

Statement of
William McChesney Martin, Jr.,
Chairman, Board of Governors of the Federal Reserve System,
before the
Antitrust Subcommittee
Senate Committee on the Judiciary
on
H. R. 5280

July 15, 1965

One of the President's requests in his message to Congress on February 10, 1965, on the balance of payments problem of the United States, was enactment of an exemption from the antitrust laws along the lines proposed in H. R. 5280.

I appear before you today in support of that bill, which was passed by the House on June 7, 1965.

As introduced, H. R. 5280 was identical with S. 1240. In that form, the bills--subject to safeguards to competition--would exempt from the antitrust laws discussions by bankers and certain other financial institutions, and the formulation, of "voluntary agreements or programs" to restrain private outflows of dollar funds detrimental to our balance of payments position, if requested by the President or his delegate. The bills also would exempt from the antitrust laws any acts or omissions to act which occur pursuant to any such "voluntary agreement or program" approved by the President himself, or by the delegate of the President and the Attorney General. The bills provide for necessary reports to the President or his delegate affecting our balance of payments position, and for the obtaining by the Attorney General of information to facilitate the performance of his functions under the proposals.

If enacted, the legislation would terminate December 31, 1967, unless terminated sooner by the President as no longer necessary.

As passed by the House, H. R. 5280 was amended as recommended by the House Committee on the Judiciary. The Board favors the amendment

to the bill expanding its coverage to include "and other financial interests", in addition to "banks, investment bankers and companies, insurance companies, finance companies, and pension funds". This would prevent some of the organizations now included in the voluntary foreign credit restraint effort instituted by the Board pursuant to the President's program from being ineligible for the benefits of the exemption provided in the bill, and would supply desirable flexibility.

The Board has no objection to the other amendments made by the House to H. R. 5280. Under one of these amendments, the President could delegate his authority under the bill only to Federal officials appointed by him with the advice and consent of the Senate. Under a related amendment, any meeting of representatives of institutions covered under the bill pursuant to the request of the President or his delegate or pursuant to any "voluntary agreement or program" approved under the bill, would have to comply with the provisions of Executive Order 11007 (dated February 26, 1962) applicable to the conduct of meetings of the "industry advisory committees". This means that any such meeting could be called only with the advance approval of a "full-time salaried officer or employee" of the Government department or agency concerned, that such a person would have to approve the agenda and chair or be present at any such meeting, that he could adjourn the meeting, and that a verbatim transcript or minutes would have to be kept.

Another House amendment to H. R. 5280 would require the Attorney General, in approving, or in recommending the suspension of,

any "voluntary agreement or program", to consult with the delegate of the President on the question whether the potential detriment to competition flowing from such agreement or program was outweighed by its benefit to the safeguarding of the United States balance of payments position. Finally, the amended bill would require the Attorney General to submit to the Congress and the President every six months reports on the performance of his responsibilities under the bill and summaries of each "voluntary agreement or program" approved thereunder.

The antitrust exemption which the President has requested is patterned after the provision of the Defense Production Act of 1950 that gave exemption from the antitrust laws for the voluntary credit restraint program in force during the Korean conflict and administered by the Board. While the situation facing the country then was quite different from that which prompted this hearing, the bill before you does not involve any new or untested concept, nor one that would continue in effect after the need for it ceased to exist.

The Board wholeheartedly supports the President's balance of payments program and his determination to improve our international payments position and to maintain confidence in the dollar.

Under the program set out in the President's message of February 10, the Federal Reserve System and the banking and financial community, in cooperation with the Secretary of the Treasury, were assigned a major role. That role is to help improve the nation's international payments position by voluntary restraint on loans and other credits to foreigners.

The Board acted promptly in pursuit of this objective. Immediately following the President's message on February 10, the Board urged all banks to make a determined effort to help reduce the outflow of private funds. In so doing, the Board announced that the over-all objective was to hold outstanding credits to foreigners during 1965 to a level not over 5 per cent above the December 31, 1964 outstandings.

The importance of the task at hand and the implementing steps being taken were stressed and outlined on February 18 when we met with representatives of banks and other financial institutions prominent in the field of foreign lending after their visit earlier that day with the President.

By early in March, the Board had released guidelines for commercial banks and other financial institutions to follow--individually and in the discretion of each institution--in complying with the President's program. The Subcommittee has been furnished copies of the guidelines.

