United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

Vol. 147 WASHINGTON, THURSDAY, SEPTEMBER 6, 2001 No. 115

Senate

The Senate met at 10:30 a.m. and was called to order by the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we commit ourselves to You, the work of this day, and the challenges we face. You have made commitment the condition for receiving Your grace and guidance. We accept the admonition of Proverbs: ''Commit your works to the Lord, and your thoughts will be established'' (Proverbs 16:3). We long to be divinely inspired thinkers. When we commit our problems, plans, and projects to You, You instigate thoughts we would not have conceived without Your help. Show us how the sublime secret of intellectual leadership works. The Psalmist knew that secret: ''Commit your way to the Lord, and trust also in Him, and He shall bring it to pass . . . rest in the Lord, and wait patiently for Him'' (Psalm 37:5, 7).

We claim Your presence; You are here in this Chamber and with every Senator and staff member in the offices and committees and hearing rooms of the Capitol. We praise You for Your superabundant adequacy to supply our needs spiritually and intellectually. You establish our thinking and energize our work. Bless the Joint Session of Congress this morning as we welcome Mexican President Vicente Fox and continue to strengthen the ties between Mexico and the United States.

We commit the day; You will show the way, and we will receive Your strength without delay. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable E. BENJAMIN NELSON led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC., September 6, 2001.

To the Senate:

Under the provisions of Rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Nebraska thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:40 a.m. with Senators permitted to speak therein for up to 5 minutes each.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. I thank the Chair.

MEASURE PLACED ON CALENDAR—S. 2563

Mr. REID. I understand there is a bill at the desk for its second reading.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2563), an act to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986, to protect consumers in managed care plans and other health coverage.

Mr. REID. Mr. President, I would now object to any further proceeding on this legislation at this time.

The ACTING PRESIDENT pro tempore. The bill will be placed on the calendar.

SCHEDULE

Mr. REID. Mr. President, as has been announced, in 5 minutes the Senate will recess for purposes of the joint meeting with President Fox of Mexico. Senators have been notified to be here in 5 minutes to proceed to the House Chamber for the meeting.

When the Senate reconvenes at 12 noon, we will continue on the export administration bill. It is my understanding, having spoken with the managers of the bill, Senators SARBANES and ENZI, that progress has been made over the evening, and I have been told—and we will hear more from the managers shortly—that that bill can be wrapped up this afternoon. I hope that is the case because we want to alert Senator HOLLINGS and Senator GREGG that we should move and will move to the Commerce-State-Justice Appropriations Act today as soon as this other legislation is finished.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

EXPORT ADMINISTRATION ACT

Mr. SARBANES. Mr. President, with respect to S. 149, which is before the

Senate, it is our anticipation that upon returning from the joint meeting and going back into session at noon, we would be able then to move expeditiously. There are a couple of amendments that I presume Senator THOMPSON and Senator KYL will offer. We have had an opportunity to review those amendments. We think they strengthen the bill. We are prepared to accept those amendments.

There is a question of the blue ribbon commission on which an agreement has not been reached. I do not know whether Senator SHELBY, who authored that amendment, will proceed to offer it or not. If he does, we will have to take it up and, of course, be open to amendment. We hope to be able to resolve that issue rather quickly. We have a managers' amendment to be adopted. And then we anticipate going to final passage.

So that is the sequence that we envision. We think that could be done in short order. I don't think that it will really take a lot of time to do all of this, maybe an hour at most, and we could get this bill completed and off the floor. I say to the majority whip, we would be able then to move on to other legislation in the early afternoon. But that is my expectation of how we will proceed.

I want to acknowledge and thank Senator THOMPSON, Senator KYL, and Senator ENZI—Senator GRAMM was involved in the discussion that Senator ENZI had with the other two Senators—for moving this matter along.

Mr. THOMPSON. Will the Senator yield.

Mr. SARBANES. Certainly.

Mr. THOMPSON. Mr. President, I think the Senator very well states the status of the situation and what has occurred. We have been discussing these matters as late as 30 minutes ago. I do anticipate that we will have two short amendments that have been discussed and we will be able to agree upon which will improve the bill. As a part of our understanding, there will be two letters from both advocates and opponents of this legislation to the White House on a couple matters that we believe are very important but that should first be addressed by the White House, such as the deemed export rule, which is a very complex matter that we believe should properly be handled by Executive order. So with those two amendments and those two letters, I think we are in a state of agreement with regard thereto.

The only other matter, as Senator SARBANES indicated, is the question of the commission. I anticipate that we will certainly know by 12 o'clock what the situation on that will be. We will either have a vote on that or not. But if we do, I would anticipate that would be the only rollcall vote that we would have, and we would be able to proceed forthwith to final passage.

Mr. ENZI. Will the Senator yield.

Mr. SARBANES. Certainly.

Mr. ENZI. I would add my thanks and appreciation for all the hard work, particularly of Senator THOMPSON and Senator KYL and their staffs and Senator GRAMM and his staff. The meetings and the work on this did go late into the evening last night and began this morning so we could have as little interruption and expedition of the business that needs to be done by the Senate. Their cooperation, their attention to detail, and their willingness to discuss throughout the whole process the last 3 years we have been working on it is very much appreciated, particularly the hours they and their staff put in last evening and early this morning.

Mr. SARBANES. Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF MEXICO

RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10:40 a.m. having arrived, the Senate will now stand in recess until the hour of 12 noon.

Thereupon, the Senate at 10:40 a.m., preceded by the Secretary of the Senate, Jeri Thomson, and the Vice President, RICHARD B. CHENEY, proceeded to the Hall of the House of Representatives to hear the address by the President of Mexico, Vincente Fox.

(The address is printed in the Proceedings of the House of Representatives in today's RECORD.)

At 12 noon, the Senate, having returned to its Chamber, reassembled when called to order by the Presiding Officer (Mr. REID).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Nevada, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

EXPORT ADMINISTRATION ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 149, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 149) to provide authority to control exports, and for other purposes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, as we debate our system of export controls in this new era, we hear an array of arguments that reflect America's preeminent role in the world, our military and economic power, and the absence of the threat of major war that has prevailed since the demise of the Soviet Union a decade ago. We hear proud claims that trade is the new currency of international politics; that the strength of our economy, now more than ever, underpins our national power and global influence; and that in the brave new world of the Information Age, most technological flows are uncontrollable, or controls are meaningless due to the availability of the same technology from foreign competitors.

The business of America is business, we are told, and those of us who believe national security controls exist to protect national security, rather than simply expedite American exports, are accused of old thinking, of living in a dangerous past rather than a prosperous and peaceful present. For many, the new definition of national security—in a haunting echo of the thinking that inaugurated the last century—predicates the safety and well-being of the American people upon the free flows of trade and finance that make our economy the envy of the world, and our business leaders a dominant force in our time.

I am an ardent free trader, and I believe economic dynamism is indeed a central pillar of national strength. But I do not believe our prosperity requires us to forego very limited and appropriate controls on goods and technologies that, in the wrong hands, could be used to attack our civilian population here at home, or against American troops serving overseas. Experts agree that both rogue regimes and hostile terrorist organizations are actively seeking components for weapons of mass destruction, many of which are included in the list of goods we control under our current export licensing system.

Unlike in the Cold War era, when we created our export control regime to keep sensitive technologies out of the hands of the Soviet Union, this era is characterized by an array of diverse threats emanating from both hostile nations and non-state actors. Hostile nations like Iran and North Korea are disturbingly close to developing multiple-stage ballistic missiles with the capability to target the United States. These and other nations, including Syria and Iraq, receive significant and continuing technical assistance and material support for their weapons development efforts from China and Russia, with whom much of our trade in dual-use items is conducted. The intelligence community has made startlingly clear the proliferation record of China and Russia, as well as North Korea, and the adverse consequences of their weapons development and technology transfers to American security interests.

I do not believe that S. 149 adequately addresses these threats. Unfortunately, the Senate yesterday rejected a reasonable amendment offered by Senator THOMPSON allowing the relevant national security agencies to receive a 60-day time extension to review particularly complex license applications. This reform, proposed by the Cox Commission, and a number of amendments adopted by the House International Relations Committee in its markup of the Export Administration Act, properly addressed some of the deficiencies in the current version of S. 149.

S. 149 has the strong support of the business community and the Bush Administration. In the short term, proponents of this legislation are correct: loosening our export controls will assist American businesses in selling advanced products overseas. In another age, proponents of free trade in sensitive goods with potentially hostile nations were also correct in asserting the commercial value of such enterprise: Britain's pre-World War I steel trade with Germany earned British plants substantial profits even as it allowed Germany to construct a world-class navy. Western sales of oil to Imperial Japan in the years preceding World War II similarly earned peaceful nations commercial revenues. In both cases, friendly powers caught on to the destructive potential of such sales and embargoed them, but it was too late. Such trade inflicted an immeasurable cost on friendly nations blinded by pure faith in the market, and in the power of commerce to overcome the ambitions of hostile powers that did not share their values.

I resolutely support free trade. But I cannot with a clear conscience support passage of legislation that weakens our national security controls on sensitive exports to a point that we may one day be challenged, or face attack, from weapons derived from the very technologies we have willingly contributed to the world. Our peaceable intentions, our love of prosperity and stability, are not shared by those who would do America harm, and whose hostile ambitions today may well be matched tomorrow by the ability to deliver on that threat. We should make it harder, not easier, for them to do so.

Our export control regime should undergo significant reform to address the challenges and opportunities of our time. Proponents of S. 149 focus on the opportunities this legislation affords American business. I have worked with Senators THOMPSON, KYL, SHELBY, HELMS, and WARNER to highlight the reality that this bill does not adequately address the national security challenges we face today. National security controls cover only a tiny fraction of total American exports; the overwhelming majority of export applications for dual-use items are approved by our government; limited controls properly exist to help prevent highly sensitive technologies from falling into the wrong hands; and such safeguards are more relevant than ever in the face of the multifaceted and unconventional threats to our country unleashed by the information revolution.

A number of proponents of S. 149 argue that American companies should not be straitjacketed by U.S. national security controls even as their foreign competitors remain free to peddle similar technologies to proliferators and rogue regimes. This argument overlooks the fact that America continues to lead the world in technological innovation; our products are often unique when compared with those produced by businesses in France, Germany, or Japan. More fundamentally, such an approach only emboldens potential enemies who seek access to our markets in sensitive goods. In concert with friends and allies, we should endeavor to shame foreign companies who sell dangerous items to rogue buyers by making their identities public—not scramble for market access in dangerous technologies at their expense, as if nothing more than corporate profits were at stake. We should also make it a diplomatic priority to construct a new multilateral export control regime, in concert with like-minded nations, to fill the vacuum created by the collapse of COCOM, which regulated Allied exports during the Cold War to keep critical technologies out of Soviet hands.

As a proud free-trader, I maintain that we should continue to carefully review our most sensitive exports; we can, in fact, exercise some control over their end use. I fear we shall one day reap the bitter harvest we sow in our neglect of the consequences to America's security of an overly complacent export licensing regime. As a nation, we may have to learn the hard way that winking at the proliferation threats we face today, in light of clear evidence that nations to which we export sensitive technologies continue to apply and share them with our enemies, diminishes our national security to a point for which no amount of corporate profits will compensate.

I thank Senator THOMPSON for his efforts on this legislation. I do not believe that his amendment yesterday should have been defeated. I thought it was a reasonable amendment. I think it is also another example of a compelling requirement for campaign finance reform.

I yield the floor.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from South Dakota.

Mr. JOHNSON. Madam President, S. 149 is, in fact, a balance that modernizes our export control laws to account for the geopolitical, commercial, and technological changes of this past decade.

This bill recognizes that on occasion exports must be controlled for national security and for foreign policy reasons. S. 149 substantially increases the President's authority to impose controls when in fact they are necessary.

I have great respect for the few opponents of this legislation. However, I believe it is a misstatement to suggest that this bill somehow diminishes our Nation's ability to control technology which needs to be controlled when in fact this legislation imposes greater controls where necessary and significantly increases penalties and decreases the likelihood of sales that are inappropriate.

At the same time this legislation acknowledges that a vibrant American economy is a critical component of our national security. Senator BENNETT, our friend from Utah, spoke eloquently to this point yesterday.

Advancements in high technology allow us to ''run faster'' than our enemies. To foster continued advancements, we must take great care not to punish American businesses by limiting unnecessarily their marketplace, if those same products will simply be provided by our foreign competitors.

The observation is made, well, what about unique American technology? This legislation takes that into account. It allows for strong limitations where it is truly unique and where those sales would, in fact, pose some jeopardy to our Nation's security.

S. 149 balances our national security interests and our commercial interests with a first and foremost concern for national security—appropriately so. But it does recognize that our prosperity and our security are, in fact, interrelated.

This has been a thoroughly bipartisan process—a process, frankly, that I would like to see more often the case on the floor of this body.

I have great gratitude for the work of Chairman SARBANES, ranking member GRAMM, Senator ENZI, and some others who have contributed in a constructive way to this legislation. And Senators THOMPSON and KYL have made valuable suggestions to enhance the bill. I thank them for their role and their sincere concern for our Nation's security. I thank Senators DAYTON and ROBERTS for their constructive input on this legislation as well.

I urge the House to move expeditiously to pass the EAA so the White House can sign this bill into law. This is a high priority for the White House.

For those who may have some concern about the expertise of the vast bipartisan majority of this Senate in support of this legislation out of national security concerns, I again remind the body that this legislation not only had the overwhelming bipartisan support of thoughtful Senators on both sides of the aisle but is urgently supported by President Bush, by Secretary of Defense Rumsfeld, Secretary of State Powell, Commerce Secretary Evans, and National Security Adviser Condoleezza Rice. Certainly those in the White House have taken national security as a first and foremost concern. Any suggestion that somehow that issue has been taken lightly by the advocates of this bill is simply incorrect.

This has been, frankly, a model for how the Senate can work together for the good of our Nation. It is not a Republican bill. It is not a Democrat bill. But it is a bill put together across the aisle with the cooperation of the White House. It has been extremely gratifying, frankly, to have been so closely involved in the creation of this reauthorization.

To reject this legislation, to fall back on the Executive order, which is under legal challenge, and which extends far less authority to the White House to control the sales of high-tech items around the world, would be a tragic mistake. This Nation needs a modern dual-use technology trade regime. This legislation provides that.

Those in our Government who are given the great responsibility of national security have applauded this bill. It is the kind of balance our country needs. I believe the Senate has performed its work very ably to bring this bill to this point.

It is my hope we can conclude this debate very soon, work with our colleagues in the other body, and deliver this bill onto the desk of the President, who has urged us over and over again to pass this bill and to again have in place a strong, powerful, dual-use technology trade regime for our Nation.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMPSON. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1527

Mr. THOMPSON. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON] proposes an amendment numbered 1527:

On page 197, line 15, strike ''substantially inferior'' and insert ''not of comparable quality''.

Mr. THOMPSON. Madam President, this amendment addresses the issue of foreign availability. As all who have listened to our discussion up until now realize, one of the more important pieces of S. 149 has to do with foreign availability. Essentially, what this bill does is say if the Department of Commerce makes a determination that some item has foreign availability status, then that item is essentially decontrolled. It does not go through the licensing process anymore, the idea being that it is out there and anybody can get it, and why control it.

Frankly, I think it is not a good idea. I think that foreign availability should be taken into consideration, as we always have in our export policy taken foreign availability into consideration. We do not want to try to stop the export of items that are clearly out there in the domain, but it should not be an overriding consideration. We should not be deregulating whole categories of items, and not even being able to keep up with how much we are shipping to some country, and what kind of item we are sending to some country.

This foreign availability concept takes these large categories totally outside the regulatory process that we are fearful might contain something that might turn out to be harmful to our national security. We ought to have a way for the appropriate representatives in our Government to judge these matters, item by item, and case by case, to make a determination. It may take a few days, a few weeks in some cases perhaps, to make this determination, but it is well worth it because the reason for export control laws is not primarily commerce; it is primarily national security.

If you look at this bill, you will see that the purpose of the export control law is to prevent the proliferation of weapons of mass destruction and things that are detrimental to our national security or things that potentially are. But, anyway, I am in the minority on that.

The administration supports this concept of foreign availability. The majority leadership supports this concept. So that being the case, we have attempted to enter into discussions whereby, hopefully, we could convince our colleagues on the other side of this issue that there is some validity to our concern and, hopefully, the idea being that they would make some accommodation to us on this concept.

I am happy to say that we have been able to reach some accommodation on this issue that addresses some of our concerns.

This amendment that I have just offered makes an important change to the definition of ''foreign availability.'' Under S. 149, items could be decontrolled and bypass any kind of review so long as similar items that were available from foreign countries were not substantially inferior to U.S. items. In other words, foreign availability would kick in and the decontrol would kick in under the bill as long as countries could get things that were not substantially inferior.

Our belief is that we ought to make sure, before we decontrol our items, they can really get items that are comparable to what we have. If they can get items that are inferior to what we have, then we should still maintain controls because we have something they cannot otherwise get. And they are sensitive matters or they would not have been on the control list. So we ought to be careful about that.

So this amendment changes that standard of ''not substantially inferior'' to ensure that the items are of ''comparable quality'' to U.S. items. It is a small but significant change that ensures that we will not decontrol superior American technology just because inferior items are available overseas.

So I think this strengthens this provision in an important way. It certainly does not address all of our concerns, but it does strengthen this provision in an important way to make sure if we are going to enter into this, what I consider to be a very large decontrol process, in a very dangerous time, to very dangerous countries, that we ought to at least make sure that if we are claiming they can get these items anyway, it is really the same kind of items we have, the same quality we have. I think this amendment would go a long way toward ensuring that.

I thank my colleagues on the other side of this issue for entering into real discussions with us on it. Hopefully, we have come to an agreement on this issue.

I yield the floor.

Mr. SARBANES. Madam President, I thank the Senator from Tennessee for his contribution throughout this debate. As he said, we have listened and considered carefully. I am perfectly prepared to accept this amendment. And I think introducing this quality concept about which he spoke yesterday is an important improvement and addition to this bill. I am happy to be supportive of it.

Mr. ENZI. I, too, thank the Senator from Tennessee for his cooperation and diligence in the months of working on this bill with us, and with the 59 other changes in the bill as well, and for his willingness to work with us on this change. We are happy to accept it.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SARBANES. I urge adoption of the amendment.

The PRESIDING OFFICER. If not the question is on agreeing to amendment No. 1527.

The amendment (No. 1527) was agreed to.

Mr. SARBANES. I move to reconsider the vote.

Mr. ENZI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SARBANES. Madam President, I suggest the absence of a quorum.

Mr. THOMPSON addressed the Chair.

Mr. SARBANES. I withhold the request.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Madam President, I suggest that while we are waiting on another Senator, who I believe has one more amendment to consider, we discuss the matters of deemed exports and commodity classification. We have had some discussions about those subjects also. If I may, I will simply relate what my understanding is with regard to those issues.

First of all, on the deemed export issue, we have had concerns on this side that the legislation did not adequately address the problem of deemed

exports. As most who follow this issue know, a deemed export comes about when, in a typical situation, sensitive information is passed to a foreign national who perhaps is working at one of our National Laboratories or working in one of our businesses on sensitive information, who may or may not have a government contract, the idea being that with regard to the physical exporting of an item, that information should then be controlled when giving it to a foreign national. That should be reported. We should go through a reasonable process to make sure no damage is being done.

We learned from hearings with regard to our National Laboratories, for example, that we were woefully behind as a government from even private industry; that we were not paying attention in our National Laboratories to the deemed export requirements. There were hardly any deemed export notifications or licenses issued by our laboratories. Our laboratories contain probably the most sensitive matters that we have in this Nation, including the maintenance of our nuclear stockpile, our Stockpile Stewardship Program, including information concerning our most sensitive weapons.

We believed we should deal with the deemed export issue. The administration has said it would like to address this complex issue—and it is complex—through regulation rather than include it in the legislation. We have agreed that a letter will be sent to the administration from both supporters and opponents of this bill asking the administration to review existing regulations and address this issue.

Continued control of deemed exports is an essential component of our export control process. Right now there is substantial noncompliance, as I said. This letter is designed to urge the administration to develop new regulations that ensure understanding of and compliance with the responsibility to control deemed exports.

I understand there are some in the business community who do not like the concept of deemed exports at all. My understanding and intention, as far as this letter is concerned, is not to give the administration the option of continuing a deemed export policy or not; it is to tighten up the policy and make sure it is updated and clear in terms of what responsibilities are under that policy.

It is a reasonable request that they be given the opportunity to address it. It is a very complex issue. We don't want to create onerous requirements. These foreign students and scientists who come to America make valuable contributions in many different ways. But we simply have to exercise common sense and protect ourselves and go through an appropriate process when it comes to deemed exports.

I am happy. I believe we have reached some agreement that we write the administration and express generally those thoughts.

Could I get an amen on that?

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, again, I appreciate the care, concern, and detail in which the Senator from Tennessee and the Senator from Arizona, and others who have participated on this, have expressed their concerns about the deemed export controls. We do recognize that the problem is not primarily in the private sector; that it is primarily in the government and educational and health institutions. The private sector has some proprietary rights they try to preserve, but it would be a problem there, too, and we wanted it addressed in all those sectors.

