# Chapter VIII

# LEGISLATIVE CONSIDERATIONs REGARDING ECONOMIC STOCKPILING

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There are two general courses of action open to the United States in dealing with current or anticipated materials problems. On the one hand, the United States could allow the existing market system to continue solving these problems and hope that future dislocations will not further exacerbate the situation. On the other hand, the United States could implement some national policy in an attempt to overcome the current problems and avert similar problems in the future. If the latter course of action is chosen, two options are available: (1) to establish an economic stockpile as a means of achieving whatever policy objective(s) are deemed most beneficial; or (z) to implement (either separately or in conjunction with a stockpile) some alternative means other than stockpiling to achieve the policy objective(s).

Although the emphasis of this assessment has clearly been directed toward an analysis of economic stockpiling, it is important in the development of legislation to present the full range of options available for congressional consideration, Accordingly, this chapter includes the following sections:

- Options for considering economic stockpile legislation,
- Institutional considerations for establishing an economic stockpile, and
- Major public policy issues related to establishing an economic stockpile.

## A. OPTIONS FOR CONSIDERING ECONOMIC STOCKPILE LEGISLATION

There are a number of options for Congress and the President to consider in determining whether or not establishing a national economic stockpile, or participating in an international economic stockpile, would be in the best public interest. This section is a presentation of four such options.

### 1. Evolution of Current Public and Private Systems Without Enacting New Legislation

The first option is for Congress and the President to forgo establishing an economic stockpile, letting the current market system, with its existing support mechanisms, attempt to prevent or correct the damaging impacts of supply disruptions and price increases, An essential consideration related to this option is whether or not the existing market system has the power and the flexibility, either to discourage such supply disruptions as those caused by the Organization of Petroleum Exporting Countries (OPEC) or counteract such disruptions after they occur. A further consideration is whether or not the market system

will discourage or counteract supply disruptions in a manner beneficial to the public welfare, as opposed to the private welfare of individual industries or sectors either involved in or impacted by the supply disruptions.

It is especially important to understand the extent to which economic stockpiling is interrelated with the existing U.S. market system as well as U.S. foreign policy, particularly as the needs of the industrial nations are influenced by the growing demands of the less developed nations, In that sense, the decision as to whether or not the current public and private systems can be expected to deal effectively with materials problems becomes the starting point for further analysis,

### 2. Congressional Options Without Enacting New Legislation

The second option is for Congress to act without drafting new legislation, It could initiate such action in three ways:

a. To Provide Information Regarding Economic Stockpiling Within the Legislative Branch--Congress, through its various offices and agencies, can either initiate new action, or strengthen action already begun, in order to analyze and disseminate data and information throughout the legislative branch. Such data and information might concern the potential for future supply shortages, the expected damage of such shortages, and the estimated benefits and costs of economic stockpiling to avert or counteract such shortages. The major agencies which could be involved in this information transfer are the Congressional Budget Office, the Congressional Research Service, the General Accounting Office, and the Office of Technology Assessment.

b. To Provide Information Regarding Economic Stockpiling Within the Executive Branch.—Congress also has the option of disseminating data and information regarding economic stockpiling to the executive branch. Such action can be initiated through hearings, the use of oversight and investigative powers, as well as joint resolutions. It should be emphasized that while such actions may be faster and easier to initiate than drafting legislation, they neither bind the President legally nor guarantee that he will take executive action.

c. To Provide Information Regarding Economic Stockpiling Within the Private Sector.—Not only can congressional Members issue policy statements, hold investigations, and exercise oversight functions in areas related to materials, but Congress as a whole can encourage the various Government agencies to increase and improve their working relationships with private sectors which have interests in the materials field. While such action may enhance the market system's capability to deal effectively with supply disruptions and price increases after they occur, it will in no way guarantee that such problems will not recur.

