

# CURRENT DEVELOPMENTS

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## Significant Congressional Developments in 1983<sup>†</sup>

The following is a brief summary of major legislative activity concerning international matters that might be of interest to practicing lawyers.

### Unitary Tax

Senator Hawkins (R-Fla.) proposed legislation (S. 2034) that would force the Administration to speed action on resolution of the unitary tax issue. Senator Mathias (R-Md.) proposed legislation (S. 1225) that would limit the amount of foreign source income subject to taxation.

### Section 861

Congress did not extend the suspension of regulations under Section 861 (allocating expenditures for research and development between domestic operations and foreign subsidiaries). There appears to be support in Congress for a five-year continuation of the suspension regulation; the Administration wants a two-year continuation.

### Domestic International Sales Corporations (DISC)

The Senate Finance Committee held hearings in November on the Administration's proposed substitutes for the DISC (S. 1804 and H.R. 3810).

### Trade Reorganization

The Administration's bill to establish a new Department of International Trade and Industry (DITI) (S. 121) was reported by the Senate Governmen-

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<sup>†</sup>This report covers the last quarter of 1983.

tal Affairs Committee on October 18, but did not proceed further. The bill was amended by the Committee to include a controversial aspect of "industrial policy," an Office of Competition Analysis and temporary "competitiveness councils." Rep. Bonker (D-Wash.), Chairman of the Foreign Affairs Committee Subcommittee on International Economic Policy and Trade, submitted a bill on November 16 (H.R. 4432), which has been labeled a "Democratic alternative" to the Administration's trade reorganization plan. Among other differences, under Representative Bonker's bill, an Assistant to the President for International Trade (who would also be a member of the National Security Council) would be the principal trade policy coordinator; under the Administration's bill, the Secretary of DITI would be principal adviser and would coordinate policy with a Presidential adviser. Representative Bonker's bill has a stronger "industrial policy" component, at this point principally a permanent "competitiveness council." Many observers believe that more specific "industrial policy" provisions will emerge from the House bill.

### **Export Controls**

Congress passed another extension of the Export Administration Act. One change in the new legislation (H.R. 3231) allows exporters to forego licensing for shipments to Japan and American allies in Western Europe. The Senate Banking Committee reported legislation (S. 979) that would have placed strict controls on export, but this bill failed to get action on the floor.

### **Trade Reciprocity**

The House Ways and Means Committee reported a so-called "reciprocity bill" (H.R. 1571) that would give the President authority to retaliate against unfair trading practices within the Trade Act of 1974. The Committee reported unfavorably a second bill (H.R. 2848) that would have provided separate authority in the Commerce Department, which falls under the jurisdiction of the Energy and Commerce Committee of the House. Neither bill was considered by the floor before adjournment. The Senate passed in April a reciprocity bill (S. 144) that would have expanded the President's authority to retaliate against unfair trading practices by other countries and would have required the Administration to seek new international agreements on trade in services and high technology. The Senate bill was amended to provide for the repeal of withholding of taxes on interest and dividend income, and, in conference, the trade provisions of the Senate bill were dropped.

## **Domestic Content**

The House approved a “domestic content” bill (H.R. 1234), which would require fixed levels of American labor and parts in foreign cars sold in the United States. The Administration opposed the bill, and the Senate did not consider it. A similar bill last year would have prevented domestic content requirements from being enforced if found to violate American obligations under the General Agreement on Tariffs and Trade; H.R. 1234 contains no such provision.

## **International Monetary Fund**

Congress passed a compromise package on the IMF in November, as amendments to a House-approved conference report on the fiscal year 1984 supplemental appropriations bill (H.R. 3959). The legislation authorized an increase in the United States’ quota in the Fund by \$5.8 billion and raised the United States’ contribution to the General Arrangements to Borrow by \$2.6 billion; it also appropriated \$8.4 billion for the increases. The legislation also required the Secretary of the Treasury to consult with Congress thirty days before any additional increases in the United States’ quota; required the United States Executive Director to the IMF to oppose loans to Communist dictatorships or to countries practicing apartheid; instructed the United States Executive Director to promote stability of exchange rates and to support conversion of liabilities to longer terms and lower interest rates; and provided that United States banking agencies require banks to maintain adequate reserves where there is a failure to comply with the terms of the IMF loans or where repayment in timely fashion is unlikely, and to disclose at least quarterly the amount of loans to foreign nations.

## **Export Import Bank**

The same legislation that funded the IMF also extended the authorization of the Export Import Bank for three years, to September 30, 1986. The bank’s mandate was clarified to stress that, although the bank should consider its cost of money in setting interest rates, it should be competitive with export promotion programs of other countries. In addition, the bank can now finance exports of services as well as goods and can consider so-called mixed credits for United States’ exports (combined use of credit and foreign aid to support exports). The Exim reauthorization also amended Section 1912 of the countervailing duty law to allow for petitions based on official export credits.

