency. Each agency would immediately review its federal property holdings and submit to the Board within 60 days a list of excess property for appropriate disposition. The Board would also review procedures to expedite disposal of the property.

Recommendation: That a Presidential Property Review Board be established by Executive Order to oversee the property review process.

Approve LRR Disapprove _____

USING SURPLUS PROPERTY SALES TO OFFSET THE NATIONAL DEBT

Under current law, all proceeds from surplus federal property sales are deposited in the Land and Water Conservation Fund (LWCF). When necessary, rents and royalties from Outer Continental Shelf (OCS) leases are deposited to bring the LWCF annual income up to $900 million per year, the minimum annual requirement. LWCF funds are earmarked for acquiring new recreational lands and for grants to states for acquiring and developing recreation facilities. With the exception of OCS receipts, all monies in the LWCF not appropriated for these purposes within two years are transferred to the miscellaneous receipts of the Treasury. Technically, under the unified budget concept, LWCF monies offset spending, i.e., reduce the deficit, whether they are in the LWCF or in the general fund. However, the practice of earmarking funds for programmatic purposes encourages federal spending.

The Working Group recommends that the federal government use the revenues from the sale of its surplus assets to offset the

national debt rather than current expenditures. This would require legislation so that proceeds from these sales are not automatically deposited in the Land and Water Conservation Fund.

There is congressional support for such legislation. Senator Percy (R-Illinois) and Congressmen Winn (R-Kansas) and Kramer (R-Colorado) have sponsored Senate and House resolutions calling for using revenues from the sale of federal assets to retire the national debt. Some environmental interests may resist any measure which could appear to affect adversely the Land and Water Conservation Fund. However, since OCS receipts, currently the principal source for the LWCF, exceed $900 million each year, the Fund would still reach its annual income level.

There are two alternatives presently under consideration for handling the proceeds from the sale of federal property in order to offset the national debt: (1) a special trust fund or (2) an "undistributable receipts account" in the Treasury. In either case the new legislation would restrict use of the proceeds from federal property sales to reducing the national debt and not for offsetting current expenditures.

Recommendation: That the Cabinet Council Working Group on the Sale of Federal Property develop legislation to place all proceeds from federal property sales in a fund or account for use only to reduce the national debt.

Approve ✓ IRR Disapprove _____

IMPACT OF THIS PROGRAM ON PUBLIC LANDS

The United States Government owns 744 million acres, about one-third of the land mass of the United States. Approximately 685 million acres are public lands. The other roughly 60 million acres were purchased by or donated to the federal government. Most of the property declared surplus in recent years has consisted of relatively small, sometimes urban, parcels.

The federal government has not disposed of large public land tracts in the recent past. Much of this property is virtually unused. Other large public land tracts are used for commercial purposes, such as grazing, energy and mineral development, and timber production. Current federal user charges are less than

fair market value so that users of these lands receive an implicit subsidy.

Altering present policies, either selling the lands or raising user fees, would likely generate considerable controversy. Several groups would probably oppose major sales of public lands including:

- o Western ranchers unless they could purchase the land at below market value;
- o Environmental groups fearing a shift in environmental protection values and large scale development;
- o Local communities which in the past have received lands for "public purposes" at less than fair market value;
- o Private landowners who might fear that a large sale of federal lands would diminish the value of their own properties; and
- o Citizens whose use of these lands for hunting, fishing and recreational purposes would be restricted if they passed into private hands.

The Working Group, however, recommends promptly developing a program to dispose of unneeded public lands. Current statutes and the regulations which implement them make commercial sales of federal lands time-consuming, if not practicially impossible. A successful program to sell federal lands not needed for public purposes will require considerable study, and most likely sweeping revisions in existing federal laws and regulations.

Recommendation: That the Cabinet Council Working Group on the Sale of Federal Property coordinate a comprehensive review by affected federal agencies of existing statutes and regulations pertaining to sales of federal lands and develop appropriate legislative proposals to expedite such sales in a cost-effective manner.

Approve ✓ RR Disapprove _____

Donald T. Regan
Chairman Pro Tempore

The President has seen_____

THE WHITE HOUSE

WASHINGTON

February 15, 1982

MEMORANDUM FOR THE PRESIDENT

FROM: CRAIG L. FULLER

SUBJECT: Employment and Training Policy Decisions

You will recall that Secretary Donovan made a presentation at last week's meeting of the Cabinet Council on Economic Affairs concerning Employment and Training Policy.

Two Presidential decisions are called for with regard to this matter. The decision memorandum is attached.

1. Structural Changes are recommended in the following areas:

   - o Program funding should occur through block grants to the 50 states, with guaranteed amounts going to individual political jurisdictions of 500,000 passed through the Governors.
   - o Governors would appoint state boards and maximize Private Sector Involvement.
   - o Performance criteria is to be based on the degree of success achieved in job placement. The Secretary of Labor will have discretion in developing the methodology and allocating funds.
   - o The program's focus will be on training rather than on stipends.
   - o While recommending the use of the vocational educational system by States, a formal merger of the proposed employment and training system and the vocational education system is not recommended.

2. Reauthorizing the Targeted Jobs Tax Credit is recommended by the Cabinet Council and enjoys bipartisan support on the Hill.

No known opposition exists with regard to these recommendations either among the members of your cabinet or among the members of the White House staff. You should indicate your decisions on page 4. Thank you.

cc: Ed Meese, Jim Baker

THE WHITE HOUSE

WASHINGTON

February 9, 1982

MEMORANDUM FOR THE PRESIDENT

FROM: THE CABINET COUNCIL ON ECONOMIC AFFAIRS

SUBJECT: Employment and Training Policy

The administration must soon present to the Congress its proposal for a new federal employment and training system to replace the Comprehensive Employment and Training Act (CETA) which expires on September 30, 1982. This memorandum outlines the major issues and recommendations of the Cabinet Council concerning the principal elements of the administration's program.

Background

Although spending for CETA will total over $53 billion during its seven years in existence, and although CETA has served over seven million people, the program has not proven successful in helping the hard-core unemployed find long-term jobs. CETA has been administered through 480 different state and local government entities which, according to many observers, has caused unnecessary duplication and confusion. The Department of Labor estimates that over 40 percent of CETA funds were spent on administrative overhead, another 40 percent on stipends, and only 20 percent of the funds were spent directly on training and placement functions.

FY 1983 Budget Decisions

You have already made several important decisions regarding the administration's employment and training proposal through the FY 1983 budget review process. In early December you decided to limit FY 1983 funding for employment and training programs to $2.4 billion. Of that amount, $1.8 billion would go to the program which formally replaces CETA, $400 million would go to the Job Corps, and $200 million would go for special groups traditionally served from the national level such as older Americans, Indians, migrants, and trade adjustment assistance training recipients. The $2.4 billion figure was considerably more than OMB proposed, somewhat less than the Department of Labor wanted, and substantially less than the amount proposed by most CETA reauthorization bills introduced in the House and Senate.

You also decided to focus the program on out-of-school youth (ages 18-25) and Aid to Families with Dependent Children (AFDC)

recipients. The Department of Labor and OMB agreed that a less restrictive proposal could not receive adequate funding at the $2.4 billion level. In-school youth, unemployed workers not receiving AFDC, and displaced workers needing retraining are not eligible under the current proposal.

In early January the Department of Labor completed its initial design of the administration's legislative proposal for a new employment and training program. The Cabinet Council on Economic Affairs met twice in the last several weeks to discuss this proposal, and established a Working Group to examine some of the provisions in greater detail.