### 3. Executive Options Without Enacting New Legislation

The third option is for the President to take executive action without proposing new legislation. Such action could be accomplished in several ways: (a) issue a Presidential proclamation to set overall policy direction, (b) issue an Executive or agency order, and (c) make research and development grants available for analysis of materials problems. While it is certain that a combination of these Presidential actions will improve the executive branch's capabilities to understand and deal with materials problems, it is not equally certain that such actions will provide the necessary impetus for Congress and the private sectors to do so.

### 4. Options Through Enacting New Legislation

The fourth option in the consideration of economic stockpiling presumes that the first three options will not be sufficiently effective in dealing with current or anticipated materials supply problems and price increases. New authorizing legislation based upon a complete assessment of the impacts of an economic stockpile will clearly be more com-

prehensive and possibly more effective in combating materials problems-especially if such legislation is a deliberated component of a more comprehensive national materials strategy.

The following discussion centers first on the legal authority for economic stockpiling, then examines the possible components of an economic stockpile program and their relationship to past and current legislation.

a. Authority for Economic Stockpiling.—Authority for economic stockpiling, as for other Federal actions, must be found in the Constitution. Several specific clauses of the Constitution, such as the General Welfare Clause, the Property Clause, the Spending Clause, and the Commerce Clause, coupled with the Necessary and Proper Clause, establish a broad foundation for the exercise of legislative power in achieving national objectives which can be seen as being in the broad public interest.

b. Economic Stockpiling: Its Components and Relationship to Existing Legislation.—The establishment of an economic stockpiling program would impact a wide range of policies embodied in current legislation, and such stockpile legislation should attempt to identify, accommodate, and harmonize these policies. In this section, 10 components of an economic stockpiling program are outlined and analyzed in light of existing legislation.

Each of these components has an analog in previously enacted legislation; and the recently enacted Energy Policy and Conservation Act of 1975 pulls them all together for oil and gas (For a detailed discussion of the act, see ch. I, sec. A (3).) Prior to this act, the closest analogs were the programs under the Defense Production Act of 1950 and those administered by the Federal Energy Administration (FEA) under the Federal Energy Administration Act of 1974, the Emergency Petroleum Allocation Act of 1975, and the Energy Supply and Environmental Coordination Act of 1974. The FEA's authorities are generally of limited duration, generally around 2 years. This no doubt reflects a concern that governmental intrusion into the marketplace should be limited to the minimum time necessary to deal with the problem at hand.

The same concern would exist with respect to an economic stockpiling program, but it would have to be dealt with differently, since the nature of such a program precludes its being time limited on a short- or medium-term basis. Such a program would require some institutional mechanisms for insuring at least a minimal amount of monitoring and a minimal level of readiness to respond to disruptions, Furthermore, the program should have well-defined and carefully circumscribed "trigger points" for invoking standby emergency authorities, much as the Selective Service System maintained manpower mobilization capability on a standby basis.

The 10 components which should be included in both active and standby stockpiling authorizations are as follows:

(1) Definition and distribution of authority.—Implementation of an economic stockpiling program will both subserve and impact upon a wide range of national interests. These include national defense, foreign policy, conservation of domestic resources, environmental quality, full employment, reduction of the need for governmental intervention, and maintenance of an open and strong U.S. economy.

To the maximum extent possible, these policies should be explicitly identified and integrated into a legislative statement of findings and purposes in order to provide guidance to those entrusted with implementing the stockpiling program. They should also be reflected in the list of delegated functions and authorities. Although the delegated authority must be broad enough to encompass all activities necessary for successful implementation of a stockpiling program, it should be accomplished by specific designation of the scope and distribution of component functions, such as authority to buy, store, process, sell, allocate, contract, limit exports, issue

rules, regulations and orders, etc., together with delineation of procedures and guidelines for coordinating these functions among themselves and with respect to broader national policies. Particular care must be taken to coordinate the strategic and economic stockpiling policies. In addition, specific standards and criteria should be established to control the exercise of specific functions, Such specificity not only avoids constitutional difficulties related to excessive delegation of legislative authority, it also minimizes future administrative and mitigative conflicts. The danger of such conflicts is particularly acute when functions are distributed to more than one agency.

