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APPROVED
OCT 11 1976

8/10/11/76

THE WHITE HOUSE

ACTION

WASHINGTON

October 9, 1976

Last Day: October 13

*Pasted
10/12/76
archive
10/12/76*

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON *[Signature]*
SUBJECT: S. 2839 - International Investment Survey Act of 1976

Attached for your consideration is S. 2839, sponsored by Senator Inouye.

The enrolled bill gives the President the clear authority and responsibility to:

- collect statistical data and conduct special studies and surveys on various aspects of "international investment", to the extent he deems necessary and feasible;
- publish periodically comprehensive statistical information obtained through these efforts;
- study the adequacy of, and recommend improvements in, data collection, retrieval and analysis procedures;
- report periodically to the cognizant congressional committees on national and international developments with respect to laws and regulations affecting international investment.

S.2839 fills an important gap in the Government's authority to collect statistical information on U.S. investment abroad, foreign investment in the U.S. and other international transactions. This bill would provide the President with the necessary authority to collect, in a timely and reasonable fashion, the needed data and has been actively pursued especially by the Commerce Department, for the last two years.

A detailed discussion of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A.



OMB, CEA, NSC, Max Friedersdorf, Counsel's Office (Kilberg),
Bill Seidman and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign S. 2839 at Tab B.



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

OCT 6 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2839 - International Investment
Survey Act of 1976
Sponsor - Sen. Inouye (D) Hawaii

Last Day for Action

October 13, 1976 - Wednesday

Purpose

Provides clear authority for the President to collect and disseminate information on international investment to the Congress, the executive agencies and the general public.

Agency Recommendations

Office of Management and Budget	Approval
Department of Commerce	Approval
Federal Reserve Board	Approval(Informally)
Department of the Treasury	Approval
Department of State	Approval
Council on International Economic Policy	Approval
Council of Economic Advisers	Approval(Informally)
Department of Labor	Approval

Discussion

S. 2839 gives the President the clear authority and responsibility to (1) collect statistical data and conduct special studies and surveys on various aspects of "international investment", to the extent he deems necessary and feasible; (2) publish periodically compre-

hensive statistical information obtained through these efforts; (3) study the adequacy of, and recommend improvements in, data collection, retrieval and analysis procedures; and (4) report periodically to the cognizant congressional committees on national and international developments with respect to laws and regulations affecting international investment.

"International investment" is defined basically as ownership or control by (1) foreign persons of property or stock in the United States, or (2) United States persons of property or stock abroad.

Under his general authority to delegate functions (3 U.S.C. 301), it is expected that the President would rely principally upon the Department of Treasury and Commerce to carry out the mandatory data collection provisions in the bill. However, the bill requires that data collected be shared among all appropriate statistical agencies to reduce the possibility of duplicative data requests as well as to improve the quality of the final public reports.

Numerous safeguards are specified to protect the interests of respondents and the confidentiality of the data they must provide. There are criminal penalties for the public release of data in identifiable form. Moreover, collected data will be immune from compulsory legal processes and may not be used for regulatory purposes affecting any particular respondent. Thus the data will be afforded the same protection and trust as Census Bureau statistics.

Besides authorizing the President to conduct studies and surveys of international investment and other international transactions as they affect American economic welfare and national security, other surveys and studies are specifically mandated. These include comprehensive benchmark surveys of U.S. direct and portfolio investment abroad and foreign direct and portfolio investment in the United States. The President is also to study the feasibility of, and to report within two years to the Congress on, establishing a foreign direct investment monitoring system for agricultural, rural and urban real property.

The benchmark surveys must be conducted once every five years, except for the survey of U.S. portfolio investment abroad, which must be conducted only once, within 5 years of enactment of this bill, unless the President later determines that a repeat study is necessary. The last comparable survey of U.S. direct investment abroad was conducted in 1966, and the last survey of U.S. portfolio investment abroad was done in the mid 1940's, while surveys of foreign direct and portfolio investment in the United States were conducted in 1974 pursuant to the Foreign Investment Study Act, which has since expired.

The benchmark surveys are to include, as necessary and feasible, data on

- the size, location, and nature of, as well as changes in, total direct investment between a parent firm and its affiliates.
- the number and compensation of U.S. and foreign employees of each parent and its affiliates, by country.
- tax payments of parents and affiliates, by country.
- research and development costs and technology transfer payments by and between parents and affiliates, by country.
- the form of investment, the type, nationality and residence of investors, and the diversification of holdings by economic sector.

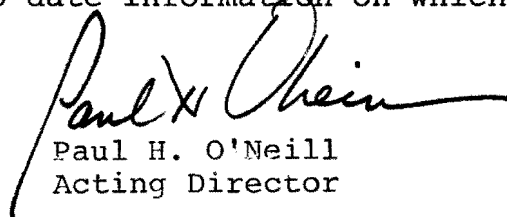
Although the above data are even further detailed in the bill, the President retains the administrative flexibility to determine, as necessary and feasible, the specific content of the survey questionnaires.

The bill also requires that the President take into account, in the design of the surveys, the burden which would be placed upon the respondent and the taxpayer. In addition, agencies are required to solicit the views of business, organized labor, and the academic community in planning for the surveys and studies. The Council on International Economic Policy (CIEP) is to review the results of these surveys and studies and report to the appropriate committees of Congress on their policy implications.

To carry out the above functions, S. 2839 authorizes appropriations of \$1 million each for fiscal years 1978 and 1979.

S. 2839 fills an important gap in the Government's authority to collect statistical information on U.S. investment abroad, foreign investment in the United States, and other international transactions. Existing authority, contained primarily in the Bretton Woods Agreements Act, relies on responding to data requests from the International Monetary Fund (IMF), rather than to the data needs of the Federal Government itself, and is therefore of limited usefulness. This bill would provide the President with the necessary authority to collect, in a timely and reasonable fashion, the needed data and has been actively pursued, especially by the Commerce Department, for the last two years.

The reporting burden associated with this bill is not as great as might appear from the language. Several of the surveys which would be undertaken under this bill are already underway although the legal basis to conduct such surveys has increasingly been questioned. Other surveys contemplated here would have been taken but for the lack of sufficient authority to complete the effort. In addition, the language of the bill provides sufficient administrative flexibility to collect only those data which are "necessary and feasible" to collect. While we share with Treasury the reservations expressed in its attached views letter about the 5 year cycle (as opposed to a 10 year cycle in earlier versions) for the benchmark surveys and about the feasibility of conducting a survey of U.S. portfolio investments abroad, Congress has indicated a willingness to consider our arguments in the next session and may modify some of the language. Even the present provisions do not pose unreasonable burdens, given the importance of the policy decisions which are involved in international investment, and the necessity to possess adequate and up-to-date information on which to base those decisions.