Principal Structural Features

The Cabinet Council recommends that the proposed program contain the following principal features:

1. Allocating Grants Between States and Localities.

The Cabinet Council recommends funding the proposed program through block grants to the 50 states, as opposed to the current system of grants to roughly 480 state and local government entities. The Council also recommends that individual political jurisdictions with a population of 500,000 or more receive guaranteed amounts, passed through the Governors, in proportion to their share of the state's population meeting the eligibility requirements. This provision for a mandatory pass-through, while a departure from the pure block grant concept, should reduce the opposition of mayors and local officials to the proposal. This is also consistent with the policy outlined in your State of the Union message that your new federalism proposals include "a mandatory pass-through of part of these funds to local governments."

2. Private Sector Involvement.

The Cabinet Council strongly believes that the most successful employment and training programs include genuine private sector involvement. Under the Department of Labor proposal, the Governors would appoint and chair a state board with responsibility, subject to the Governor's final approval, for designing the state's employment and training system. Sixty percent of the board's members would come from the private sector, 20 percent from state and local governments, and the remaining 20 percent largely from community based organizations, the state employment service, and the state's vocational education system.

3. Performance Criteria.

The Cabinet Council considered whether the administration should

propose reserving some portion of employment and training funds for distribution between states on the basis of success in job placements.

The case for funding on the partial basis of program performance rests on:

- o The desire for greater accountability in employment and training programs; and
- o The belief that competition between states on the basis of performance will result in more effective programs.

The case against performance criteria rests on the fact that:

- o They represent a departure from the pure block grant concept in requiring that the Federal Government monitor programs state-by-state and issue regulations concerning the compilation of data to measure performance; and
- o Program performance is inherently difficult to measure.

Most employment and training bills introduced this session in Congress contain provisions for distributing funds partially on the basis of program performance.

The Cabinet Council recommends that the administration's proposal contain performance standards, with performance measured on the basis of success with job placements. Job placement success would include a state's economic conditions. The Council also agreed that the Secretary of Labor should have discretion in developing the methodology used for determining performance and its influence on allocating funds.

4. Focus on Training.

Past employment and training programs have often included a major income support component. Stipends to CETA recipients accounted for an estimated 40 percent of the funds expended. The Cabinet Council supports focusing the new program on training activities with no stipends for participants, but permitting up to 10 percent of the funds to be allocated for support services (transportation and meals).

5. Relationship to Vocational Education.

The Cabinet Council recommends that the administration proposal allow Governors and local officials to channel as many employment and training resources through the vocational education system as

they deem appropriate. The Council advises against a formal merger of the proposed employment and training system and the vocational education system.

Recommendation: The Cabinet Council recommends that the administration's proposed employment and training system include the five principal structural features outlined above.

Approve ✓RR Disapprove _____

Reauthorizing Targeted Jobs Tax Credits

This spring the Congress will also consider reauthorizing the targeted jobs tax credit (TJTC) provided for in the Economic Recovery Tax Act of 1981. The credit is scheduled to expire in December 1982. Last summer, the administration supported renewing the targeted jobs tax credit provided two important changes were made:

1. Retroactive certification was eliminated; and

2. Eligibility was more clearly focused on disadvantaged youth. (Specifically, the credit does not include cooperative education students.)

These changes were made in the Act. Congressional soundings indicate that there is strong bipartisan support for continuing the credit and that reauthorization is virtually assured.

The Cabinet Council believes reauthorization of the credit would demonstrate administration concern for improving employment opportunities for disadvantaged youth at a time of high youth unemployment and would provide for a more comprehensive employment and training package emphasizing creating jobs in the private sector.

Recommendation: The Cabinet Council recommends reauthorizing the targeted jobs tax credit as provided for in the Economic Recovery Tax Act of 1981.

Approve ✓RR Disapprove _____

Funding the Older Americans Program

Finally, the Cabinet Council considered the status of the Older Americans program and its relationship to employment and training policy. The Older Americans program, which provides

part-time jobs to low-income persons age 55 and older, currently subsidizes approximately 54,000 jobs at an annual cost of $270 million. Although you recently signed the Older Americans Act extending the program through FY 1983, the FY 1983 budget eliminates specific funding for the Department of Labor's Older Americans program.

The Cabinet Council supports a Department of Labor recommendation for extending funding of the Older Americans program without increasing total federal budget outlays for employment and training. This would require reallocating a small portion of the $1.8 billion block grant for assistance to older workers.

Donald T. Regan
Chairman Pro Tempore

THE SECRETARY OF COMMERCE
Washington, D.C. 20230

November 18, 1981

MEMORANDUM FOR THE PRESIDENT

FROM: MALCOLM BALDRIGE, CHAIRMAN PRO TEMPORE MB
CABINET COUNCIL ON COMMERCE AND TRADE

SUBJECT: The Shipping Act of 1981

Your Administration has been asked to state its position on the Shipping Act of 1981 (S. 1593), a major piece of legislation sponsored by Senator Gorton to revise the economic regulation of international ocean liner shipping operating in the U.S. foreign trade. The existing regulatory regime tends to place U.S. flag carriers at a competitive disadvantage and is a major source of irritation to our trading partners.

The Bill's principal objective is to reestablish the primacy of the Shipping Act of 1916 by granting complete anti-trust immunity to authorized forms of economic cooperation among carriers. The Bill would also simplify the process by which liner conference* activities are sanctioned in the U.S. foreign trade and would strengthen the conference system as a method of insuring stability in that trade.

S. 1593

The following principal provisions of the Bill were considered by the Cabinet Council:

1. Ocean carriers may enter into agreements among themselves regarding capacity, service and prices.

2. Such agreements must be filed with and approved by the Federal Maritime Commission. The FMC has discretionary authority to disapprove an agreement if it is found to be unjustly discriminatory or unfair, or detrimental to U.S. commerce.

3. Any activities permitted by the Act are exempt from the anti-trust laws.

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*Conference means an association of ocean common carriers which provides ocean transportation on a particular route or routes and which operates within the framework of an agreement establishing rates and any other conditions of service.

4. Every carrier is required to file with the Federal Maritime Commission (FMC) tariffs showing all rates in effect over routes served by such carrier. In order to deter unadvertised discounting or "rebating", the FMC is empowered by the Act to penalize carriers for failure to adhere to filed tariffs.

Cabinet Council Position

Areas of Agreement

There is a broad area of agreement that covers the following points:

o closed conferences, setting of ocean rates by conferences, and agreements among carriers to rationalize services should be permitted.

o extended anti-trust immunity should be granted.

o predatory practices, such as use of "fighting ships" subsidized by conferences to drive independents from a trade, should be banned.

o the FMC should not approve agreements among carriers on the basis of the two vague and arbitrary criteria contained in the Bill. Rather, any agreement should be approved automatically if none of the concerted activities it specifies is prohibited explicitly in the Act.

o the tariff filing requirement and enforcement of tariffs by the FMC should be discontinued and the Federal government should be removed from all involvement in rate-making activities. The Cabinet Council believes that if the conferences are free to set rates and to establish self-policing mechanisms to enforce rates, they should not have assistance from the Federal government to compel adherence by conference members to agreed upon rates.

Areas of Disagreement

There remains disagreement within the Cabinet Council over the ocean shipping activities that should be prohibited. There is further disagreement over the application of anti-trust laws to any prohibited activity. The Justice Department argues that anti-trust laws should be applied to ocean shipping activities prohibited explicitly in the Act. The industry argues that their primary problem is with the anti-trust laws themselves and with the uncertainty that has been created by Justice Department enforcement and court interpretation of those laws. In the view of ocean shipping interests and of Senate sponsors of the bill, the application of anti-trust laws to ocean shipping activities has created a destabilizing and untenable situation. Accordingly, the Department of Transportation proposes that anti-trust laws not be allowed to apply to any ocean shipping activities whether permitted or prohibited under the Shipping Act.

