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## EXPORT CONTROL ACT OF 1949

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FEBRUARY 4, 1949.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. SPENCE, from the Committee on Banking and Currency, submitted the following

### REPORT

[To accompany H. R. 1661]

The Committee on Banking and Currency, to whom was referred the bill (H. R. 1661) to provide for continuation of authority for the regulation of exports, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

1. In section 2 strike out "fulfill" and insert in lieu thereof "to aid in fulfilling".
2. In section 3 (a) strike out "carriage" where it appears therein and insert in lieu thereof "transporting".
3. In section 4 (a) immediately following the word "department" strike out "or" and insert a comma; and immediately following the word "agency" insert ", or official".
4. In the last sentence of section 4 (b) immediately following the word "agency" insert ", or official".
5. In the second sentence of section 6 (a) immediately following the word "court" where such word first appears in said sentence insert "of the United States".
6. In the first line of section 6 (c) immediately following the word "department" strike out "or" and insert a comma; and immediately following "agency" in said line insert ", or official".
7. In section 8 immediately following the word "agency" insert ", or official"; and at the end of said section insert a period.
8. In the second sentence of section 11 immediately following "delegations," insert "rules,".

### GENERAL STATEMENT

Export controls are being used at the present time to accomplish three important objectives: cushioning the domestic economy from

the inflationary impact of foreign demand; influencing the geographic distribution of such quantities of scarce materials as can reasonably be spared from our economy; and exercising the necessary vigilance of exports of industrial commodities significant from the standpoint of the security of the United States.

The bulk of our merchandise in export has not been in short supply commodities. Only about one-fourth of these exports has been in commodities for which quantitative export control is deemed necessary. Within this relatively limited sphere it has been desirable to temper the inflationary impact of foreign demand. This has been accomplished by limiting the quantities of scarce materials permitted to leave this country and, where feasible, by disqualifying export transactions made at excessively high prices. The supplies of these materials available for domestic use have been sufficient to permit a steadily increasing level of output and consumption in the United States.

Through export controls geographic distribution of commodities has been affected to channel exports into friendly countries notably those participating in the European recovery program. For instance in the first 6 months of 1948 uncontrolled exports amounted to \$4,850,328,000 of which only 25 percent or \$1,211,056,000 went to European recovery program countries. However, in the same period, controlled exports amounted to \$1,643,210,000 of which over 59 percent or \$977,484,000, went to European recovery program countries. It is evident that export controls are acting as an effective instrument in assisting the European recovery program.

The imposition of strict controls over shipments to eastern Europe has reduced exports to that area from an annual rate of \$400,000,000 in the second quarter of 1947 to an annual rate of only \$125,000,000 in the third quarter of 1948. For purposes of export control to eastern Europe, commodities have been classified in descending order of importance from the viewpoint of national security—ranging from materials and equipment which are of direct military significance, or basic importance in the manufacture of the nations, or of great strategic significance from an over-all industrial point of view, to the relatively nonessential commodities which are in abundant supply in this country and which are of slight significance either to the basic industries or to the general economy of eastern Europe. In general, export licensing to eastern Europe has been most restrictive at the top of this scale and least restrictive at the bottom.

The Department of Commerce, under existing law, has been given the principal responsibility in the administration of export controls. In the administration of such controls the Department through its Office of International Trade obtains the counsel and assistance of other Government agencies through the mechanism of formal inter-departmental committees. This mechanism has been used to assure policy coordination of these controls. The Advisory Committee on Requirements has the general function of assuring a coordinated supply-requirements operation by relating estimates of material requirements to estimates of supply available from foreign and domestic sources, by formulating measures necessary to bring supply and demand more closely into balance, and by advising the Secretary of Commerce as to the relative importance of programs and projects competing for materials in short supply.

The rules and regulations governing export controls are published in the Federal Register, including the so-called positive list—the list of commodities requiring specific export licenses for all destinations. It is the practice of the Department of Commerce to publish the quotas for all controlled commodities to which they apply so that exporters may have, in advance, a general idea of the quantities they might individually be allowed to export. Such information, with detailed explanations for the use of the export trade, is published by the Department of Commerce in a quarterly, comprehensive export schedule, supplemented by current export bulletins. To assist in formulating procedures for the various commodities under control, the Department has accelerated and extended its trade-consultation activities. During the past quarter, formal conferences have been held with many different groups of businessmen concerned with the export of various commodities. In order to secure broad representation, the membership includes small, medium, and large firms; merchant exporters as well as producers; exporters in various regions of the country; and trade-association members as well as independents.