Paul H. O'Neill
Acting Director

Enclosures



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 6 1976

To: J. F. Brennan
10-7-76
11:00 AM

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2839 - International Investment
Survey Act of 1976
Sponsor - Sen. Inouye (D) Hawaii

Last Day for Action

October 13, 1976 - Wednesday

Purpose

Provides clear authority for the President to collect and disseminate information on international investment to the Congress, the executive agencies and the general public.

Agency Recommendations

Office of Management and Budget	Approval
Department of Commerce	Approval
Federal Reserve Board	Approval (Informally)
Department of the Treasury	Approval
Department of State	Approval
Council on International Economic Policy	Approval
Council of Economic Advisers	Approval (Informally)
Department of Labor	Approval

Discussion

S. 2839 gives the President the clear authority and responsibility to (1) collect statistical data and conduct special studies and surveys on various aspects of "international investment", to the extent he deems necessary and feasible; (2) publish periodically compre-

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

13

Date: October 7

Time: 1145am

FOR ACTION: Paul Leach *ml*
Bill Seidman *ml*
Max Friedersdorf *ml*
Bobbie Kilberg *ml*
NSC/S *ml*

cc (for information): Jack Marsh
Jim Connor
McConahay m.o.k

FROM THE STAFF SECRETARY

DUE: Date: October 8

Time: 500pm

SUBJECT:

S.2839-International Investment Survey Act of 1976

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 7

Time: 1145am

FOR ACTION: Paul Leach
Bill Seidman
Max Friedersdorf
Bobbie Kilberg
NSC/S

cc (for information): Jack Marsh
Jim Connor
Steve McConahey
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: October 8

Time: 500pm

SUBJECT:

S.2839-International Investment Survey Act of 1976

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

approved Kilberg 10/8/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President



**GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE**
Washington, D.C. 20230

OCT 4 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of this Department concerning S. 2839, an enrolled enactment,

"To supplement the authority of the President to collect regular and periodic information on international investment,"

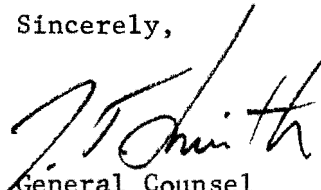
to be cited as the "International Investment Survey Act of 1976."

The purpose of S. 2839 is to provide clear and unambiguous authority for the President to conduct comprehensive benchmark surveys at least every five years of U.S. direct investment abroad, foreign direct investment in the U.S., and foreign portfolio investment in the U.S. The bill also directs the President to conduct a benchmark survey of U.S. portfolio investment abroad within five years of enactment.

This Department recommends approval by the President of S. 2839.

Section 9 authorizes the appropriation of \$1 million for each of the fiscal years 1978 and 1979 to carry out the provisions of S. 2839. The Department's proposed Budget for fiscal year 1978 contains a request for \$77,000 to implement certain provisions of the proposal for which the Department will be responsible.

Sincerely,


General Counsel





THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

OCT 4 1976

Attention: Assistant Director for Legislative
Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of S. 2839, "To supplement the authority of the President to collect regular and periodic information on international investment."

The enrolled enactment would provide the President with clear and unambiguous authority to collect information on U.S. international investment. It would also require the President to conduct surveys on certain U.S. investments abroad and foreign investments in the United States.

Section 4(c)(2) directs the President to conduct a benchmark survey of United States portfolio investment abroad within five years after enactment of this legislation. The Department anticipates problems with such a survey due to its complexity, the cost to the private sector of supplying the information, and possible intrusions into individual privacy.

The Department is also concerned about the requirement of benchmark surveys on all inward investment and outward direct investment every five years. As compared to surveys every ten years, such five year surveys are more costly and burdensome without appreciably increasing knowledge or aiding policy objectives.

Although Treasury expresses concern with respect to the provisions mentioned, we support the overall objectives of the enrolled enactment. Consequently, the Department recommends that the enrolled enactment be approved by the President.

Sincerely yours,



General Counsel

Richard E. Albrecht



DEPARTMENT OF STATE

Washington, D.C. 20520

OCT 4 1976

Dear Mr. Lynn:

In accordance with Mr. Frey's request of September 30, I am transmitting the State Department's views and recommendation on S. 2839, "International Investment Survey Act of 1976."

The Department fully supports enactment of this bill. We believe that sound policy in the area on international investment and multinational enterprises must be based on a careful assessment of the best information available and broad consideration of the interests of all sectors of the U.S. economy. S. 2839 promises to advance this process, and we welcome it accordingly.

We are particularly pleased with those parts of Section 5 which provide protection for individual company data. It is important that U.S. Government efforts to satisfy statistical data requirements not compromise legitimate concerns of business confidentiality.

We therefore recommend that the President sign this bill.

Sincerely,

A handwritten signature in cursive script, reading "Kempton B. Jenkins".

Kempton B. Jenkins
Acting Assistant Secretary
for Congressional Relations

The Honorable
James T. Lynn, Director,
Office of Management and Budget

COUNCIL ON INTERNATIONAL ECONOMIC POLICY

WASHINGTON, D.C. 20500

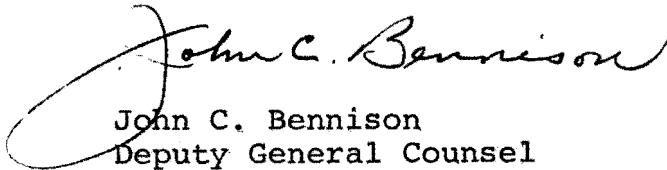
October 4, 1976

MEMORANDUM

FOR: JAMES M. FREY
ASSISTANT DIRECTOR
FOR LEGISLATIVE REFERENCE
O M B

SUBJECT: ENROLLED BILL REQUEST
S.2839

CIEP supports this legislation (S.2839) as passed.


John C. Bennison
Deputy General Counsel

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

OCT 5 1976

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D.C. 20503

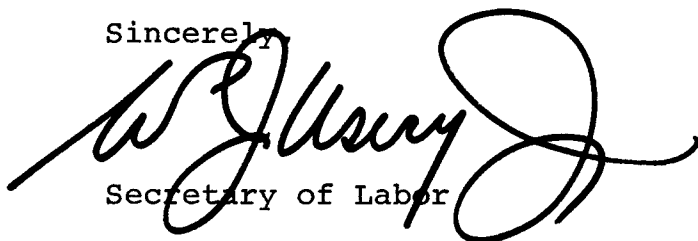
Dear Mr. Lynn:

This is in response to your request for the Department of Labor's views on an Enrolled Enactment, S. 2839, the "International Investment Survey Act of 1976."

The Act would provide the President with the authority to collect information on international investment, and specifically on American investment abroad and foreign investment in the United States. Among other things, the information to be gathered is to be studied to determine the implications of such investment on the economic welfare and the national security of the United States.

The Department of Labor recommends Presidential approval of this legislation.