There is a further disagreement about what activities should be prohibited. The disagreement is based on two fundamentally different views of the economic effects of rate-setting by conferences. In the view of the Department of Justice, permitting conferences to set and enforce rates without restraint would result in prices higher than those that would prevail if that ability were limited. The Department of Justice argues that maintenance of higher than competitive rates will draw excess capacity into our trades, resulting in service competition rather than price competition and in a loss of economic efficiency.

The Department of Transportation seeks to minimize as far as possible government regulation of conference rate-setting activities. The Department of Transportation argues that there is or will be sufficient competition from independent carriers to hold down prices and to discipline conference power. The Department of Transportation argues further that because attempts by conferences to set rates at excessively high levels will attract new independent carriers into the trades, government intervention in conference activities should be limited to assuring that conferences do not abuse their power by driving independent carriers from those trades. In the view of the Department of Transportation, any limits on conference rate-setting activity will undercut the economic benefits of conferences to financially distressed U.S. flag carriers.

The Department of Justice argues that if the purpose of allowing conferences to set prices at higher than competitive levels is to provide a substitute for government operating subsidies, then the approach is wasteful because it benefits carriers in proportion to their shares of the trade. In the view of the Department of Justice, since foreign flag carriers carry about 75% of the cargoes in the U.S. foreign trade, they will receive about 75% of the benefits of any super-normal return implicit in the rate structure.

Department of Justice Position

The Department of Justice proposed three measures that they believe would resolve substantially their problems relating to "cartelization" of ocean liner shipping by preserving avenues for price competition between conference carriers. These are:

1. Prohibition of revenue and profit pooling. Under this practice, carriers establish in advance of an accounting period the respective shares of revenue and/or profits that each will receive irrespective of the amounts of cargo carried. Cargo pooling, which is a form of space sharing, would be permitted.

2. Prohibition of inter-modal rate-setting by conferences. Under this practice, conferences set the "through rates" for inter-modal shipments over transportation routes having both ocean and land segments. Individual ocean carriers would still be free to negotiate "through rates" with individual inland carriers and such "through rates" could be advertised by the conference.

3. Prohibition of inter-conference agreements. This would preserve the so-called "gateway competition" that assures rivalry between conferences serving different ports, such as the U.S. Gulf Coast and the U.S. East Coast. Inter-conference agreements are permitted under present law.

The Department of Justice seeks to remove the regulatory uncertainties relating to enforcement of any prohibitions on conference activities by exempting those activities from the sanctions of the FMC, a regulatory agency. All of its penalties for violating prohibited activities would come under the anti-trust laws, not the Shipping Act.

Department of Transportation Position

The Department of Transportation objects to the limitations on conference activity proposed by the Department of Justice. The position of the Department of Transportation is similar to the Bill in the forms of economic cooperation that would be permitted, including closed conferences, limits on capacity, and inter-modal rates. The Department of Transportation believes that conferences should be free to establish inter-modal through rates to satisfy the demand for containerized services and to prevent erosion of the conference system. The Department of Transportation position would remove the government from involvement in conference activities, prohibiting only predatory practices. The Department of Transportation seeks to remove the uncertainties regarding the scope of anti-trust immunity for conference activities by completely exempting those activities from antitrust laws. All of its penalties for violating prohibited activities would come under the Shipping Act, not the anti-trust laws.

Implications for Legislative Strategy

The Senate Bill has the support of U.S. flag carriers, shippers and our trading partners. The two provisions considered most essential to passage are anti-trust immunity for carriers and FMC tariff filing requirements.

Anti-trust Immunity

The present position of the Department of Justice with respect to anti-trust immunity represents a major change from its past positions. In conferring blanket anti-trust immunity with specific exceptions, the Department's position probably would be viewed as a substantial concession to maritime interests and to the demands of our trading partners for greater comity.

The industry, however, may view the exceptions to anti-trust immunity that would remain under the Department of Justice proposal as confusing and destabilizing because of the arbitrary distinctions they believe the Department of Justice has drawn in the past between those activities that are subject to the anti-trust laws and those

that are not. The industry believes there will be continuing uncertainty as to how the Anti-trust Division may interpret concerted ocean shipping activities under the clarified anti-trust immunity proposed by the Department of Justice.

Tariff Filing Requirement

The Cabinet Council position favoring abolition of tariff filing requirements, while entirely consistent with the Administration's overall deregulation objectives, will provoke extremely hostile reaction from Congressional sponsors of the bill, from U.S. flag carriers and from shippers. Carriers regard the tariff filing requirement as the only effective means to enforce anti-rebating statutes, which protect U.S. flag carriers from aggressive price competition from foreign flag carriers. Shippers support tariff filing requirements as a protection against discrimination by carriers as between large and small shippers.

It was never the intent of Congressional sponsors to tamper with tariff-filing requirements because these have never been problematic. Continuation of tariff-filing probably will be a condition of passage for new legislation. If a bill with such requirements reaches your desk, it will on the surface contain most of what the Administration supports, and it will be difficult at that time to justify a veto. However, such a bill would set aside our central philosophical concern that conference rate-making authority should not be reinforced by government enforcement of conference rates.

Options

There are two options for you to consider. The essential difference between them pertains to the ocean shipping activities that would be prohibited, and to the anti-trust treatment that would be accorded those prohibited activities.

Option 1 (Department of Justice)

o Permit ocean carriers to enter into agreements among themselves regarding capacity, service and prices subject to the following restrictions:

-- Prohibit revenue and profit pooling
-- Prohibit inter-modal rate setting by conferences
-- Prohibit inter-conference agreements

o Require the FMC to approve an agreement if it does not specify any activity that is prohibited explicitly in the Act. End use of discretionary approval criteria.

o Grant anti-trust immunity to every form of cooperative activity that is not prohibited explicitly in the Act.

o Discontinue tariff filing requirements and tariff enforcement by the FMC.

Option 2 (Department of Transportation) OK RR

o Permit ocean carriers to enter without restrictions into agreements among themselves regarding capacity, service and prices.

--Permit revenue and profit pooling
--Permit inter-modal rate-setting by conferences
--Permit inter-conference agreements

o Require the FMC to approve an agreement if it does not specify any activity that is prohibited explicitly in the Act. End use of discretionary approval criteria.

o Grant complete anti-trust immunity to ocean shipping activities. The exclusive remedy for engaging in prohibited activities would be under the Shipping Act.

o Discontinue tariff filing requirements and tariff enforcement by the FMC. Require carriers to publish their tariffs with a commercial service.

THE WHITE HOUSE

WASHINGTON

December 11, 1981

MEMORANDUM FOR THE PRESIDENT

FROM: JAMES G. WATT, CHAIRMAN PRO TEMPORE
CABINET COUNCIL ON NATURAL RESOURCES AND ENVIRONMENT

ISSUE: What organizational functions should the President propose to Congress to dismantle the Department of Energy and carry on appropriate government energy functions?

Background

President Reagan, during his campaign for President and again in his televised address of September 24, 1981, announced his intention to dismantle and abolish the Department of Energy. The basic reason for this position is that the Department as originally constituted represents a fundamentally misguided view of the government's role in energy matters. Any program for dismantling DOE must address this error, and provide a new structure consistent with a proper understanding of the government's role in energy.