These commodity advisory committees have proved helpful in determining the most equitable methods of distributing limited quotas among exporters. These groups have concerned themselves with the following questions relating to quota distribution: The extent to which price criteria should be used; the proportion of the quota to be allotted between traditional exporters and newcomers; administrative techniques for identifying and eliminating applicants whose interest is purely speculative; and the extent to which foreign government recommendations should be followed in granting export licenses.

These trade advisory activities have yielded immediate and substantial benefits to the export trade community, and the Department has been assisted in the improvement of licensing procedures to meet the varying practical problems involved in the export of different commodities. The result has been not only to facilitate export transactions and shipments of commodities, but also to reduce substantially the administrative burden of licensing control.

At the beginning of 1948, there were 386 separate commodity classifications under export control. This compares with the more than 3,000 such classifications under export control during the war years. For the first 6 months of 1948 exports of commodities on the positive list amounted to \$1,643,210,000, or approximately 25 percent of the total value of commodities exported amounting to \$6,493,539,000. Major commodities under export control for supply reasons are discussed in the following paragraphs.

#### STEEL

Because of the continuing steel shortages, virtually all steel products are under export control, a significant change from the situation in 1947, when less than half of the steel tonnage exported was under control. Shipments abroad hit a postwar peak in the second quarter of 1947, when they reached an annual rate of 6.9 million tons or 10.7 percent of the supply. For the year 1947 as a whole, exports totaled 6.5 million tons or 10.3 percent of the supply. In each quarter of 1948, the downward trend has continued. In the first quarter, exports were at an annual rate of 5.4 million tons, or 8.3 percent of the supply; in the second quarter, 4.3 million tons, or 6.7 percent of

supply; in the third quarter, the annual rate of exports was down to less than 3.7 million tons, and by the fourth quarter, the annual rate of exports was 3.3 million tons, or 4.8 percent of the supply. For purposes of comparison, it may be noted that in the immediate prewar period, exports accounted for 7.6 percent of the supply.

The sharp increases in steel production abroad in 1948 contributed importantly to the reduction of foreign demand upon the United States. This is particularly true of the European recovery program countries where most of the production increase was concentrated, and which before the war required little steel from the United States. For the most part, increased output abroad was used to satisfy indigent needs, but a part was also used to fill demands in other countries. Exports of steel from the United Kingdom in 1948 were back to prewar levels, and exports from Belgium and Luxemburg, the chief competitors of the United States in the steel export field, were substantially above prewar.

Aside from the extension of export controls during 1948 to cover almost every form of steel exported from the United States, export licensing restrictions were tightened by reducing the validity period of outstanding licenses from 12 months to 6 months, and by requiring the use of an individual license application for each shipment of each steel product to each country of destination. In addition, the total export quotas established for each steel item under control were divided into fairly rigid subquotas for each country. These country quotas were determined after careful screening of requirements statements submitted by foreign governments and supplemented by United States embassies abroad. Some country quotas for some items were heavily oversubscribed, particularly, as in the case of Venezuela or south Africa, where ample dollar exchange was available and long-term market prospects are good; in other cases, notably those involving countries of western Europe, the total volume of applications was smaller than the established quotas. The country quota system assists needy countries to obtain steel from United States suppliers by restricting exports to those markets which might otherwise tend to monopolize export tonnages.

An increased share of the steel exported from the United States in 1948 was destined for special projects operations and activities abroad of such high importance to the United States as to merit special attention to their requirements for steel and other scarce materials. Roughly one-fourth of the total steel quotas were earmarked for these projects, most of which are owned or controlled by American interests. The bulk of the steel moving under special project license was used for petroleum operations abroad, in Venezuela and other countries of Latin America, and in the Middle and Far East. Smaller quantities were licensed for a number of mining operations engaged in the production of strategic and critical materials needed in the United States. Practically all of the casing and oil-line pipe and large portions of the unlined storage tanks, seamless black pipe, structural shapes, and reinforcing bars which were permitted for export were needed to maintain and expand these special project activities abroad.