Mr. THOMPSON. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 1529

Mr. KYL. Madam President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 1529.

Mr. KYL. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 296, strike line 1 through line 7 and insert the following:

''(3) REFUSAL BY COUNTRY.—If the country in which the end-user is located refuses to allow post-shipment verification of a controlled item, the Secretary may deny a license for the export of that item, any substantially identical or directly competitive item or class of items, any item that the Secretary determines to be of equal or greater sensitivity than the controlled item, or any controlled item for which a determination has not been made pursuant to section 211 to all end-users in that country until such post-shipment verification is allowed.''

Mr. KYL. Madam President, let me explain what this amendment does and indicate to my colleagues that I believe I have the concurrence of the chairman of the committee and the ranking member of the subcommittee and have met this morning with the ranking member of the Banking Committee who worked out the language with us. In fact, much of this is his language.

This is the amendment I spoke to yesterday regarding the post-shipment verification that sometimes has to occur when we say, in the granting of an export, we will grant the license to send the item overseas but for a peaceful purpose, for a commercial purpose, or research, or university, a business purpose; we don't want you to take this item and put it in your defense facility or a nuclear weapons facility, something of that kind. We are going to verify, after we ship it, that it went to the right place.

Remember these are dual-use items. They have two different uses. They may be very useful in a private way, business way. They may also be useful in a military way. Let me give an example.

Not too long ago, some folks in Germany developed a very important medical device called the lithotriptor which, with a high-energy beam, literally zaps kidney stones so they break up into a million little pieces and surgery is not necessary to remove them. It is a very important medical treatment now for people. It is nonintrusive, no surgery, and has a great success rate.

These are very sophisticated pieces of equipment. They have some special switching components in them. It turns out that Iraq has found that those switches are useful in their nuclear weapons program. This is a good example of a dual-use item. It was not invented for defense purposes. It has an item in it that can be used for weapons. We know that. We don't want that item to be used for that purpose.

Saddam Hussein has ordered 50 of these. I don't think there is a need for 50 lithotriptors in Iraq, frankly. We want to be careful about the export of items that are available on the market. Any hospital can buy a lithotriptor if they have enough money. They are available. By now I am sure there are more companies than just the one German company that make them. These are items that can be acquired. They have dual-use capabilities.

In the granting of an export license on this kind of product, you have to be careful that it is not used for military purposes.

It may be that the example I used isn't technically correct in the way the bill would work, but I think I make my point.

The bill has a provision in it which says that if a company to which you sell, let's say a company in China, uses this product improperly, or they don't let you inspect to see where they have used it to verify that the shipment went to where it was supposed to go, then the Secretary shall cut that company off from further exports; they can't buy anything else from the United States.

But since countries such as China have established a rather gray relationship between the Government and businesses, there also needs to be a way of making the same point with the Government of China or any other government.

I am not trying to pick on China. There happen to be some very egregious examples of the Government of China right now not living up to agreements or post-shipment verification. We need to have some kind of enforcement mechanism in a country such as China as well. I proposed that we have the same kind of provision and say if the Chinese Government won't permit a post-shipment verification, then the Secretary shall stop such exports until

they begin to comply. Well, supporters of the bill said, ''That is too drastic; why don't you say 'may' so that the Secretary has total discretion?'' I was willing to do that. That would have been the simplest way to solve the problem.

That is something I would like to offer in the spirit of cooperation with my friend Phil Gramm, who said, ''Let's try to work a few of these things out; since we know the bill will pass, you can make it marginally better.'' So we sat down with him. Frankly, the language we are offering is not what I would have personally offered, but it is acceptable to him and it marginally makes the bill better. I will read it and offer it. It is simple. It says: If the country in which the end user is located refuses to allow post-shipment verification of a controlled item, the Secretary may deny a license for the export of that item, any substantially identical or directly competitive item or class of items, any item that the Secretary determines to be of equal or greater sensitivity than the controlled item, or any controlled item for which a determination has not been made pursuant to section 211 to all end users in that country until such post-shipment verification is allowed.

That latter reference to section 211 has to do with the item subject to foreign availability. It would have been simpler to say the Secretary may deny a license for any item on the list until post-shipment verification is allowed by the country in question. Total discretion of the Secretary would have been easier. We have created jobs for lawyers now. I am not necessarily against that, but when we have terms such as this in the statute, we are going to have litigation on what it means. It would have been easier to do it the other way. But this is the language I will offer. The Secretary, at least with respect to some items on the control list, can say to a country such as China, for example: Until you are willing to allow post-shipment verification of items A and B, which you already have, then we are not going to grant a license on items X, Y, and Z. They can pick what those items are if they so choose.

In closing, I will give examples of what would happen to illustrate the need for this particular provision. In 1998, very recently, China agreed to allow post-shipment verification for all exports. They signed an agreement. But the Cox Commission issued its report and deemed the terms of the agreement wholly inadequate, from the U.S. point of view, to ensure that these verifications really occur.

The amendment I proposed is designed to try to fill a void the Cox Commission identified in the U.S.-China agreement. For example, the Commission's report discusses a number of weaknesses in the agreement as it relates to the export of high-performance computers. According to the Bureau of Export Administration, out of 857 high performance computers that have been shipped to China, only 132 post-shipment verifications have been performed. Some of these have been outstanding for a long time. First you get foot-dragging, and then you get a ''no.'' On other occasions they say: If you allow us to do the post-shipment verification, that ought to suffice. But, of course, it does not. These items would not necessarily be subject to the terms of this section, although they might. I think it illustrates the nature of the problem that exists if you don't have an enforcement mechanism. You have to have the will to enforce.

I think there will be great questions as to whether or not the Secretary, in the exercise of his discretion, is going to be willing to deny a license to an American company which, after all, hasn't done anything wrong and is simply trying to make a buck, in order to get China to enforce the limitation. Let me respond to that point.

Any American company which understands that the item it is wanting to export to a third-tier country, countries of concern here, has dual-use capability has to exercise some responsibility. I think it has to take some of the consequences of the person to whom it is exporting not being willing to guarantee that the item is going to be used for appropriate purposes.

So I don't think you can make the case that all we are doing here is potentially punishing American businesses that are totally innocent and therefore we should not really be very forward-leaning in the enforcement of this section.

The fact is that any American business worth its salt should want to ensure that the terms of the export license are being complied with. It doesn't want to sell dual-use technology to a country that could use it against us militarily. It ought to be willing to ensure that the verification of the end user has in fact been established and enforced.

So it seems to me there is no argument that all we are doing here is hurting American businesses. Any American business would have the same interest as the U.S. Government in ensuring that the end user is in fact who it is supposed to be, both from a national security standpoint and being able to make future exports.

There has even been an idea advanced, that I think has some merit, which would put all of the burden on American business. It would basically privatize this enforcement and say the Government is going to get out of this business; it cost a lot of money, and we have trouble getting in the door to verify these things. Private industry, in effect, has to certify that the item it sold abroad went to the user that filled out on the form the certificate. And if the company isn't willing to verify that, or isn't able to certify it under penalty of some financial detriment here in the United States, then it is going to become much more careful about to whom those items are sold and how the post-shipment verification is actually implemented.

So my suggestion to American businesses is, if you really want to continue to be able to export, then help us work out a system that ensures that these items you are exporting, which have a dangerous potential use, get to the proper people and are not misused. If you are not willing to help us do this and if you are going to argue against enforcement of a section such as this, then something worse could happen. You could have the enforcement responsibility put on your shoulders. And if you are not able to certify that it went to the right place, you are not going to be able to make exports in the future. Everybody should have an interest in making this work.

Let me close with a note about some testimony that verified the need for this. David Tarbell, Deputy Under Secretary of Defense for Technology Security Policy, testified in July at a hearing before the House International Relations Committee regarding the right to perform post-shipment verifications. He very diplomatically said:

> The Chinese government has been unwilling to establish a verification regime and end-use monitoring regime that would get all of the security interests that we are interested in to ensure that items that are shipped are not diverted.

Impressed further by Chairman HYDE about whether the post-shipment verification regime is a failure, Secretary Tarbell delicately said:

> I am not sure I would characterize it as a complete failure, but it is close to it. It is not something I have a great deal of confidence in.

The point here is to create something that we do have confidence in, that we know would work, that we can enforce and ensure the safety and security of the United States in the future, knowing we have not allowed the wrong people to get the wrong things into their hands in a way that comes back against the United States in a military way.

Therefore, I urge my colleagues to support the amendment I have offered and which has the concurrence of Senators GRAMM and ENZI and, I believe, the Senator from Maryland, Mr. SARBANES.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Again, we appreciate the participation in the 59 changes before and now this change. It shows the level of detail in which Senator THOMPSON and Senator KYL have approached this bill. We appreciate this change. We are willing to accept it.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 1529) was agreed to.

Mr. SARBANES. Madam President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THOMPSON. Madam President, I ask the Senator from Maryland if we may make a brief statement as to our understanding on the second letter we have discussed. That will complete our business, I believe.

Mr. SARBANES. Certainly.

Mr. THOMPSON. Madam President, this has to do with commodity classification. We have had some concern that when people in the business of exporting items come into the Department of Commerce and they get a different classification for a commodity—in other words, something might be subject to license and they believe it should not be subject to license anymore—they can come in and get that consideration. That is appropriate. That needs to be done, but it needs to be done in a manner which protects the Government and the country's interest from a national security standpoint.

The executive branch has traditionally dealt with this issue through interagency agreements. We think they need to be updated. The existing agreement is 5 years old and needs to be updated to create an increased role for the Departments of Defense and State.

Both the opponents and supporters of this legislation will send a letter to the administration requesting the issuance of a new Executive order on commodity classification to ensure the participation of the National Security Agency. We believe that with regard to many of these issues, as the administration is trying to staff up and with our discussions with them and among each other, we have realized just how outdated the existing agreement is. We are going to send a letter to them to bring this to their attention further, and suggest they issue an Executive order.

We assume this will be done in an appropriate manner, and we will not have to take additional action. That option, of course, is always there. Pending that, we think this is an appropriate way to proceed.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I thank the Senator from Tennessee again for his emphasis. It is important that there be updates on the different procedures, particularly the ones that are done through memos of understanding between the agencies.

We appreciate the willingness of the Senator from Tennessee to allow that to continue to be done that way so there is more flexibility to react to current crises under that kind of ability. We have prepared a letter to that effect, and we will be sending it.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Madam President, one final note. We have had some discussion in this Chamber concerning the possibility of an amendment that would create a so-called blue ribbon commission to address additional concerns as to how our export policies might be affecting national security. I believe it is fair to say, not having heard from my other colleagues on this issue, that we have not been able to reach agreement with regard to that.

Without a doubt, we will continue to work together among ourselves to try to agree on the composition of such a commission. I think we all agree the concept is a good idea, and that we ought to take a long impassioned look at what we are doing. We will continue to work on that, but for right now I believe we can take that off the table.

That concludes our comments on the bill in terms of these amendments.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I thank the distinguished Senator from Tennessee for his very positive and constructive contributions throughout.

AMENDMENT NO. 1530

Mr. SARBANES. Madam President, I send a managers' amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Maryland [Mr. SARBANES], for himself, Mr. GRAMM, Mr. ENZI, and Mr. JOHNSON, proposes an amendment numbered 1530.

Mr. SARBANES. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 193, line 10, strike ''party'' and insert ''person''.

On page 193, line 16, strike ''party'' and insert ''person''.

On page 205, line 7, after ''competition'' insert '', including imports of manufactured goods''.

On page 222, line 6, strike ''Crime'' and insert ''In order to promote respect for fundamental human rights, crime''.

On page 223, line 3, strike ''The'' and insert ''Except as herein provided, the''.

On page 223, line 9, after the period, insert the following: ''The provisions of subsection (a) shall apply with respect to exports of any of the items identified in subsection (c).''.

On page 223, between lines 9 and 10, insert the following:

(c) REPORT.—Notwithstanding the provisions of section 602 or any other confidentiality requirements, the Secretary shall include in the annual report submitted to Congress pursuant to section 701 a report describing the aggregate number of licenses approved during the preceding calendar year for the export of any items listed in the following paragraphs identified by country and control list number:

(1) Serrated thumbcuffs, leg irons, thumbscrews, and electro-shock stun belts.

(2) Leg cuffs, thumbcuffs, shackle boards, restraint chairs, straitjackets, and plastic handcuffs.

(3) Stun guns, shock batons, electric cattle prods, immobilization guns and projectiles, other than equipment used exclusively to treat or tranquilize animals and arms designed solely for signal, flare, or saluting use.

(4) Technology exclusively for the development or production of electro-shock devices.

(5) Pepper gas weapons and saps.

(6) Any other item or technology the Secretary determines is a specially designed instrument of torture or is especially susceptible to abuse as an instrument of torture.

On page 226, line 8, insert ''and'' after ''title;''.

On page 226, strike lines 9 through 22 and insert the following:

(ii) upon receipt of completed application—

(I) ensure that the classification stated on the application for the export items is correct;

(II) refer the application, through the use of a common data-base or other means, and all information submitted by the applicant, and all necessary recommendations and analyses by the Secretary to the Secretary of Defense, the Secretary of State, and the heads of any other departments and agencies the Secretary considers appropriate; or

(III) return the application if a license is not required.

On page 296, line 13, strike ''parties'' and insert ''persons.''

On page 296, line 11, after ''necessary'' insert '', to be available until expended,''.

On page 296, line 20, after ''necessary'' insert '', to be available until expended,''.

On page 297, line 20, after ''$5,000,000'' insert '', to be available until expended,''.

On page 298, line 12, after ''necessary'' insert '', to be available until expended,''.

On page 300, line 12, after ''$2,000,000'' insert '', to be available until expended,''.

On page 300, line 14, after ''$2,000,000'' insert '', to be available until expended,''.

On page 311, strike lines 2 through 4 and insert the following:

''other export authorization (or record-keeping or reporting requirement), enforcement activity, or other operations under the Export Administration Act of 1979, under this Act, or under the Export''

On page 311, line 14, insert ''by an employee or officer of the Department of Commerce'' after ''investigation''.

On page 315, strike lines 6 through 10 and insert the following: (1), except that no civil penalty may be imposed on an officer or employee of the United States, or any department or agency thereof, without the concurrence of the department or agency employing such officer or employee. Sections 503 (e), (g), (h), and (i) and 507 (a), (b), and (c) shall apply to actions to impose civil penalties under this paragraph. At the request of the Secretary, a department or agency employing an officer or employee found to have violated paragraph (1) shall deny that officer or employee access to information exempt from disclosure under this section. Any officer or employee who commits a violation of paragraph (1) may also be removed from office or employment by the employing agency.

On page 315, line 11, insert the following:

SEC. 603. AGRICULTURAL COMMODITIES, MEDICINE, MEDICAL DEVICES.

(a) APPLICABILITY OF TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000.—Nothing in this Act authorizes the exercise of authority contrary to the provisions of the Trade Sanctions Reform and Export Enhancement Act of 2000 (Public Law 106–387; 114 Stat. 1549, 549A–45) applicable to exports of agricultural commodities, medicine, or medical devices.

(b) TITLE II LIMITATION.—Title II does not authorize export controls on food.

(c) TITLE III LIMITATION.—Except as set forth in section 906 of the Trade Sanctions Reform and Export Enhancement Act of 2000, title III does not authorize export controls on agricultural commodities, medicine, or medical devices unless the procedures set forth in section 903 of such Act are complied with.

(d) DEFINITION.—In this section, the term ''food'' has the same meaning as that term has under section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)).

On page 318, on line 2, strike ''and''.

On page 318, on line 3, insert after ''(15)'' the following: ''a description of the assessment made pursuant to section 214, including any recommendations to ensure that the defense industrial base (including manufacturing) is sufficient to protect national security; and'' and redesignate paragraph 15 accordingly.

On page 324, strike lines 1 through 4 and redesignate paragraphs (14) and (15) accordingly.

Beginning on page 324, line 21, strike all through page 325, line 5, and insert the following:

(j) CIVIL AIRCRAFT EQUIPMENT.—Notwithstanding any other provision of law, any product that is standard equipment, certified by the Federal Aviation Administration, in civil aircraft, and is an integral part of such aircraft, shall be subject to export control only under this Act. Any such product shall not be subject to controls under section 38(b)(2) of the Arms Export Control Act (22 U.S.C. 2778(b)).

On page 325, between lines 5 and 6, insert the following:

(k) CIVIL AIRCRAFT SAFETY.—Notwithstanding any other provision of law, the Secretary may authorize, on a case-by-case basis, exports and reexports of civil aircraft equipment and technology that are necessary for compliance with flight safety requirements for commercial passenger aircraft. Flight safety requirements are defined as airworthiness directives issued by the Federal Aviation Administration (FAA) or equipment manufacturers' maintenance instructions or bulletins approved or accepted by the FAA for the continued airworthiness of the manufacturers' products.

On page 325, line 6, strike ''(k)'' and insert ''(l)''.

Mr. SARBANES. Madam President, the managers' amendment consists of provisions intended to clarify, correct, and improve the bill.

Section 211: This provision amends the term ''interested party'' in Section 211 (foreign availability and mass market status) to ensure its consistency with terms used in the rest of the bill. Sections 205, 302, and 307 all refer to ''interested person(s)''. The managers' amendment corrects the references in Section 211 by replacing ''interested party'' with ''interested person''.

Sections 214 and 701: This provision clarifies the duties of the Office of Technology Evaluation. Section 214 of the bill establishes an Office of Technology Evaluation to analyze information and provide assessments for use in export control policy. The managers' amendment clarifies that when assessing the effect of foreign competition on critical US industrial sectors, the Office is to consider imports of manufactured goods. It also modifies Section 701 (annual report) to ensure that the Commerce Department's annual report to Congress includes a description of such assessments. The managers worked closely with Senator HOLLINGS to include this provision.

Section 311: The next provision modifies Section 311 (crime control instruments). Section 311 preserves authority contained in existing law (Section 6(n) of the Export Administration Act of 1979) to ensure that crime control and detection instruments and equipment may be exported only subject to an export license. The managers' amendment further provides that any item or technology that the Secretary of Commerce determines is a specially designed instrument of torture or is especially susceptible to abuse as an instrument of torture can be exported only pursuant to an individual export license. In addition, the Annual Report of the Bureau of Export Administration must describe the aggregate number of licenses approved during the preceding calendar year for the export of any such items by country and control list number. This provision was included in the Managers Amendment at the request of Senators LEAHY and BIDEN.

Section 401: The next provision makes a technical correction to Section 401 (export license procedures). Section 401 requires Commerce to take four actions—hold incomplete applications, refer applications to other agencies, confirm commodity classification, and return application—at the beginning of the license review process. As drafted, however, some of these actions are mutually incompatible (for example, Commerce cannot hold an incomplete application while simultaneously referring the application to another agency). The managers' amendment revises the language to correct this inadvertent incompatibility.

Section 506: This provision amends the term ''interested parties'' in Section 506 (enforcement) to ensure its consistency with terms used in the rest of the bill. Sections 205, 302, and 307 all refer to ''interested person(s)''. The managers' amendment corrects the references in Section 506 by replacing ''interested parties'' with ''interested person''.

Section 506: The next provision makes technical amendments to Section 506. Sections 506(h), (i), (l), and (o) all contain funding authorizations for personnel or activities of the Bureau of Export Administration. The managers' amendment clarifies that the funding is to remain available until expended.

Section 602: This provision clarifies a provision in Section 602 (confidentiality of information). Section 602 outlines the treatment of confidential information obtained after 1980. The managers' amendment clarifies that the provision applies to not only to information obtained through license applications, but to information obtained through enforcement activity or other EAA operations.

Section 602: This provision further clarifies Section 602 (confidentiality of information). Section 602 provides that information obtained through licenses, classification requests, investigations, treaty, or the foreign availability/mass-market process shall be kept confidential unless its release is in the national interest. It goes on to provide penalties against those who violate this prohibition. The managers' amendment makes three changes: it (1) clarifies the investigations referred to are those carried out by Department of Commerce officials; (2) ensures that penalties on violators are imposed with the agreement of the violators' employing agency; and (3) allows violators to be denied further access to confidential information and to be removed from office.

Section 603: The next provision adds a technical provision relating to the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA). TSRA established restrictions on sanctions dealing with agricultural commodities, medicine, and medical devices. The managers' amendment adds a new Section 603 that is intended to hold TSRA harmless by (1) ensuring that no authority in this Act may be exercised contrary to TSRA; (2) clarifying the limitations on national security controls; and (3) clarifying the application of TSRA procedures to foreign policy controls. Senators ROBERTS and DAYTON were instrumental in crafting this language, and worked with bill managers to perfect the text.

Section 702: This provision corrects a technical reference in Section 702 (technical and conforming amendments). As drafted, the reference would have affected the Forest Resources Conservation and Shortage Relief Act of 1990. The managers' amendment removes the reference and thus any inadvertent impact on the Forest Resources Act.

Section 702: The next provision corrects a drafting error in Section 702 (technical and conforming amendments). Section 702(j) preserves authority contained in existing law (Section 17(c) of the Export Administration Act of 1979) to ensure that standard civil aircraft products remain subject to the EAA. As drafted, Section 702(j) inadvertently departed from current law by breaking the original paragraph into subparagraphs. Because this structure could cause confusion in interpretation, the managers' amendment returns the text to its original structure.