There is general agreement in the Administration that such a role should be limited to:

1) supporting national defense needs through civilian-controlled capability for research, design, production and testing in the field of nuclear weapons and devices;

2) protecting against energy supply disruption through contingency planning capability and maintenance of a strategic petroleum reserve;

3) supporting long-term high-risk, potentially high-payoff basic research on energy technologies; and

4) performing specific governmental tasks, where authorized, such as operation of the Naval Petroleum Reserve and Power Marketing Administrations, governmental tasks in connection with the nuclear fuel cycle, and regulation of certain gas and electric functions.

The creation of a new Department of Energy in 1977 by President Carter indicated that the government would go far beyond these roles, and take over the control of energy in our society. In dismantling the Department of Energy, we emphasize that the government will now no longer exercise such control.

After a series of working group meetings to develop options for carrying out the President's intentions to dismantle the Department of Energy, the Cabinet Council met on December 8, and discussed this issue extensively, leading to a number of items of consensus and two major options.

Discussion

There is a consensus in the Cabinet Council on Natural Resources and Environment on several aspects of dismantling the Department of Energy:

1) Resources management functions, including the Power Marketing Administrations, the Naval Petroleum Reserve, and the operation of the Strategic Petroleum Reserve, should be transferred to the Interior Department.

2) The Federal Energy Regulatory Commission should become independent.

3) Any residual enforcement functions should be transferred to the Department of Justice.

4) There should be established an Energy Research and Technology Administration (ERTA) which would encompass the Defense weapons program, all of the current research and development activities of the Energy Department, both nuclear and non-nuclear, as well as research in areas of environment, safety, and health. ERTA should report to a Cabinet Officer. Energy policy functions, such as planning and analysis, energy information, and emergency preparedness, should be transferred to the Department with jurisdiction over ERTA.

5) Finally, it is agreed that nuclear energy should remain part of the total energy program, rather than being placed in a separate organization.

The remaining question is: To which Department should ERTA and energy policy functions be transferred? The Cabinet Council has developed two options -- the Commerce Option and the Interior Option.

The decision as between the Commerce and Interior options should be made bearing in mind the traditional mission of the two Departments. Over the years, Commerce has been responsible for fostering domestic and international business and technological advancement in the private sector. Over the years, Interior has been responsible for the stewardship, preservation, and development of the nation's natural resources.

THE COMMERCE OPTION

Under this option, ERTA and energy policy would be transferred to the Department of Commerce.

The advantages of housing ERTA and energy policy in Commerce are:

- Recognizes that commercial energy development should be driven by user requirements and market factors, rather than by needs of resource developers.

- Provides an opportunity to integrate more closely energy policy with general economic policy.

- 2/3 of DOE consists of nuclear R&D and manufacturing. This option puts these business type activities in the Department most responsible for working closely with business.

- Meshes with Commerce's management experience as a Department composed of a number of semi-independent agencies.

- Locates energy, an important international growth business, in the Department most responsible for the promotion of international business. Also, strengthens Department and thereby enhances Secretary's ability to represent U.S. private sector interests in the international arena.

The disadvantages are:

- Separates energy research and development, as well as policy functions, from the primary source of energy in future years -- the public lands and resources of the United States. This separation may hinder development of a coherent energy policy.

- Puts responsibility for nuclear weapons in a business-oriented department, possibly raising old fears about a "military-industrial complex."

- Could provide too much practical, commercial emphasis in place of scientific inquiry in research and development.

THE INTERIOR OPTION

Under this option, ERTA and energy policy functions would be transferred to the Department of the Interior.

The advantages of this arrangement are:

- Places all aspects of energy within one organization, including research and technology, nuclear energy and the

energy resources of the public lands. This has the best possibility of preserving all energy options by having them balanced within one organization.

- Research and development and policy functions would be blended with the primary source of energy in the years ahead -- the public lands and resources. The public lands under Interior are believed to contain 85% of the nation's oil, 40% of the natural gas, 40% of the uranium, 35% of the coal, 85% of the tar sands, 80% of the oil shale, and 50% of the geothermal resources.

- The competing demands of development and conservation of energy resources can best be balanced if all energy aspects, including both government-owned energy sources and future developments through R&D, are within one Department.

The disadvantages are:

- Maintains a high-profile federal role in energy through single planning organization for both government and private energy resources, research and development.

- Congress has in the past rejected similar arrangements, but those proposals to consolidate government functions involved controversial transfers not contemplated here, such as transfer of the Forest Service from USDA to Interior.

OTHER ASPECTS

- Either option would both combine and separate preservation and environmental interests on the one hand and development interests on the other. In the case of Commerce, the presence of the National Marine Fisheries Service and the National Oceanic and Atmospheric Administration might serve to retard energy development, but the same would be true of the role of the Fish and Wildlife Service and the National Park Service in Interior. Placement of the energy functions in Commerce would be strengthened by the other private business activities of that Department, but the other resource management activities in Interior would similarly aid energy development there.

- The Congressional Affairs office will be prepared to discuss implications of both options for congressional relations.

DECISION: PROCEED WITH

COMMERCE OPTION RR

INTERIOR OPTION _____

THE WHITE HOUSE

WASHINGTON

December 9, 1981

MEMORANDUM FOR THE DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT

SUBJECT: FEDERAL EMPLOYMENT OF DISCHARGED AIR TRAFFIC CONTROLLERS

The Office of Personnel Management has established the position that the former air traffic controllers who were discharged for participating in a strike against the government initiated on August 3, 1981 shall be debarred from federal employment for a period of three years. Upon deliberation I have concluded that such individuals, despite their strike participation, should be permitted to apply for federal employment outside the scope of their former employing agency.

Therefore, pursuant to my authority to regulate federal employment, I have determined that the Office of Personnel Management should permit federal agencies to receive applications for employment from these individuals and process them according to established civil service procedures. Your office should perform suitability determinations with respect to all such applicants according to established standards and procedures under 5 CFR, Part 731.

After reviewing reports from the Secretary of Transportation and the Administrator of the Federal Aviation Administration, I have further determined that it would be detrimental to the efficiency of operations at the Federal Aviation Administration and to the safe and effective performance of our national air traffic control system to permit the discharged air traffic controllers to return to employment with that agency. Therefore, these former federal employees should not be deemed suitable for employment with the Federal Aviation Administration.

I direct you to process their applications for reemployment with the federal government accordingly.

Ronald Reagan

THE WHITE HOUSE

WASHINGTON

November 12, 1981

MEMORANDUM FOR HEADS OF DEPARTMENTS AND AGENCIES

SUBJECT: 1983 Budget

During the next six weeks, I expect to make final decisions on nearly all aspects of the 1983 budget that I must submit to the Congress in January. This budget will reflect my firm commitment to hold down government spending and reduce the serious adverse effect that government spending and government-stimulated borrowing is having on the national economy.

In September, you were advised of the outlay ceilings for 1983 and 1984 that I approved for your department or agency for the purpose of guiding the development of the request that you have submitted to the Office of Management and Budget. There will be very few, if any, cases where it will be possible for us to exceed those outlay ceilings. In some cases, it will be necessary to go even lower.

The Office of Management and Budget is reviewing your requests, and you will begin receiving the results of these reviews. I hope that there will be very few appeals but, if you find that an appeal is absolutely necessary, you should submit that appeal within 72 hours of the time you are notified of the initial decision. I have instructed Dave Stockman and his staff to work with you to resolve as many appeals as possible.

If some unresolved issues remain, I will look to the Budget Review Board that I established last July (consisting of Ed Meese, Jim Baker and Dave Stockman) to meet with you to consider any remaining appeal. You should be prepared to submit any matter unresolved at that level to me within 24 hours after you are advised of the Board's decision.

We have made good progress in bringing the size and cost of government under control, but we have a long way to go. Your continued cooperation in this effort is sincerely appreciated.