#### NONFERROUS METALS

The nonferrous metals—copper, zinc, lead, tin, and aluminum—currently offer the most serious supply problems to the United States.

The world-wide scarcity, the immediate needs of the strategic stock pile, the expanded military programs, the high level of domestic industrial activity, and continued foreign demands indicate that the shortage of nonferrous metals will not be overcome in the near future.

The United States has long been dependent on foreign sources to meet a large portion of its nonferrous metal requirements. The high level of consumption during the war and in the postwar period has increased this dependence. In recognition of our reliance on imports for these basic metals, the Department of Commerce has made special efforts to stimulate foreign production and increase the volume of shipments to the United States. The nonferrous mining operations in the Western Hemisphere are classified as special projects, and receive preference in the allocation for export of short supply materials from the United States. Virtually all of the requirements of these operations for maintenance, repair, and operating supplies, as well as materials for new development and facilities, come from the United States.

The increasing pressure on nonferrous metals supplies during 1948 was reflected in a tightening of export controls. Aluminum plate, sheet, and strip were added to the positive list in August 1948 because of rapidly expanding domestic demand and a relatively high level of exports. The quotas which have been established for aluminum will result in a sharp decrease in the rate of exports. Quotas for other nonferrous metals were also reduced during the year.

The bulk of the exports of copper and zinc have consisted of refined copper and slab zinc produced from imported ores. Much of this material entered the United States for processing and reexport. Although licenses are required for these reexports, it has been the practice to permit comparatively free exports of products processed from imported ore. This policy has been adopted in order to stimulate the movement of ores to this country and to keep United States smelters operating at capacity.

#### FOOD

World supplies of cereals are becoming more adequate to meet the minimum requirements of all countries provided they would move into the channels of trade at the proper time and in fair proportions. Because of dollar shortages in most importing countries and price considerations in the exporting countries, these conditions would not be met without certain Government controls. Cereal grains and their products, excluding rice, are not presently controlled for export to the Western Hemisphere countries and the Philippines, licensing requirements having been suspended in the last half of 1948 after good harvests were assured and supplies from the new crops began to come to market. Shipments of wheat, wheat flour, oats, barley, and grain sorghums to Western Hemisphere countries and the Philippines were removed from export restrictions in August 1948. Export license requirements for corn to these countries were continued until December 1948 in order to protect supplies from the poor crop of 1947 and until grain from the bumper crop of 1948 began to appear on the market. Export license requirements for rye and rye flour were also continued until December because of the limited supplies of that crop in this country.

While world supplies of meat are only slightly below prewar, the decline has been substantial in the importing countries, and much of the increase in the exporting countries has been retained for domestic consumption. World requirements for meat are far in excess of available supplies, and the pressure of rising populations and the desirability of better living standards point to a continuation of the world shortage of meats for some time to come. In view of the tight meat situation, reflected in record prices in 1948, the Department of Commerce has controlled the exports of meat very carefully. Only token amounts have been allocated for export, and only a fraction of 1 percent of our supply was exported in 1948. A large share of the total allocations have been licensed to special projects, many of which produce critical materials which augment United States supplies. Latin America and the Philippines have been allotted the remainder, and the bulk of the shipments has consisted of pork.

The outlook for fats and oils supplies in 1949 is favorable. Indications are that large oilseed plantings will be made again this spring, and the spring pig crop is reported as 10 percent over the previous season's crop. With favorable weather conditions, a further easing of the fat situation can be expected, although supplies do not appear sufficient to meet total potential demand for both domestic and foreign needs. The improving fat situation in the United States is part of a general easing in the world shortage of fats and oils.

#### TEXTILES

Only a few textile items are under export control. Since output of raw cotton and cotton goods is ample to meet all domestic demands, and to provide a substantial surplus for export, these products are free of positive list control. Rayon and other synthetics are exempt from control for the same basic reason. In the case of wool, where the United States is dependent upon imports to meet a major part of its needs, controls are likewise unnecessary because of the general adequacy of world supply and because of the traditionally low level of export demand.