Sincerely,



Secretary of Labor

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 7

Time: 1145am

FOR ACTION: Paul Leach
Bill Seidman
Max Friedersdorf
Bobbie Kilberg
NSC/S

cc (for information): Jack Marsh
Jim Connor
Steve McConahey
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: October 8

Time: 500pm

SUBJECT:

S.2839-International Investment Survey Act of 1976

OK PLZ 10/9/76

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

WASHINGTON

October 8, 1976

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M.L.F.*
SUBJECT: S. 2839 - International Investment
Survey Act of 1976

The Office of Legislative Affairs concurs with the agencies
that the International Investment Survey Act of 1976 should
be signed.

Attachments

LWS copy

THE WHITE HOUSE OCT 7 1976

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 7

Time: 1145am

FOR ACTION: Paul Leach
Bill Seidman
Max Friedersdorf
Bobbie Kilberg
NSC/S

cc (for information): Jack Marsh
Jim Connor
Steve McConahey
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: October 8

Time: 500pm

SUBJECT:

S.2839-International Investment Survey Act of 1976

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

APPROVE
Raye B. Fetter

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

MEMORANDUM

NATIONAL SECURITY COUNCIL

5624

October 8, 1976

MEMORANDUM FOR: JAMES M. CANNON
FROM: Jeanne W. Davis *JWD*
SUBJECT: Enrolled Bill-S. 2839

The NSC Staff concurs in the Enrolled Bill-S. 2839-International Investment Survey Act of 1976.

FOREIGN INVESTMENT SURVEY ACT OF 1976

MAY 13, 1976.—Ordered to be printed

Mr. PEARSON, from the Committee on Commerce,
submitted the following

REPORT

[To accompany S. 2839]

The Committee on Commerce to which was referred the bill (S. 2839), to supplement authority of the Secretary of Commerce to collect regular and periodic information on foreign direct and portfolio investments in the United States and on American investments abroad, and for other purposes, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

PURPOSE

The purpose of this bill is to empower the President and his designees to establish and maintain a regular information collection program with respect to foreign investment in the United States and American investment abroad.

BRIEF DESCRIPTION

S. 2839 authorizes the President, and any other Federal agencies or officials designated by the President, to set up a regular and comprehensive data collection program to obtain current and continuing information from business enterprises on a wide variety of international investment issues and to publish such data on a regular and periodic basis.

In addition, the bill directs the Secretary of Commerce to conduct "benchmark surveys" of foreign direct investment in the United States and of American direct investments abroad, at least once every 10 years. The bill also requires the Secretary of the Treasury to conduct a survey of foreign portfolio investment in the United States, at least

once every 10 years to provide periodic benchmarks by which to measure such investments.

The President and the two Secretaries are granted broad authority to determine the subject areas on which statistical information is to be gathered and for which studies may be prepared although such areas should, if not specified in the bill, be ones that have significant implications for the economic welfare and national security of the United States.

The President, or his designee, and the two Secretaries are authorized to compel designated persons to keep pertinent records and to report relevant information to the agencies administering the information-collection programs. Information collected pursuant to this authority may not be divulged publicly in any way that might identify the company or individual making such a report, except as provided in the bill.

BACKGROUND AND NEED

Investment, by one firm or individual, in a business enterprise located in another country is a fast growing phenomenon. This phenomenon of foreign investment has grown particularly rapidly since the end of the Second World War. Foreign direct investment in the United States has, of course, long existed; it was responsible in substantial part for the Nation's early industrialization. American investment in foreign nations has also grown explosively. The following tables illustrate the dramatic growth in such investment since 1950:

TABLE 1.—PRIVATE FOREIGN INVESTMENT POSITION OF THE UNITED STATES

(In billions of dollars)

	Year end—			
	1950	1960	1970	1974
Direct.....	11.8	31.9	78.2	118.6
Portfolio.....	5.7	12.7	26.8	40.5
Total.....	17.5	44.6	105.0	169.1

TABLE 2.—PRIVATE FOREIGN INVESTMENT POSITION IN THE UNITED STATES

(In billions of dollars)

	Year end—			
	1950	1960	1970	1974
Direct.....	4.7	13.8	37.7	67.1
Portfolio.....	3.4	6.9	13.3	26.5
Total.....	8.1	20.7	51.0	93.6

¹ 1974 benchmark figures.

² 1949 figure.

* Reflects changes in the definition of foreign direct investment.

Source: U.S. Department of Commerce.

International investment has had a substantial economic impact. Foreign affiliates in the United States have the leading role in grain. Japanese affiliates totally dominate such trade. In 1974, foreign af-

S.R. 834

filiiates in the United States had total assets valued at \$174.3 billion; employed 1,083,431 individuals; and paid American employees \$11.4 billion in wages and salaries. It has been estimated that in 1973 the aggregate sales of American affiliates abroad were more than four times the aggregate amount of exports from the United States.

The effect of international investment (particularly foreign direct investment by multinational business enterprises) on the global economy has been extensive.

In spite of the importance of international investment activities, statistical data on investment flows, as well as other information about the operation of multinational enterprises, has been spotty and inconsistent. There is very little or no information available on (1) the internal financial transactions of multinational enterprises, (2) the comparative activities and transactions of the "parents" and "affiliates", (3) employment performance, or (4) industrial production, as they are impacted or affected by international investment. The lack of suitable data has made it difficult to reach definitive conclusions about the behavior and impact of international investors and the effect of multinational business enterprises on the world economy.

In addition to being inadequate and insufficient, the available data on international investment is also badly outdated. In 1974, the Commerce and Treasury Departments were authorized to conduct benchmark studies on foreign investment, as a result of actions of this Committee, but the authority, as far as further surveys are concerned, has expired. This study on foreign direct investment in the United States was the first such benchmark since 1959, and the portfolio report was the first since 1941. There has been no benchmark on American direct investment overseas since 1966, and no thorough survey of American portfolio holdings abroad since 1941, even though official estimates show a rapid growth in these areas since those dates.

Several factors account for the absence of better data. First, in some cases, agency officials and academic researchers have shown little interest in, or concern about, certain issues. Second, there is serious doubt as to whether statutory authority exists to collect comprehensive data on any aspect of international investment other than the balance of payments.

International investment data is currently collected pursuant to the authority granted by several statutes. There is no single and unified authority for data collection and studies (S. 2839 provides such authority.) Section 8 of the Bretton Woods Agreements Act is used as the legal basis for the gathering of data, including previous benchmark surveys, but that section only authorizes the President to collect data in the detail essential to comply with requests for information from the International Monetary Fund. This section has been interpreted to prescribe broad information collection programs which are not balance-of-payments related or for which there is no existing precedent.

This bill would, for the first time, provide clear and unambiguous authority for the President, his designee, the Secretary of Commerce and the Secretary of the Treasury to establish permanent information collection programs and to require the publication of certain types of data collected pursuant to this authority.

S.R. 834

SECTION-BY-SECTION ANALYSIS

Section 1

This section sets forth the short title for the bill. It is to be cited as the "International Investment Survey Act of 1976".