The guidelines for banks--designed to implement the 5 per cent objective that I have already mentioned--provide priority for bona fide export credits and credits to less developed countries and certain others. In brief, the cutback sought to be achieved under the guidelines is expected almost entirely in nonexport credit to those fully developed countries that are not customarily dependent on United States financing and that do not suffer from payments difficulties.

The guidelines for other financial institutions, in essence, are intended to parallel the guidelines for commercial banks as nearly as possible, taking into account the differences in investment practices that prevail among the various types of institutions represented.

In his message of February 10, the President requested that the Federal Reserve System work closely with the Secretary of the Treasury and the financial community to develop a program that would sharply limit the flow of credit abroad. The President noted, however, that cooperation among competing financial interests could raise problems under the antitrust laws. Therefore, he requested enactment of an exemption from the antitrust laws. But the President stated that, pending enactment of such legislation, the Secretary of the Treasury and the Federal Reserve System will guide that part of the program assigned to them along lines which raise no antitrust problems.

I believe it is clearly evident from our activities in this area so far that there has been full adherence to the President's admonition. Each bank or institution to which the guidelines are addressed is to act alone, in a manner consistent with the guidelines, and not in collaboration with or pursuant to any understanding or agreement with other financial institutions.

In testifying in support of H. R. 5280 before the Antitrust Subcommittee of the House Committee on the Judiciary on March 11, I said that--

"Of course, it remains to be seen what future needs may be. It may become necessary to call upon banks and other financial institutions, acting together or in groups, to enter upon the formulation of, and to adhere to, temporary credit restraint agreements or programs that, without a shield such as H. R. 5280, would raise antitrust problems."

I am glad to say that, to date, nothing has occurred to require such a shift in our efforts. Nevertheless, as I also said on March 11, we must be prepared to alter course if necessary without delay. Enactment of the present bill would make this possible. In addition, the President or his delegate would be assured access to information needed for the program and to assess its progress should present reporting procedures prove inadequate.

The progress of the present balance of payments program thus far is satisfactory, as just indicated. The large deficits incurred in the last quarter of 1964 and the first two months of this year have been converted into a surplus which has been maintained throughout the second quarter. The outflow of bank loans, which was a primary factor in our deficit last year, was reduced sharply in March and was reversed in April and May.

But this does not mean that the balance of payments problem has been solved. We must work diligently and hope for approximate equilibrium for several successive quarters, while continuing our efforts looking toward a permanent solution. As Secretary Fowler has indicated, certainly it is not enough to have obtained a surplus for a single quarter.

The rapid and satisfactory results achieved thus far have reflected in part some "one-shot" transactions suggested by the program--such as the repatriation of liquid funds held abroad. The easier steps were taken first. More difficult ones lie ahead of us still.

From its inception, the voluntary approach to the problem has been regarded as a temporary measure. It buys time pending more basic adjustments.

No one can say at this time just how long it will take to achieve the needed adjustments. In the meantime, as prudent men, we must be prepared to continue our present programs, modified as circumstances may require, as long as they may be necessary.

Our present guidelines, in effect, set a "global" dollar target and, in a very general way, specify priorities by purpose among foreign loans. Within these guidelines each institution, acting individually, has been free to adjust its position to meet the suggested target figure.

Much more specific guidelines may become essential. For example, different targets for different types of loans, or for loans to certain areas, might be required. This might well necessitate conferences with groups of banks and other financial institutions in an effort to ensure that they act in concert. This might even have to be done to maintain the effectiveness of the guidelines in essentially their present form. So long as this program remains voluntary--and we strongly believe that it should--such conferences and discussions or ensuing activities might violate the antitrust laws.

We believe that the country's financial institutions, while assisting the Federal Government with a problem of such great national importance, should be protected against the possibility of legal action-- particularly against suits for triple damages which might be brought, for example, by a customer who, in accordance with the program, was refused a loan. In any event, with this legislation on the books, the private institutions covered in the bill may well feel more able to help in the effort assigned to them under the President's program.

We have no plans at this time for more specific guidelines or for other important changes in the program. The present voluntary effort, as I have related, is now working satisfactorily. We must be prepared, nevertheless, for contingencies.

The Board urges prompt enactment of H. R. 5280.