Section 702: This provision addresses a humanitarian issue. U.S. aircraft manufacturers cannot export critical aircraft safety parts to countries subject to U.S. embargo. Without those parts, the planes may crash, with terrible humanitarian implications. A presidential waiver to export such parts is available, but is rarely invoked and takes years. The managers' amendment provides that exports of civil aircraft equipment to comply with flight safety requirements for commercial passenger aircraft may be authorized on a case-by-case basis. Senators DODD, BOND, MURRAY, and ROBERTS expressed particular interest in addressing this problem.

Mr. ENZI. Madam President, the managers' amendment to S. 149 adds a new provision to address a pressing humanitarian issue: flight safety.

U.S. aircraft manufacturers have sold commercial passenger aircraft internationally since the 1950s. Moreover, some European-made commercial aircraft are made with U.S. components. As a result, U.S. aircraft are used widely around the world.

The safe operation of these aircraft depends on the replacement of worn parts, repair of unsafe components, and receipt of technical bulletins and airworthiness directives. These parts, services, and information are highly specialized, and often are available only from the original manufacturer.

Over the years, several nations that operate U.S.-made aircraft, or European-made aircraft that incorporate U.S. parts, have become subject to U.S. embargo. As a result, U.S.-made aircraft items cannot be exported to those countries. This poses a significant threat to the safe operation of those airplanes. Without replacement parts, repair, and technical information, the planes literally may fall out of the sky, with terrible humanitarian implications for passengers and those on the ground. We all remember with horror the terrible 1992 crash, resulting from a failed part, of an El–Al plane into an Amsterdam apartment complex. All 4 crew and an estimated 70 Amsterdam residents were killed. The risks are real for U.S. citizens traveling to embargoed countries, or making up part of United Nations delegations. Citizens of U.S. allies are at risk. And not least of all, innocent citizens of embargoed countries are particularly vulnerable.

Under current law, the administration has some flexibility to allow flight safety exports to nations such as Sudan and Syria. However, exports to Iran or Iraq require a presidential waiver—a process that takes years and is rarely invoked. The difficulty of obtaining such a waiver has meant that U.S. manufacturers cannot provide critical flight safety parts or information to those nations.

The managers' amendment addresses this humanitarian issue while retaining the integrity of the embargo. It provides that aircraft equipment exports to comply with safety requirements for commercial passenger aircraft may be authorized on a case-by-case basis. It is tightly circumscribed: it applies only to parts for civil aircraft used for commercial passengers, and it requires a case-by-case analysis.

Senators DODD, BOND, MURRAY, and ROBERTS are keenly interested in this provision and should be commended for addressing this critical humanitarian problem.

Mr. SARBANES. Madam President, this managers' amendment has been carefully worked over. I do not think there is any matter of controversy in it. I am prepared to go to adoption of the managers' amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 1530.

The amendment (No. 1530) was agreed to.

Mr. SARBANES. I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SARBANES. Madam President, we are prepared to go to third reading of the bill, and then there are going to be some comments. If we can go to third reading of the bill.

Mr. THOMPSON. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Madam President, I simply want to make a closing statement on this important bill. I begin by thanking the chairman of the committee, Senator SARBANES, for his leadership, and Senator JOHNSON for the work, they have done on the bill. I especially want to thank Senator ENZI for his indispensable leadership on this bill; it is no understatement to say that we would not be here today were it not for Senator ENZI's leadership on this bill for the past two years.

I have had the privilege of serving in the Senate now going into my 18th year, and I have never seen a Senator do the things Senator ENZI has done on this bill—in terms of being willing to meet the various agencies involved in export administration, sitting for endless hours and watching how the process works, and doing something we seldom do in this line of work: learn how the process works practically. We are often not willing to spend the time or get our hands dirty. The quality of the bill before us is due in very large part to Senator ENZI, and I want to publicly and personally thank him for his leadership. It sets a new standard for what a Senator ought to be in terms of hard work behind the scenes, getting the facts, understanding the mechanism. We like to deal with theory and leave the practical matters up to somebody else. That is not the way Senator ENZI does business.

I thank our two colleagues, Senator THOMPSON and Senator KYL. Maybe people listening to this debate wonder why I would thank them, given that we have some fundamental disagreements, but good law is made by basically trying to accommodate people who do not agree with you while maintaining your principles. I think, quite frankly, they have improved the bill.

Counting the two changes that Senator SARBANES, Senator ENZI and I agreed to this morning, we have made 61 changes in this bill in trying to build a consensus. I believe the product we have produced is a quality product, it will stand the test of time, and it will work.

The points I want to make are: In listening to some of the critics, one may have gotten the idea that somehow this bill lessens our commitment to national security. We have an apparent conflict in America between our desire to produce and sell items that embody high technology, and we want to produce and sell them because the country that develops new technology creates new jobs and creates the best jobs.

So, while we want to be the world leader in that technology, we have a conflicting goal in wanting to prevent would-be adversaries and dangerous people from getting technology that can be used to harm us or to harm our interests. That is what this bill is about.

Today, 99.4 percent of the applications for a license are granted. When a process is saying ''yes'' 99.4 percent of the time, it is a nonsense process.

We have about 10 times as many items on this controlled list as we should have. We need to build a higher fence around a smaller number of items, and when people knowingly violate the law and transfer this technology we ought to come down on them like a ton of bricks.

Under this bill, the penalties can run into the tens of millions of dollars and people can end up going to prison for life. Those are pretty stiff sentences.

We have put together an excellent bill. It represents a compromise between two competing national goals. It is legislation at its best. Many times we claim bipartisanship on bills when they really are not totally bipartisan. This bill is about as bipartisan as anything we have ever done on the Banking Committee since I have been in the Senate, and I think it represents good law.

It is supported by the President. We have some 80 Members of the Senate who have voted basically to maintain the position. I am very proud of it, and I commend it to my colleagues. This is a good bill we can be proud of.

I am ready to vote, and I yield the floor.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Nevada.

Mr. REID. Mr. President, we are now in agreement on the unanimous consent request I will now propound.

I ask unanimous consent that a vote on final passage of S. 149 occur at 4:00 p.m. today, with rule 12, paragraph 4 being waived; that no substitute amendments be in order; that the committee substitute amendment be agreed to; the motion to reconsider be laid upon the table, and that the time until 4:00 be divided between the majority and minority for morning business, with the exception of 8 minutes prior to the 4:00 p.m. vote, which would allow Senators ENZI, GRAMM, SARBANES, and THOMPSON each to have 2 minutes prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. THOMPSON. Reserving the right to object.

Mr. REID. If the Senator would withhold, our able staff indicated I misread

this. It is right before my eyes, so if I could just repeat this.

The vote will occur at 4:00 p.m. today, with rule 12, paragraph 4 being waived; that no other amendments be in order; that the committee substitute amendment be agreed to; the motion to reconsider be laid upon the table; the time until 4:00 p.m. be divided between the majority and minority for morning business, with the final 8 minutes prior to 4:00 p.m. being allotted to Senators ENZI, GRAMM, SARBANES, and THOMPSON each allowed to speak 2 minutes prior to the vote on the bill.

Mr. THOMPSON. Mr. President, reserving the right to object, I do believe it would be appropriate to divide the final few minutes equally between the proponents and the opponents.

Mr. REID. That would be very fine. So what we say is 4 minutes for the opposition and 4 minutes for those propounding passage of the legislation be divided equally.

Mr. THOMPSON. Further, I want to take a few minutes right now in morning business or as a part of this UC, either one.

Mr. REID. I say to my friend that will be certainly appropriate. We will get this unanimous consent request agreed to and the Senator can have lots of time. Senator TORRICELLI wants 15 minutes, but we will be glad to wait until the Senator from Tennessee has completed his statement.

Mr. THOMPSON. That is satisfactory to me.

The PRESIDING OFFICER. Is there objection to the request as modified? Without objection, it is so ordered.

The PRESIDING OFFICER. The committee substitute, as amended, is agreed to and the motion to reconsider is laid upon the table.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mrs. FEINSTEIN. Mr. President, I rise today in support of the Export Administration Act of 2001 and urge its passage.

Congress has not reauthorized the Export Administration Act on a permanent basis since 1990, and for close to a decade the export of dual-use goods—items with both civilian and possible military applications—have been governed in an ad hoc way by the President using Executive orders under the International Emergency Economic Powers Act and without a comprehensive regime in place to monitor exports.

Such an approach creates obvious problems in trying to assure that the proper balance is struck between the need of U.S. businesses to be competitive in the international economy and the need to prevent sensitive technologies that have military applications from falling into the wrong hands.

The Export Administration Act will allow the U.S. government to effectively focus attention and exert control over sensitive technologies that have military implications, improve the export control process, and enhance national security.

The major provisions of the Export Administration Act of 2001 will:

Give the President the power to establish and conduct export control policy, and direct the Secretary of Commerce to establish and maintain the Commerce Control List of items that could jeopardize U.S. national security and to oversee the licensing process for items on the Control list.

Authorize the President to impose national security controls to restrict items that would contribute to the military potential of countries in a manner detrimental to U.S. national security, directing the Secretary of Commerce, with the concurrence of the national security agencies and departments, to identify items to be included on a National Security Control List. This strengthens the hand of the national security agencies in the export licensing process by giving them for the first time a formal procedure by which to be involved in this process.

Provide specific control authority based on the end-use or end-user for any item that could contribute to the proliferation of weapons of mass destruction.

Authorize the President to set aside ''foreign availability'' or ''mass-market'' determinations in the interests of national security, and establish an Office of Technology Evaluation to gather, coordinate and analyze information necessary to make to these determinations.

Establish procedures for the referral and processing of export license applications, and establish an interagency dispute resolution process to review all export license applications that are the subject of disagreement.

Declare it U.S. policy to seek and participate in existing multilateral export control regimes that support U.S. national security interests, and to seek to negotiate and enter into additional multilateral agreements. Given the wide availability of some of these dual-use items, multilateral agreements are critical to assure that they do not fall into the wrong hands.

Establish new criminal and civil penalties for knowing and willful violations of the export procedures.

By streamlining and bringing transparency to the licensing process this legislation, then, strikes a good balance between assuring that the export licensing process is good for trade, the U.S. economy, and jobs, and national security concerns.

This legislation is supported by the President and has been endorsed by the Secretary of Defense, by the Secretary of State, and by the President's National Security Adviser. It also has the support, I believe, of the majority of my colleagues.

Mr. President, I urge the Senate to move forward with passage of the Export Administration Act.

Mr. BINGAMAN. Mr. President, I rise today in strong support of S. 149, the Export Administration Act of 2001. From my perspective, consideration of this legislation is long overdue. Congress has extended the Export Administration Act on a temporary basis since 1984, and in doing so has completely ignored the extraordinary changes in technology that have occurred in that timeframe. Current export control policy, formulated during the Cold War several decades ago, no longer fits either the current global context or our specific national security needs. It is time to bring U.S. law into conformity with international reality.

Over the past year I have been involved in two high-level advisory panels that have carefully examined the existing U.S. export control regime. The first was a study group focusing on Enhancing Multilateral Export Controls for U.S. National Security, and was sponsored by the Henry L. Stimson Center and the Center for Strategic for International Studies. The second consisted of two study groups, one on Technology and Security in the 21st Century and one Computer Exports and National Security, sponsored entirely by the Center for Strategic for International Studies. Each of these groups concluded that existing export control policy and procedures are outdated, unsound, ineffective, unrealistic, and counterproductive. Taken as a whole, they impede coordination between the U.S. government agencies responsible for export control policy, they hinder our efforts to cooperate with our most important allies, they ignore the new threats and opportunities in the international system, they expend significant human and financial resources insulating easily available technologies, they limit the ability of our best companies to innovate and compete and, in the final analysis, they harm our military and commercial national security interests.

The studies I have mentioned offered a range of extremely important policy recommendations, but fundamental to them are three important overarching conclusions, all of which are relevant to the debate at hand.

The first conclusion is that globalization has resulted in what the Defense Science Board has previously called a ''leveling'' of access to technology and the capacity of the United States to obtain and control technologies critical to its national interest. This concept suggests that access to commercial technology is now universal, and its use for both commercial and military ends is largely unconstrained. Enabling technologies necessary for modern warfare, examples being semiconductors, computer hardware and software, simulation and surveillance devices, advanced telecommunications, and so on, are available to nearly any country that wishes to access them, ally and adversary alike. The result of these changes is an export control regime that is, to quote the Defense Science Board, ''for all practical purposes ineffective at manipulating global access to dual-use technology and . . . only marginally more successful in the conventional

weapons arena.'' This is the context within which we debate export control reform today, and these are the changes that the proposed legislation is trying to address.

The second overarching conclusion is that is that we need to put higher fences around much smaller, but more critical, sets of technologies. Because access to advanced technology and technical capabilities have spread so widely and because research and development is now global in nature, it is time that we focus our efforts at export control on limited technologies that directly affect our national security. In particular, we should concentrate on protecting and developing the software and databases that sustain and strengthen our military superiority. The primary objective in the current export control regime is to prevent potential adversaries from obtaining technological components that would allow them to develop weapons systems and manage warfare in a more effective fashion. Unfortunately, this objective is still considered rational, this in spite of the radical changes that have occurred in the international political economic environment. Commercial computers that can be obtained online or through retail outlets can now perform the vast majority of battlefield applications. As a result, a coherent and compelling argument can be made that we need to concentrate on controlling the technologies that will allow advanced components to be integrated into effective systems. This should be one of our primary considerations as we reconsider export control, and this is one of the goals the proposed legislation is trying to achieve.

The final overarching conclusion is that it is time that we begin creating a new international framework that will allow more effective export control between the United States and its allies. Changes in advanced technology and the global environment has undercut or weakened existing agreements, and we must begin creating a foundation upon which new cooperative mechanisms can be established. In the recent past, much of this required change has been blocked by the United States, the primary reason being that its export control system was based on measures, computer MTOPS being the most salient example, that are no longer relevant in the current international environment and are not adhered to by our allies. Regulatory reform in the United States must occur before new international frameworks can be established, and this is one of the goals the proposed legislation is trying to address.

There are those among my colleagues who would argue that even if the international system has changed to this extent, even if globalization has changed the international equation, the United States has a moral obligation to limit access to certain key technologies for a specific group of countries. The example used most frequently on the Senate floor is China, but certainly other countries could be inserted in its place.

Let me state here that I would not disagree that certain countries should be singled out as potential threats to the United States and technology limited to the extent that it is feasible to do so. But the proposed legislation accomplishes this objective. The arguments on the Senate floor that the proposed legislation somehow diminishes our capacity to control sensitive and critical technologies is specious at best. On the contrary, many levels of restrictions remain in place to protect U.S. national security interests. What the proposed legislation does do is provide the U.S. government with the flexibility and focus to address concerns over advanced technology and adapt to changes in the current international environment.

It is time that we change our anachronistic system of export control. This legislation reflects several years of hard work on the part of my colleagues, and I believe it represents a balanced and strategic approach to the problems at hand. The legislation was voted out of the Banking Committee by a 19–1 vote. As the statements on the floor will attest, the legislation has the bi-partisan support of most of the Members of the Senate. President Bush supports it, as does all the relevant officials in his Administration. President Clinton supported it, as did all the relevant officials in his Administration. It is supported by a broad range of organizations, many of which are led by key officials from previous Democratic and Republican Administrations.

However, with that said, I find it disappointing that the legislation has not addressed the important issue of U.S. commercial satellites and space-related component exports. The Defense Authorization Act for FY 1999 moved responsibility for export licensing of these items from the Department of Commerce to the Department of State. By doing so, communications satellite and space-related items were placed on the U.S. Munitions List, effecting a crippling blow to the U.S. aerospace industry. It makes timely deliveries to overseas customers and our allies nearly impossible, and excludes commercial satellite sales from competitive rate financing offered by the Export-Import Bank. While our U.S. companies may find themselves hard-pressed to find institutions to provide reasonable financing for foreign customers, their competitors may not. Last year, the Aerospace Industries Association claimed satellite exports had fallen over 40 percent in the period from late 1999 to early 2000, and the forecast was for the trend to get continually worse. I certainly hope this issue is addressed in the upcoming conference.

We have examined the issue of export control many times over. It is time to recognize the importance of export control reform to the national interest of the United States and pass this legislation.

Mr. LEAHY. Mr. President, I want to express my support for S. 149, the Export Administration Act of 2001. I want to commend Senators SARBANES, GRAMM, JOHNSON, and ENZI for crafting a balanced, bipartisan bill that brings long-overdue clarity to the regulation of dual-use exports. This bill removes several unnecessary restrictions on exports that only hinder international trade, puts in place a system to track and license those technologies that have the potential to impact national security, and establishes realistic penalties and sanctions for violations of these regulations.

I am pleased that the managers of the bill have accepted the amendment that Senator BIDEN and I proposed that will place controls on the export of items that are used to perpetrate acts of torture. The ''torture trade'' is a critical problem that has received too little attention from policymakers, the public, and the press. Too often, companies have exported items, apparently designed for security or crime control purposes, that are actually used to torture people by some of the most inhumane methods imaginable. Amnesty International reports that, over the past decade, more than 80 U.S. companies have been involved in the manufacture, marketing, and export of these types of items, like thumbscrews and electro-shock stun belts, which have been used to commit human rights abuses around the world.

The Leahy-Biden amendment is a modest step to improve the transparency, oversight, and accountability associated with the trade in these items. It builds on existing regulations and requires a license, subject to the approval of the Secretary of Commerce and the concurrence of the Secretary of State, before such items can be exported. It also contains an annual reporting requirement to disclose the aggregate number of licenses to export these items that were granted during the previous year.

This amendment is designed to make sure that certain goods and technologies are not used to commit acts of torture and other human rights abuses. While our amendment moves us in the right direction, I recognize that more can and should be done. Representatives HYDE and LANTOS have included an amendment in their version of the bill which contains additional protections that could be very helpful in curtailing the torture trade. I strongly urge the conferees to take a serious look at the Hyde-Lantos amendment when determining the final outcome of the Export Administration Act.

Finally, I believe that the Administration should work with other nations to develop strict standards of export controls for these items. I understand that the European Union is in the process of doing this, and our government should encourage and support that effort.

Mr. FEINGOLD. Mr. President, I will oppose the pending legislation to reauthorize the Export Administration Act.

I agree with the bill's proponents and with the Administration that we should have a statutory export control process. I am concerned, however, that the process provided for in this legislation is far too relaxed and could be harmful to our national security—the very security that the EAA is supposed to protect.

I commend the Senator from Tennessee, Mr. THOMPSON, and the Senator from Arizona, Mr. KYL, for their leadership on this important issue.

It is troubling that the debate on this important piece of national security legislation has revolved around what is good for American business rather than on what is necessary to protect the national security interests of this country.

As a number of our colleagues have said during this debate, the purpose of the EAA is not to promote U.S. exports. The purpose of the EAA is to protect the national security of the United States, which may mean barring certain types of sensitive technology from being exported. I fear that this bill tips the scale dangerously in favor of expanded commerce at the expense of our national security.

I disagree with the argument put forth by some during this debate that the foreign availability and mass market provisions included in this bill are key to ensuring that American companies can compete in the foreign market. Just because other countries choose to make a dual-use product available to international buyers does not mean the United States should as well. We should do everything we can to stem the flow of potentially dangerous dual-use technology around the world. We should not use the questionable export decisions of other countries to justify selling products that could be used to harm our country.

There is nothing wrong with having a deliberative process for considering applications to export dual-use technologies. I disagree with the contention that so many in the affected industries have advanced—that the licensing process puts them at a disadvantage because they have to wait for the licensing process to be completed before they can export the technology. This is not a race. And the object of the EAA is not to unduly delay the approval of export licenses. We should consider carefully each license application. I fear that this bill, and in particular its provisions regarding mass market and foreign availability determinations and the export of high performance computers, will have the practical effect of rendering our export control process meaningless.

Supporters of this bill argue that American businesses need the relaxed controls included in this bill in order to compete in the international marketplace. That is not the case. The vast majority of export license applications submitted to the Department of Commerce are approved. The purpose is to ensure that sensitive technology does not fall into the wrong hands.

Other countries look to the United States for guidance on such issues as export controls and non-proliferation efforts. If we relax controls on dual-use items because other countries are selling them, we are following, not leading. Just last week, the United States imposed sanctions on a Chinese company that transferred missile technology to Pakistan. The administration reportedly has told the Chinese Government that one of the conditions to having these sanctions lifted is for the Chinese to develop a system of export controls to regulate the transfer of sensitive technology. It is curious that the Senate is debating relaxing U.S. control of dual-use technology—a move the administration supports—at the same time the administration is calling on the Chinese Government to implement export controls.

I think we have to examine closely all sides of this issue, and again I want to thank Senator KYL and Senator THOMPSON for the outstanding work they have done to bring concerns about this legislation to the fore.

The fact is that there is a great deal of pressure from the super computer industry to pass this legislation. I don't say that to impugn the motives of any Member who supports this bill, because we are having an honest debate here about different points of view. But I do think it's important for the American people to understand who some of the strong supporters of this legislation are, so I would like to take a moment to Call the Bankroll on this issue.