Assuming sufficiently explicit statements of standards and criteria, the choice of a vehicle becomes of lesser importance, However, multiple choices of a vehicle exist, including the President, with power of delegation and redelegation; a department or agency; a Government corporation; a quasi-Government corporation, or a combination of these. Discussion of these choices is included in chapter VI,

The most detailed exposition of materials policy at the present is contained in the Mining and Minerals Policy Act of 1970, 30 U.S.C. 21a, which covers only mineral materials. The National Materials Policy Act of 1970, 42 U.S.C. 325 (note), covers all materials but is much less detailed. Both acts emphasize the environmental consequences of materials policies but do not provide specific guidelines for resolving conflicts between materials development and conservation policies and the environmental policies embodied in such statutes as the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4347; the Federal Water Pollution Control Act, 33 U,S.C. 1251-1376; the Clean Air Act, 42 U.S.C. 1857-1857; and the Endangered Species Act of 1973, 16 U.S.C. 1531-1543.

The need to consider the impact of materials policy on other national policies is recognized in such statutes as (1) the Comprehensive Employment and Training Act of 1973, 29 U.S.C. 801-992, which directs the Secretary of Labor to make a study of the impact of energy shortages, including fuel rationing, upon manpower needs; (2) the Federal Energy Administration Act of 1974, 15 U.S. C. 761-786, which requires the Administrator to provide the Cost of Living Council at least 5 days to approve or disapprove any proposed rule, regulation, or policy relating to the cost or price of energy before promulgating the same, and- to afford the Administrator of the Environmental Protection Agency at least 5 days to provide written comments on any proposed rule, regulation, or policy which will affect the quality of the environment; and (3) the Energy Supply and Environmental Coordination Act of 1974, 15 U.S. C, 791–798, which relaxes certain air-quality standards for plants required to convert to coal as a major fuel source and authorizes priority allocation of low sulfur coal to areas most needing the same for environmental reasons,

(2) Acquisition of information.—There are several precedents for required reporting of information needed to implement materials oversight and management programs. Section 705 of the Defense Production Act of 1950, 50 U.S.C. App. 2061–2169, contains provisions relating to mandatory recordkeeping, reports, confidentiality of records, and related matters. The most comprehensive reporting requirements are those related to energy information contained in the Federal Energy Administration Act of 1974 and the Energy Supply and Environmental Coordination Act of 1974, supra. These acts require the Administrator to collect, assemble, evaluate, and analyze energy information of sufficient comprehensiveness and particularity to permit fully informed monitoring and policy guidance with respect to the exercise of his functions and to assure the Federal and State governments and the public access to reliable energy information. They require any person engaged in any phase of energy supply or major energy consumption—including the production, processing, refining, transportation by pipeline, or distribution (at other than the retail level) of energy resources—to submit reports and writ-

ten answers to interrogatories and other requests for reports or other information, including all information in whatever form on fuel reserves, exploration, extraction, and energy resources (including petrochemical feed stocks); projections as to source, time, and methodology of development; production, distribution, and consumption of energy and fuels; and corporate structure proprietary relationships, costs, prices, capital investments, assets, and other matters directly related to energy and fuels. The acts grant the Administrator subpoena powers enforceable by the Federal courts under their contempt power; give him authority to make onsite physical inspections, inventories, and sampling and to examine, copy, and question; and make violation of any rule, order, or regulation requiring such information an offense punishable by law.

The Federal Energy Administration Act further provides the Comptroller General with access to all information in the possession or control of the Administrator, together with independent authority to require disclosure of similar information on his own. Information acquired by either the Comptroller General or the Administrator is available to other Federal agencies and to Congress. These provisions for exchange or release of information should be compared with those of the Federal Reports Act, 44 U.S.C. 3501–3512, Access of the public to such information will be discussed below under subsection 10, Public Access and Participation.