Section 2

This section of the bill sets forth the declaration of policy. The Congress finds that the Federal Government is presently authorized to collect limited amounts of information on international investment, that the amount of international investment has grown rapidly, that international investment affects the economic welfare of the United States and other countries, that international efforts to obtain data on international investment have increased, that the United States Government lacks sufficient information on such investment and its actual effects, that accurate and comprehensive information is needed by the Congress to develop an informed United States policy with respect, and that existing estimates of international investment are too limited and inadequate for policymaking purposes.

It is declared to be the purpose of the Congress to grant to the President (or official or agencies appropriately designated by him), the Secretary of Commerce, and the Secretary of the Treasury clear and unambiguous authority to collect information on international investment and to prepare and provide analyses thereof for the Congress, the executive agencies, and the general public. Information collected under this bill is to be collected in the manner that will impose the least burden on the persons required to make the reports, consistent with the national interest in obtaining comprehensive and reliable information, and that will avoid unnecessary duplication.

The bill should not be interpreted in such a way as to restrain or deter (1) foreign investment in the United States or (2) American investment overseas.

Section 3

This section defines the terms used in the bill. Section (3) (1) defines "affiliate" as an enterprise doing business in one nation which is owned or controlled directly or indirectly, to the extent of 10 percent of voting equity in the case of a corporation, or an equivalent interest in the case of another business enterprise.

Section (3) (2) defines "business enterprise" or "enterprise doing business" as a corporation, partnership, venture, branch, association or any other organized entity engaged in commercial or other profit-making activities, including securing economic advantage.

Section (3) (3) defines "foreign" as anything primarily located or situated outside of the United States or which belongs to the jurisdiction of another nation or political entity.

For purposes of interpretation, under section (3) (4), "includes" should be read to mean "includes, but is not limited to".

Under section (3) (5), "international investment" means any direct or indirect interest held or acquired by a foreign person (by contractual commitment or otherwise, in any property located in the United States or in stock, securities, or long- or short-term debt obligations of,

or issued by, any United States person or such similar interest held by a United States person in a foreign entity.

Section (3) (6) defines "parent" to mean any person in any particular country who owns, directly or indirectly, 10 percent or more of the voting stock or its equivalent in any enterprise doing business outside of that nation.

Section (3) (7) defines "person" to mean any individual, corporation, partnership, association or other entity, and any governmental body or entity of a government.

Section (3) (8) defines "direct investment" as ownership or control, direct or indirect, by one person or an associated group of persons, of 10 percent or more of the voting stock or its equivalent in a business enterprise.

Section (3) (9) defines "portfolio investment" to mean less than 10 percent ownership of a stock or its equivalent.

Section (3) (10) defines "State" to mean any State of the United States, the District of Columbia, Puerto Rico, the Canal Zone, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Mariana Islands, or other territory or possession of the United States.

Section (3) (11) defines "United States" as all of the States.

Section (3) (12) defines "United States person" as any person who resides in or is otherwise subject to the jurisdiction of the United States.

Section 4

This section prescribes the responsibilities and authority granted by the bill. In general, the President is directed, through such Federal agencies or officials as he designates, to collect data and information, to prepare studies, and to take such other actions as he deems necessary and appropriate as to the following:

(1) conduct benchmark surveys on direct and portfolio international investment;

(2) establish and maintain a regular data collection program to obtain current and continuing information from parents and affiliates on international investment flows and other international investment issues, including, but not limited to, the balance of payments, employment and taxes, and the international investment position of the United States;

(3) conduct studies and surveys as may be necessary to prepare timely and current reports on specific aspects of significant international investment issues, including reports requested by the Congress, the President, and other Executive agencies;

(4) determine the adequacy of information, disclosure, and reporting requirements and procedures, recommend improvements, and report periodically to the Senate Commerce Committee and the House Interstate and Foreign Commerce Committee on national and international developments with respect to laws and regulations affecting international investment; and

(5) publish and make available to the general public and government agencies periodic, regular and comprehensive statistics collected pursuant to this section.

Authority granted under section 4(a)(2), with respect to the type of issues for which informational programs may be established, is to be interpreted broadly. The President may designate the agency he determines most knowledgeable and experienced to establish and maintain the program and to prepare the studies authorized in section 4(a)(3). In some cases, information sought may not be obtainable because foreign laws may restrict the release of certain data from foreign parents or affiliates. If foreign laws or other legitimate circumstances inhibits the obtaining of such data, good faith efforts are nevertheless anticipated in each instance to satisfy the purpose of the bill.

Section 4(b)(1) directs the Secretary of Commerce to conduct comprehensive benchmark surveys on United States direct investment abroad and foreign direct investment in the United States. Such a survey is to be conducted at least once every 10 years, and more often, if the Secretary finds it necessary. The next benchmark survey for inward and outward investment would be due in 1986, at the latest. Since the latest overseas benchmark survey was made in 1966, another survey would be appropriate to update that information.

Each of the benchmark surveys shall, to the extent the Secretary determines necessary, applicable, and feasible, (1) identify the location, nature, magnitude, and changes in, total investment by a parent in each affiliate (including an affiliate in another affiliate) and identify financial transactions between parents and affiliates; (2) obtain data on balance sheets and related financial data, income statements, (including gross sales by primary line of business and with as much significant product line detail as is feasible) of such parents and affiliates, in each foreign country or geographical region where individual country data is not available, in which an affiliate has significant operations; (3) collect employment data; (4) determine the amount of taxes paid by parents and affiliates; (5) determine the amount of research and development expenditures by parents and affiliates; (6) determine the amount of payments between parents and affiliates and unrelated business enterprises for technology transfer; and (7) include such other matters as the Secretary of Commerce prescribes, consistent with the purpose of the bill to obtain comprehensive information on the impact of international investment and investors on the domestic and global economy.

Section 4(b)(2) directs the Secretary of the Treasury to conduct a comprehensive benchmark survey of foreign portfolio investment in the United States at least once every 10 years. More frequent surveys may be conducted. The portfolio benchmark shall determine, to the extent feasible, necessary, and applicable, the magnitude and aggregate value of portfolio investment, form of investments, types of investors, nationality of and recorded residences of such investors, diversification of such holdings by economic sectors and holders of record, and such other information the Secretary of the Treasury prescribes. In addition the Treasury Secretary shall review the feasibility and desirability of conducting an equivalent benchmark survey of United States portfolio investment in foreign nations. Nothing in this section should be interpreted as proscribing such an "outward"

survey; it can be conducted under the broad authority granted in section 4(a).

Section 4(c) directs that the programs established pursuant to this Act be carried out in such a manner as to be timely and useful in policy formulation. Reporting, recordkeeping, and documentation requirements shall be designed for effective enforcement and they shall be monitored and improved in light of any developments in information technology. Due regard shall be given by the President to the cost of recordkeeping and report making. The Government is to assure that information is collected only in the detail necessary to fulfill the stated purposes for which the information is gathered.