The computer industry has a huge stake in the passage of EAA. They want a relaxation of the export controls on supercomputers, and they are lobbying hard for their cause. And, as is usually the case, lobbying means donating big money, and that means donating soft money to the party committees. In this case, the computer industry gave $20.5 million in soft money during the 2000 election cycle. The industry ranked seventh in overall donations in the last cycle, a meteoric rise for an industry that ranked 55th in donations a decade earlier. This is clearly an industry that has learned how to play the soft money game, and play it well.

I'll just name three soft money donors in the industry who are pushing for passage of EAA:

Unisys Corporation and its executives gave more than $142,000 in soft money in the 2000 election cycle;

Sun Microsystems gave more than $24,000 in soft money during the last cycle; and

United Technologies and its subsidiaries gave a whopping $338,300 in soft money in the 2000 election cycle.

As I said, this is in no way a comprehensive list, since the industry gave more than $20 million in soft money during the last cycle. But I point out these donations now because they are relevant to this debate—and relevant to the way many Americans view this debate, and so many others like it here on the Senate floor.

When wealthy interests are allowed to give an unlimited amount of money to a political party, it makes the American people question us and the work we do. And I can think of few issues where the public might be more disturbed by the potential influence of soft money than an issue like this one, where national and international security are at stake. Whether or not soft money clouds our own judgment, it clouds the public's judgement of each and every one of us.

I want to reiterate my opposition to this legislation. We can and should do more to protect the national security interests of the United States.

I will vote against this bill, and I urge my colleagues to do the same.

Mr. BIDEN. Mr. President, it has been 16 years since the United States Congress last enacted re-authorizing legislation governing our controls on the export of dual-use technology, those items suited for both civilian and military uses. For much of the past 7 years, the President has been forced to exercise emergency powers to maintain dual-use export controls following the expiration of the 1979 Export Administration Act. This temporary exercise of authority has limited the penalties the Federal Government can enforce on export control violators and has opened up existing export controls to a series of legal challenges.

It is high time, therefore, that the Senate act on S. 149, a bill to re-authorize the Export Administration Act. I look forward to the passage of this bill and the creation of a modern system of export controls.

We owe this to U.S. companies, which deserve a rational and predictable framework of export controls. We owe this to our friends and allies, who look to the U.S. export control system as a model in devising their own systems. And, most importantly, we owe this to our national security, we cannot rely forever on an ad hoc system that metes out insufficient penalties and is based on shaky legal ground.

Export controls exist, first and foremost, for reasons of national security. The United States must not export items when the item or the end-user may contribute to the proliferation of weapons of mass destruction, strengthen the military capabilities of those who would oppose us, or otherwise endanger U.S. national security. A comprehensive export control system is just as important to preserving America's freedom and security as a strong military.

But export controls also exist to facilitate the free trade of goods and services, an essential building block of our international economy. The future growth of our economy and a leading global role for U.S. industry require a vital export market.

I think all of us can agree that national security considerations must always come first in devising export controls. We can all agree that such controls should not be so arbitrary as to

stifle legitimate trade. We may differ, however, on where we draw the line in balancing these two opposing considerations.

Export controls can also serve another purpose. They can help reaffirm America's global leadership on human rights. Let me take this opportunity to commend Senators SARBANES and ENZI for accepting an amendment proposed by Senator LEAHY and me in this regard. The managers' amendment to S. 149 will tighten the controls on the export of items expressly designed for torture or especially susceptible to use in torture.

We are talking about items such as stun guns and shock batons, leg cuffs and restraint chairs. Yes, some of these items can have legitimate law enforcement uses and are in fact employed in a manner that does not abuse human rights. That is why this amendment would continue to allow their export, but make them subject to the licensing process and require the specific concurrence of the State Department as well as the approval of the Commerce Department.

The items covered by this amendment are devices that governments around the world too often use in suppressing political dissidents and ethnic opposition. This amendment requires the U.S. government to license each and every export of such items. It will help ensure that the United States does not indirectly contribute to the torture of individuals by engaging in the unlicensed trade of items used for torture. It is my hope that the Commerce and State Departments, working together, will see to it that licensed exports of these items are permitted only to those countries whose governments carry unblemished human rights records.

I once again thank Senators SARBANES and ENZI for accepting this amendment, and especially Senator LEAHY, who is once again a champion of human rights and with whom I am always delighted to work.

During this debate, a group of Senators, led by my good friends Senator THOMPSON and Senator KYL, has led an intense effort against S. 149. They argue that this bill fundamentally favors commercial equities over our national security interests. They are skeptical that the Commerce Department, which is responsible for cultivating U.S. business interests around the world, can play an impartial role in weighing national security considerations.

Truth be told, I have shared some of their concerns. That's why I am pleased that the floor managers have reached a compromise with Senators THOMPSON and KYL. This compromise includes amendments to S. 149 to: 1. enhance the discretionary authority of the Commerce Department to deny export licenses to another country when it is blocking legitimate post-shipment verifications of sensitive exports and 2. tighten the definition of foreign availability determinations which can exempt items from export controls. These changes to S. 149 approved today offer real improvements to this bill.

I plan to vote for S. 149. On the whole, this bill takes the right steps to bring our export controls for dual-use technologies into the 21st century. Is it a perfect bill? No. The House International Relations Committee, in marking up this bill last month, approved dozens of amendments, on a bipartisan basis. I would hope, therefore, to see further improvement of this bill in conference.

But now is not the time for delay on S. 149. The Senate has a duty to pass this legislation and to restore stability and predictability to our export control system for sensitive dual-use technologies.

Mr. WARNER. Mr. President, I rise today to address an issue that is critical to the national security of our Nation: the adequate control of the export of sensitive technologies. I have been active in this debate for the past 2 years, together with Senators HELMS, SHELBY, MCCAIN, THOMPSON, and KYL. We have worked with our colleagues on the Banking Committee, particularly Senators GRAMM, SARBANES, and ENZI, to craft a bill that protects our Nation's security, while at the same time allowing for appropriate commercial activity.

In April, I reluctantly objected to the motion to proceed to S.149, the Export Administration Act. At that time, I thought it was premature for the Senate to consider this bill until we had received detailed information from the Administration on this issue. I believe the Senate is now in a position to act on this important legislation.

I have tried for the past 2 years to work in a conscientious way with all parties to resolve the differences over this legislation. These differences have cut to the very essence of how the United States plans to protect its national security in an era of rapid globalization and proliferation of technology.

My goal in this debate has been to strike the proper balance between national security and commercial interests. As we all know, the high tech industry in the United States is currently second to none. We must ensure our domestic industry remains competitive without limiting access to new markets. Considering the rate at which technology becomes obsolete, being the first to deliver a product to a market is crucial. And while we cannot completely abandon national security concerns in favor of industry, we must not unnecessarily hinder the ability of our high tech companies to compete on the world stage. That is what I believe we have accomplished with this bill.

This is a complicated issue that cuts across the jurisdiction of six Senate Committees. Five Committee Chairmen with responsibility for national security matters in the U.S. Senate have continuously worked to improve this bill—myself as chairman of the Armed Services Committee, Senator SHELBY of the Intelligence Committee, Senator THOMPSON of the Governmental Affairs Committee, Senator HELMS of the Foreign Relations Committee, and Senator MCCAIN of the Commerce Committee. In addition, Senator KYL has been a leading participant in our discussions with the Banking Committee, the committee of primary jurisdiction.

The higher penalties and increased enforcement authority, the authority to require enhanced controls on items that need to be controlled for national security reasons, the requirement for the Department of Commerce to notify the Department of Defense of all commodity classifications are examples of progress made on the national security front.

I have great respect for the tireless efforts and dedication of my distinguished Banking committee colleagues, Senator GRAMM and Senator ENZI, in creating the EAA of 2001. I thank them for meeting with me and others several times throughout the past two years to listen to our concerns with balancing national security matters with economic interests. I hope these concerns will remain a priority for all of us.

In this year's version of the EAA, the Banking Committee has included additional national security protections at the urging of the administration. As the debate on these issues has shown, there were concerns about the last administration's record in protecting some of our vital technology. A new administration is able to look at old problems with a fresh approach. It is in that context that the administration reviewed this bill at the request of myself, Senators MCCAIN, SHELBY, THOMPSON, HELMS and KYL. The National Security Advisor and three cabinet Secretaries were intimately involved in this review. As a result, the administration proposed a series of legislative changes that the Banking Committee has included in the bill that is before us.

Once these changes were made and the administration was actively engaged on the issue, the question then became a technical matter of how the administration would implement the statute. When the Senators expressing concerns regarding this bill were briefed on the results of the administration's review, we were informed that an interagency agreement had been achieved on how the administration would enhance national security controls during the course of implementing the EAA. Under the administration's proposal, we were informed that some national security protection that we had sought in the past would be included in the executive order that implements S. 149. Thus began a dialogue with the administration to come up with a better understanding of how this bill would be implemented.

My past concerns with earlier versions of EAA were based on concerns expressed by the Department of

Defense. Last year, DOD provided the Senate Armed Services Committee with specific legislative changes that were necessary in their judgement to fix last year's EAA bill. This included addressing issues related to a national security carve-out or enhanced controls, commodity classifications, the enhanced proliferation control initiative, and deemed exports.

The Bush administration shares the concerns of the previous administration but has chosen to pursue some needed changes administratively. In this regard, I ask unanimous consent that a copy of a letter I received from Secretary of Commerce Evans be made a part of the legislative record. This letter provides some insight into the administration's interpretation of the bill language and commits the administration to implementing, for example, a ''disciplined and transparent process for escalating and deciding disputes'' on commodity classifications.

I am satisfied with the response that the administration has given me that they can work within the confines of this statute to protect national security. I trust that this administration will be able to do so. The Congress will, however, need to provide diligent oversight to ensure that this administration will conform to the high national security standards that they have set for themselves. When the EAA comes up for renewal in three years time, we may have to be more stringent in putting explicit national security protections in statute rather than leaving it to the discretion of the administration.

I want to thank my colleagues on the Intelligence, Foreign Relations, Commerce and Governmental Affairs Committees. These Members have worked over the last two years to improve this bill and ensure that our national security interests are protected. I know the job isn't finished yet. It has just begun and I will stand with my colleagues to ensure that our export control process is designed and operated to ensure that weapons of mass destruction do not get into the wrong hands.

It is time for the Congress to act on this bill. There is a need to reauthorize the EAA. The national security protections such as the national security carve out, increased penalties for export control violations, and greater visibility for the DOD over commodity classifications are positive steps. We need to lock in these improvements and work to ensure that nonproliferation concerns are protected and strengthened and that vital technology is protected. And we need to allow our domestic industry to compete in the world market without unnecessary and outmoded restrictions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY OF COMMERCE,
Washington, DC, July 31, 2001.

Hon. JOHN WARNER,
U.S. Senate,
Washington, DC.

DEAR SENATOR WARNER: In light of our mutual interest in the Export Administration Act of 2001 (S. 149), I would like to address several issues related to S. 149 that I understand were raised by your staff in a recent discussion with Administration officials.

As you know, the Administration carefully reviewed S. 149. As a result of that review, the Administration recommended a number of amendments to the Senate Committee on Banking, Housing and Urban Affairs which were incorporated into the bill. Accordingly, the Administration strongly supports S. 149. We believe that the bill provides the proper framework for regulating the export of sensitive items consistent with our national security, foreign policy, and economic interests. For your convenience, I have enclosed an analysis that addresses in detail the issues raised by your staff.

I also understand that your staff asked about the Department's response to a recent report by the General Accounting Office (GAO) regarding controls on exports to Canada of items that could contribute to missile proliferation. The Department will shortly issue a proposed rule amending the licensing requirements applicable to exports to Canada. This new rule will address the issue raised by the GAO.

I appreciate your continued interest in the Export Administration Act of 2001. I look forward to working on the passage of this bill to ensure that the protection of national security is given the highest priority in the dual-use export control system process.

If you have any further questions, please call me or Brenda Becker, Assistant Secretary for Legislative and Intergovernmental Affairs, at (202) 482–3663.

Warm regards,

DONALD L. EVANS.

Enclosure.

ADMINISTRATION VIEW ON NATIONAL SECURITY ASPECTS OF S. 149

The Administration supports S. 149 because it sustains the President's broad authority to protect national security. S. 149 actually provides greater authority for the President to control dual-use exports than current law, the Export Administration Act of 1979 (EAA). S. 149 significantly raises the penalties for export control violations and contains other provisions that enhance the U.S. government's ability to enforce the law effectively. Higher penalties and increased enforcement authority will deter those who might otherwise endanger U.S. national security through illicit exports.

FOREIGN AVAILABILITY/MASS MARKET AND PARTS AND COMPONENTS

The bill does give exporters the right to ask the government to determine whether items are foreign or mass market available. However, the bill also gives the President several ways to continue controls on such items, if necessary, for national security reasons. In addition, S. 149 provides more authority than the existing law to require enhanced controls on such parts and components as needed to protect national security.

ROLE OF DEPARTMENT OF DEFENSE AND OTHER DEPARTMENTS

The bill provides a significant role for the Department of Defense in the licensing process, including:

—giving the Secretary of Defense concurrence authority in identifying items to be controlled for national security reasons. This is a greater role than Defense has under existing law because the scope of the national security control list under the bill is significantly greater than under current law.

—requiring the Secretary of Commerce to refer all license applications to the Secretaries of Defense and State for their review and recommendations. The bill also authorizes all reviewing departments, for the first time in statute, to escalate a proposed licensing decision to the President.

—requiring the Department of Commerce, for the first time in statute, to notify the Department of Defense of all commodity classification requests.

—requiring the Department of Commerce, for the first time in statute, to fully consider any intelligence information relevant to a proposed export when considering a license application.

—enabling the President to continue the longstanding procedure whereby the Office of Management and Budget ensures the concurrence of the Departments of State and Defense, and other agencies as appropriate, on regulations issued by Commerce pursuant to the act. This procedure allows the Departments of State and Defense to concur on regulations affecting their interests without requiring concurrence on regulations those departments may not wish to review.

—continuing the President's authority to require a license for transfers of controlled items to foreign nationals within the United States and requiring State and Defense's concurrence on such licenses.

Regarding restrictions on the President's delegation of authority, such restrictions are limited and apply only to those areas not appropriately delegated to any one agency. Restricting decisionmaking authority to the President, in these very limited circumstances, ensures that all interests—including national security—will be fully considered.

As officials from the Departments of State and Defense testified at the House International Relations Committee on July 11, the provisions of S. 149 protect the President's authority to safeguard U.S. national security.

PROPOSED EXECUTIVE ORDER

Interagency review of export license applications is conducted under Executive Order 12981, as amended. Under this executive order, the Departments of Defense, State and Energy have the right to review all license applications submitted to the Department of Commerce. The only applications that these departments do not review are those they choose not to, such as applications to export crude oil.

S. 149 partially codifies Executive Order 12981 and provides the Administration the flexibility to structure an appeals process that will preserve the existing authorities of both the Departments of Defense and State. For example, the current executive order establishes an assistant secretary-level interagency working group to hear appeals of decisions made at lower levels. This group already is an integral part of the licensing process and the Administration plans to keep it so. Any new executive order promulgated after the passage of a new EAA would not alter Defense's current ability to review and object to license applications.

S. 149 also requires Commerce, for the first time in statute, to notify Defense of all commodity classification requests Commerce receives. The Administration has committed to implement by executive order a process by which all these commodity classification requests will be reviewed by Defense, with a disciplined and transparent process for escalating and deciding disputes. The Administration will brief Congress about all of the processes provided for in S. 149 as they are implemented.

Mr. SHELBY. Mr. President, I rise today in order to reiterate my concerns over the Export Administration Act of 2001.

There is little doubt that this bill will pass. The writing is on the wall.

However, with all due respect to the administration and to my colleagues on the Banking Committee, I have and will continue to oppose S. 149.

Neither I nor Senators THOMPSON, KYL, HELMS or MCCAIN desire to impede American business entities in their pursuit of new markets. I for one tend to agree with President Calvin Coolidge, who said that, ''The chief business of the American people is business.'' Every Senator here today is an advocate for enhanced trade and for helping U.S. industry to export its goods and services. Exports bring prosperity to this Nation's companies and work to its citizens. If my advocacy for the U.S. technology industry were the sole basis upon which my decision on this legislation was to be based, I could easily change my past position and support passage of the Export Administration Act, or EAA as it is known. However, the other basis upon which the EAA should be measured is its effect upon the national security of the United States.

Earlier this summer, I was inspired when I listened as one of my colleagues, who had not previously supported my position on the EAA, publicly and emphatically stated, and I paraphrase, that when it comes to the difficult question of promoting trade or preserving national security, we must err on the side of national security.

That balance is the crux of this week's debate. We should not support a measure that could, as written, result in harm to Americans by technology developed and sold by Americans.

The pending bill addresses the control of ''dual use'' technology, that is, technology that has both commercial and military applications. Most commonly, our current export controls entail a licensing process for the export of most dual use technologies. Rather than prohibit exports outright, we generally ensure that we can determine which countries are receiving technology and keep track of anomalies in exporting so that we can measure whether technology is being put to military use. The EAA also regulates which countries will be permitted to import U.S. dual-use technologies. Generally, U.S. companies are not permitted to export dual use products to countries like Iran and Iraq.

This bill is an attempt to rewrite our export control laws to make them more rational. I too believe that this nation needs new export laws to meet today's trade realities. However, this effort must not open the floodgates for our dual use technology to be exported, without the ability for the U.S. Government to follow where that technology goes and its ultimate application.

For an export control regime to function properly, it must provide for a balancing of the commercial benefits involved—which are generally obvious, easily-quantified, concentrated, and immediate—with the national security concerns, which are typically shrouded in secrecy, difficult to quantify, diffuse, and long-term in nature. In this equation, national security can easily get the short end of the stick.

Not everything is shrouded in secrecy. In accordance with Section 721 of the 1997 Intelligence Authorization Act, twice a year the Director of Central Intelligence submits a report on trends in the proliferation of weapons technologies. Part of the report is unclassified. The report identifies key suppliers of dual use missile, nuclear, and conventional arms technologies, as well as dual-use biotechnology and chemical technology. Nations such as China and Russia are identified as key suppliers. They export their technology to the likes of Iraq, Iran, Libya, Syria, Sudan, Pakistan and India. The report received last winter detailed a continuing and significant problem.

Regarding Iran, the report states, and I quote:

> Tehran expanded its efforts to seek considerable dual use biotechnical materials, equipment, and expertise from abroad—primarily from entities in Russia and Western Europe—ostensibly for civilian uses. We judge that this equipment and know-how could be applied to Iran's biological warfare program. Outside assistance is both important and difficult to prevent, given the dual-use nature of the materials, the equipment being sought, and the many legitimate end uses for these items.

Regarding Iraq, the report indicates that Saddam Hussein is utilizing all means to acquire dual-use technology. The report states:

> Iraq has attempted to purchase numerous dual-use items for, or under the guise of, legitimate civilian use. This equipment, in principle subject to UN scrutiny, also could be diverted for weapons of mass destruction purposes. In addition, Iraq appears to be installing or repairing dual-use equipment at chemical weapons related facilities.

With respect to India, ''India continues to rely on foreign assistance for key missile and dual-use technologies where it still lacks engineering or production expertise in ballistic missile development.'' The report goes on to cite Russia and Western Europe as the primary conduits of India's missile related technology.

As stated in the Report, Pakistan received significant assistance from Communist China for its ballistic missile program in the early part of last year. As recently as this past weekend, the administration was forced to impose sanctions on the China Metallurgical Equipment Corporation for selling missile technology to Pakistan. The corporate entity in Pakistan which received the technology was also sanctioned. I know this has been and continues to be an issue of great concern to Senator THOMPSON. I commend him for his efforts to publicize Communist China's blatant disregard for its pledge not to support foreign nuclear missile programs.

The report did contain one note of optimism, which I believe is also directly applicable to today's debate. Nations such as Libya and Iran continued to attempt to acquire needed materials for weapons of mass destruction in Western Europe. They had some success in the first half of 2000, but the CIA report states that, ''Increasingly rigorous and effective export controls and cooperation among supplier countries have led the other foreign WMD programs to look elsewhere for many controlled dual-use goods.'' The point is, that while we cannot stop all proliferation, a rigorous export control regime can be effective in diffusing the spread of potentially threatening dual-use technology.

Mr. President, the problem is real. I believe it is a significant statement when the Chairmen and now Ranking Members of the Senate Armed Services Committee, the Foreign Relations Committee, the Intelligence Committee, the Committee on Governmental Affairs and the Subcommittee on Technology, Terrorism and Government Information, have serious issues with the protections this legislation provides our national security. I am deeply disappointed that the new administration was not able to support reasonable amendments which would address the national security equities which we have highlighted. I am concerned that the interests of the high tech business community have replaced reasonable consideration of our dual use export control regime.

Technologies which are exported today can and will have to be dealt with by this Nation's national security apparatus. Consequently, I urge my colleagues to support the amendments of Senators THOMPSON, KYL, HELMS, and others, which will strengthen S. 149 with respect to national security. They are only a handful of the changes which should be made to this bill but they will serve to give the Defense Department and the State Department a more level playing field in the export control process from which to protect national security.

There is a proper balance between promoting business and preserving the national security. This bill does not strike that balance. As a conferee, I am hopeful that in conference, I can work with the members of the House, especially Chairman HYDE and continue these efforts to tilt the balance in favor of national security.

