

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely yours,

JOHN L. SWEENEY,
Assistant Secretary for Public Affairs.

DEPARTMENT OF THE ARMY,
Washington, D.C., July 2, 1968.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense with respect to H.R. 6530, 90th Congress, a bill "To amend section 203(b) (5) of the Interstate Commerce Act to clarify this exemption with respect to transportation performed by agricultural cooperative associations for non-members." The Secretary of Defense has assigned to the Department of the Army the responsibility for expressing the views of the Department of Defense on this bill.

Section 203(b) (5) of the Interstate Commerce Act, 49 U.S.C. 303(b) (5), exempts agricultural cooperative associations, as defined in the Agricultural Marketing Act of 1929, from economic regulation by the Interstate Commerce Commission. On August 10, 1965, the United States Court of Appeals for the Ninth Circuit in the case of *Northwest Agricultural Cooperative Association, Inc. v. Interstate Commerce Commission*, 350 F. 2d 252, cert. den. 382 U.S. 1011 (1966), judicially established the right of agricultural cooperative association truck lines to backhaul non-farm commodities for non-members. The court limited the legitimate extent of such traffic to that which is incidental and necessary to the farm-related transportation of the cooperative. Since that decision, the Department of Defense has utilized the transportation services of agricultural cooperative associations where their use was in the best interest of the Government.

H.R. 6530 would amend section 203(b) (5) of the Interstate Commerce Act to eliminate the present exemption from economic regulation except in those situations where the back-haul traffic is farm-related.

The Department of Defense is required under Chapter 137 of Title 10, United States Code, the former Armed Services Procurement Act, to procure the supplies and services it needs by competition to the maximum practicable extent. To deprive the Department of the use of the transportation facilities of bona fide farm cooperatives would deprive it of one of the alternatives management presently possesses to foster competition for military traffic.

Our experience to date demonstrates that farm cooperatives are capable of providing efficient service to the Department of Defense at reasonable cost without adverse impact on regulated carriers. The transportation capability of the farm cooperatives constitutes an important segment of the total United States transportation system. If farm cooperatives are to make their maximum contribution to the economy of the nation, their transportation facilities must be available to shippers in those situations where prudent management dictates their use. Otherwise it will not be possible to achieve the objectives outlined in the 1962 Presidential Transportation Message to the Congress wherein it was stated:

"The basic objective of our nation's transportation system must be to assure the availability of the fast, safe and economical transportation services needed in a growing and changing economy to move people and goods, without waste or discrimination, in response to private and public demands at the lowest cost consistent with health, convenience, national security and other broad public objectives. . . . This basic objective can and must be achieved primarily by continued reliance on unsubsidized privately-owned facilities, operating under the incentives of private profit and checks of competition to the maximum extent practicable."

For the foregoing reasons, the Department of Defense recommends against the enactment of H.R. 6530.

The enactment of the bill would remove an effective element of price and service competition and thus deprive the Department of Defense of a source of efficient and low cost transportation for freight shipments. As a result, budgetary requirements of the Department of Defense would be increased.