Positive list controls over textiles are limited to fibers not produced in the United States—jute, manila, and sisal—and to their products, including binder and baler twine. In general, exports of these commodities were higher during 1948 than in the prewar period. As before the war, however, exports have been relatively unimportant in comparison with domestic consumption.

#### BUILDING MATERIALS

Few building materials normally enter the export market to an appreciable extent. Controls, therefore, have been exercised on a selective basis, and materials have been removed from export control as rapidly as permitted by the underlying supply-demand situation. An important action in this field recently was the decontrol of gypsum board and lath, the interior wall materials most widely used in residential construction.

At the present time only a few building materials items remain under export control. These are the items presently in shortest supply, such as water-closet sets, metal window and door frames, cast-iron soil pipe,

iron and steel conduit, and woven-wire screen cloth. Exports of prefabricated houses also are subject to individual licensing. Continued selective control is essential in this field in order to prevent excessive drains on the domestic supply which might impede needed construction.

#### COAL

The coal situation improved materially in 1948, both in the United States and abroad. Increased production in western Europe, as well as the scarcity of dollars, has eased the pressure of demand upon the United States, and domestic production has been adequate to supply both domestic needs and reduced foreign requirements.

The decline in foreign requirements, coupled with continued high levels of production and rising stocks, have permitted a relaxation of export restrictions. Since September 1948, coal has been under open-end quota, and applications have been licensed freely. Controls have been maintained chiefly because of continued shortages of high grades of low-volatile coal. If production continues to increase in Europe and is maintained near current levels in this country, it may be possible to delete coal from the positive list in 1949.

#### PETROLEUM

The petroleum-supply position this year has proved adequate not only to meet the seasonally high summertime demands for gasoline, but also to permit the build-up of substantial inventories of heating oils to meet the needs of winter consumption. A careful check has had to be maintained on the volume of exports, however, because petroleum continues to be in seriously tight world supply.

The balance in supply and demand was achieved in this country in 1948 by importing more petroleum than was exported. This is a basic change from prewar when, in 1939 for example, exports were five times as much as was imported. In recognition of the increased dependence of the United States and western Europe upon petroleum supplies from the Middle East and Latin America, the Government has followed a policy of supporting petroleum projects in those areas with such materials as could be made available. About 80 percent of the steel allocated for export for all project purposes—petroleum, mining, transportation, food, and so forth—is being used for petroleum operations.

#### CHEMICALS AND DRUGS

The year 1948 was, in general, a peak production year for chemicals and drugs, by the end of which many of the more acute supply shortages had been overcome. A major factor in the postwar world shortage in this field has been the disruption of the European industry. The increased production in the United Kingdom and Germany during the past year and the expansion of output in Italy, Switzerland, South Africa, Canada, and Australia have lessened the pressure on United States supplies.

The pattern of United States export controls has followed closely the changes in the supply situation and outlook. During the year, such important products as soda ash, caustic soda, lauryl alcohol, phenol formaldehyde resins, creosote, insulin, and streptomycin were removed from the positive list. On the other hand, for a few other

products it was necessary to tighten controls because of growing shortages of the basic nonferrous metals from which they are derived. These include antimony oxide, the lead chemicals, and the chromates.

#### COAL CHEMICALS

One of the immediate byproducts of the coking of coal is crude coal tar which, when further distilled, is a source of a large number of chemical products including benzene, toluene, cresols, creosote oil, and naphthalene. From these in turn are derived such finished products as plastics, dyes, synthetic fibers, pharmaceuticals, insecticides, and explosives. Of the coal chemicals, those still in short supply in the United States—cresols, cresylic acid, benzol, and phenol—are subject to export controls.

#### CHROMIUM CHEMICALS

Most important of the chromium chemicals is sodium bichromate, which is used directly in the textile and tanning industries, and is also the base from which chromic acid, potassium bichromate, and chromium tanning mixtures are produced. United States supplies are inadequate to meet both the present high level of domestic consumption and unrestricted foreign requirements, and accordingly, reduced export quotas have been imposed.