Section 5

Section 5(a) authorizes the President, and the appropriate agency officials, to promulgate such rules and regulations as may be necessary to carry out their responsibilities under this Act.

Section 5(b) authorizes these officials to require persons to maintain complete records of the information necessary for the required surveys, studies, and reports.

Under section 5(c), information obtained under section 5(b) shall be available only to officials or employees designated to perform functions under this Act, including consultants and contractors. The President may authorize the exchange of information between Federal agencies to the extent that this is necessary to carry out the purposes of this Act. Nothing in this section shall be construed to require any Federal agency to disclose to another Federal agency exercising authority under this legislation any information or report collected under this bill, if such disclosure is prohibited by law.

Information collected under section 5(b)(2) may be used only for analytical purposes, or for an enforcement proceeding against a person who allegedly failed to report. Information may not be published or made available if its source can be specifically identified, and no person can compel submission or disclosure of any information or report collected pursuant to the bill without the prior written consent of the persons who are involved or who are identifiable therefrom, in order to protect the confidentiality of investors. Any person who willfully violates the confidentiality provision shall be fined not more than \$10,000 in addition to any other penalty imposed by law.

Section 6

This section provides civil penalties for noncompliance. Whoever fails to submit information required by this bill or to comply with any rule, regulation order or instruction promulgated pursuant to it may be required to pay to the United States a civil penalty of not more than \$10,000 for each violation in a proceeding under subsection (b).

Under subsection (b), the Attorney General (or the Secretary of Commerce of the Treasury, in cases involving their Departments) may commence a civil suit in the appropriate district court of the United States whenever it appears that any person willfully failed to submit required information or refused to comply with a rule, regulation, order or instruction promulgated pursuant to this bill. Upon a showing by the Attorney General or Secretary of the relevance of such a rule, regulation, order or instruction, the court may, in its discretion,

enter a restraining order commanding compliance or imposing a civil penalty, or both.

Section 6(c) provides for a fine or imprisonment, or both, upon conviction under this section.

Section 7

This section authorizes the President, his designees, the Secretary of Commerce, and the Secretary of the Treasury, to obtain staff and consultants and to receive the cooperation of other agencies.

Section 8

This section authorizes and directs officials performing functions under this bill to secure balanced, diverse, and responsible views from qualified persons representing business, organized labor, and the academic community on international investment issues and information collection procedures. Where appropriate, public advisory committees may be established consisting of such persons.

Section 9

This section authorizes appropriations of \$1,000,000 for fiscal year 1977, \$1,000,000 for fiscal year 1978, and \$250,000 for the transitional quarter, to carry out the functions set forth in the bill.

LEGISLATIVE HISTORY

S. 2839 was introduced by Senators Inouye and Magnuson on December 19, 1975 and was referred to the Subcommittee on Foreign Commerce and Tourism on January 12, 1976. The Subcommittee held hearings on this legislation on February 23 and 27, 1976. On May 11, 1976 the Senate Committee on Commerce met in executive session, and ordered S. 2839 reported with an amendment in the nature of a substitute.

ESTIMATED COSTS

Pursuant to the requirements of section 252 of the Legislative Reorganization Act of 1970, the committee estimates that the cost of the proposed bill will be \$1,000,000 for fiscal year 1977 and \$1,000,000 for fiscal year 1978 and \$250,000 for the transitional quarters. The Committee knows of no cost estimate by any Federal agency which is at variance with this estimate.

CHANGES IN EXISTING LAW

There are no changes in existing law.

TEXT OF S. 2839 AS REPORTED

A bill to supplement the authority of the President and various Federal agencies to collect regular and periodic information on international investment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Investment Survey Act of 1976".

SEC. 2. DECLARATION OF POLICY.

- (a) FINDINGS.—The Congress finds and declares the following:
- (1) The Federal Government is presently authorized to collect limited amounts of information on United States investment in foreign nations and on foreign investment in the United States.
 - (2) The amount of international investment has increased rapidly within recent years.
 - (3) Such investment significantly affects the economies of the United States and other nations.
 - (4) International efforts to obtain information on the activities of multinational enterprises and other international investors have accelerated recently.
 - (5) The potential consequences of international investment cannot be evaluated accurately, because the Federal Government lacks sufficient information on such investment and its actual or possible effects on the national security, commerce, employment, inflation, the general welfare, and United States foreign policy.
 - (6) Accurate and comprehensive information on international investment is needed by the Congress to enable it to develop an informed United States policy with respect to such investment.
 - (7) Existing estimates of international investment, collected under existing legal authority, are limited in scope and insufficient for policy formulation and decisionmaking because they are based on outdated or otherwise inadequate statistical bases, reports, and data.

(b) PURPOSE.—It is therefore declared to be the purpose of the Congress in this Act to grant to the President (acting through any officials or agencies he may designate), the Secretary of Commerce, and the Secretary of the Treasury clear and unambiguous authority to collect information on international investment and to prepare and provide analyses thereof for the Congress, the executive agencies, and the general public. Any such information, which is collected from the public under this Act, shall be obtained in a manner which (1) imposes the least burden on business concerns and other persons, consistent with the national interest in obtaining comprehensive and reliable information on international investment, and (2) avoids any unnecessary duplication.

(c) POLICY.—Nothing in this Act shall be construed to restrain or deter foreign investment in the United States or United States investment in foreign nations.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

- (1) "affiliate" means an enterprise doing business in one nation which is owned or controlled, directly or indirectly (to the extent of 10 percent of the voting stock thereof, in the case of a corporation, or to the extent of an equivalent interest, in the case of any other business enterprise, including any branch thereof);
- (2) "business enterprise" or "enterprise doing business" means a corporation, partnership, association, venture, branch, or other

organized entity which is engaged in commercial or other activities for the purpose of making a profit or otherwise securing economic advantage;

(3) "foreign" means or refers to anything which is primarily located or situated outside of the United States or which belongs to, is characteristic of, or is subject to the jurisdiction of any nation or political entity other than the United States;

(4) "includes" and variants thereof should be read as if the phrase "but is not limited to" were also set forth;

(5) "international investment" refers to (A) any direct or indirect interest which is held or acquired by any foreign person, by contractual commitment or otherwise, in any property located in the United States or in any stock, other securities, or short- or long-term debt obligations of, or issued by, any United States person; and (B) any such interest which is held or acquired by any United States person, by contractual commitment or otherwise, in any property located outside of the United States or in any stock, other securities, or short- or long-term debt obligations of, or issued by, any foreign person;

(6) "parent" means any person in any particular nation who owns or controls, directly or indirectly, 10 percent or more of the voting stock, or its equivalent, in any enterprise doing business outside of that nation;

(7) "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government;

(8) "direct investment" means ownership or control, direct or indirect, by one person or an associated group of persons, which constitutes 10 percent or more of the voting stock, or its equivalent, in a business enterprise;

(9) "portfolio investment" means ownership or control, direct or indirect, by one person or an associated group of persons, which constitutes 10 percent or more of the voting stock, or its equivalent, in a business enterprise;

(10) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Mariana Islands, or any other territory or possession of the United States;

(11) "United States", when used in a geographical sense, means all of the States; and

(12) "United States person" means any person who resides in or is otherwise subject to the jurisdiction of the United States.