(3) Stockpile management.—The mechanics of stockpiling per se can be modeled on the provisions of the Helium Act of 1925, 50 U.S.C. 167–167n; the Strategic and Critical Materials Stockpiling Act, 50 U.S.C. 98 to 98h; and the Defense Production Act of 1950, supra.

(9) Control of domestic distribution.-If a material is in very short supply, stockpile operations will have to be coordinated with a mandatory allocation program for nongovernmental as well as governmental supplies of the material to assure its availability for priority uses such as national defense and to avoid severe dislocations in the economy or any particular sector thereof, Precedent for such allocation authority can be found in the Defense Production Act of 1950, the Emergency Petroleum Allocation Act of 1973, and the Energy Supply and Environmental Coordination Act of 1974, supra, A possible obstacle to domestic control is the Connolly Hot Oil Act of 1935, 15 U.S.C. 715–15m, which gives Federal protection to State regulation of production. As materials controls become more extensive, there is a danger that certain aspects of such controls may be construed as takings of private property for which compensation would have to be paid under the Constitution,

(5) Control of exports.—The need to limit or prohibit the exportation of materials in severely short supply in the domestic economy is recognized in the Export Administration Act of 1969, 50 U.S. C. App. 2401-2413, which declares that it is the policy of the United States to use export controls to protect the domestic economy from the excessive drain of scarce materials, to reduce the serious inflationary impact of foreign demand, to achieve foreign policy and national security purposes, and to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have serious inflationary impact, cause severe domestic shortage, or were imposed to influence U.S. foreign policy. The act authorizes Presidential actions, including, but not limited to, imposition of license fees to implement these policies, See subsection(T), International Trade, for additional information.

(6) Control of imports; access to foreign supplies.—It maybe desirable either to restrict imports to encourage domestic production or to adopt a policy of purchasing stockpile inventories from foreign sources to preserve domestic supplies, Either approach has foreign policy implications. The basic authority for the imposition of tariffs or duties is contained in the Tariff Act of 1930, 19 U.S.C, 1202–1654,



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while trade agreements and foreign assistance are authorized by the Trade Expansion Act of 1962, 19 U.S. C. 1801–1991; the Foreign Assistance Act of 1961, 22 U.S.C. 2151–2434; and the Trade Act of 1974, 19 U.S.C. 2101–2487.

The Trade Expansion Act and the Trade Act authorize the President to suspend, withdraw, or prevent the application of benefits of trade agreement concessions to a foreign country which engages in discriminatory or other acts (including tolerance of international cartels) or policies unjustifiably restricting U.S. commerce; and to increase or impose duties, impose quantitative import quotas, or provide financial assistance to firms or workers when an article is being imported in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry.

The Foreign Assistance Act restricts the stockpiling of defense materials for foreign nations and authorizes the President, when he determines it is in the national interest, to furnish assistance under the act, or to furnish defense articles or services under the Foreign Military Sales Act, pursuant to an agreement with the recipient which provides that the recipient may obtain such assistance, articles, or services only in exchange for any raw natural substance controlled by such recipient which is in short supply in the United States, The President may allocate any such material when received to any appropriate Federal agency for stockpiling, sale, transfer, disposal, or any other purpose authorized by law,

The Agricultural Trade Development and Assistance Act of 1954, 7 U.S.C. 1961–1976, particularly authorizes the exchange of surplus federally owned agricultural commodities for strategic and other materials which can be transferred to a supplemental stockpile of strategic and critical materials. Although the Antidumping Act of 1921, 19 U.S.C. 160-173, and the Buy American Act of 1933, 41 U.S.C. 10a-10d, express a policy of protecting domestic producers from below-market-price foreign goods and requiring purchase of domestic goods for public use, respectively, neither of them should be a barrier to purchase of foreign materials at the lowest possible price for a domestic stockpile, One statute which may hinder import controls on critical materials, however, is the Strategic and Critical Materials Stockpiling Act, supra, which prohibits the President from prohibiting or regulating importation into the United States of any strategic and critical materials from non-Communist-dominated countries as long as importation from Communist-dominated countries is not prohibited by any provision of law,