#### CAUSTIC SODA AND SODA ASH

The alkalis afford excellent examples of the need to keep export control authority flexible to meet changing supply conditions. At the beginning of 1948, the world shortage of these materials was acute and foreign requirements far exceeded established export quotas. During the year, however, increased domestic production and a sharp decline in foreign demands made possible, first, an easing of quota restrictions, and finally, the removal of soda ash and caustic soda from the positive list.

#### DRUGS

The most important recent export control development in this field has been the decontrol of streptomycin. As United States supplies increased it was possible to liberalize the amounts authorized for export. In the third quarter of 1947, the export quota was 825,000 grams; by the second quarter 1948 the quota had been raised to 6,000,000 grams, and for the remainder of the year, streptomycin was licensed under an open-end quota. A review of the situation at the close of the year indicated domestic requirements of less than half of expected supply so that export controls were no longer necessary on that account.

#### FERTILIZERS

Fertilizers are composed of three types of primary materials, nitrogenous, phosphatic, and potassic. There is a world shortage of fertilizer material which is particularly serious in the case of the nitrogenous.

Current United States supplies of phosphatic fertilizers are adequate to permit free exports without adverse effect, so they are no longer on the positive list.

Prewar, Germany was the world's major supplier of potash. Approximately 60 percent of Germany's resources are located in the Soviet zone. Potash supplies for western Europe now come mainly from France, Spain, and Palestine, and some from Russia. Shipments of potash from the United States to Western Hemisphere destinations and the Philippines are not subject to export licensing, but exports to all other areas are tightly controlled.

Nitrogenous fertilizers are subject to strict export controls to all destinations. Most of the western European countries produce these fertilizers, but, except for Belgium, Italy, Norway, Switzerland, and the United Kingdom, imports are required to supplement indigenous production. The only other exporting countries, in addition to the United States, are Canada and Chile.

#### MACHINERY AND EQUIPMENT

The major machinery items whose exports are controlled in order to protect the domestic supply are railway freight cars and parts. To conserve steel and insure an increased domestic freight car park, freight cars were placed on the positive list on July 1, 1947. Production has been steadily increasing since the beginning of 1947; but the total of cars in operation has not increased appreciably because of the large number of retirements. To prevent the assembly abroad of complete cars from United States parts, freight car parts, and air-brake equipment were added to the positive list in February 1948.

While some commodities in the machinery category are still in tight supply, the producers themselves have limited exports, thus obviating the necessity for Government controls. Production of motor vehicles, for example, is still short of demand, but exports in 1948, in the absence of controls, represented a little over 6 percent of production, compared with 7 percent in 1947 and 8 percent prewar. The situation with respect to farm machinery and tractors is essentially the same.

#### LUMBER

The high level of lumber production reached in 1947 has been maintained throughout 1948. While domestic demand for lumber has been large, all requirements including a high volume for housing construction have been met. Imports of lumber, which come chiefly from Canada, have increased even more sharply than domestic production. With these increases in supply, shortages in the common grades of lumber have eased considerably during the past year.

Exports in 1948 represented 1.4 percent of the total new supply as against 3 percent in 1947, and 5 percent before the war. The sharp drop in lumber exports stems chiefly from the contraction of foreign demand. Supplies were ample, but foreign orders were not forthcoming in sufficient quantity to absorb even the limited export quotas established by the Department of Commerce. In line with the policy to retain export controls only so long as there is a clear need for their continuation, virtually all lumber was removed from the positive list as of January 1, 1949. The only lumber items remaining under control are Port Orford cedar (a specialty product used to make separators for storage batteries), railroad ties, and millwork.

## SECTION-BY-SECTION ANALYSIS OF THE BILL

In general the bill would provide for the continuation of the existing export control authority. The scope of the export control program proposed by this bill is for most purposes identical with the scope of the program under existing law. The principal differences proposed by the new bill are concerned with provision for a more effective enforcement program, and making mandatory the requirement (1) for interdepartmental consultation as to specific items to be controlled and the extent of the control, and (2) for consultation with representatives of the export trade concerning licensing criteria and related matters.

## SECTION 1

Section 1 would provide that this act may be cited as the "Export Control Act of 1949."

This section also sets forth findings which justify the necessity for the continuation of export controls.