Ronald Reagan

THE WHITE HOUSE

WASHINGTON

October 1, 1981

NOTE FOR THE FILE

FROM: CRAIG L. FULLER

The President approved the first recommendation.

It was decided that the second recommendation concerning "due-on-sale" would be reconsidered by the Cabinet Council on Economic Affairs.

Attachment

THE WHITE HOUSE

WASHINGTON

September 30, 1981

MEETING WITH CABINET COUNCIL
ON ECONOMIC AFFAIRS

DATE: October 1, 1981
LOCATION: Cabinet Room
TIME: 3:00 p.m. (60 min.)

FROM: CRAIG L. FULLER

I. PURPOSE

This meeting of the Cabinet Council on Economic Affairs is being held to review a proposal pertaining to the thrift industry.

II. BACKGROUND

The Treasury Department has had the lead in developing a legislative package to assist the thrift industry (savings and loan associations and mutual savings banks).

The attached decision memorandum outlines the problems facing the thrift industry and makes two recommendations:

1. Approve supporting the Thrift Institutions Restructuring Act of 1981.

2. Reject, as part of the Act a provision for Federal preemption of state restrictions on due-on-sale clauses. (Due-on-sale clauses require the loan balance to be paid at the lender's option if the property underlying the mortgage is sold.)

These recommendations have been reviewed by the Cabinet Council. No opposition from members of your Cabinet has been registered.

Martin Anderson may wish to raise concerns expressed by the Federal Home Loan Bank Board.

III. PARTICIPANTS

To be determined.

IV. PRESS PLAN (White House photographer only)

V. SEQUENCE

Once the meeting is called to order, Don Regan will lead the discussion.

THE WHITE HOUSE

WASHINGTON

September 18, 1981

MEMORANDUM FOR THE CABINET COUNCIL ON ECONOMIC AFFAIRS

FROM: ROGER B. PORTER RBP

SUBJECT: Agenda and Paper for the September 22 Meeting

The agenda and paper for the Tuesday, September 22 meeting of the Cabinet Council on Economic Affairs with the President are attached. The meeting is scheduled for 12 Noon in the Roosevelt Room.

The meeting will review recent developments in the thrift industry and the Council's recommendations to the President on the Thrift Institutions Restructuring Act of 1981 and on the issue of Federal preemption of state restrictions on due-on-sale clauses. A memorandum from the Council to the President is attached.

Attachments

THE WHITE HOUSE

WASHINGTON

Decision

September 18, 1981

MEMORANDUM FOR THE PRESIDENT

FROM: THE CABINET COUNCIL ON ECONOMIC AFFAIRS

SUBJECT: The Thrift Industry

Current Problems and Financial Status

The thrift industry (savings and loan associations and mutual savings banks) has experienced large deposit outflows and operating losses during the last several months. In July and August, for example, savings and loan associations (S&Ls) had a net deposit outflow of approximately $5.6 billion, about 1 percent of total deposits. Operating losses have reduced S&L industry net worth from $32.4 billion at the beginning of the year to $30.1 billion at the end of July. The deposit outflows stem from the industry's inability, because of regulatory ceilings on deposit interest rates, to compete effectively with money market funds and other investments paying market rates. The operating losses are occurring because the industry is paying higher interest rates on the deposits it attracts than the yield on its asset portfolio — generally older, low interest rate mortgages.

These large deposit outflows and operating losses (which reduce net worth) do not, however, portend numerous insolvencies within the industry. Cash flow and liquidity, rather than net worth, are the key factors in determining whether a thrift can remain solvent, i.e., continue to meet its deposit withdrawals and pay its bills as they come due. A depository institution's operating losses, unlike those of other businesses, do not generally translate directly into a reduction in cash flow since its largest expense, interest on deposits, is typically a non-cash expense, i.e., the interest is generally credited to accounts rather than actually paid out. The thrift industry as a whole is not in a cash flow or liquidity crisis. In the first seven months of the year, the S&L industry's total assets increased by about 2.8 percent or $17.4 billion, of which about $12 billion went into new mortgages.

Several of the weaker institutions within the industry are, however, experiencing severe financial problems: large operating losses are depleting new worth, which, while not necessarily affecting liquidity and cash flow, could trigger regulatory actions or, more importantly, adverse publicity leading to a "run" on an institution's deposits; this could

force the closing of even a highly-capitalized depository institution. When appropriate, Federal regulators are assisting those institutions by arranging mergers with stronger institutions, providing liquidity through direct lending, and infusing capital through the use of non-cash capital instruments.

In the longer term, the thrift industry needs what the rest of the economy needs: lower inflation and interest rates and less government regulation. Reducing the legal restrictions on the industry's deposits and loan and investment activity will enable it to better compete for funds and weather the current and any future upturn in interest rates or downturn in the housing cycle. Through the Depository Institutions Deregulation Committee (DIDC), we are phasing out deposit rate ceilings. Draft legislation developed by the Federal Home Loan Bank Board (FHLBB), discussed more fully below, would expand thrift lending and investment powers to roughly those now enjoyed by commercial banks.

Also, the tax-exempt "All Savers" certificates, authorized in the new tax legislation, should, beginning October 1, greatly reduce the industry's cost of deposits and provide a large amount of new deposits.

FHLBB Proposed Legislation

The Cabinet Council on Economic Affairs has been reviewing draft thrift legislation being developed by the FHLBB — the Thrift Institutions Restructuring Act of 1981. Although we concurred in and encouraged the thrust of the proposal from the beginning — expanding thrifts' lending and investment powers — earlier drafts contained several provisions which we opposed: e.g., raising the limits on deposit insurance, additional financial bailout powers for Federal deposit insurance agencies, and provisions which would give thrifts competitive advantages or greater powers than commercial banks now have. At this time, however, the FHLBB has addressed all of our concerns, and last Thursday the Cabinet Council decided to recommend to you that the Administration support the FHLBB's proposal. The key provisions would:

- Authorize thrifts to accept retail and commercial demand deposits and make virtually any type of loan and investment.

- Provide for interstate and interindustry mergers of financially troubled depository institutions between (or among) thrifts, banks, and bank and S&L holding companies.

- Permit conversions by thrifts from mutual to stock form.

- By a separate bill, make banks which are heavily involved in mortgage lending eligible for the same tax treatment as thrifts.

- Subject thrifts using the new bank-like powers provided by the legislation to interstate branching and lending restrictions similar to those which now apply to commercial banks.

In our discussions with the FHLBB, we stressed two principles: new thrift powers should not exceed those of commercial banks, and there should be no provisions which would encourage a Congressional debate and mandate for a massive Federal financial bailout. The FHLBB's final proposal addresses both principles. Given the strong interest in this proposal by the various housing and banking groups, the ultimate legislation will undoubtedly not result in complete bank/thrift parity. Nevertheless, it is a vital first step on the road to greater deregulation of all financial institutions — a policy which we strongly support.

Recommendation: The Cabinet Council on Economic Affairs recommends that you approve supporting The Thrift Institutions Restructuring Act of 1981.

Approve ✓ RR Disapprove _____

Federal Preemption of State Restrictions on "Due-on-Sale" Clauses

The FHLBB proposal contained a provision preempting state laws and court decisions which invalidate or prohibit so-called "due-on-sale" clauses in home mortgages. Most conventionally financed mortgages contain such clauses, which require the loan balance to be paid at the lender's option if the property underlying the mortgage is sold. Invalidating a due-on-sale clause enables a home purchaser to assume a mortgage negotiated previously between the home seller and his original lender at a lower interest rate. This has created tremendous losses for thrift institutions and tremendous benefits for home sellers and buyers during the last several years, with the dramatic increase in mortgage interest rates.