(7) International trade.—Temporary control of imports or exports to prevent or relieve critical shortages in the domestic economy is recognized as a valid measure under international law by the General Agreement on Tariffs and Trade (GATT), although in the recently enacted Trade Act of 1974, supra, Congress has directed that discussions on GATT and other foreign policy discussions emphasize much more strongly both the principle of access to supplies and the use of temporary measures to ease adjustment to disruptions in the domestic market as principal negotiating objectives of the United States, Imposition of certain controls may be viewed by foreign nations as grounds for retaliatory action.

(8) Domestic economic impact.—The concern with maintaining an open and strong domestic economy is reflected in such past and present statutes as the Economic Stabilization Act of 1970, 12 U.S.C, 1904 note, and the act of December 30, 1947, 50 U,S.C, App. 1911–1919, More particular policies are embodied in the Small Business Act, 15 U.S.C, 631-647, and the Antitrust Acts, 15 U.S,C, 1–33. Protection of small-business interests, maintenance of free competition, and stabilization of the economy through allocation of scarce supplies are primary components of the policies, functions, and procedures established by the Emergency Petroleum Allocation Act of 1973 and the Federal Energy Administration Act of 1974, supra. The FEA Administrator is required, to the greatest extent practicable, to evaluate and

consider the potential economic impact of proposed actions, making such analyses explicit whenever possible and consulting with other Federal, State, and local agencies to the extent possible. The mandatory petroleum allocation regulation is subject to required review by the Justice Department and the Federal Trade Commission for antitrust impacts, and a carefully limited exemption from the antitrust laws is provided for activities required under the FEA statutes. A similar exemption appears in the Defense Production Act of 1950, supra.

(9) Fiscal incentives.—Taxes, loans, contracts, and other fiscal matters affect and are affected by materials programs. The act of August 21, 1958, 30 U.S.C. 641-646, provides for a program of participating financial assistance toward exploration by private industry to establish additional domestic mineral reserves, excluding organic fuels. Loans and loan guarantees under the Export-Import Bank Act, 12 U.S.C. 635 et seq., and the Defense Production Act of 1950, supra, can be used to finance expanded materials production abroad. The latter act has been used to support a considerable expansion of domestic capacity through loans, loan guarantees, and Government guarantees to purchase surplus produced materials at attractive prices. The income tax laws, title 26 of the U.S. Code, provide depletion allowances for the production of almost all minerals as well as various investment credits, depreciation provisions, and exploration and development expenditure deductions. The Tax Reduction Act of 1975, 89 Stat. 26, repealed the oil and gas depletion allowance for major oil producers, provides for a gradual reduction of the allowance for independent producers, and reduces or eliminates several tax breaks tied to foreign operations. This change in tax breaks makes foreign production now somewhat less attractive to U.S. and multinational firms.

(10) Public access and participation.—Various statutes provide generally for citizen access to information concerning and participation in Federal planning and program implementation. The Administrative Procedure Act, subchapter II of chapter 5 of title 5 of the U.S. Code, provides for public participation in rulemaking and hearings. Section 552 of the act, popularly known as the Freedom of Information (FOIA), provides for access to information in the possession of Federal agencies, with certain exemptions for confidential information, internal predecision documents, and the like. The Federal Advisory Committee Act, 5 U.S.C. App. 1-15, provides for general public access to the meetings and records of agency advisory committees and requires that such committees be fairly balanced in terms of points of view represented and functions to be performed. The policies embodied in these acts have been strongly emphasized in recent acts such as the Federal Energy Administration Act of 1974 and the Energy Supply and Environmental Coordination Act of 1974, supra, which have incorporated their requirements and added even further provisions to insure public access and participation, These acts adopt the usual exclusions of trade secrets and other confidential information, as specified in the FOIA and 18 U.S.C. 1905, which makes it a crime to disclose such information except as authorized by law.