Mr. President, I ask unanimous consent to print in the RECORD entitled ''Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions, 1 January through 30 June 2000.''

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNCLASSIFIED REPORT TO CONGRESS ON THE ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS, 1 JANUARY THROUGH 30 JUNE 2000

The Director of Central Intelligence (DCI) hereby submits this report in response to a Congressionally directed action in Section

721 of the FY 97 Intelligence Authorization Act, which requires:

''(a) Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Director of Central Intelligence shall submit to Congress a report on

(1) the acquisition by foreign countries during the preceding 6 months of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions; and

(2) trends in the acquisition of such technology by such countries.''

At the DCI's request, the DCI Nonproliferation Center (NPC) drafted this report and coordinated it throughout the Intelligence Community. As directed by Section 721, subsection (b) of the Act, it is unclassified. As such, the report does not present the details of the Intelligence Community's assessments of weapons of mass destruction and advanced conventional munitions programs that are available in other classified reports and briefings for the Congress.

ACQUISITION BY COUNTRY

As required by Section 721 of the FY 97 Intelligence Authorization Act, the following are summaries by country of acquisition activities (solicitations, negotiations, contracts, and deliveries) related to weapons of mass destruction (WMD) and advanced conventional weapons (ACW) that occurred from 1 January through 30 June 2000. We excluded countries that already have substantial WMD programs, such as China and Russia, as well as countries that demonstrated little WMD acquisition activity of concern.

Iran

Iran remains one of the most active countries seeking to acquire WMD and ACW technology from abroad. In doing so, Tehran is attempting to develop an indigenous capability to produce various types of weapons—chemical, biological, and nuclear—and their delivery systems. During the reporting period, the evidence indicates reflections of determined Iranian efforts to acquire WMD- and ACW-related equipment, materials, and technology focused primarily on entities in Russia, China, North Korea, and Western Europe.

Iran, a Chemical Weapons Convention (CWC) party, already has manufactured and stockpiled several thousand tons of chemical weapons, including blister, blood, and choking agents, and the bombs and artillery shells for delivering them. During the first half of 2000, Tehran continued to seek production technology, training, expertise, equipment, and chemicals that could be used as precursor agents in its chemical warfare (CW) program from entities in Russia and China.

Tehran expanded its efforts to seek considerable dual-use biotechnical materials, equipment, and expertise from abroad—primarily from entities in Russia and Western Europe—ostensibly for civilian uses. We judge that this equipment and know-how could be applied to Iran's biological warfare (BW) program. Iran probably began its offensive BW program during the Iran-Iraq war, and it may have some limited capability for BW deployment. Outside assistance is both important and difficult to prevent, given the dual-use nature of the materials, the equipment being sought, and the many legitimate end uses for these items.

Iran sought nuclear-related equipment, material, and technical expertise from a variety of sources, especially in Russia. Work continues on the construction of a 1,000-megawatt nuclear power reactor at Bushehr that will be subject to International Atomic Energy Agency (IAEA) safeguards. In addition, Russian entities continued to interact with Iranian research centers on various activities. These projects will help Iran augment its nuclear technology infrastructure, which in turn would be useful in supporting nuclear weapons research and development. The expertise and technology gained, along with the commercial channels and contacts established—even from cooperation that appears strictly civilian in nature—could be used to advance Iran's nuclear weapons research and development program.

Beginning in January 1998, the Russian Government took a number of steps to increase its oversight of entities involved in dealings with Iran and other states of proliferation concern. In 1999, it pushed a new export control law through the Duma. Russian firms, however, faced economic pressures to circumvent these controls and did so in some cases. The Russian Government, moreover, failed to enforce its export controls in some cases regarding Iran.

China pledged in October 1997 not to engage in any new nuclear cooperation with Iran but said it would complete cooperation on two nuclear projects: a small research reactor and a zirconium production facility at Esfahan that Iran will use to produce cladding for reactor fuel. As a party to the Nuclear Nonproliferation Treaty (NPT), Iran is required to apply IAEA safeguards to nuclear fuel, but safeguards are not required for the zirconium plant or its products.

Iran claims that it is attempting to establish fuel-cycle capabilities to support its civilian energy program. In that guise, it seeks to obtain turnkey facilities, such as a uranium conversion facility that, in fact, could be used in any number of ways to support fissile material production needed for a nuclear weapon. We suspect that Tehran most likely is interested in acquiring foreign fissile material and technology for weapons development as part of its overall nuclear weapons program.

During the first half of 2000, entities in Russia, North Korea, and China continued to supply the largest amount of ballistic missile—related goods, technology, and expertise to Iran. Tehran is using this assistance to support current production programs and to achieve its goal of becoming self-sufficient in the production of ballistic missiles. Iran already is producing Scud short-range ballistic missiles (SRBMs) and has built and publicly displayed prototypes for the Shahab–3 medium-range ballistic missile (MRBM). In addition, Iran's Defense Minister in 1999 publicly acknowledged the development of a Shahab–4, originally calling it a more capable ballistic missile than the Shahab–3 but later categorizing it as solely a space launch vehicle with no military applications. Iran's Defense Minister also has publicly mentioned a ''Shahab 5,'' although he said that development had not yet begun. Such statements, made against the backdrop of sustained cooperation with Russian, North Korean, and Chinese entities, strongly suggest that Tehran intends to develop a longer range ballistic missile capability.

Iran continues to acquire conventional weapons and production technologies from Russia and China. During the first half of 2000, Iran received five Mi–171 utility helicopters from Russia under a 1999 contract, and it began licensed production of Russian Konkurs (AT–5) antitank guided missiles. Iran also claims to be producing a new manportable surface-to-air missile knows as Misagh–1, which resembles China's QW–1 MANPAD system. Tehran also has been able to keep operational at least part of its existing fleet of Western-origin aircraft and helicopters supplied before the 1979 Iranian Revolution and continues to develop limited capabilities to produce armor, artillery, tactical missiles, munitions, and aircraft with foreign assistance.

Iraq

Since Operation Desert Fox in December 1998, Baghdad has refused to allow United Nations' inspectors into Iraq as required by Security Council Resolution 687. In spite of ongoing UN efforts to establish a follow-on inspection regime comprising the UN Monitoring, Verification, and Inspection Commission (UNMOVIC) and the IAEA's Iraq Action Team, no UN inspections occurred during this reporting period. Moreover, the automated video monitoring system installed by the UN at known and suspect WMD facilities in Iraq is no longer operating. Having lost this on-the-ground access, it is more difficult for the UN or the US to accurately assess the current state of Iraq's WMD programs.

We do not have any direct evidence that Iraq has used the period since Desert Fox to reconstitute its WMD programs, although given its past behavior, this type of activity must be regarded as likely. We assess that since the suspension of UN inspections in December of 1998, Baghdad has had the capability to reinitiate both its CW and BW programs within a few weeks to months. Without an inspection monitoring program, however, it is more difficult to determine if Iraq has done so.

Since the Gulf war, Iraq has rebuilt key portions of its chemical production infrastructure for industrial and commercial use, as well as its missile production facilities. It has attempted to purchase numerous dual-use items for, or under the guise of, legitimate civilian use. This equipment—in principle subject to UN scrutiny—also could be diverted for WMD purposes. Since the suspension of UN inspections in December 1998, the risk of diversion has increased. Following Desert Fox, Baghdad again instituted a reconstruction effort on those facilities destroyed by the US bombing, including several critical missile production complexes and former dual-use CW production facilities. In addition, Iraq appears to be installing or repairing dual-use equipment at CW-related facilities. Some of these facilities could be converted fairly quickly for production of CW agents.

UNSCOM reported to the Security Council in December 1998 that Iraq also continued to withhold information related to its CW program. For example, Baghdad seized from UNSCOM inspectors an Air Force document discovered by UNSCOM that indicated that Iraq had not consumed as many CW munitions during the Iran-Iraq war in the 1980s as had been declared by Baghdad. This discrepancy indicates that Iraq may have hidden an additional 6,000 CW munitions.

In 1995, Iraq admitted to having an offensive BW program and submitted the first in a series of Full, Final, and Complete Disclosures (FFCDs) that were supposed to reveal the full scope of its BW program. According to UNSCOM, these disclosures are incomplete and filled with inaccuracies. Since the full scope and nature of Iraq's BW program was not verified, UNSCOM assessed that Iraq continues to maintain a knowledge base and industrial infrastructure that could be used to produce quickly a large amount of BW agents at any time, if needed.

Iraq has continued working on its L–29 unmanned aerial vehicle (UAV) program, which involves concerting L–29 jet trainer aircraft originally acquired from Eastern Europe. It is believed that Iraq may have been conducting flights of the L–29, possibly to test system improvements or to train new pilots. These refurbished trainer aircraft are believed to have been modified for delivery of chemical or, more likely, biological warfare agents.

We believe that Iraq has probably continued low-level theoretical R&D associated with its nuclear program. A sufficient source of fissile material remains Iraq's most significant obstacle to being able to produce a nuclear weapon.

Iraq continues to pursue development of SRBM systems that are not prohibited by the United Nations and may be expanding to longer range systems. Authorized pursuit of UN-permitted missiles continues to allow Baghdad to develop technological improvements and infrastructure that could be applied to a longer-range missile program. We believe that development of the liquid propellant Al-Samoud SRBM probably is maturing and that a low-level operational capability could be achieved in the near team. The solid-propellant missile development program may now be receiving a higher priority, and development of the Ababil-100 SRBM and possibly longer range systems may be moving ahead rapidly. If economic sanctions against Iraq were lifted, Baghdad probably would increase its attempts to acquire missile-related items from foreign sources, regardless of any future UN monitoring and continuing restrictions on long-range ballistic missile programs. Iraq probably retains a small, covert force of Scud-type missiles.

North Korea

P'yongyang continues to acquire raw materials from out-of-country entitles needed for its WMD and ballistic missile programs. During this time fame, North Korea continued procurement of raw materials and components for its ballistic missile programs from various foreign sources, especially through firms in China. We assess the North Korea is capable of producing and delivering via munitions a wide variety of chemical and biological agents.

During the first half of 2000, P'yongyang sought to procure technology worldwide that could have applications in its nuclear program, but we do not know of any procurement directly linked to the nuclear weapons program. We assess that North Korea has produced enough plutonium for at least one, and possibly two, nuclear weapons. The United States and North Korea are nearing completion on the joint project of canning spent fuel from the Yongbyon complex for long-term storage and ultimate shipment out of the North in accordance with the 1994 Agreed Framework. That reacher fuel contains enough plutonium for several more weapons.

North Korea continues to seek conventional arms. It signed a contract with Russia during this reporting period.

Libya

Libya has continued its efforts to obtain ballistic missile-related equipment, materials, technology, and expertise from foreign sources. Outside assistance is critical to its ballistic missile development programs, and the suspension of UN sanctions last year has allowed Tripoli to expand its procurement effort. Libya's current capability remains limited to its aging Scud B missiles, but with continued foreign assistance it may achieve an MRBM capability—a long-desired goal.

Libya remains heavily dependent on foreign suppliers for precursor chemicals and other key CW-related equipment. Following the suspension of UN sanctions in April 1999, Tripoli reestablished contacts with sources of expertise, parts, and precursor chemicals abroad, primarily with Western Europe. Libya still appears to have a goal of establishing an offensive CW capability and an indigenous production capability for weapons. Evidence suggests Libya also is seeking to acquire the capability to develop and produce BW agents.

Libya continues to develop its nascent nuclear research and development program but still requires significant foreign assistance to advance to a nuclear weapons option. The suspension of sanctions has accelerated the pace of procurement efforts in Libya's drive to rejuvenate its ostensibly civilian nuclear program. In early 2000, for example, Tripoli and Moscow renewed talks on cooperation at the Tajura Nuclear Research Center and discussed a potential power reactor deal. Should such civil-sector work come to fruition, Libya could gain opportunities to conduct weapons-related R&D.

Following the suspension of UN sanctions, Libya has negotiated deals—reported to be worth up to $100 million, according to Russian press—with Russian firms for conventional weapons, munitions, and upgrades and refurbishment for its existing inventory of Soviet-era weapons.

Syria

Syria sought CW-related precursors and expertise from foreign sources during the reporting period. Damascus already has a stockpile of the nerve agent sarin, and it would appear that Syria is trying to develop more toxic and persistent nerve agents. Syria remains dependent on foreign sources for key elements of its CW program, including precursor chemicals and key production equipment. It is highly probable that Syria also is developing an offensive BW capability.

We will continue to monitor the potential for Syria's embryonic nuclear research and development program to expand.

During the first half of 2000, Damascus continued work on establishing a solid-propellant rocket motor development and production capability with help from outside countries. Foreign equipment and assistance to its liquid-propellant missile program, primarily from North Korean entities, but also from firms in Russia, have been and will continue to be essential for Syria's effort. Damascus also continued its efforts to assemble—probably with considerable North Korean assistance—liquid fueled Scud C missiles.

Syria continues to acquire ACW—mainly from Russia and other FSU suppliers—although at a reduced level from the early 1990s. During the past few years, Syria has received Kornet-E (AT–14), Metis-M (AT–13), Konkurs (AT–5), and Bastion-M (AT–10B) antitank guided missiles, RPG–29 rocket launchers, and small arms, according to Russian press reports. Damascus has expressed interest in acquiring Russian Su–27 and MiG–29 fighters and air defense systems, but its outstanding debt to Moscow and inability to fund large purchases have hampered negotiations, according to press reports.

Sudan

During the reporting period, Sudan sought to acquire a variety of military equipment from various sources. Khartoum is seeking older, less expensive weapons that nonetheless are advanced compared with the capabilities of the weapons possessed by its opponents and their supporters in neighboring countries in the long-running civil war.

In the WMD arena, Sudan has been developing the capability to produce chemical weapons for many years. In this pursuit, it has obtained help from entities in other countries, principally Iraq. Given its history in developing chemical weapons and its close relationship with Iraq, Sudan may be interested in a BW program as well.

India

India continues its nuclear weapons development program, for which its underground nuclear tests in May 1998 were a significant milestone. The acquisition of foreign equipment could benefit New Delhi in its efforts to develop and produce more sophisticated nuclear weapons. India obtained some foreign assistance for its civilian nuclear power program during the first half of 2000, primarily from Russia.

India continues to rely on foreign assistance for key missile and dual-use technologies, where it still lacks engineering or production expertise in ballistic missile development. Entities in Russia and Western Europe remained the primary conduits of missile-related technology transfers during the first half of 2000. New Delhi Flight-tested three short-range ballistic missiles between January and June 2000—the Prithvi–II in February and June, and the Dhanush in April.

India continues an across-the-board modernization of its armed forces through ACW, mostly from Russia, although many of its key programs have been plagued by delays. During the reporting period, New Delhi continued negotiations with Moscow for 310 T–90S main battle tanks Su–30 fighter aircraft production, A–50 Airborne Early Warning and Control (AWACS) aircraft, Tu–22M Backfire maritime strike bombers, and an aircraft carrier, according to press reports. India also continues to explore options for leasing or purchasing several AWACS systems from other entities. India has also received its first delivery of Russian Krasnopol laser-guided artillery rounds to be used in its Swedish-build FH–77 155-mm howitzers, negotiated the purchase of unmanned aerial vehicles form Israel, and considered offers for jet trainer aircraft from France and the United Kingdom.

Pakistan

Chinese entities continued to provide significant assistance to Pakistan's ballistic missile program during the first half of 2000. With Chinese assistance, Pakistan is rapidly moving toward serial production of solid-propellant SRBMs. Pakistan's development of the two-state Shaheen-II MRBM also requires continued Chinese assistance. The impact of North Korea's assistance throughout the reporting period is less clear.

Pakistan continued to acquire nuclear-related and dual-use equipment and materials from various sources—principally in Western Europe. Islamabad has a well-developed nuclear weapons program, as evidence by its first nuclear weapons tests in late May 1998. Acquisition of nuclear-related goods form foreign sources will remain important if Pakistan chooses to develop more advanced nuclear weapons. China, which has provided extensive support in the past to Islamabad's nuclear weapons and ballistic missile programs, in May 1996 pledged that it would not provide assistance to unsafeguarded nuclear facilities in any state, including Pakistan. We cannot rule out, however, some continued contacts between Chinese entities and entities involved in Pakistan's nuclear weapons development.

Pakistan continues to rely on China and France for its ACW requirements. Pakistan received eight upgraded Mirage III/V fighters from France and continued negotiations to purchase an additional 50 F–7 fighters from China.

Egypt

Egypt continues its effort to develop and produce ballistic missiles with the assistance of North Korea. This activity is part of a long-running program of ballistic missile cooperation between these two countries.

KEY SUPPLIERS

Russia

Despite overall improvements in Russia's economy, the state-run defense and nuclear industries remain strapped for funds, even as

Moscow looks to them for badly needed foreign exchange through exports. We remain very concerned about the nonproliferation implications of such sales in several areas. Monitoring Russian proliferation behavior, therefore, will remain a very high priority.

Russian entities during the reporting period continued to supply a variety of ballistic missile-related goods and technical know-how to countries such as Iran, India, China, and Libya. Iran's earlier success in gaining technology and materials from Russian entities accelerated Iranian development of the Shahab–3 MRBM, which was first flight-tested in July 1998. Russian entities during the first six months of 2000 have provided substantial missile-related technology, training, and expertise to Iran that almost certainly will continue to accelerate Iranian efforts to develop new ballistic missile systems.

Russia also remained a key supplier for civilian nuclear programs in Iran, primarily focused on the Bushehr Nuclear Power Plant project. With respect to Iran's nuclear infrastructure, Russian assistance enhances Iran's ability to support a nuclear weapons development effort. By its very nature, even the transfer of civilian technology may be of use in Iran's nuclear weapons program. We remain concerned that Tehran is seeking more than a buildup of its civilian infrastructure, and the Intelligence Community will be closely monitoring the relationship with Moscow for any direct assistance in support of a military program.

In January, Russia's cabinet approved a draft cooperative program with Syria that included civil use of nuclear power. Broader access to Russian scientists could provide opportunities to solicit fissile material production expertise if Syria decided to pursue a nuclear weapons option. In addition, Russia supplied India with material for its civilian nuclear program during this reporting period. President Putin in May amended the presidential decree on nuclear exports to allow the export in exceptional cases of nuclear materials, technology, and equipment to countries that do not have full-scope IAEA safeguards, according to press reports. The move could clear the way for expanding nuclear exports to certain countries that do not have full-scope safeguards, such as India.

During the first half of 2000, Russian entities remained a significant source of dual-use biotechnology, chemicals, production technology, and equipment for Iran. Russia's biological and chemical expertise make it an attractive target for Iranians seeking technical information and training on BW- and CW-agent production processes.

Russia continues to be a major supplier of conventional arms. It is the primary source of ACW for China and India, it continues to supply ACW to Iran and Syria, and it has negotiated new contracts with Libya and North Korea, according to press reports.

The Russian Government's commitment, willingness, and ability to curb proliferation-related transfers remain uncertain. The export control bureaucracy was reorganized again as part of President Putin's broader government reorganization in May. The Federal Service for Currency and Export Controls (VEK) was abolished and its functions assumed by a new department in the Ministry of Economic Development and Trade. VEK had been tasked with drafting the implementing decrees for Russia's July 1999 export control law; the status of these decrees is not known. Export enforcement continues to need improvement. In February 2000, Sergey Ivanov, Secretary of Russia's Security Council, said that during 1998–99 the government had obtained convictions for unauthorized technology transfers in only three cases. The Russian press has reported on cases where advanced equipment is simply described as something else in the export documentation and is exported. Enterprises sometimes falsely declare goods just to avoid government taxes.

North Korea

Throughout the first half of 2000, North Korea continued to export significant ballistic missile—related equipment and missile components, materials, and technical expertise to countries in the Middle East, South Asia, and North Africa. P'yongyang attaches a high priority to the development and sale of ballistic missiles, equipment, and related technology. Exports of ballistic missiles and related technology are one of the North's major sources of hard currency, which fuel continued missile development and production.

China

During this reporting period, the Chinese have continued to take a very narrow interpretation of their bilateral nonproliferation commitments with the United States. In the case of missile-related transfers, Beijing has repeatedly pledged not to sell Missile Technology Control Regime (MTCR) Category I systems but has not recognized the regime's key technology annex. China is not a member of the MTCR.

Chinese missile-related technical assistance to Pakistan continued to be substantial during this reporting period. With Chinese assistance, Pakistan is rapidly moving toward serial production of solid-propellant SRBMs. Pakistan's development of the two-stage Shaheen–II MRBM also requires continued Chinese assistance. In addition, firms in China provided missile-related items, raw materials, and/or assistance to several other countries of proliferation concern—such as Iran, North Korea, and Libya.

Chinese entities have provided extensive support in the past to Pakistan's safeguarded and unsafeguarded nuclear programs. In May 1996, Beijing pledged that it would not provide assistance to unsafeguarded nuclear facilities. We cannot rule out some continued contacts between Chinese entities and entities associated with Pakistan's nuclear weapons program. China's involvement with Pakistan will continue to be monitored closely.

With regard to Iran, China confirmed that work associated with two remaining nuclear projects—a small research reactor and a zirconium production facility—would continue until the projects were completed. The intelligence Community will continue to monitor carefully Chinese nuclear cooperation with Iran.