SEC. 4. RESPONSIBILITIES.

(a) **IN GENERAL.**—The President shall collect such data and information, prepare such studies, and take such other actions as he deems necessary and appropriate to—

(1) conduct comprehensive surveys of international portfolio and direct investment, pursuant to subsection (b);

(2) establish and maintain a regular data collection program designed to obtain current and continuing information from par-

ents and affiliates on international capital flows and other matters relating to international investment, including information necessary for computing and analyzing the United States balance of payments, employment, and taxes, and the international investment position of the United States;

(3) conduct such studies and surveys as may be necessary to prepare timely reports on specific aspects of international investment which may have significant implications for the economic welfare and national security of the United States;

(4) determine the adequacy of information, disclosure, and reporting requirements and procedures; recommend necessary improvements in information recording, collection, and retrieval and in statistical analysis and presentation; and report periodically to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives on national and international developments with respect to laws and regulations affecting international investment; and

(5) publish and make available, for the use of the general public and government agencies, periodic, regular and comprehensive statistical information collected pursuant to this section.

(b) **BENCHMARK SURVEYS.**—(1) The Secretary of Commerce shall conduct comprehensive benchmark surveys regarding United States direct investment in foreign nations and foreign direct investment in the United States. Such a survey shall be conducted at least once every 10 years. Each such survey shall, to the extent such Secretary determines necessary, applicable, and feasible—

(A) identify the location, and the nature and magnitude of, and changes in, total investment by a parent in each affiliate and the financial transactions between a parent and each affiliate;

(B) obtain information on the balance sheet and related financial data of parents and affiliates; income statements, including the gross sales by primary line of business and with as much significant product-line detail as is feasible, of such parents and affiliates in each foreign country (or geographic area, where it is not feasible to obtain data for each country) in which such affiliates have significant operations; and related information regarding trade between the parent and its affiliates and between unrelated enterprises;

(C) collect employment data showing both the number of United States and foreign employees of each United States parent and affiliate, and the level of compensation thereof, by nation;

(D) obtain reports on the amount of taxes paid by parents and affiliates;

(E) determine the total dollar amount of research and development expenditures by each United States parent and affiliate; payments between parents and affiliates for the transfer of technology; and payments received from the transfer of technology to unrelated foreign firms or State enterprises; and

(F) include such other matters as the Secretary of Commerce prescribes which are consistent with the purposes of this Act.

(2) The Secretary of the Treasury shall conduct comprehensive benchmark surveys of foreign portfolio investment in the United States. Such a survey shall be conducted at least once every 10 years. Each such survey shall, to the extent such Secretary determines nec-

essary, applicable, and feasible, determine (A) the magnitude and aggregate value of portfolio investment; (B) the form of such investments; (C) types of investors; (D) the nationality of such investors and the recorded residences of foreign private holders of such investments; (E) the extent of the diversification of such holdings, by economic sector, and holders of record; and (F) such other matters as the Secretary of the Treasury prescribes. He shall also review the feasibility and desirability of conducting equivalent such benchmark surveys with respect to United States portfolio investment in foreign nations.

(c) **PROCEDURE.**—(1) The activities prescribed under this section shall be carried out in the form and manner most likely to result in information which is timely and useful in the development of policy with respect to international investment. Reporting and recordkeeping requirements imposed under this Act shall be so designed, to the extent feasible, consistent with effective enforcement and the compilation of required data. Reporting, recordkeeping, and documentation requirements shall be periodically reviewed and revised in the light of developments in information technology.

(2) In collecting information authorized under this Act, the President shall give due regard to the costs incurred by persons supplying such information, as well as to the costs incurred by the Government, to assure that the information collected is only in such detail as is necessary to fulfill the stated purposes for which the information is being gathered.

SEC. 5. RULES, REGULATIONS, AND ACCESS TO INFORMATION.

(a) **IN GENERAL.**—The authorities and responsibilities prescribed under this Act may be exercised through such rules and regulations as may be necessary to carry out the purposes of this Act.

(b) **RECORDS AND REPORTS.**—Rules or regulations issued pursuant to this Act may require any person subject to the jurisdiction of the United States—

(1) to maintain a complete record of any information (including journals or other books of original entry, minute books, stock transfer records, lists of shareholders, and financial statements) which are essential to carrying out the international investment surveys and studies to be conducted pursuant to this Act; and

(2) to furnish, under oath, any report containing information which is determined to be necessary to carry out the international investment surveys and studies prescribed in section 4.

(c) **ACCESS TO INFORMATION.**—Access to information obtained under subsection (b) (2) shall be available only to officials or employees designated to perform functions under this Act, including consultants and persons working on contracts awarded pursuant to this Act. Subject to the limitation set forth in subsection (d) (1), the President may authorize information furnished by any person under this Act to be exchanged between agencies or officials designated by him where he deems such exchange necessary to carry out the purposes of this Act. Nothing in this section shall be construed to require any Federal agency to disclose to another Federal agency exercising authority

under this Act any information or report collected under legal authority other than this Act where such disclosure is prohibited by law.

(d) **USE OF INFORMATION.**—Information collected pursuant to subsection (b) (2) may be used only for—

(1) analytical or statistical purposes within the Federal Government; or

(2) for the purpose of a proceeding under section 6(b).

No person may (A) publish, or make available to any other person, any information collected pursuant to subsection (b) (2), if information furnished by any person can be specifically identified, except as provided in this section; or (B) compel the submission or disclosure of any information or report collected, or prepared, in whole or in part, pursuant to this Act without the prior written consent of all of the persons involved or identifiable therefrom.

(e) **VIOLATION.**—Any person who willfully violates the confidentiality provisions of this Act shall be fined not more than \$10,000, in addition to any other penalty imposed by law.

SEC. 6. ENFORCEMENT.

(a) **CIVIL PENALTY.**—Whoever willfully fails (1) to submit any information required under this Act (whether required to be furnished in the form of a report or otherwise), or (2) to comply with any rule, regulation, order, or instruction promulgated pursuant to this Act, may be required to pay to the United States a civil penalty, not to exceed \$10,000 for each violation, in a proceeding in accordance with subsection (b).

(b) **PROCEEDING.**—A civil action may be commenced in an appropriate district court of the United States by the Secretary of Commerce, the Secretary of the Treasury or the Attorney General of the United States whenever it appears that any person willfully failed (1) to submit any information required under this Act (whether required to be furnished in the form of a report or otherwise), or (2) to comply with any rule, regulation, order, or instruction promulgated pursuant to this Act. Upon a proper showing of the relevance of such rule, regulation, order, or instruction to the purposes of this Act, such court may, in its discretion, enter a restraining order or a permanent or temporary injunction commanding such person to comply with such rule, regulation, order, or instruction, or imposing the civil penalty provided for in subsection (a), or both.