The National Environmental Policy Act of 1969, 42 U.S.C. 4321-4347, enhances citizen input on environmental matters by requiring the preparation and circulation of a detailed environment impact statement for any major action significantly affecting the quality of the human environment. This requirement does not apply when time will not permit. It was held, for example, not to apply to the FEA's required promulgation of emergency petroleum allocation regulations within 15 days of enactment of the Emergency Petroleum Allocation Act of 1973, supra.[1] And certain statutes have relaxed the requirements, although they have not eliminated them completely, where they

[1] *Gulf Oil* Corp. v, Simon, 373 F. Supp. 1102 (DDC 1974).

would unduly delay economic and resource adjustment programs.[2]

Finally, it may be desirable to provide special procedures for judicial review of administrative decisions under an economic stockpiling program in order to minimize mitigative disruption, while maintaining a forum for valid challenges and efforts at clarification. An example can be found in the judicial review procedures under the Federal Energy Administration Act of 1974, supra, which requires petitions for review of FEA actions to be filed within 30 days in certain designated courts.

c. Conclusions Regarding Legal Impacts.—Implementation of each of the stockpiling policies will require consideration of the 10 listed components, although for each separate policy the relative importance of the different components will vary. For example, the standby authorities, such as the authority to allocate supplies and to prohibit the import or export of certain materials, may be critical to the success of SP–1 (Discourage or Counteract Cartel or Unilateral Political Actions Affecting Price or Supply), but it may be completely unnecessary for SP–5 (Provide a Market for Temporary Surpluses and Ease Temporary Shortages),

## B. INSTITUTIONAL CONSIDERATIONS FOR ESTABLISHING AN ECONOMIC STOCKPILE

It is not the objective of this assessment to develop economic stockpiling policy for the United States, but rather to assess the impacts of alternative options for Congress to consider in implementing such policy. However, it is pertinent to suggest here alternative decision-making and reporting mechanisms for the Congress to consider in formulating such policy.

As presented in chapter I, the history of the strategic stockpile and the defense production inventory has been one of diverse pressures imposed from several directions—the executive branch, the legislative branch, the producing industries, and the consuming industries. The success of an economic stockpiling program will therefore depend in large part upon the type of organization established to administer it, especially its ability to operate independently in the national interest, free of influence by special-interest groups, whether inside or outside the Government,

### 1. Management Considerations

Implicit in the consideration of alternative institutional arrangements for establishing an economic stockpile are several questions. Among these are: (1) What powers and authority would an economic stockpile be granted? (2) How would it operate? (3) How would it be structured? and (4) Where would it be located? Because the U.S. operation of (or participation in) an economic stockpile can be expected to generate much interest, both nationally and internationally, the answers to these questions are fundamental to its success. For a detailed discussion of the management considerations pertinent to establishing an economic stockpile, see chapter VI.

### 2. Institutional Arrangements

Six general institutional arrangements which should be considered in the development and establishment of an economic stockpile have been identified. The arrangements are listed below and discussed immediately following:

. A unilateral economic stockpile con-

[2]See the Energy Supply and Environmental Coordination Act of 1974, *supra.*

trolled and operated by the U.S. Government,

- A unilateral economic stockpile controlled by the U.S. Government, but operated by U.S. industry,
- A unilateral economic stockpile controlled and operated by a public-private corporation,
- United States participation in a multinational or international economic stockpile,
- United States participation in an economic stockpile operated by producer/consumer councils,
- A unilateral economic stockpile controlled and operated by the U.S. Government, but in accordance with international guidelines.