Prior to the reporting period, Chinese firms had supplied CW-related production equipment and technology to Iran. The US sanctions imposed in May 1997 on seven Chinese entities for knowingly and materially contributing to Iran's CW program remain in effect. Evidence during the current reporting period shows Iran continues to seek such assistance from Chinese entities, but it is unclear to what extent these efforts have succeeded. In June 1998, China announced that it had expanded its CWC-based chemical export controls to include 10 of the 20 Australia Group chemicals not listed on the CWC schedules.

Western Countries

As was the case in 1998 and 1999, entities in Western countries in 2000 were not as important as sources for WMD-related goods and materials as in past years. However, Iran and Libya continue to recruit entities in Western Europe to provide needed acquisitions for their WMD programs. Increasingly rigorous and effective export controls and cooperation among supplier countries have led the other foreign WMD programs to look elsewhere for many controlled dual-use goods. Machine tools, spare parts for dual-use equipment, and widely available materials, scientific equipment, and specialty metals were the most common items sought. In addition, several Western countries announced their willingness to negotiate ACW sales to Libya.

TRENDS

As in previous reports, countries determined to maintain WMD and missile programs over the long term have been placing significant emphasis on insulating their programs against interdiction and disruption, as well as trying to reduce their dependence on imports by developing indigenous production capabilities. Although these capabilities may not always be a good substitute for foreign imports—particularly for more advanced technologies—in many cases they may prove to be adequate. In addition, as their domestic capabilities grow, traditional recipients of WMD and missile technology could emerge as new suppliers of technology and expertise. Many of these countries—such as India, Iran and Pakistan—do not adhere to the export restraints embodied in such supplier groups as the Nuclear Suppliers Group and the Missile Technology Control Regime.

Some countries of proliferation concern are continuing efforts to develop indigenous designs for advanced conventional weapons and expand production capabilities, although most of these programs usually rely heavily on foreign technical assistance. Many of these countries—unable to obtain newer or more advanced arms—are pursuing upgrade programs for existing inventories.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now be in a period for morning business.

The Senator from Tennessee.

NATIONAL SECURITY

Mr. THOMPSON. Mr. President, before my colleague from Texas leaves the Chamber, I want to congratulate him on what I consider to be another major achievement of his career. He can add this legislation to the long list of legislation he has either been primarily responsible for or substantially responsible for. While we have disagreements on the legislation, this is something I have seen him work tirelessly on for at least a couple of years now, and certainly Senator ENZI carried a large share of the work, as Senator GRAMM said.

This is another one of those instances where Senator GRAMM took an issue like a dog taking to a bone and did not turn it loose until he got it done. I must say it is another impressive performance, and I want to congratulate my good friend for adding another important legislative victory to his long legacy.

I want to discuss the legislation for a minute in response to my good friend.

We talked of two goals. This bill has been put to bed now, as it were. We are going to be voting on it shortly. We have made some modest improvement to it. The Senators opposite are correct in saying we have been talking about this a long time.

I do not know whether we can take credit for 59 changes or not. They say 59 changes have been made, but I guess we can take credit for some changes that have been made along the way to improve the bill.

We still have problems with the basic concept, and right before we go off into this good night, we need to lodge at least one summary statement with regard to the nature of our concern and where we hopefully will go from here.

The nature of our concern simply is this: It is a more dangerous world out there than ever before, and we have to be more careful than ever we do not export dangerous items to dangerous people that will turn around and hurt this country. The risk of that is greater than ever before.

We do not have two equal goals of trade and commerce on the one hand and national security on the other. The interest of national security dwarfs the interest of trade and commerce, although they are discussed in this Chamber somehow in equipoise. That is not the case. It should not be the case. It is not even set out that way in the bill if one looks to the purposes of the bill. The purposes of the bill are to protect this country. That is why we have an export law, not to facilitate business.

A great majority of the time I am with my business friends, but when it comes to national security I must depart with those who would weigh too heavily the interests of trade. I suggest those who are interested in trade get about giving the President fast track, giving the President trade promotion authority. That will do more for trade and industry and to help the economy of this Nation than exporting dual-use high tech items to China and Russia that may find their way to Iran and Iraq. So that is what we ought to be doing if we are concerned about trade in this country. So those two goals are not equal.

We need to understand what we are doing once again on these issues. Call it a balance, if you will. No matter how you weigh the factors involved, we are giving the Secretary of Commerce and those within the department responsibility for national security. The Secretary, who I have the greatest confidence in—and I think he is a great man doing a great job—should not have the responsibility for national security. That is not supposed to be his job.

We are once again giving the Commerce Department, which we greatly criticized during the Clinton administration for some of their laxness, the life or death decisionmaking power in terms of these regulations or policies, in many important instances—not all instances, not always unilaterally, but many of them in some very important areas. We are deregulating entire categories of exports.

Foreign availability has always been something we considered in terms of whether or not we would export something or grant a license for something, and I think properly so. We do not want to foolishly try to control things not controllable. So foreign availability ought to be a consideration. We are moving light-years away from that, letting someone over at the Department of Commerce categorize entire areas of foreign availability that takes it totally out of the licensing process, so you do not have a license, and our Government cannot keep up with what is being exported to China or Russia. That is a major move. It is not a good move.

With regard to the enhanced penalties, what sanction is there to be imposed upon an exporter when he is not even required to have a license? It is saying: We will raise the penalty for your conduct, but we will make your conduct legal. That is not very effective in terms of export control, to say the least.

Finally, when I hear the proponents of this legislation say 99.6 percent of these exports are approved anyway, they are arguing against themselves. They use it to make the point this is kind of a foolish process anyway. So if the great majority of them are going to be approved, why even have the process? I assume that is the logical conclusion of their position.

My question is: What about the .4 percent that don't make it? Do we not have to look at the body of exports taking place in order to determine what that .4 is? Or if we didn't have a process, would that .4 be more like 3.4 if people knew there wasn't such a process? The .4 is the important thing to look at. Besides, if all the exports are being approved anyway, why is it so onerous to go through a process that will take a few days and get a clean bill of health so there is no question?

Therein lies the basis of our concern. It is a fundamental disagreement as to how far we should be going in this dangerous time. As the world is becoming more dangerous, as technology proliferates, as we see those we are sending technology to using that technology for their military purposes, then passing it on to rogue nations, and we see our agencies and our committees—like the Cox committee—saying our lax export laws are causing some of this, and we are in the process of loosening export laws, I think that is unwise. I hope I am wrong.

As I said yesterday, I can afford to be wrong. If I am wrong, a few companies have been held up a few days. If the proponents of this legislation are wrong, it could cause problems for the country. I hope I am proven to be wrong and that I am strong enough to be able to stand up and say it when and if that time comes. I hope it does come to that. But we will not know for a while.

In the meantime, hopefully, through changes as we go along, through continuing to work with the administration in heightening their awareness of some of the problems and details we have seen in our committee work over the years, if we see we are going down the wrong track, we will be able to respond and adjust in midstream. I know my colleagues on the other side will join in that hope and desire, and I am sure we will be able to work together toward that end.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

U.N. WORLD CONFERENCE AGAINST RACISM

Mr. TORRICELLI. Mr. President, the U.N. World Conference Against Racism recently proceeding in Durban, South Africa, had the enormous potential to make a contribution in the historic fight against race and intolerance. Indeed, holding the conference itself in South Africa was a tribute to the people of that country and their long struggle against racism and apartheid. It could have been a seminal moment in the evolution, in our long fight for individual liberty.

While much progress has been made, we can all attest that racism and discrimination continue to affect hundreds of millions of people around the globe.

This conference had such potential. It could have addressed issues such as the rising intolerance toward refugees, intolerance towards asylum seekers, the unjustified denial of citizenship because of race, religion, or origin. The conference had the potential for the United States to demonstrate the great progress we have made in this country on issues of tolerance, of the fight against racism. In showcasing the American experience, nothing could have more vividly demonstrated the changes in the United States than the presence of Colin Powell, an American Secretary of State, not only of African ancestry but of ancestry beyond our own shores.

Instead of realizing this potential, the conference has collapsed in a storm of recrimination and venomous rhetoric. The United States and Israel have walked out of the conference. It appears that others will soon follow.

The conference, which was intended to be forward looking and to come up with a plan of action for fighting racism around the globe has instead destroyed itself because of old hatreds and the resurrection of discredited agendas. The insistence of Israel's enemies on using this conference to launch vile attacks on Israel, to attempt to equate Zionism with racism, has fully and completely justified the Bush administration's decision to withdraw from the conference.

I take the floor today because on a bipartisan basis I believe it should be clear this Senate supports the Bush administration's decision to leave the

conference, to attack its agenda, and to make clear we will have no part of it.

For many years, Arab regimes have used the United States to advance their anti-Israel agenda. What is happening in Durban today is not new. The tragedy is the lesson has not been learned. In 1975, with the support of the so-called nonaligned nations, these regimes succeeded in passing the infamous ''Zionism equals racism'' resolution. After much work, the United States, to our considerable credit, had that odious resolution rescinded in 1991.

The U.N. Secretary General, Kofi Annan, has referred to that resolution as the ''low point in the history of the United Nations.'' To his credit, Annan has acknowledged the historical U.N. bias against Israel and called for the normalization of Israel's status within the U.N. Indeed, normalization has been acquired.

For 40 years, Arab and Muslim nations prevented Israel from becoming a member of any regional group. By that denial of regional status, Israel and Israel alone is prohibited from becoming an eligible member of the Security Council. This tremendous injustice was finally rectified only last year when Israel was able to join the Western European and Others Group.

Despite the Secretary General's leadership in trying to improve U.N. resolutions regarding Israel, we are now forced to fight these old battles again, those seeking to defend not only anti-Israel but indeed anti-Semitism for their own political purposes. While the anti-Semitic rhetoric being shouted by demonstrators in the streets of Durban is alarming enough, it is more appalling to see the rhetoric being placed in official negotiated documents of a U.N. conference itself. This demonstrates that not only have we not made progress, but indeed this is as bad as any action taken in the unfortunate history of the U.N. on this subject.

The declaration being produced by the conference and the program of action which flows from it are intended to help countries strengthen national mechanisms to promote the human rights of the very victims of racism. But including anti-Semitic language in these documents cannot possibly have a positive effect for the conference agenda. If the anti-Israel language is allowed to stand in the conference declaration, it will have real and lasting effects. The language proposed in this conference will only serve to encourage virulent anti-Semitic language pouring forth from the Palestinian media and media of those of Israel's neighbors. The language of intolerance and hatred is a key factor in inciting the brutal acts of terrorism now being perpetrated against Israel's civilians.

So an organization created and dedicated to peace is now promoting language, in an official conference, during a time of violence in the Middle East, that can only result in the loss of life and further hatred. American withdrawal from this conference sends an emphatic message to the Arab world that the United States commitment to Israel has not wavered and our concept of the United Nations as an organization dedicated to peace and resolving these very disputes has not changed.

The administration's decision to abandon the racism conference once it was clear that Israel would continue to be singled out was not a partisan action; it was a principled action. I fully endorse it.

I hope the United States will defend any nation, not just Israel, which is unfairly singled out for criticism.

While I support this decision, I believe there are larger problems involved that deserve our attention. The forces that compelled us to withdraw from the conference—anti-westernism, anti-Americanism—have come together in the U.N. before and may represent a growing challenge to our country. So the decision to withdraw because of anti-Semitism was proper. But it may not be the only justifiable reason. There are others.

Only a few months ago, in May of this year, we had another debacle involving the United Nations when the United States was voted out of the U.N. Human Rights Commission. What an unbelievable outrage. I do not stand in the well of the Senate believing that the United States has not committed historic acts worthy of criticism; clearly we have. I do not argue that the United States is beyond criticism for actions in our generation; clearly such acts have occurred. I am willing to have our Nation measured against the highest standard. But for the United States of America to be removed from the Human Rights Commission upon the votes of an organization which includes Iraq, Libya, and Cuba is an outrage.

So while I take the floor today in light of the current acts designed against Israel, I do so in the context of the actions of the United Nations on a continuing basis with regard to many countries, including our own.

The United States has had a seat on the Human Rights Commission continuously since 1947. We have been a clear leader on the Commission, enforcing investigations of human rights abuses around the world. Indeed, U.N. High Commissioner Mary Robinson has said that the United States has made a ''historic contribution'' to the Commission. Indeed, I see no need to justify the actions of the United States with regard to human rights. Indeed, it is not because we don't defend human rights that we were removed from the Commission; it is because we do defend human rights that we were removed from the Commission. Had we not taken actions against Cuba, had we not spoken up against atrocities in North Korea and China, had we been silent about actions in Africa and Latin America, there is no doubt the United States would have remained on the Commission. We are victims because of what we have done right, not because of what we have done wrong.

I have no doubt that our standing up against anti-Semitism and in defense of Israel will now strengthen the case against the United States as an advocate of human rights. So be it. Let the nations of the world balance the actions of the United Nations and their own regimes against the historic role of the United States, considering our historic difficulties, and let history be the judge. Which institution, the U.S. Government or the United Nations itself, has been the more consistent and dependable defender of the weak and the vulnerable, with a principled stand for human rights? I will accept that judgment of history, and there is no need to wait for the result; it is clear. The U.S. Government has had no peer in defending the rights of peoples around the globe.

I take the floor as a partisan Democrat involved throughout my career in the fight for human rights and an active involvement in foreign policy to salute this administration. Secretary Powell did not go to Durban. He made the right decision. When the administration withdrew from the Durban conference, President Bush made the right decision. Durban is not our place. If we must fight the fight against racism, the fight against anti-Semitism, alone, without the United Nations, from the perch of Washington rather than the perch of the U.N. conferences in New York or regional conferences in Durban or Switzerland or anywhere else, we may fight alone but we fight in good company.

I yield the floor.

Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CANADIAN SOFTWOOD LUMBER

Mr. BAUCUS. Mr. President, I rise today to discuss the U.S.-Canadian dispute on softwood lumber.

Although it might have escaped the attention of many in Washington, the Bush administration announced a critical trade policy decision over the August recess.

After considering truck loads of evidence provided by a legion of lawyers, the Department of Commerce once again decided that Canadian provinces giving away timber at a fraction of its value was a subsidy to Canadian lumber production.

Specifically, the Commerce Department issued a preliminary finding that these subsidies amounted to 19.3 percent of the value of Canadian lumber. Further, the Commerce Department

took the unusual step of declaring critical circumstances, which back dates the duties by 90 days. It did this because it determined Canadian producers were flooding the U.S. market—in an attempt to take advantage of the expiration of the previous U.S.-Canada agreement on this topic.

The Commerce Department is due to issue another preliminary finding under another U.S. fair trade law, antidumping law, in the middle of October. I agree with most observers that this will likely result in a substantial increase in the current duty.

But I do not rise today to discuss the intricacies of U.S. trade laws.

Nor, Mr. President, do I plan to discuss the details of Canadian lumber programs.

I have never understood how giving away timber at a fraction of its market value and allowing government-set prices instead of market prices could be anything but a market distortion. But that is a debate that we have had for 20 years and I myself have discussed on the Senate floor at least a dozen times.

I see little point in repeating facts that the Commerce Department and independent observers on both sides of the border have long acknowledged. I ask unanimous consent that the forward and executive summary of an excellent analysis of Canadian subsidy programs in British Columbia, prepared by a coalition of Canadian environmental group—''Cutting Subsides, or Subsidized Cutting?'' be printed in the RECORD after my statement.

The PRESIDING OFFICER. Without objection it is so ordered.

(See Exhibit 1)

Mr. BAUCUS. Instead I want to look to the future. I rise today to offer a true and lasting solution to what has become the world's largest bilateral trade dispute and, by far, the largest fly in the ointment in the U.S.-Canada relationship. Given some political changes on both sides of the border, I believe it is now possible to negotiate a lasting and real agreement on the U.S.-Canada softwood lumber dispute.

In 1986, at a similar juncture in a trade case, the U.S. and Canada agreed to resolve the dispute by allowing Canada to collect an export duty—a duty the United States would have otherwise collected. At the same time, Canadian provincial officials agreed to a set of forestry program reforms to eliminate the underlying subsidies.

This arrangement broke down when Canada unilaterally—and without explanation—withdrew from the arrangement. But with some adjustments, a similar approach could be pursued to a real solution.

The basic concept is simple. Once the final preliminary duty is known, Canada would agree to collect this on its exports and thus gain the revenue that would otherwise go to the U.S. treasury.

The antidumping element complicates this understanding, but it could be addressed through a minimum export price or a duty adjustment to account for the dumping.

Once the basic export duty rate was set, both sides would agree that the duty would be lowered as Canadian provinces eliminated subsidies. For example, if Canada—or particular provinces—stopped artificially lowering the price of stumpage, the portion of the export duty aimed at offseting stumpage subsidies would be dropped.

Unfortunately, evaluating the impact of proposed reforms in Canada's forestry subsidies is a complex task and, sadly, these complexities have been used to hide subsidies and replace old subsidies with new ones.

In order to assist the trade negotiators from both countries in evaluating proposals for reform, I propose an ad hoc commission—made up of representatives of the forest industry from both countries, representatives of organized labor from both countries, and representatives of the environmental community form both countries.

This panel would evaluate proposals for forestry reform in Canada and provide a non-binding evaluation of the proposed changes to relevant U.S. and Canadian government officials.

I feel particularly strong that representatives from the environmental community be included in this group because they are the closest thing to truly independent observers of Canadian forestry practices.

In addition to providing a fair and thorough evaluation of proposals for change, this group could be a watchdog against backsliding. And it could provide a forum to discuss cross-border cooperation on sustainable forestry practices, joint positions for international negotiations on trade and forestry issues, and joint approaches to problems, such as protection of endangered species.

I believe such non-binding oversight could ensure real progress toward a final and lasting solution to this difficult trade problem.

I have read in the Canadian press some statements that Canadian officials—or perhaps the U.S. lawyers that represent them—that Canada should pursue no such deal until after the issue is fully litigated before the World Trade Organization and perhaps the NAFTA.

But the central fallacy of this position is that the U.S. would negotiate after it has turned back challenges. And there is no reason to believe that Canada would succeed in such litigation. Despite the rhetoric of some, Canada's record in past complaints is mixed, and U.S. law and practice has been refined to avoid past problems. If challenged, I believe the U.S. actions on softwood lumber will survive international scrutiny.

Obviously, Canadian officials will choose whatever strategy they see fit, but such a litigate-at-all-costs strategy would result in the duty being in place for most of a year—at minimum.

The bottom line is this: Out-of-court settlements are struck when neither party is certain of the outcome of litigation; no one settles after they have won the final appeal.

If the U.S. duties survive Canadian challenges, I would then oppose any effort to settle the dispute along the lines I have laid out. If the U.S. is forced to litigate and succeeds, there will be no domestic support for a settlement, no export duty, and no compromise. A compromise is possible now, not later.

Again, I congratulate the Commerce Department—and particularly the hard work of Secretary Don Evans, Undersecretary Grant Aldonas, and Assistant Secretary Faryar Shirzad—for decisive action in this case.

Lumber mills and their workers in Montana and across the country have suffered because of Canadian lumber subsidies. I plan to work with the Commerce Department to ensure that the suffering is over so that efficient, environmentally sound U.S. mills can compete on a level playing field—one way or another.

EXHIBIT 1

CUTTING SUBSIDIES, OR SUBSIDIZED CUTTING?

Report Commissioned by BC Coalition for Sustainable Forestry Solutions, July 12, 2001.

Prepared by: Tom L. Green, M.A., Ecological Economist; Lisa Matthaus, MSc, Resource Economist, Sierra Club of BC

FOREWARD

(By Dr. Michael M'Gonigle)

Textiles, dairy products, newsmagazines, steel, airplanes, fish plants, forest products—throughout the world, subsidies exist for every industry imaginable. Talk of reducing these subsidies dominates for daily news with seemingly endless rounds of bilateral and multilateral trade talks. But despite the hype, and the rhetoric, the topic is rarely treated in the thoughtful manner it deserves.

There are, of course, many good reasons for government subsidies. In today's increasingly homogenized mass-market world, it makes sense to protect a nation's ballet and local newspapers. So too it is important to keep the rural base vital by maintaining support for family farms,and even encouraging new organic producers. Indeed, subsidies are most useful in helping fledging industries make inroads against the predatory behaviour of much larger, and often inefficient, older industries.

But subsidies are all too frequently destructive and unsustainable. Such subsidies can be the most difficult to undo because they are deeply embedded, hidden from view, and reward the most powerful interests in society.

As Tom Green and Lisa Matthaus demonstrate in this paper, such is the case with the BC forest industry. Here is an industry that from its inception to the present day is supported by a raft of subsidies. Once designed as a way to develop the province, many of these subsidies are today almost completely invisible, propping up an industry against all economic and social logic, and determining the potential for good public policy. This paper only addresses this situation in British Columbia, but many of their arguments apply to the industry worldwide.

The phrase ''perverse subsidies'' captures the situation admirably, perverse because

government is spending money, or not collecting rents in a fashion that undermines economic as well as social (and environmental) interests. Take, for example, the hundreds of millions of dollars that have gone to prop up outdated mills in northern BC. These subsidies seemingly respond to the social need of keeping remote communities afloat. In fact, this money undercuts other, more efficient communities by artificially depressing their markets, while it robs even the host communities of the opportunity to direct that money, and the local industry, into creating new value-added industries that would foster more stable, longer-term, employment.