## SECTION 2

This section would provide that the control of exports shall be used to the extent necessary to effect certain policies of the United States, namely: (1) To protect the domestic economy from the excessive drain of scarce materials and to reduce the inflationary impact of abnormal foreign demand; (2) to further the foreign policy of the United States and to aid in fulfilling its international responsibilities; and (3) to exercise the necessary vigilance over exports from the standpoint of their significance to the national security.

## SECTION 3

This section would authorize the President to prohibit or curtail the exportation from the United States, its Territories, and possessions, any articles, materials, or supplies, including technical data, except under such rules and regulations as he shall prescribe in order to effectuate the policy set forth in section 2. To the extent necessary to achieve effective enforcement of this act such rules and regulations may apply to the financing, exporting, and other servicing of exports and the participation therein by any person.

Subsection (b) would provide that the President may delegate the power, authority, and discretion conferred upon him by this act to such departments, agencies, or officials of the Government as he may deem appropriate.

## SECTION 4

Subsection (a) of this section would provide for consultation by the department, agency or official determining which articles, materials, or supplies shall be controlled and the extent to which exports thereof shall be limited, and the several executive departments and individual agencies concerned with aspects of our domestic and foreign policies and operations having important bearing upon exports. These provisions requiring such consultation, while not contained in existing law, are presently being used to correlate to the fullest extent possible

the activities of the departments and agencies responsible for determining export quotas with those departments and agencies concerned with other aspects of our domestic and foreign policies and operations having an important bearing on exports. The provisions of this subsection would make such consultation mandatory.

Subsection (b) would provide that in authorizing exports full utilization of private competitive trade channels shall be encouraged insofar as practicable, giving consideration to the interests of small business, merchant exporters as well as producers, and established and new exporters. To effect this purpose this subsection would require that provision shall be made for representative trade consultation.

This subsection would also provide that in addition to utilizing competitive trade channels insofar as practicable in the authorization of exports there may be applied such other standards or criteria, such as destination, end-use, or price criteria, as may be deemed necessary by the head of such department or agency, or official to carry out the policies of this act. Destination, end-use, and price criteria are presently applied with respect to the control of exports under provisions of existing law.

#### SECTION 5

This section would provide for the civil and criminal penalties, which, upon conviction may be imposed for violation of any provision of the act or any regulation, order, or license issued thereunder.

#### SECTION 6

Subsection (a) of this section would provide for certain authority which may be exercised by the head of any department, agency, or official exercising any functions under the act with respect to the making of investigations of, the keeping of records by, and the inspection of books, records, and other writings of, any person affected by the provisions of the act to the extent necessary or appropriate to the enforcement of the act. Subpena powers would be authorized to require the appearance of persons or the production of books, records, and other writings, or both, to the extent necessary or appropriate to the enforcement of the act.

Subsection (b) of this section would provide for the application of the immunity provisions of the Compulsory Testimony Act of February 11, 1893, with respect to individuals who specifically claim such privilege.

Subsection (c) of this section would provide that no department, agency, or official exercising any functions under this act shall publish or disclose information obtained thereunder which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information unless the head of such department, agency, or official determines that the withholding thereof is contrary to the public interest.

#### SECTION 7

This section would provide for the exemption of functions exercised under this act from the Administrative Procedure Act, except as to the public information requirements of section 3 of such act.

## SECTION 8

This section would provide for the making of a quarterly report to the President and the Congress by the head of any department or agency or official exercising any functions under the act.

## SECTION 9

This section would define the term "person."

## SECTION 10

This section would provide that the act of February 15, 1936, relating to the licensing of exports of tin-plate scrap is superseded by the provisions of this act. This section further provides that nothing contained in this act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity. Some of the commodities presently under export control pursuant to the provisions of other laws and not affected by the provisions of this act are narcotics and gold, ammunition, arms and implements of war, tobacco seed, and atomic energy materials.

## SECTION 11

This section would provide that the act will take effect on February 28, 1949, upon the expiration of the existing export-control law and also would provide that all outstanding delegations, regulations, orders, licenses, or other forms of administrative action under the existing export-control authority shall remain in full force and effect, until amended or revoked, the same as promulgated under this act.

## SECTION 12

This section would provide that the authority granted under this act will terminate on June 30, 1951, or upon any prior date upon which the Congress by concurrent resolution or the President may designate.