It is assumed that, regardless of the overall institutional arrangement selected for implementation, the stockpile agency will possess three capabilities: (a) the expertise to set policy and manage both program and congressional relations, (b) computer analysis and computer resources, and (c) the materials expertise responsible for day-to-day operations such as acquisition, disposal, and storage. In addition, the professional and support staff in each of the Government agencies with responsibilities related to or affected by the economic stockpile program could be used. The experience of the Strategic Stockpile program in the above activities under the Office of Emergency Preparedness (OEP) is enlightening and is drawn upon in the analysis presented in chapter VI.

**a.** Arrangement **1**: Economic Stockpile Controlled and Operated by the U.S. Government.— Both the legislative analysis in chapter I and the institutional analysis in chapter VI present considerations which are relevant to the establishment and operation of a unilateral U.S. economic stockpile. Such a stockpile might be established as another component of the present strategic stockpile, or it could be established as an independent stockpile whose operations are carefully coordinated with those of the strategic stockpile. Regardless of which action may be taken, the option of establishing an economic stockpile which is controlled and operated by the Federal Government might be the quickest of the six general arrangements to implement. And given the fact that economic stockpiling is at best a temporary solution to short-term problems, such an advantage is quite important.

b. Arrangement 2: Economic Stockpile Controlled by the U.S. Government, but Operated by U.S. Industry.—The advantage of this arrangement would be twofold: first, it would forgo some of the acquisition and initialization costs required for the Federal Government to establish and operate its own economic stockpile; and second, it would strengthen the working relations between the Federal Government and U.S. industry, thereby demonstrating that an economic stockpile is intended to be an adjunct to, not a replacement of, normal industry operations, A disadvantage of such a policy might be that it would take too much time to implement and that its operations might give preference to the interests of powerful industry groups in lieu of the public welfare.

c. Arrangement 3: Establish Unilateral Economic Stockpile Controlled and Operated by a Public-Private Corporation.—Such a corporation would be funded by the Federal Government, vested by Congress with a mandate and guidelines on U.S. stockpile purposes, and given independent authority to acquire and maintain national stockpiles without direct control but with provisions for Executive consultation.

Since annual appropriations for operating expenses and the stockpile corporation requests for any needed additions of the revolving capital fund would be reviewed only once a year by the President and Congress, the corporation would be able to maintain a certain degree of political independence (comparable

to the Federal Reserve System on monetary matters).

d. Arrangement 4: U.S. Participation in Multinational or International Economic Stockpile .—This is the first of two collective arrangements which might provide benefits to the United States. An economic stockpile operated by two or more nations, either multinational or international in nature, could be formed along such existing political or organizational lines as the Organization of American States (OAS), the European Economic Community (Common Market), the United Nations, or just with friendly nations having materials requirements similar to those of the United States. At present the United States is conducting several discussions/negotiations which do consider this arrangement: the UNCTAD discussions within the United Nations, and the International Energy Agency. The cost of establishing and maintaining such a collective stockpile would be spread among the participants and would thus be less for any one government. The stockpile would not take as much material out of use as would separate national economic stockpiles which might further exacerbate the spiraling world shortage. The stockpile might have less effect upon specific materials prices. than separate unilateral actions. And, finally, the participating nations would have to work closely together in order to make the stockpile work successfully, The greatest disadvantage would be the possible loss of control and sovereignty over the U.S. resources and actions.