Many subsidies are not so high profile, however. Undoubtedly, the most pernicious subsidy exists in the lax environmental standards that have long existed in BC. This situation permits the industry as a whole to shift a vast array of costs out of its own production processes, and impose them instead on logged out salmon streams, disrupted caribou habitat, and clearcut coastal watersheds. In such cases, the fishing industry, First Nations, and tourism operators pay the costs of this industry.

The authors are self-described ''ecological economists.'' To many readers, this will be an unfamiliar phrase. But it signifies a new type of economic analysis, a critically important analysis if society is to weed out our landscape of perverse subsidies. As our common sense tells us, the human economic system is a subset of our natural ecological system. Creating a sustainable future means reembedding our over-extended economy in the natural world.

That challenge is, as the authors makes clear, structural. The forest industry is underpinned by a land tenure system that blankets the province. These long-term tenures artificially depress prices (through lack of market competition) while they discriminate against innovative new entrants (through exclusion from access to timber). Indeed, this is the very sort of state-chartered, state-protected, and bloated industry that, 200 years ago, Adam Smith railed against in his classic text, The Wealth of Nations. Only by taking away their privileged position, Smith argued, could the natural abilities of the citizenry to innovate, and prosper, be set loose.

Smith's radical argument applies equally in British Columbia today. Indeed, in a thoughtful addition to the discussion of structural subsidies, the authors turn our attention to the failure to pay due regard to aboriginal entitlements to the resource base. As any economist will explain, market values reflect the existing distribution of wealth between sellers and buyers. In British Columbia today, a whole group of buyers (the forest industry) secures its products well below its potential costs because the seller (the provincial government) excludes another legitimate interest (First Nations) from the bargain. This situation dramatically skews the whole forest products market, drastically reducing the obligations of the corporate sector.

The authors have bravely raised the flag on a critical topic for the new Liberal government in British Columbia. This paper is only a beginning, however. Much work remains to be done to ferret out the true costs of an industry that has for too long gotten by without public scrutiny. Despite its avowed commitment to the ''magic of the marketplace'', the new government will quickly find that it is easier to continue with the status quo than to challenge it fully and transparently.

Forestry is a powerful industry in BC, its power coming from exactly those subsidies that must now be uncovered, re-examined and withdrawn. Remove the subsidies, and you transform the industry.

This is no small task. But the future health of the BC economy, and the sustainability of its endangered ecosystems, depends upon our doing it.

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1. EXECUTIVE SUMMARY

Following his recent election victory, Premier Campbell has repeatedly asked British Colombians to hold him accountable to the Liberal Party election promises. For a party generally perceived as pro-business, one of the boldest promises was to eliminate corporate subsidies. The Liberals also committed to developing a ''leading edge forest industry that is globally recognized for its productivity and environmental stewardship.'' Together, these two commitments provide an opportunity for structural reform of the forest industry that could have far-reaching consequences for the future of British Columbia's environment and economy.

However, to fulfill its commitments, the new government must phase out the subsidies that have inhibited the logging industry from developing into an innovative, diverse and sustainable industry. The elimination of subsidies is necessary to create that ''leading edge forest industry'', because existing subsidies encourage economic inefficiency and the depletion of resources. Existing subsidies inhibit change, innovation and investment. They also hinder the development of value-added industry.

This report focuses on subsidies to the BC forest industry. Subsidies occur when public resources are available to private interests at less than their true cost. Resource industries are frequently heavily subsidized, often receiving ''perverse subsidies''—subsidies that hurt both the economy and the environment. As a result, subsidies to the logging industry deserve special attention in the BC government's drive to eliminate business subsidies.

The report examines five main categories of subsidies:

Stumpage: The fee charged by government to companies for harvesting trees from public land is called stumpage. This report concludes that flaws in the calculation methodology result in the BC government charging companies stumpage rates below market stumpage. The failure to ensure that the rules for calculating stumpage are equitably implemented and enforced provided a potential subsidy of about $350 million over a two and a half year period. Comparing BC's stumpage to competitively driven stumpage rates in similar timber regions in the US demonstrated total subsidies to the BC forest industry resulting from undervaluing of public timber at $2.8 billion for one year.

Bailouts and Handouts: Direct payment of cash to forest companies is the most readily understandable of forest industry subsidies. Although sometimes public investment may be justifiable to meet broader societal objectives, the $329 million bailout of the antiquated Skeena Cellulose mill is a textbook example of a perverse subsidy. Handouts are endemic in BC. The report documents ongoing efforts of the Job Protection Commissioner to find ways to reduce company costs through the use of public monies and through regulatory waivers.

Waiver of Environmental Protection. When government allows industry to operate without full compliance with environmental legislation, industry is able to transfer the cost of bad environmental practices onto the public, resulting in a substantial subsidy. In BC, neither provincial nor federal environmental rules related to forestry are being fully implemented or enforced, allowing companies to financially benefit from lack of regulatory compliance. It is estimated that this amounts to a subsidy of $950 million annually.

Non-recognition and Infringement of Aboriginal Title. First Nations traditional territories include virtually all of BC's commercial forests. Although Aboriginal Title is constitutionally protected right, logging activities—that would amount to infringements of Aboriginal Title—routinely occur in BC without consent of or meaningful consultation with affected First Nations. Compensation will ultimately be required for both the extraction of First Nations' resources and for restoration of traditional territories damaged by logging. This burden will fall on taxpayers, not the companies who have profited, resulting in a subsidy. In 1999 this subsidy is estimated at between $233 million and $1.163 billion.

Tenure, BC logging companies operate predominantly on public land and under government licenses, or tenures. Because of BC government consistently undervalues the stumpage rate, tenures have acquired a market value related to the ongoing stumpage subsidy. Furthermore, the BC government has allowed corporate interests to shut down mills in violation of obligations in tenure agreement yet retain secure supplies of timber, thus providing further corporate benefits.

While the BC Liberal Party has made the general promise to eliminate business subsidies, it has also other more specific promises that directly bear on the subsidies outlined above. These promises include:

Create a market-based stumpage system that reflects global market realities and local harvesting costs;

Cut the forestry regulatory burden by one third within three years;

Introduce a legislative framework for legally respecting Aboriginal Rights and Title and work to expedite interim measures agreement with First Nations;

Develop a working forest land base on public land and fully protect private property rights and resource tenure rights.

Depending on how these promises are implemented, they could help reduce subsidies, but they could also dramatically increase the subsidies to the BC forest industry.

The Liberals also made other specific election promises that speak to other potential subsidies to the forest industry, including:

Apply 1% of all direct forest revenues, not including ''super stumpage'' to global marketing of BC's forest practices and products;

Increase the Allowable Annual Cut over time through incentives to promote enhanced silviculture.

A high level of vigilance will therefore be required to ensure that subsidies to the BC forest industry do not persist or even increase under the Liberal watch.

The elimination of subsidies in any sector causes economic change and human displacement. As one researcher commented,

Obstacles to removing subsidies tend to be highly political. Opposition of vested interests, local businesses and segments of the workforce can be very powerful. Once payments are in place then a type of addiction follows, and there may be uncertainty and fear over the consequences of subsidy removal.

This report therefore recommends that subsidies to the BC logging industry be phased out gradually and carefully.

Taken as a whole, the federal and provincial government subsidies of the BC forest industry are considerable and counter-productive. The amount of subsidies coming from the provincial government alone (including those proposed by the Liberals) is between $3 billion and $6 billion each year. These subsidies represent a significant cost

to the taxpayers of British Columbia, while encouraging over-exploitation of forest and hindering the development of a modern, competitive forest industry. British Columbians deserve better.

U.S.-JORDAN FREE TRADE AGREEMENT

Mr. BAUCUS. Mr. President, I rise in support of S. 643, which implements the agreement between the United States and Jordan establishing a Free Trade Area. The legislation passed the Finance Committee and is now on the Senate calendar.

Jordan has been one of the few Arab states to actively work with the United States to establish a real and lasting peace in the Middle East. The U.S.-Jordan FTA represents a solid trade agreement as well as a strong signal of support to a valued ally. Although Jordan is not currently a major trading partner of the United States, this agreement should open the door for increased trade and commerce between the U.S. and Jordan. More importantly, it is my sincere hope it will help to bring peace to the region through economic stability.

The principal feature of the U.S.-Jordan FTA is the mutual elimination of tariffs within 10 years. Modeled after the U.S.-Israel FTA, it also limits other non-tariff trade barriers and establishes a mechanism for the settlement of disputes. The agreement is also unique. Most notably, it specifically states that each country shall strive to maintain and enforce its respective labor and environmental laws.

I recognize that these particular provisions have sparked some debate. However, I see them as historic progress on a vexing issue. Not only have they established a reasonable standard that we should expect from any of our trading partners, they also have catapulted this Congress and this administration into a real dialogue toward defining a new international trade consensus. The Jordan agreement aside, I find it completely reasonable that we should expect our trading partners to maintain their labor and environmental standards. That's simply good business. To weaken such standards solely to gain a trade advantage would undermine a country's credibility—not to mention destabilize the very trade relationship the FTA was intended to benefit.

The U.S.-Jordan FTA has been negotiated and signed. The Bush Administration supports it and has no intention or renegotiating a new agreement. The Jordanian Parliament ratified the Agreement last May. Our colleagues in the House have already approved the implementing legislation for the agreement. Jordan's King Abdullah II visits the U.S. next week to urge passage of the agreement.

I hope his visit will encourage potential detractors to recognize the importance for swift action and agree not to stand in the way of immediate consideration of this vital legislation.

Simply put, this is a good trade agreement. The time is right for the Senate to take up and pass it without amendment.

MONTANA WILDFIRES

Mr. BAUCUS. Mr. President, the loss of life battling catastrophic wildlife is a tremendous tragedy that lends us perspective. With the loss of four fighters in less than one week in my home State, the fire season in Montana again reminds us that we must be deeply grateful for the hard and dangerous work these firefighters do, work that takes them away from their homes and their families to protect the people of Montana and the West.

Let me honor the four firefighters who lost their lives battling fires in Montana.

On August 31, 2001, three men died in a helicopter crash near the Fridley Fire just south of Livingston, MT. The pilot was Rich Hernandez, 37, originally from Florida. His copilot, Santi Arovitx, only 28, was originally from Spain and had been living in Hillsboro, OR. Their crew chief was Kip Krigbaum, 45, of Emmett, ID.

On September 3, David Ray Rendek, just 24 years old, was killed when struck by a falling snag while working on a small fire in Bitterroot National Forest, near Hamilton, MT.

David graduated from high school in Victor, MT, and attended classes at the University of Montana, in Missoula with his sister. I have been told he was a passionate advocate about the outdoors and was a dedicated firefighter. I am very sorry his family and Montana have lost such a promising young man.

My deepest sympathies and condolences go out to the family and friends of these four men. We in Congress honor their memory and the ultimate sacrifice they made for the people of Montana. We are very sorry for their loss.

Unfortunately, the fires in Montana continue. Dedicated fire crews continue to battle hostile weather conditions and high winds.

Montana fires have consumed over 90,000 acres. The largest fires are the Fridley Fire near Livingston and the Moose Fire burning in and around Glacier National Park.

The Fridley Fire has burned over 26,800 acres, and it is approaching the Gallatin Divide, increasing the threat to the Bozeman water supply. Over 1,000 people are fighting this fire.

As of September 5, the Moose fire has burned more than 58,000 acres. There are 35 20-person crews currently battling the Moose Fire.

Fourteen are Montana crews and several crews come from Montana's Indiana Country—the Rosebud Sioux, Ronan, Blackfeet Nation and Northern Cheyenne. Air Support includes 9 helicopters and 3 air tankers. Other Montana crews include: Glacier Park, Bitterroot Hot Shot Crew, Trapper Creek Job Corps, Kootenai National Forest and Flathead National Forest.

The force of the Moose Fire is tremendous, as it burns on Forest Service, private, and Glacier National Park lands. People have reported to me they can smell the smoke as far away as Chester, another even suggested as far away as Minot.

For those listening who may not know those distances, Minot is in North Dakota, 700, 800 miles away.

All of our fire crews are working long days and long hours battling these blazes, and I just can't praise them enough. They have contained several fires and they are winning the struggle with the dangerous Fridley and Moose fires.

Also, our Indian country firefighters are again great heroes on our fire lines in northwest Montana. Although wildfires are devastating, our tribal neighbors continually step up to the plate and meet this challenge full on. I intend to work closely with the tribes to better incorporate them in the National Fire Policy planning process.

I also intend to continue to work hard for funding for fire rehabilitation efforts. Many people tend to forget that the devastating effects of wildfire remain long after the last flame has been put out.

The terrible mudslides that occurred after heavy rains in the Bitterroot National Forest in Montana in June are a sober reminder of that fact. These mudslides destroy property, soil cover, and can devastate watersheds. We must make sure that the appropriate Federal agencies have the resources they need to restore burned areas and to deal with the long-term effects of fire on the ground.

Again, I express my deepest gratitude to all of the men and women who put themselves in harm's way on the fire lines in Montana, and my deepest sorrow and regret that they lost four of their comrades in the line of duty.

I will continue to do everything I can to make sure our crews have the manpower and equipment they need on the ground. The quicker our firefighters can contain these fires, the sooner we can take their lives out of danger.

Mr. President, I appreciate your attention. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEXICAN PROGRESS IN THE DRUG WAR

Mrs. FEINSTEIN. Mr. President, I have come to this Chamber because I want to make a few comments of welcome to President Vicente Fox. I had the pleasure of speaking with him at Secretary Powell's lunch yesterday and listening to him in the House of Representatives in the joint session this morning.

Because I have been critical of Mexico's efforts to stop drug trafficking, their unwillingness to arrest cartel leaders, to vigorously prevent the laundering of drug money, their refusal to extradite a single Mexican national on drugs charges, and because of the widespread corruption within the ranks of Mexican law enforcement, I thought I should come to the Chamber today while President Fox is in our country to say recent reports I have had indicate there has been truly a dramatic change in Mexico.

I believe he is to be commended for that. It looks as if he is responsible for an entirely new attitude on the part of his country in the fight against drugs. I wish to take a few moments to commend him and to say how important this is to the United States and to the people of this country.

We all recognize that we have a demand problem in this country. In fact, there is even a growing demand problem in Mexico today as well. But, nevertheless, the flood of narcotics across the border represents a major problem for both our nations. It brings with it also collateral problems in the United States and in Mexico: violence, corruption, and even, as we have seen, the brutal torture and murder of literally hundreds of public officials, judges, prosecutors, journalists, and any who dare either to cross the cartels or stand in their way.

It is fair to say that these major consequences of the drug trade require that we solve the problem together. Simply put, the Fox administration has made more progress in the war against drugs over the last 6 months than the Government of Mexico made over the previous 9 years.

I would like to share some examples, some specifics, if you will, of the progress made by Mexico through the leadership of this brave new President.

Prior to the Fox administration, not one major Mexican national drug cartel member had ever been extradited to the United States on drug charges—not one, ever—despite a whole list of pending requests.

Since President Fox took office, however, this has changed dramatically. In fact, I had the privilege, at the Davos World Economic Summit, in January, to meet briefly with President Fox. At that time I handed to him directly a list of requested extraditions, prepared by our Drug Enforcement Administration. He said he would take action. I did not really believe him at the time, but he has.

After years of court battles, earlier this year the Mexican Supreme Court ruled that Mexican nationals could, indeed, be extradited to the United States.

Since January, 14 fugitives have been extradited to our country from Mexico. Four of these were Mexican nationals, and three of the four, for the first time, were Mexican nationals extradited on major drug charges. That may not sound like much, but I can assure you it is a big deal, because many of us who have worked in this area for years believe extradition is a major deterrent to the cartel leadership.

The defendant in the Supreme Court case, Everardo Arturo Paez Martinez, is a key member of the Arellano Felix cartel. The United States has been requesting his extradition for years. He was extradited to the United States to stand trial. He is here today.

Miguel Angel Martinez-Martinez, an accused drug trafficker, was extradited and is awaiting trial in San Diego. Martinez is a principal figure in the Joaquin ''Chapo'' Guzman Organization. This Sinaloa-based cartel is believed responsible for smuggling tons of cocaine and other illicit narcotics into the United States over many years, and for trying to build a 1,400-foot tunnel from Tijuana to Otay Mesa in California.

Rafael Camarena Marcias has also been extradited to the United States. He was responsible for successfully building a tunnel between Agua Prieta, Senora, and Douglas, AZ, through which up to 2 tons of cocaine flowed every day.

Extradition has always been the most visible and effective sign of how seriously the Mexican Government is taking the fight against drug cartels. I am very proud to say thank you to President Fox and to the Government of Mexico for their cooperation in this regard.

It is not easy for Mexico to target these individuals and send them to the United States for trial. It is politically difficult, for many in Mexico do not believe that Mexican citizens should face trial in the United States, and it is difficult for personal safety reasons as well.

Let me give an example. The lawyer who represented Everardo Arturo Paez in opposing extradition for 3 years and who failed to prevent his extradition was found murdered. That is the reward for not succeeding with a cartel. I am told that others may well be in personal jeopardy as well.

President Fox's leadership has given the entire country new courage to stand against the cartels, their killers, and their traffickers.

In addition to extraditing those already under arrest, the Mexican Government has also made new arrests of certain leaders of Mexican cartels. Adan Amezcua, one of the three Amezcua brothers, was arrested in 1997, but he was freed by a corrupt judge who has since been fired from the bench. Amezcua was rearrested by Mexican officials this past May.

Why are they important? The Amezcua brothers are major methamphetamine traffickers. They are responsible single-handedly for the introduction of methamphetamine throughout this country. Indeed, the cartel and its nationals still run meth labs throughout the United States.

In cooperation, the Governor of Quintana Roo, Mario Villaneuva, who was arrested while he was still Governor, asked to serve out his term of Governor of Quintana Roo, and then he disappeared the day after he left office and has been gone. Well, he was arrested in May for major drug crimes in Cancun, and today he is in a maximum security prison in Mexico.

In February, the Government dismantled an entire cell of the Arellano Felix cartel, perhaps the most vicious cartel operating right out of Tijuana. They arrested 7 of its leaders. They seized 8 houses, 18 vehicles, 19 firearms, and communication devices.

Seizures of illegal drugs have been on the rise. Some of them are at an all-time high. In February, the Mexican Government seized 14 tons of marijuana in cookie boxes; in April, another 131 tons. In February, they seized 8.8 tons of cocaine aboard the fishing vessel Forever My Friend, and the 10 crew members have been transported to San Diego; in May, another 12 tons of cocaine aboard a vessel flying a Belize flag. Overall, this past year, 24 tons of cocaine have been seized from fishing vessels as a result of cooperation between Mexico and the United States.

The Mexican Government has also addressed the serious issue of internal corruption. The captain of the Mexican Army, Luis Rey Abundis Murga, was sentenced to 17 years in prison for assisting the Carillo Fuentes cartel. Retired general, Jorge Mariano Maldanado Vega was sentenced to 26 years for aiding the same organization. And Mario Silva Calderon, former agent of Mexico's national police, was sentenced to 36 years in prison for similar activity.

As Donnie Marshall, former head of the DEA, testified before the drug caucus earlier this year, no one country can possibly combat the wealth and sophistication of these major drug trafficking organizations. Only by cooperating and sharing locally gathered intelligence and assets can we hope to succeed.

That is why I am so encouraged by the progress being made by the Fox administration.

In the past I know that American law enforcement and even Mexican law enforcement felt that the other side could not be trusted. Now finally that is changing. A new 117-member Mexican organized crime unit, which works hand in hand with our DEA, has fostered new relationships and trust between the law enforcement agencies of our two nations. It is only with this type of cooperation that we can hope to defeat the drug cartels and stem the flow of illegal drugs onto the streets.

Before I yield the floor, I would like to address one request President Fox made earlier today regarding passage of S. 219, the Dodd certification legislation.

Let me be clear: I continue to support the certification process. We have nothing to replace it. I happen to believe it has some salutary value. Because President Fox has asked, I would

be prepared to support a suspension of the certification process with regard to Mexico for the 3 years as requested by President Fox. I would do so because he asks and in the new spirit of cooperation between our two nations. I would be very pleased to work with my colleagues to pass such legislation immediately.

I am not, however, prepared to abandon the process entirely with respect to all countries, as S. 219 would do. There are many places in the world where progress has not been made. Syria, Iran, Burma, and Afghanistan are just a few examples of continuing major problem countries. Only a robust certification process gives Congress and the President the tools we need to encourage change in these nations.

I hope the Senator from Connecticut would work with me on a compromise that would address only Mexico so we can move forward on this issue.

In closing, I again welcome President Fox to the United States. We look forward to working with him in our continuing mutual fight against the drug cartels. I personally, deeply, say thank you and salute this brave and courageous new President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank the Senator from California for her fine words. It was a superb speech President Fox gave today in joint session.

MAGDALENA MEDIO

Mr. WELLSTONE. Mr. President, sometimes one speaks in the Senate Chamber and is not sure what exactly the effect of it all is—maybe more than sometimes.