In recent years, courts in several states, including California, have ruled that due-on-sale clauses are invalid because they restrict the alienation of property. A number of state legislatures have prohibited due-on-sale enforcement through statutes, usually on consumer protection grounds. Federal regulations either authorize or require federally chartered depository institutions to include a due-on-sale clause in their mortgage loans. State courts are divided on whether these Federal regulations preempt state restrictions on due-on-sale clauses. The issue has been raised in three separate Federal district courts in California, all of which have upheld Federal preemption. These three decisions have been consolidated into one appeal in the Ninth Circuit Federal Court of Appeals, which has not yet issued a decision.

Deciding whether to support Federal preemption of state restrictions on due-on-sale clauses requires a choice between two competing objectives: limiting state governmental interference in private contracts and limiting Federal interference in state regulatory responsibilities.

Options

There are two basic options.

Option 1: Support the FHLBB provision allowing enforcement of due-on-sale clauses in home mortgages despite state law.

Advantages:

- This would permit home purchasers and lenders to include in their mortgage contracts provisions which are mutually agreeable, including due-on-sale clauses.

- Restricting enforcement of due-on-sale clauses in existing contracts deprives lenders of a valuable property right, and creates a windfall for homeowners, who will capitalize the value of assumability into the sales prices of their homes.

- Any state limitation of enforcement of due-on-sale clauses worsens the financial situation of the already distressed thrift industry by increasing the expected maturity of low interest rate loans. The Federal government will very likely be called upon to pay the costs of deteriorating thrift balance sheets, either through capital infusions, deposit insurance outlays, or tax subsidies such as "All Savers" certificates.

- Banking is inherently a "national," not a "local," industry. Federal intervention can be justified more readily in this case than in others, particularly when poor policy at the state level may increase Federal budgetary costs.

- Without enforceable due-on-sale clauses, mortgage lenders will charge higher interest rates on fixed-rate loans as a hedge against inflation over the longer expected terms of the loans.

Option 2: Oppose including a Federal preemption provision in the FHLBB legislation.

Advantages:

- The preemption of state laws prohibiting due-on-sale enforcement would violate a basic principle of American federalism — that the states have all authorities not specifically reserved for the Federal government.

- Support of due-on-sale preemption would set an awkward political precedent making it more difficult for you to cite federalism as your reason for advocating a wide variety of measures, including block grants and the transfer of regulatory functions to the states.

- Freedom of the states to regulate their own banking systems fosters useful experimentation in banking regulation. Variable rate mortgages provide an example of regulatory innovation that began at the state level.

- Due-on-sale clauses "lock in" homeowners to their current residences, reducing mobility which presumably would otherwise benefit both buyer and seller.

- The issue may be resolved against due-on-sale prohibition without Federal legislation. The Federal courts may uphold present disputed regulations of Federal depository institutions regulatory agencies preempting due-on-sale prohibitions affecting mortgages issued by federally chartered institutions. If the regulations are upheld, the states would have to remove their restrictions to prevent state chartered institutions from converting to Federal charters.

Because of the strong arguments on both sides, and because the issue may ultimately be decided in the courts against due-on-sale prohibitions, obviating Federal legislative preemption, the Cabinet Council has decided to oppose including a Federal

preemption in the FHLBB proposal. We have discussed the matter with the FHLBB and it is willing to drop the provision.

Recommendation: The Cabinet Council on Economic Affairs recommends that you approve not including in The Thrift Institutions Restructuring Act of 1981 a provision for Federal preemption of state restrictions on due-on-sale clauses. (Option 2)

Approve _____ Disapprove _____

Donald T. Regan
Chairman Pro Tempore

THE SECRETARY OF COMMERCE
Washington, D.C. 20230

MEMORANDUM FOR THE PRESIDENT

FROM: Malcolm Baldrige
Chairman Pro Tempore
Cabinet Council on Commerce and Trade

SUBJECT: Administration Amendments to S. 898, the Telecommunications Competition and Deregulation Act of 1981

The Cabinet Council on Commerce and Trade (CCCT) has approved a set of amendments to S. 898 offered by Senator Strom Thurmond, Chairman of the Senate Judiciary Committee, as well as a second Administration amendment to S. 898 developed by the Justice Department.

Senator Thurmond proposed fifteen amendments, eleven of which the Cabinet Council believes are sound and consistent with the deregulatory goals of this important legislation. These eleven amendments, discussed at Attachment A, basically involve --

1. Competitive procurement.
2. Evaluation of assets transferred to the fully separate data AT&T affiliate (FSA).
3. Terms of FSA asset transfers.
4. Composition of the FSA board.
5. Fully separate affiliate separation requirements.
6. AT&T license contracts.
7. Competitors' access to rights-of-way.
8. Economic support for AT&T tariffs.
9. AT&T patent licensing and patent transfers.
10. Subassembly and component making after transition.
11. FSA books and records requirements.

The Cabinet Council rejected four amendments proposed by Senator Thurmond which did not in any significant way promote further competition in the telecommunications industry or provide any additional significant safeguards for competition. These amendments are discussed in Attachment B and involve:

1. Outside ownership of the FSA.
2. Limitation on ownership transmission facilities by the FSA.
3. FCC approval of joint ventures for exports.
4. Extending service regulation from two to four years.

The amendment proposed by the Justice Department deals with the problem of interconnection for exchange access (Attachment C). It provides that competitive interexchange carriers shall receive equality of treatment in terms of price and performance from local exchange telephone companies.

That amendment is in addition to the previously approved Justice Department amendment dealing with special procurement and open market sales requirements.

Recommendation

That you approve Administration support for the eleven Thurmond amendments and that you approve the amendment on interconnection for exchange access.

✓ BR Approved _____ Disapproved

Attachments

THE WHITE HOUSE
WASHINGTON

September 11, 1981

MR. PRESIDENT:

The attached memo would formally record your decision on the defense budgeting issues. I prepared it at Jim Baker and Mike Deaver's suggestion. I have read it to Dave Stockman, who approves. It is my understanding from Mike Deaver and Jim Baker that Cap Weinberger also approves of these numbers.

The ceilings reflect an outlay reduction of $13 billion from the "President's mid-session budget" (not the internal DOD budget). As you know, Dave Stockman feels strongly that your decision must be based on the mid-session numbers -- as his September 11 memo to you clearly argues.

Richard G. Darman

CAMP DAVID

September 12, 1981

MEMORANDUM FOR THE SECRETARY OF DEFENSE

THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

SUBJECT: DEFENSE BUDGET OUTLAY CEILINGS

I am pleased that following our meetings on this subject, your further discussions have resulted in agreed defense budget outlay ceilings for fiscal years 1982 - 84. I hereby approve your agreement and direct that defense planning and programming be consistent with these outlay ceilings:

	FY 82	FY 83	FY 84
Revised defense outlay ceiling:	181.8	214.9	242.6

I appreciate the spirit in which you have reached this agreement, and firmly believe that we have struck the balance necessary to assure both an increasingly strong defense and the economic health on which defense and wellbeing depend.

Ronald Reagan

THE WHITE HOUSE
WASHINGTON

Date: 8/18/81

NOTE FOR: SECRETARY DONOVAN
via Craig Fuller

The President has

seen	☐
acted upon	☒
commented upon	☐

the attached; and it is forwarded to you for your:

information	☐
action	☒

Richard G. Darman
Deputy Assistant to the President
(x-2702)

cc: Craig Fuller
PD Files
Central Files

THE WHITE HOUSE

WASHINGTON

August 11, 1981

MEMORANDUM FOR THE PRESIDENT

FROM: CRAIG L. FULLER

SUBJECT: Davis-Bacon Act

At a Cabinet meeting on June 23, 1981, Secretary Donovan presented recommendations on revisions to the Davis-Bacon Act. The decision memo from that meeting is attached.