e. Arrangement 5: U.S. Participation in Producer/Consumer Council Economic Stockpile.—Another form of collective stockpiling could be achieved by the creation or expansion of producer/consumer councils like the International Tin Council which is run by both producers and consumers and maintains its buffer stock to help stabilize the supply and price of tin. The benefits and costs of arrangement 5 are the same as for arrangement 4, but in addition to these there is another important benefit: an economic stockpile operated by a producer/consumer council attacks the basic cause of the materials availability problem and thereby could provide a long-term solution to specific materials problems by developing policies which are acceptable to producers and consumers, exporters and importers, developed countries and lesser developed countries. In this sense, option 5 requires even stronger cooperation among international participants than option 4. Also like option 4, though, such agreements could take a considerable amount of time to implement,

f. Arrangement 6: Economic Stockpile Controlled by U.S. Government, but Operated According to International Guidelines.— This arrangement could combine the advantages of arrangements 1, 2, and 4. As with option 1, the only time constraints in implementing this sixth option would be those required to create the legislation and acquire the optimal quantity of materials. Moreover, certain elements of options 2 and 4 could be introduced by specifically defining the use of the economic stockpile in the form of an "international code of operations for economic stockpiles. " This code could be introduced as the announced policy of the United States and expanded on an international basis as needed. Option 6 would recognize the fact that some national economic stockpiles are being created, but that some countries like Germany have not implemented them because of serious concern regarding their impact on domestic and world market systems. An international code of operations might help reduce this concern, as well as develop effective mechanisms for alleviating U.S. supply problems without increasing the world shortage.

## C. PUBLIC POLICY ISSUES RELATED TO ESTABLISHING AN ECONOMIC STOCKPILE

Whatever position regarding economic stockpiling is taken by Congress and the President, the detailed consideration necessary to develop that position will highlight a number of important and interrelated public policy issues which merit careful attention. Not only will the implementation of a national economic stockpiling policy involve significantly large amounts of public money, the impacts of such a policy will be unevenly distributed throughout the U.S. economy. While the existing market system will in most cases be able to deal effectively with materials problems, it is simply unable to compensate for supply disruptions and price increases which could be imposed by an international political organization like OPEC.

Based on the overall impacts analysis, the public policy issues summarized below suggest both the diversity and the intensity of conflict which could be aroused and which would have to be resolved if an economic stockpile were implemented as part of a national materials strategy,

(1) Should an economic stockpile be implemented in concert or in conflict with other United States materials policies? For example, how should the planning of an economic stockpile be coordinated with the International Tin Council, which the United States has just joined, or with the long-term grain agreements with the U. S. S. R., or with the discussions now underway with the lesser developing nations regarding materials supply and prices?

(z) What agreements with other industrialized, as well as less developing, nations will be required in order for an economic stockpile to provide the greatest benefit to U.S, citizens?

(3) How can an economic stockpile be designed and operated so that it will not be misused for financial advantage by special-interest groups? How can it be sufficiently insulated from the political process to obviate its misuse, yet insure that it will achieve the public benefits for which it was established?

(4) What measures can be taken to insure that an economic stockpile will not be used to accomplish public policy objectives other than those for which it was established? For example, a stockpile established to deter cartels should not be used to stop domestic labor strikes or to control domestic prices.

(5) Under what conditions, and to what degree, is it justifiable for the Federal Government to intervene in the market place in the form of an economic stockpile? Should such intervention be used to require that industry disclose private, proprietary information to the Federal stockpile managers? And if so, what assurances will be taken to protect the privacy of such information?

(6) What is the real potential for future supply disruptions and price increases? What is the expected impact (i.e., benefits and costs) of such economic dislocations upon the U.S. economy in general and sectors of U.S. society in particular? What is the cost of insuring against such dislocations? For example, will the acquisition of large amounts of materials like petroleum or chromium compensate for such shortages, or will it stimulate the already spiraling inflationary rate? Second, are the expected benefits of an economic stockpile sufficiently greater than the cost to warrant the expenditure of large amounts of public money and if so, how will this money be obtained?

(7) What measures will be taken to ensure public participation in the planning of an economic stockpile? Is such involvement necessary? Further, if the public is involved, what measures will be taken to maintain the

confidentiality of U.S. strategic economic information?

(8) What is the long-term outlook for growth in the United States? For example, will the United States maintain, increase, or decrease its present consumption patterns? How will future supply disruptions affect these consumption patterns, and vice versa? How will they affect the environment?