(c) **CRIMINAL PENALTY.**—Whoever willfully fails (1) to submit any information required under this Act (whether required to be furnished in the form of a report or otherwise), or (2) to comply with any rule, regulation, order, or instruction promulgated pursuant to this Act, shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than 1 year (if a natural person), or both. Any officer, director, or agent of any corporation who knowingly participates in any such violation may be punished by a like fine, imprisonment, or both.

SEC. 7. POWERS.

(a) **STAFF.**—Any official designated by the President to carry out the provisions of this Act, the Secretary of Commerce, and the Secre-

tary of the Treasury, may procure the temporary or intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. Persons so employed shall receive compensation at a rate not in excess of the maximum amount payable under such section. While away from his home or regular place of business and engaged in the performance of services in conjunction with the provisions of this Act, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(b) COOPERATION.—The President, his designee, the Secretary of Commerce, and the Secretary of the Treasury are authorized to use, on a reimbursable basis when appropriate, the available services, equipment, personnel, and facilities of any agency or instrumentality of the Federal Government, in conjunction with carrying out responsibilities prescribed under this Act.

SEC. 8. PUBLIC PARTICIPATION.

Officials performing functions pursuant to this Act are authorized and directed to secure balanced, diverse, and responsible views from qualified persons representing business, organized labor, and the academic community and may, where appropriate, create such independent public advisory committees as are necessary to carry out the purposes of this Act.

SEC. 9. AUTHORIZATIONS FOR APPROPRIATIONS.

There are authorized to be appropriated, for purposes of carrying out the provisions of this Act not to exceed \$250,000 for the transitional period ending September 30, 1976, not to exceed \$1,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$1,000,000 for the fiscal year ending September 30, 1978.

AGENCY COMMENTS

Although agency comments were requested, no agency comments were received by the committee with respect to S. 2839, as of the date of reporting the bill.

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

To supplement the authority of the President to collect regular and periodic information on international investment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "International Investment Survey Act of 1976".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the United States Government is presently authorized to collect limited amounts of information on United States investment abroad and foreign investment in the United States;

(2) international investment has increased rapidly within recent years;

(3) such investment significantly affects the economies of the United States and other nations;

(4) international efforts to obtain information on the activities of multinational enterprises and other international investors have accelerated recently;

(5) the potential consequences of international investment cannot be evaluated accurately because the United States Government lacks sufficient information on such investment and its actual or possible effects on the national security, commerce, employment, inflation, general welfare, and foreign policy of the United States;

(6) accurate and comprehensive information on international investment is needed by the Congress to develop an informed United States policy on such investment; and

(7) existing estimates of international investment, collected under existing legal authority, are limited in scope and are based on outdated statistical bases, reports, and information which are insufficient for policy formulation and decisionmaking.

(b) It is therefore the purpose of this Act to provide clear and unambiguous authority for the President to collect information on international investment and to provide analyses of such information to the Congress, the executive agencies, and the general public. It is the intent of the Congress that information which is collected from the public under this Act be obtained with a minimum burden on business and other respondents and with no unnecessary duplication of effort, consistent with the national interest in obtaining comprehensive and reliable information on international investment.

(c) Nothing in this Act is intended to restrain or deter foreign investment in the United States or United States investment abroad.

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DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "United States", when used in a geographic sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and all territories and possessions of the United States;

(2) "foreign", when used in a geographic sense, means that which is situated outside the United States or which belongs to or is characteristic of a country other than the United States;

(3) "person" means any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency);

(4) "United States person" means any person resident in the United States or subject to the jurisdiction of the United States;

(5) "foreign person" means any person resident outside the United States or subject to the jurisdiction of a country other than the United States;

(6) "business enterprise" means any organization, association, branch, or venture which exists for profitmaking purposes or to otherwise secure economic advantage, and any ownership of any real estate;

(7) "parent" means a person of one country who, directly or indirectly, owns or controls 10 per centum or more of the voting stock of an incorporated business enterprise, or an equivalent ownership interest in an unincorporated business enterprise, which is located outside that country;

(8) "affiliate" means a business enterprise located in one country which is directly or indirectly owned or controlled by a person of another country to the extent of 10 per centum or more of its voting stock for an incorporated business or an equivalent interest for an unincorporated business, including a branch;

(9) "international investment" means (A) the ownership or control, directly or indirectly, by contractual commitment or otherwise, by foreign persons of any interest in property in the United States, or of stock, other securities, or short- and long-term debt obligations of a United States person, and (B) the ownership or control, directly or indirectly, by contractual commitment or otherwise, by United States persons of any interest in property outside the United States, or of stock, other securities, or short- and long-term debt obligations of a foreign person;

(10) "direct investment" means the ownership or control, directly or indirectly, by one person of 10 per centum or more of the voting securities of an incorporated business enterprise or an equivalent interest in an unincorporated business enterprise; and

(11) "portfolio investment" means any international investment which is not direct investment.

AUTHORITY AND DUTIES

SEC. 4. (a) The President shall, to the extent he deems necessary and feasible—

(1) conduct a regular data collection program to secure current information on international capital flows and other information related to international investment, including (but not limited to) such information as may be necessary for comput-

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ing and analyzing the United States balance of payments, the employment and taxes of United States parents and affiliates, and the international investment position of the United States;

(2) conduct such studies and surveys as may be necessary to prepare reports in a timely manner on specific aspects of international investment which may have significant implications for the economic welfare and national security of the United States;

(3) study the adequacy of information, disclosure, and reporting requirements and procedures relating to international investment; recommend necessary improvements in information recording, collection, and retrieval and in statistical analysis and presentation relating to international investment; and report periodically to the Committees on Foreign Relations and Commerce of the Senate and the Committee on International Relations of the House of Representatives on national and international developments with respect to laws and regulations affecting international investment; and

(4) publish for the use of the general public and United States Government agencies periodic, regular, and comprehensive statistical information collected pursuant to this subsection and to the benchmark surveys conducted pursuant to subsections (b) and (c).

(b) With respect to the United States direct investment abroad and foreign direct investment in the United States, the President shall conduct a comprehensive benchmark survey at least once every five years and, for such purpose, shall, among other things and to the extent he determines necessary and feasible—

(1) identify the location, nature, and magnitude of, and changes in total investment by any parent in each of its affiliates and the financial transactions between any parent and each of its affiliates;

(2) obtain (A) information on the balance sheet of parents and affiliates and related financial data, (B) income statements, including the gross sales by primary line of business (with as much product line detail as is necessary and feasible) of parents and affiliates in each country in which they have significant operations, and (C) related information regarding trade between a parent and each of its affiliates and between each parent or affiliate and any other person;

(3) collect employment data showing both the number of United States and foreign employees of each parent and affiliate and the levels of compensation, by country, industry, and skill level;

(4) obtain information on tax payments by parents and affiliates by country; and

(5) determine, by industry and country, the total dollar amount of research and development expenditures by each parent and affiliate, payments or other compensation for the transfer of technology between parents and their affiliates, and payments or other compensation received by parents or affiliates from the transfer of technology to other persons.