Action on this matter was deferred until after the passage of the budget and tax proposals.

Now, Secretary Ray Donovan wishes to take the following actions which require your concurrence:

1. Modify regulations: Changing regulations pertaining to "importation rates," "certified payrolls" and "helpers" would save almost $700 million in FY 82.

2. Refrain from favoring the repeal of the Davis-Bacon Act: This would be consistent with your campaign pledge; however, it would not involve active opposition against efforts to repeal Davis-Bacon which would offend several key Republicans.

3. The same position of not favoring repeal would apply to "related acts": During the Cabinet meeting, Secretary Weinberger expressed a desire to accept the repeal of Davis-Bacon as it relates to military construction projects; however, this is in conflict with your campaign pledge and additional savings should be realized by DOD once the regulatory changes take effect thus reducing the need for repealing the Act as it applies to military construction.

You should be aware that your advisors are in agreement on these three recommended positions:

- The Cabinet Council on Economic Affairs, including Don Regan, Dave Stockman, and Marty Anderson, concur in the recommendations.

- Ed Meese, Jim Baker and Max Friedersdorf also concur.

The only known opposition comes from Elizabeth Dole who expressed concern about including the "helper" provision among the regulatory changes. Unfortunately, that one item accounts for $450 million of the FY 82 savings. Secretary Donovan believes that while some labor interests will object to the "helper" provision, the necessary steps have been taken to reduce opposition. Hence, Secretary Donovan strongly recommends, and the others listed above concur, that the regulation be changed as suggested.

The only action required of you is to concur in the recommendations. The original decision memo is attached for information only.

✓RR concur _____ do not concur

Attachment

U.S. DEPARTMENT OF LABOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20210

JUN 22 1981

MEMORANDUM FOR: THE PRESIDENT

FROM: THE SECRETARY OF LABOR

SUBJECT: Administrative or Legislative Revision of the Davis-Bacon Requirements

As you know, the costs of direct Federal and federally assisted construction are too high, totalling more than $30 billion. It has been estimated that $400 million to $3 billion of this amount is due to the wage protection provisions of the Davis-Bacon Act. These labor costs must be substantially reduced if we are to strengthen the economy. This memorandum discusses the options which could be followed to achieve this goal, and my recommendations on how the Administration should proceed.

ISSUES

- Should the Administration approve the modifications to the Davis-Bacon regulations recommended by the Department of Labor?

- Should the Administration support (or not oppose) legislative repeal of the Davis-Bacon Act?

- Should the Administration support (or not oppose) legislative repeal of the Davis-Bacon prevailing wage requirements from "related acts"?

BACKGROUND

- The Davis-Bacon Act applies to all contracts of the United States in excess of $2,000 for the construction, alteration or repair of public buildings or public works.

- The Act requires all covered contractors to pay its laborers and mechanics the wage rate which the Department of Labor has determined to be "prevailing" in the area for similar projects.

- Davis-Bacon prevailing wage requirements have been extended to more than 60 "related acts" providing Federal assistance to construction.

- There is no statutory definition of the term prevailing. Since 1935, Department of Labor regulations have defined the prevailing rate as:

  (1) the rate paid to the majority of workers in the classification on similar construction in the area;
  (2) if there is no majority, the rate paid to at least 30 percent of the workers in the locality;
  (3) if no single rate is paid to 30 percent of the workers, the weighted average of the rates.

ADMINISTRATIVE REVISIONS PROPOSED BY THE DEPARTMENT OF LABOR

The following modifications to the regulations have been suggested by the Department of Labor:

Definition of prevailing wage

- The 30 percent rule would be deleted. The rate paid the majority of workers would be used; if there is no majority rate, the average rate would be set.

- Several alternative definitions -- using the average in all cases, or using the lowest wage paid in the area -- were considered. They were rejected because the Solicitor of Labor and the Office of Legal Counsel concluded these definitions would be invalidated by the courts.

- An estimated annual cost savings of at least $120 million will result from deletion of the 30 percent rule.

Importation of rates

- The mixing of urban and rural wage data in surveys would be strictly prohibited.

Certified payrolls

- The weekly submission of payrolls would be eliminated.
- An estimated annual cost savings of $100 million will result from this change.

Helpers

- Helpers could be used regardless of whether helper rates appear on the wage determination. Ratio of helpers to journeymen to be permitted has not been finally determined, but will be set between 1-to-1 and 1-to-10.
- An estimated annual cost savings of $450 million will result from this change.

Total cost savings

- The proposed changes will result in estimated FY '82 cost savings of at least $670 million for both contractors and the government.

Recommendation: The Department of Labor recommends that you approve the proposed modifications. The Cabinet Council on Economic Affairs and the Presidential Task Force on Regulatory Relief concur in this recommendation.

Approved _____ Disapproved _____

Approved as Modified _____

PROPOSED POSITION ON REPEAL OF DAVIS-BACON

Option A: Support Repeal of the Davis-Bacon Act.

Those who urge repeal of the Act generally make the following arguments:

- The statute is a product of the depression that has outlived its usefulness.
- Repeal would result in the greatest cost savings and permit the free market system to set workers' wages.

The arguments against this course are that:

- Repeal is unnecessary because the costs can be vastly reduced through appropriate revision of the regulations.
- The Act has a positive stabilizing effect on local economies.
- You stated during the campaign that you would not support repeal.
- Substantial opposition to repeal exists in Congress and among normally responsive units within organized labor.

Option B: Take no position on repeal

- The advantage of this option is that it is arguably less in conflict with your campaign promise than Option A.
- That advantage, however, is probably ephemeral. Organized labor would equate your "neutrality" with support of repeal. And if a bill repealing Davis-Bacon is passed, you necessarily would be taking a position by vetoing, or not vetoing the legislation.

Option C: Oppose repeal

- For the reasons stated above, we believe this to be the only viable option.

Recommendation: The Department recommends that you continue to oppose repeal of the Act. The Cabinet Council on Economic Affairs and the Presidential Task Force concur in this recommendation.

Approve _____ Disapprove _____

PROPOSED POSITION ON REPEAL OF THE DAVIS-BACON PROVISIONS IN THE "RELATED ACTS"

Option A: Support Repeal of Davis-Bacon Provisions in the Related Acts

Last week the Senate Armed Services Committee voted to remove Davis Bacon Act requirements from military construction contracts. The arguments for and against this type of action are basically the same as those concerning repeal of Davis-Bacon itself, with certain refinements. It is preferable to wholesale repeal in that:

- The action is somewhat less drastic since the measures could be taken "piecemeal".
- You have not previously taken a position on this issue.

On the other hand, it retains the major disadvantages of supporting repeal in that:

- Up to 80 percent of present Davis-Bacon coverage would be eliminated. The stabilizing effect of Davis-Bacon would in large measure be lost.
- Organized labor is as opposed to this course as they are to repeal of Davis-Bacon itself.
- The Administration's credibility would be undermined since it would be viewed as doing through the "back door" what it promised it would not do directly.
- Because each related act would be addressed separately, the issue would be a continual source of controversy.

Option B: Take no position on the related acts

- As with the option of taking no position on the repeal of Davis-Bacon itself, any advantage to this option is ephemeral.

Option C: Oppose repeal of Davis-Bacon Provisions from the related acts

For the reasons stated above, I believe this is the most viable option.

Recommendation: The Department recommends that you oppose repeal of Davis-Bacon provisions from the Related Acts. The Cabinet Council on Economic Affairs and the Presidential Task Force take no position on this issue.

