

distortion (particularly in foreign aid) of normal trade patterns; and of course, the fact that the available funds can accomplish less. When these factors are fully considered, no increase of the 6 to 12 per cent differential appears justified for domestic U.S. procurement; and it is unlikely that the much larger differentials for offshore procurement can be justified.

State and local

Apart from the Federal Government, there is a vast, scarcely charted area of Buy-American laws, regulations, and undeclared policies in the states and local governments. There has never been a thorough study of the limitations on purchase of foreign goods that prevail in this area. It seems clear that the relevant policy consideration should be at most the same as apply to the Federal Government. As a matter of law, a state may be constitutionally able to give preference in its purchases to the domestic industries of that state. But, when it comes to legislation and practices giving preference to American-made products as distinguished from imports, then the state is invading the area of regulation of foreign commerce which is reserved by the Constitution to the Government of the United States. There is no occasion for the states to enter this field; and if national interests require, the Federal Government should take steps, legislatively or administratively, to insure that state measures are compatible with the policy of the Federal Government. Since most state programs of any magnitude involve substantial Federal contributions, notably those for roads, this is not a difficult thing to accomplish. Indeed, such an order was formulated by the Bureau of Public Roads of the Department of Commerce several years ago but has never been put into effect. It is time this order was revived and state policies made conformable to the national policy.

Non-governmental

Non-government Buy-American policies—for instance, of large companies—represent an even larger uncharted area than the policies of states and local governments. Perhaps it can be assumed that the great American corporations, which on the whole have supported a liberal U.S. trade policy in recent years, apply the same liberal trade policy in their own purchase—but this is by no means clear. Manufacturing companies frequently use foreign-made components, but other purchasing areas appear to be relatively untouched by foreign competition—for instance, basic equipment of power companies and office supplies. There is need for study as to how far such purchasing decisions reflect well-considered corporate policies.

NOTES

The Buy-American Act is the Act of March 3, 1933, 41 U.S.C.A. § 10a-d (1957). Differentials and definitions are set forth in Executive Order No. 10582, 19 Fed. Reg. 8723 (1954). For the Department of Defense's practices, see *Hearings on the Impact of Military Supply and Service Activities on the Economy Before the Subcommittee on Defense Procurement of the Joint Economic Committee*, 88th Cong., 1st Sess., 356-60 (1963). For offshore procurement under the Foreign Assistance Act of 1961, see Section 604(a), 22 U.S.C.A. § 2354(a) (Supp. 1963), and Presidential Memorandum of October 18, 1961, 26 Fed. Reg. 10543, and Presidential Memorandum of August 1, 1962, 27 Fed. Reg. 7603. For DOD Regulations on procurement of supplies, see 32 CFR Sec. 6.100-105 (1961); special provisions excepting Canadian goods are set out at 32 CFR Sec. 6.103-5 and Sec. 6.103-5 (1961) (Supp. 1963); for DOD regulations on construction, see 32 CFR Sec. 6.200-206 (1961). For the General Services Administration Buy-American regulations on supplies, see 41 CFR Sec. 7.101-14, 9-7.5004-16 (1963); on construction, 41 CFR Secs. 1-6.200-206, 9-7.5004-17 (1963).

Various pieces of miscellaneous legislation supplement the Buy-American Act. Thus, Federal funds made available to state, county, municipal, or other agencies for low rent housing are subject to the Buy-American Act's restrictions, 42 U.S.C.A. § 1406(c) (1957). The Berry Amendment, an annual rider to the Department of Defense's Appropriation Acts, directs the armed services to buy "no articles of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, or wool" unless the item is grown, reprocessed, reused, or produced in the United States, subject to certain exceptions. Eg., Sec. 523 of the Department of Defense's Appropriations Act, 1963, 76 Stat. 318, 332 (1962); 32 CFR Sec. 6.300-305 (1961). Several pieces of legislation establish Buy-American restrictions on shipping of Government or military supplies, and the shipment of U.S. agricultural or other products by an instrumentality of the Government, 15 U.S.C.A. § 616a (1963) (shipments of agricultural products financed by Government on United States vessels); 46 U.S.C.A. § 1241(a) (1958) (transportation of U.S. Government personnel on American vessels); 46 U.S.C.A. § 1241(b) (Supp. 1963) (provisions with respect to shipment of cargoes procured, furnished, or financed by the United States Government; 10 U.S.C.A. § 2631 (1959) (preference for United States vessels in transportation by sea if supplies bought for Army, Navy, Air Force or Marine Corps). Since 1844, American goods have been preferred in purchases for the Senate and House of Representatives, 2 U.S.C.A. § 109 (1927). The Buy-American Act applies to purchases of strategic and critical materials for stockpile purposes, 50 U.S.C.A. § 85b (a) (1951). The Buy-American restriction, however, does not apply to purchase of stockpile materials with funds raised under the Agricultural Trade Development and Assistance Act, 7 U.S.C.A. § 1704(b) (Supp. 1963).