(c)(1) The President shall conduct a comprehensive benchmark survey of foreign portfolio investment in the United States at least once every five years and, for such purposes, shall (among other things and to the extent he determines necessary and feasible) determine the magnitude and aggregate value of portfolio investment, form of investments, types of investors, nationality of investors and recorded residence of foreign private holders, diversification of holdings by economic sector, and holders of record.

(2) In addition to the benchmark surveys conducted pursuant to paragraph (1), the President shall conduct a benchmark survey of

United States portfolio investment abroad and, for such purpose, shall (among other things and to the extent he determines necessary and feasible) determine the magnitude and aggregate value of portfolio investment, form of investments, types of investors, nationality of investors and recorded residence of private holders, diversification of holdings by economic sector, and holders of record. The President shall complete such survey not later than the end of the five-year period beginning on the date of enactment of this Act. After completion of such survey, the President shall report to the Congress on the feasibility and desirability of conducting, on a periodic basis, additional benchmark surveys of United States portfolio investment abroad. If he determines that such additional benchmark surveys are feasible and desirable, he may conduct such surveys.

(d) The President shall conduct a study of the feasibility of establishing a system to monitor foreign direct investment in agricultural, rural, and urban real property, including the feasibility of establishing a nationwide multipurpose land data system, and shall submit his findings and conclusions to the Congress not later than two years after the enactment of this Act.

(e) Activities shall be conducted so that information obtained pursuant to this Act shall be timely and useful in the development of policy with respect to international investment. Reporting and record-keeping requirements imposed under this Act shall be designed in order to minimize costs to the extent feasible, consistent with effective enforcement and the compilation of information required by this Act. Reporting, recordkeeping, and documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

(f) In collecting information under this Act, the President shall give due regard to the costs incurred by persons supplying such information, as well as to the costs incurred by the Government, and shall insure that the information collected is only in such detail as is necessary to fulfill the stated purposes for which the information is being gathered.

RULES AND REGULATIONS; ACCESS TO INFORMATION

SEC. 5. (a) The authorities and responsibilities under this Act may be exercised through such rules and regulations as may be necessary to carry out the purposes of this Act.

(b) Rules or regulations issued pursuant to this Act may require any person subject to the jurisdiction of the United States—

(1) to maintain a complete record of any information (including journals or other books of original entry, minute books, stock transfer records, lists of shareholders, or financial statements) which is essential to carrying out the international investment surveys and studies to be conducted under this Act; and

(2) to furnish, under oath, any report containing information which is determined to be necessary to carry out the international investment surveys and studies conducted under this Act.

(c) Access to information obtained under subsection (b) (2) of this section shall be available only to officials or employees designated to perform functions under this Act, including consultants and persons working on contracts awarded pursuant to this Act. Subject to the limitation of paragraph (1) of this subsection, the President may authorize the exchange between agencies or officials designated by him of information furnished by any person under this Act as he deems necessary to carry out the purposes of this Act. Nothing in this section

shall be construed to require any Federal agency to disclose to any official exercising authority under this Act any information or report collected under legal authority other than this Act where disclosure is prohibited by law. Information collected pursuant to subsection (b) (2) may be used only—

(1) for analytical or statistical purposes within the United States Government; or

(2) for the purpose of a proceeding under subsection (d) of this section or under section 6 (b) or (c).

No official or employee designated to perform functions under this Act, including consultants and persons working on contracts awarded pursuant to this Act, may publish or make available to any other person any information collected pursuant to subsection (b) (2) in a manner that the person who furnished the information can be specifically identified except as provided in this section. No person can compel the submission or disclosure of any report or constituent part thereof collected pursuant to this Act, or any copy of such report or constituent part thereof, without the prior written consent of the person who maintained or furnished such report under subsection (b) and without prior written consent of the customer, where the person who maintained or furnished such report included information identifiable as being derived from the records of such customer.

(d) Any person who willfully violates subsection (c) shall, upon conviction, be fined not more than \$10,000, in addition to any other penalty imposed by law.

ENFORCEMENT

SEC. 6. (a) Whoever fails to furnish any information required under this Act, whether required to be furnished in the form of a report or otherwise, or to comply with any rule, regulation, order, or instruction promulgated under this Act, may be subject to a civil penalty not exceeding \$10,000 in a proceeding brought under subsection (b) of this section.

(b) Whenever it appears that any person has failed to furnish any information required under this Act, whether required to be furnished in the form of a report or otherwise, or has failed to comply with any rule, regulation, order, or instruction promulgated under this Act, a civil action may be brought in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, and such court may enter a restraining order or a permanent or temporary injunction commanding such person to furnish such information or to comply with such rule, regulation, order, or instruction, as the case may be, or impose the civil penalty provided in subsection (a) of this section, or both.

(c) Whoever willfully fails to submit any information required under this Act, whether required to be furnished in the form of a report or otherwise, or willfully violates any rule, regulation, order, or instruction promulgated under this Act, upon conviction, shall be fined not more than \$10,000 and, if an individual, may be imprisoned for not more than one year, or both, and any officer, director, employee, or agent of any corporation who knowingly participates in such violation, upon conviction, may be punished by a like fine, imprisonment, or both.

USE OF EXPERTS AND ADMINISTRATIVE SUPPORT SERVICES

SEC. 7. (a) Any official designated by the President to carry out this Act may procure the temporary or intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. Persons so employed shall receive compensation at a rate not in excess of the maximum amount payable under such section. While away from his home or regular place of business and engaged in the performance of services in conjunction with the provisions of this Act, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(b) Any official designated by the President to carry out this Act may use, on a reimbursable basis when appropriate (as determined by the President), the available services, equipment, personnel, and facilities of any agency or instrumentality of the United States Government.

CONSULTATIONS AND REVIEWS

SEC. 8. (a) Officials performing functions pursuant to this Act shall secure balanced, diverse, and responsible views from qualified persons representing business, organized labor, and the academic community and may, where appropriate, create such independent public advisory committees as are necessary to carry out the purposes of this Act.

(b) It shall be the responsibility of the Council on International Economic Policy to review the results of any studies and surveys conducted pursuant to this Act and report annually to the Committee on International Relations of the House of Representatives and the appropriate committees of the Senate on any trends or developments which may have national policy implications and which in the Council's opinion warrant the review of the respective committees.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. To carry out this Act, there is authorized to be appropriated \$1,000,000 for the fiscal year ending September 30, 1978, and \$1,000,000 for the fiscal year ending September 30, 1979.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*