Approve _____ Disapprove _____

P. decision pb

THE WHITE HOUSE

WASHINGTON

August 5, 1981

MEMORANDUM TO THE FILE

FROM: CRAIG L. FULLER

SUBJECT: Surplus Butter

Following discussions with Deputy Secretary of State William Clark, Secretary Jack Block and Ed Meese, it was agreed that the surplus butter agreement with New Zealand can go forward with a the following change: It will be stated that "butter will not be sold to the USSR." Any reference to "directly" or "indirectly" will be deleted.

cc: R. Darman

THE WHITE HOUSE
WASHINGTON

Date: 8/5/81

NOTE FOR: MAX FRIEDERSDORF

SUBJECT: Letter Recommending ITC Casein Study

The President has

seen ☐

acted upon ☒

commented upon ☐

the attached; and it is forwarded to you for your:

information ☒

action ☒

The President signed the attached letter to the ITC today. However, we are not releasing it for three days so that State can inform the New Zealand government and you can make any necessary Congressional calls.

Richard G. Darman
Deputy Assistant to the President
(x-2702)

cc: Craig Fuller (for State)

Tom Jones - please do not release this letter until Monday, 8/10/81.

THE WHITE HOUSE

WASHINGTON

Dear Mr. Chairman:

Pursuant to Section 22 of the Agricultural Adjustment Act of 1933, as amended, I have been advised by the Secretary of Agriculture, and I agree with him, that there is reason to believe that casein and mixtures in chief value thereof and lactalbumin are being imported, or are practically certain to be imported, under such conditions and in such quantities as to materially interfere with the price support program for milk undertaken by the Department of Agriculture.

Specifically, reference is made to the following articles:

TSUS Item	Description
	Casein and mixtures in chief value thereof:
493.12	Casein
493.17	Other, not subject to quota
	Albumen, not specially provided for:
190.15	Other

The United States International Trade Commission is therefore directed to make an immediate investigation under Section 22 of the Agricultural Adjustment Act of 1933, as amended, to determine whether the above-described articles are being, or are practically certain to be, imported under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support program for milk now conducted by the Department of Agriculture, or to reduce substantially the amount of products processed in the United States from domestic milk, and to report its findings and recommendations at the earliest practicable date.

Sincerely,

Ronald Reagan

The Honorable William R. Alberger
Chairman
United States International
Trade Commission
Washington, D.C. 20436

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

The importation of certain dairy products is limited by quotas established by Presidential Proclamation pursuant to the provisions of Section 22 of the Agricultural Adjustment Act of 1933, as amended, which quotas are set forth in Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS). These quotas were proclaimed to prevent imports from interfering with the price support program conducted by the Department of Agriculture for milk under which the Commodity Credit Corporation maintains an open offer to purchase butter, cheese, and nonfat dry milk at announced prices.

This is to advise you that I have reason to believe that casein and lactalbumin are being imported under such conditions and in such quantities as to materially interfere with the price support program for milk.

Casein and lactalbumin are not produced in the United States. These products have a wide variety of uses in the manufacture of processed foods, animal feeds, and a variety of industrial products. In some cases, these uses are in substitution for domestic milk and milk products.

The Department has recently completed a comprehensive study of casein and lactalbumin imports and their effects on the Department's support program for milk and on domestic production of milk and dairy products. The principal finding is that, if no casein had been imported in 1980, commercial disappearance of domestic milk solids would have increased by the equivalent of 333 million pounds of nonfat dry milk. Purchases by the Commodity Credit Corporation of nonfat dry milk would have been 333 million pounds lower, saving about $300 million in Government expenditures. A further major finding of the study is that there will be increased utilization of casein in food and feed uses which indicates that, in the absence of action to limit imports, there will be increased displacement of nonfat dry milk in commercial use and increasing production of imitation cheese, displacing natural cheese.

If you agree that there is reason to believe that imports of casein and lactalbumin are materially interfering with the Department's price support program for milk, you are required under the provisions of Section 22 to direct the United States International Trade Commission to make an investigation under that section to determine such facts. I therefore recommend that you direct that there be such an investigation with respect to the following articles:

TSUS Item	Description
	Casein and mixtures in chief value thereof:
493.12	Casein
493.17	Other, not subject to quota
	Albumen, not specially provided for:
190.15	Other

Enclosed is a draft of a proposed letter to the International Trade Commission.

Sincerely,

John R Block

Enclosure

~~State~~ Craig

Legislative -

3 days

May

→ R.G.D.

THE WHITE HOUSE
WASHINGTON

Date: 7/30/81

NOTE FOR: CRAIG FULLER

The President has

seen xx

acted upon _____

the attached; and it is forwarded to you for your information.

Richard G. Darman
Deputy Assistant to the President
and Staff Secretary
(X2702)

cc: Ed Meese

THE WHITE HOUSE
WASHINGTON

July 29, 1981

MR. PRESIDENT:

We received this note at mid-day today. You had already discussed this with Ed Meese -- and approved the Union project, not the Great Plains project, as I understand it. It is my further understanding that the Great Plains project and one other synfuels project remain under review in Cabinet Councils.

Richard G. Darman

cc: Ed Meese

Yes - it seems we need another cabinet round on the other 2. I hope it will be very soon
RR

THE VICE PRESIDENT
WASHINGTON

MEMORANDUM TO: THE PRESIDENT July 28, 1981

FROM: THE VICE PRESIDENT

RE: Your Synfuels Decision

I took Senators McClure and Domenici into my office after their meeting with you. We had a good talk about their projects and the political implications. My recommendations are that you (1) approve Great Plains (coal degassification) at that time, and (2) defer a decision on the shale projects, referring that matter to the new Synfuels Board for further consideration and recommendation.

P.S. The Senators would go along with this they told me

RGD

P. decision

THE WHITE HOUSE
WASHINGTON

Date: 7/29/81

NOTE FOR: SECRETARY BALDRIGE
via Craig Fuller

The President has

seen _____

acted upon xx

the attached; and it is forwarded to you for your information.

Richard G. Darman
Deputy Assistant to the President
and Staff Secretary
(X2702)

cc:

THE SECRETARY OF COMMERCE
Washington, D.C. 20230

JUL 28 1981

File

MEMORANDUM FOR THE PRESIDENT

FROM: Malcolm Baldrige
Chairman Pro Tempore
Cabinet Council on Commerce and Trade

SUBJECT: Administration Amendment to S. 898

The Cabinet Council today approved unanimously an amendment that will enable the Administration to fully support S. 898 (Attachment A). The effect of this amendment is to remedy the single greatest omission in the bill as now drafted. That is the absence of any effective means to prevent AT&T from engaging in cross-subsidization. In addition to preventing cross-subidization, the proposed amendment will promote vigorous competition and provide strong incentives for AT&T to aggressively enter export markets.*

The Justice Department has agreed to ask for a suspension of its pending litigation against AT&T because the proposed Administration amendment substantially achieves the relief sought by the Justice Department in its suit. In addition, the Justice Department has indicated its intention to drop the suit if legislation embodying the proposed amendment is enacted by June 30, 1982.

Administration support of the bill, including the proposed amendment, will help to assure its eventual passage in the House. Passage of the bill is essential to stabilize the industry, enable it to attract increased capital investment, and increase the international competitiveness of U.S.-made telecommunications products.

Recommendation

That you approve the amendment entitled, "Special Procurement and Open Market Sales Requirements."

✓ Approved _____ Disapproved

*The Cabinet Council on Commerce and Trade also agreed that the Administration should work with Congressional sponsors to attempt to strengthen Section 207 of the bill, which pertains to interconnect services provided by AT&T.