I am speaking today on behalf of a lot of the human rights workers and social service workers and community development workers, civil society people in Colombia. I am hoping—I will be very straightforward about it; I don't think this is illusion—that the words of a Senator on the floor of the Senate about a priest and about a very important organization, of which two members have been brutally murdered in the last 35, 40 days, communicates a message that our Government cares deeply about human rights in Colombia and about the importance of the Government and the military defending civil society individuals.

I rise today to speak out on behalf of many defenseless human rights workers, social service providers and community economic development workers, in our neighbor Colombia, who are besieged by the growing paramilitary violence in their county. These individuals, some of whom I have come to know personally, all of whom I greatly respect, are heros for their contributions to democracy and peace in Colombia. They deserve to be heard and to be aided by the United States government.

I have traveled twice to the city of Barrancabermeja, sometimes called ''the Sarajevo of Colombia.'' During those visits, I have come to know the extraordinary and courageous work of a Colombian non-profit program based in a largely rural region of oil refineries, rivers, and mountains. In many hamlets and towns it provides the only hope amidst so much despair.

The Program of Development and Peace of the Magdalena Medio, located in Barranca, is lead by the Jesuit Father Francisco De Roux. The Program's name gives away their mission—sustainable, locally based social and economic development in the context of an inclusive community at peace. They stand for democracy, civil rights, and human rights. They are against the war, and have no enemies in the conflict.

They strive for an inclusive community where disputes are settled by civil authorities and not by armed gangs. They want to provide opportunity for all in their community to work and raise they families in peace and dignity. But paramilitaries are taking over their region and extrajudicial killings are a daily threat.

Recently, they have been beset by tragedy. Two defenseless staff members have been killed and multilated. Ms. Alma Rosa Jaramillo was a volunteer attorney, a dedicated mother and courageous member of her community. Her dismembered body was found in the community of Morales on July first of this year. On July 17, another brutal assassination took the life of Eduardo Estrada. He was murdered right in front of his family, after a family reunion. He was a respected leader in the community of San Pablo, working as the coordinator of the Program of Development and Peace.

Why are these innocent people, who are doing such good work, being targeted? Lamentably, these are just two more examples of paramilitary impunity in Colombia.

As the Plan Colombia debate has unfolded in the U.S. Senate, we have come to know the terrible reality of the last few decades for the people of Columbia—kidnaappings, assassinations, disappearances and terror by the guerrilla and the paramilitary organizations. I am no defender of the guerrilla organizations. They are vicious in their treatment of the civilian population and publicly renounce universally accepted human rights standards.

But the paramilitary organizations, because of their open association with the Colombian military, also must be held to the highest standards of human rights. They cannot be allowed to justify their human rights abuses by equating the laudable civic involvement of those they persecute, with sympathy for the guerrillas. The paramilitary organizations have penetrated ever deeper into Colombian civil society, bringing their terror to communities all across Colombia. In many cases, they do so with the acquiescense of the Colombian military and government, at the local and even national level.

The Colombian government must find a way to respond to the paramilitary threat. It is a threat to the rights of free speech, free assembly, and moreover, the rule of law in Colombia. We must send a message to all violent actors in Colombia, especially parammilitary groups: ''The targeting of the civilian population with murder, extortion, kidnapping, torture and multilation is unacceptable!''

The United States has an obligation to nurture and defennd civil society efforts in Columbia. The Program of Development and Peace of the Magdalena Medio is doing critically important work, helping Colombians find a way out of the labyrinth of war and terror. They need and deserve our thanks and our encouragement; for they represent the future of hope and peace for Colombia.

In my view, a peaceful, prosperous Colombia is a better neightor and partner of the United States. We must defend these courageous people who daily risk their lives for human rights, democracy and peace. Given our deep involvement in Colombia, we have an opportunity, and a duty, to defend Colombian civil society against the abuses of guerrillas and paramilitaries alike.

Mr. President, I traveled twice to the city of Barrancabermeja, sometimes called the ''Sarajevo of Colombia.'' During the visits, I have come to know a very courageous priest who is in charge of an organization, a nonprofit organization, that does the economic and social development work in a largely rural region of oil refineries, rivers, and mountains. For many hamlets and towns, this organization is the only hope for people.

The name of the organization is the Program of Development and Peace of the Magdalena Medio located in Barranca, led by a Jesuit priest named Francisco de Roux, also called Father Poncho. The program's name gives away its mission. The occupant of the Chair would love it as a businessperson and a Senator from New Jersey. They do the most credible local sustainable economic development work. They stand for democracy, civil rights, and human rights. They are against the war. They are not aligned with the FARC, ELN, or any of the left groups—the paramilitary—and they should have no enemies in this conflict.

This organization has been beset by tragedy. Two defenseless staff members have been killed and mutilated. Ms. Alma Rosa Jaramillo was a volunteer attorney, a dedicated mother and a courageous member of her community. Her dismembered body was found in the community of Morales on July 1 of this year. On July 17, another brutal murder took place. This assassination took the life of Eduardo Estrada. He was murdered right in front of his family after a family reunion. He was a respected leader of the community in

San Pablo, working as the coordinator of the Program of Development and Peace headed up by Father Francisco de Roux.

Why are these innocent people, doing this economic development work—who have done such good work—why are they being targeted? Lamentably, these are just two more examples of paramilitary impunity in Colombia.

I intend for this statement not only to be made on the floor of the Senate, but I hope it is sent out throughout Colombia. As the Plan Colombia debate has unfolded in the Senate, we have come to know the terrible reality of the last few decades for the people of Colombia—kidnappings, assassinations, disappearances, and terror by the guerrilla and paramilitary organizations.

I am no defender of the guerrilla organizations. The FARC and ELN are involved in narcotrafficking up to their eyeballs. They have been vicious in their treatment of the civilian population. They publicly renounce universally accepted human rights standards. But the paramilitary organizations, the AUC, because of their open association, because of their extrajudicial killings and open association, especially at the brigade level with the Colombia military, must be held to the highest standard of human rights. They cannot be allowed to justify their human rights abuses by equating the laudable civic involvement of those they persecute with the sympathy for the guerrillas. The paramilitary organizations penetrated ever deeper into Colombian civil society and brought terror to many of the communities—in many cases, with the acquiescence of the military.

I rise as a U.S. Senator on the floor of the Senate to communicate a message to the Colombian Government that the paramilitary should not be allowed to murder civil society people, defenders of human rights, people doing good work, as the men and women in Father Francisco de Roux's organization do, with impunity. We must send a message to all the violent actors in Colombia, especially the paramilitary groups: The targeting of the civilian population with murder, extortion, kidnapping, torture, and mutilation is unacceptable. Our Government has an obligation to nurture and defend civil society efforts in Colombia. The Program of Development and Peace of the Magdalena Medio is doing critically important work. They need and deserve our thanks and encouragement. They represent hope and peace for Colombia.

Before you came to the chair, Mr. President, I was saying this organization is doing the best, by all accounts, social and economic development work. This priest is beloved and highly respected. Two members of his organization have been brutally murdered in the last 40 days. Their plea, and the plea from many civil society people in Colombia, is: Please, U.S. Government, please U.S. Senate, call on the Government and the military and the police to defend us. That is what I am doing. That is supposed to be part of Plan Colombia.

We have a deep involvement in Colombia. Therefore, we have an opportunity and a duty to defend Colombian civil society against the abuses of the guerrillas and the paramilitaries alike. The message needs to be communicated to the military in Colombia that with the Blackhawk helicopters and the military assistance come human rights conditions you have to live up to. Otherwise, we are going to continue to see the murder of innocent people with impunity.

I want this statement to certainly be sent out to Colombia because I want the paramilitary forces and others to know we are paying attention to Father Francisco de Roux and his organization, the Program for Development and Peace, and their work, and that we mean to defend civil society people.

Again, I want to point out that the Colombian Government has an obligation to defend civil society people from the violence both from the guerrilla left and the paramilitary right. Up to date, they have not defended people from violence in Barranca, which I have visited twice now. The paramilitary cut the telephone wires, isolated the people. They have no phone service. They took away their cell phones and moved into their homes. They control the city. With the exception of the bishop and the priest and his organization, and a few others, hardly anybody can speak up any longer without the real risk that they will be murdered.

Francisco de Roux's organization, widely credited for this great economic development work, has had two members—a woman and a man—dismembered, brutally murdered. It is time for our Government to make clear to the Colombian Government and police and military that they have to defend these civil society people.

UNIONS UNDER SIEGE IN COLOMBIA

Mr. WELLSTONE. Mr. President, I rise today to also address the disturbing level of violence perpetrated against Colombia's union leaders.

As another Labor Day passes, I could not in good conscience neglect to mention the plight of our brothers and sisters in the Colombian labor movement. There has been a dramatic escalation in violations against them and the response by the Colombian authorities in the face of this crisis has been negligible.

For the past 15 years, Colombia has been in the midst of an undeclared war on union leaders. Colombia has long been the most dangerous country in the world for union members, with nearly 4,000 murdered in that period. Today, three out of every five trade unionists killed in the world are Colombian.

Union members and activists are among the main targets of human rights violations—including murders, disappearances and threats—in the escalating conflict in Colombia. Paramilitary groups, who are linked with Colombian security forces, are responsible for most of these attacks, although guerrilla groups have also targeted activists.

The right-wing AUC has been especially brutal, killing hundreds simply because they view union organizers as subversives. One of the most recent killings occurred on June 21, when the leader of Sinaltrainal, the union that represents Colombian Coca-Cola workers, Oscar Dario Soto was gunned down. His murder brings to seven the number of unionists who worked for Coca-Cola and were targeted and killed by paramilitaries. Earlier this summer, the International Labor Rights Fund and the United Steelworkers of America brought a suit against the Coca-Cola company alleging that the Colombian managers had colluded with paramilitary security forces to murder, torture and silence trade union leaders.

According to a recent New York Times report by Juan Forero, the number of union workers at Coke plants in Colombia has dropped to 450 from 1,300 in 1993. Total Sinaltrainal membership has dropped to 2,400 from 5,800 five years ago.

Regardless of the outcome of this particular legal case, U.S. companies with subsidiaries in Colombia have an obligation to address the upsetting trend of violence against workers, particularly union representatives. It is clear that some companies regularly hire out paramilitary gunmen to intimidate and kill in order to break labor unions. Last year alone, at least 130 Colombian labor leaders were assassinated. Four times as many union workers have been killed this year as during the same time last year. That's more than 80 unionists killed since the beginning of this year.

Colombia, like the United States, guarantees workers a legal right to organize. However, when they do, they face grave threats. This is a serious violation of human rights, under Article 22 of the International Covenant on Civil and Political Rights. The Colombian government must take an active role in protecting and ensuring that these rights are enjoyed by all its citizens.

Likewise, the Senate should bear in mind the deteriorating plight of union membership in Colombia before sending additional military aid to a government that can't—or won't—crack down on paramilitary forces.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CARPER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VOINOVICH. Mr. President, I ask I be given an opportunity to speak as in morning business.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

BUDGET SURPLUS NUMBERS ARE NOT GOOD

Mr. VOINOVICH. Mr. President, while the Senate was in recess for the month of August, the Congressional Budget Office released its projections as to the size of the Nation's surplus. As we expected, the numbers were not good.

For fiscal year 2001, the CBO indicates the Federal Government will not only not have an on-budget surplus for the first time since 1999 but that Washington will actually dip into the Social Security surplus to the tune of $9 billion in order to cover spending.

The Office of Management and Budget says we will have a $1 billion surplus, but, in my view, that is effectively no surplus. So our financial situation this year is basically somewhere between a negligible surplus at best and a $9 billion deficit.

Some of my colleagues might look at the CBO midterm budget review and see the problem of on-budget deficits as a short-term phenomena since CBO projects a return to consistent on-budget surpluses after 2004.

This belief is misplaced. I remind my colleagues that CBO's forecast is based on the dubious assumption that spending in the outyears will increase only at the rate of inflation, which is roughly 2½ percent. To say that level of spending is unrealistic is an understatement, and anyone in this Chamber who honestly thinks Congress can keep spending at the level of inflation just does not live in the real world.

I remind my colleagues, around this time last year, Congress increased nondefense discretionary spending 14.3 percent and overall spending was increased by more than 8 percent over fiscal year 2000. Had we not spent money like drunken sailors in the fiscal year 2001 budget, even with the economic turndown and the needed tax cut for the American people, Congress would not have invaded the Social Security this year. The problem is we just spend too much money. If we had increased overall spending in fiscal year 2001 by only 6 percent, we would have saved tens of billions of dollars and we would not be dipping into the Social Security surplus and we would not have a problem in the 2001 budget.

The concern now is, what will happen in fiscal year 2002? As it is, we are on track to increase 2002 discretionary spending by at least 6 percent over last year. The President originally talked about 4 percent, and we came out of the Senate with roughly a 5-percent increase. Based on the current demand for money in Washington and based on our past performance, spending in fiscal year 2002 will likely grow faster than that anticipated by CBO. That means next year we will not have an on-budget surplus and we are going to spend Social Security surplus funds to cover the growth in spending. That is where we are.

Alarm bells should be going off all over Capitol Hill because we are getting ready to do something Senators and Representatives from both parties have vowed not to do, and that is spend the Social Security surplus. I often say ''there is always some good that blows in an ill wind.'' In this case, the ''ill wind'' is Congress's potential use of the Social Security surplus. The ''good'' is the hope that it will force Congress to control spending, prioritize, and make hard choices—what the Presiding Officer and I had to do when we were Governors of our respective States. We had to prioritize, we had to make those tough choices and live within a budget limit.

We didn't do that in fiscal years 1999 and 2000 here in Washington. We had a combined on-budget surplus of $88 billion and Congress and the previous administration did not believe they had to make hard choices.

Well, things are different today, and now we must make the hard choices. The first thing we have to do is avoid spending the Social Security surplus. The second thing we have to do is not increase taxes. According to a national poll released by CBS news just yesterday, more than 70 percent of Americans opposed using the Social Security surplus to fund general government spending; 66 percent of Americans oppose using the Social Security surplus even in the event of a recession. Our constituents are making it pretty clear where they stand. They stand against spending the Social Security surplus.

Some of my colleagues and the media say we should spend the Social Security surplus to stimulate the economy. I say to that, ''hogwash,'' and so do the American people. For me, spending the Social Security surplus is black and white. It is simply wrong. The fact of the matter is there is a difference between income taxes and payroll taxes. Just ask the people who count, the hard-working men and women who pay those payroll taxes, if there is a difference. More people pay higher payroll taxes in this country today than they do income taxes. They expect that money will be used for their Social Security benefits and not for general government spending.

As my colleagues know, there are only two things we should legitimately spend the Social Security surplus on: Social Security benefits or paying down the debt. It is that simple. If we are not spending it on Social Security, we have a moral responsibility to use it to pay down the national debt.

One of the primary reasons I wanted to serve as a U.S. Senator was to have an opportunity to bring fiscal responsibility to our Nation and help eliminate the terrific debt we have accumulated. As my colleagues know, for years successive Congresses and Presidents have spent money on things that, while important, they were unwilling to pay for; or in the alternative, do without. In the process, Washington ran up a staggering debt and mortgaged this country's future, my children's future, and my grandchildren's future.

We have been reaping all the benefits and putting the future of our children and grandchildren in jeopardy. In other words, ''we buy now, you pay later.''

I cannot convey how wrong I think it is to saddle them with such an excessive financial burden, something this Congress should correct. Using the Social Security surplus to repay the publicly held national debt will make it easier for the Government to meet its obligation to pay Social Security benefits in the future. At this point, the vast majority of projected debt reductions—some 75 percent over the next 10 years—will be out of that Social Security surplus.

In testimony before the Senate Budget Committee last year, Dan Crippen, the CBO Director, stated ''most economists agree saving the surpluses and paying down the debt held by the public is probably the best thing we can do relative to the economy.''

It was true then and it is true today. If the Government has little or no publicly held debt when the baby boomers begin to retire, it will be more manageable for the Government to borrow money, the money that it will need to meet its obligations if Congress has not reformed Social Security by that time.

The baby boomers will retire. We will either take care of their situation by raising payroll taxes or raising income taxes or having to borrow the money. We ought to at least anticipate that.

Everyone knows that the lockbox we are talking about is nothing more than a slew of IOUs that must be repaid when the baby boomers start to retire. As I mentioned, either higher payroll taxes or higher income taxes or borrowing the money, those bills will be paid, one way or another.

Moreover, by reserving the Social Security surplus to help repay that $3.1 trillion publicly held debt, money currently invested in U.S. Treasury bonds will be released to be invested more productively in the private sector. More private investment means more capital formation and a more robust economy now and in the future, which is precisely what we need most to meet the demands of our retiring baby boomers. We have to have a growing economy. That is the most important thing we have.

Reserving the Social Security surplus to reduce the publicly held debt has the effect of reducing interest rates by reducing the overall demand for savings. In short, reserving the Social Security surplus to lower the debt sends a positive signal to Wall Street and Main Street that encourages more investment, which in turn fuels productivity and economic growth. It also lessens

our cost of servicing interest on the Federal debt.

Currently, we pay 11 cents out of every dollar—I don't think a lot of people realize this—11 cents out of every dollar is used to pay the interest on our debt. Lower the debt and you lower the interest burdens, and that frees more money for other priorities.

It was not until 1999 that we got to a point where the Social Security surplus was no longer used to offset spending—being used for debt reduction instead—and members of each party in both the Senate and House swore they would not go back to using the Social Security surplus for spending. In addition, many of us who supported the President's tax reduction package did so because the President promised he would limit spending and he would use all of the Social Security surplus to pay down debt.

I refer to that as a three-legged stool: No. 1, it allows meaningful tax reductions; No. 2, it restrains the growth of spending; and No. 3, it reduces debt.

That was the promise and I expect the President to keep his promise. I know many of us who supported the tax reduction will keep our promise to limit spending, and we are not going to spend the Social Security surplus.

So far in the appropriations process we look like we are on track to maintain a semblance of fiscal discipline because we are basically sticking with the budget resolution. Those appearances are deceiving because we are holding off the toughest bills for last, instead of tackling them first. We all know the way things are going, we are likely to increase spending for defense and education far beyond the levels anticipated when the budget resolution was passed. Like my colleagues, I support a strong national defense and funding for true educational responsibilities. However, I think we must offset increases in these programs by making reductions in other areas, understanding the President is not going to get everything he wants and Members of this body are not going to get everything they want.

Unfortunately, that is not what we are doing. I agree with President Bush that the responsible course of action for the Congress is to immediately move up the two biggest appropriations bills, Defense and Labor-HHS: Consider them first. We need to get everything on the table and reallocate resources in order to stay within the budget limits, just as I did when I was Mayor of Cleveland and Governor of the State of Ohio.

If we were in this kind of situation in a county, or in a city or at the State level, we would get everything on the table, we would look at all the things that need to be done, and say we have to reallocate these resources. But not in the U.S. Senate. Not in the U.S. Congress. We do these appropriations bills, No. 1 with blinders on, No. 2 with blinders on, No. 3 with blinders on—we go all the way to the end and just keep ratcheting it up a little bit until we get to the biggest ones at the end, and then we say: Holy smoke, we don't have the money; and then Katie bar the door. That is what has happened in the last 2 years I have been here.

I urge the President and urge the Senate leadership, let's get real. Let's look at what we are doing and understand we cannot do everything for everyone, and try to figure out how we can live within the limits we have set. We can do that. I think it would be the finest thing we could do for this country. It hasn't been done around here—I don't remember if it has ever been done since I have been watching government, and I have been watching it as a mayor and as a Governor for 20 years. I would like to see that happen.

The other thing I am going to try to do to guarantee we do not end up spending the Social Security surplus is offer two amendments in the near future, with colleagues from both sides of the aisle, that will force the Senate and House to make the necessary hard choices that will bring fiscal discipline to the Government and keep the Social Security surplus from being used.

My first amendment I will introduce will address Congress's perpetual irresponsible spending and budget gimmicks, gimmicks that Congress used in 1999 to avoid the appearance of using Social Security. There are a lot of them out there. We have to make sure we are honest with the public about what we are doing and not try to pull the wool over their eyes.

The second amendment I will be offering is an amendment to guarantee Social Security funds will not be spent and instead will be used to reduce debt. It is my hope, as we proceed through the appropriations process, these amendments will be given favorable consideration by my colleagues and not turned aside on a procedural vote. We ought to have an up-or-down vote on some of these issues that are really going to clarify the process and make what we do in the Senate more transparent. We owe the American people nothing less.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent I be allowed to speak for up to 15 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY POLICY

Mr. BINGAMAN. Mr. President, I will take this opportunity to speak for a few minutes on the work that is currently underway in the Energy and Natural Resources Committee on which the Presiding Officer serves with great distinction. We are making an effort in that committee to develop a comprehensive and balanced energy policy. I want to inform my colleagues about the likely steps we will be following in the near future.

As I see it, Congress has a real opportunity this fall to set an energy policy that will sustain our economic prosperity as we move into this new 21st century. The Senate has a key role to play in seeing this opportunity does not slip through our grasp.

A great deal has changed since 1992, which is the last time Congress enacted major energy legislation. We have seen energy markets become more competitive and more dynamic. But we have also seen some significant bumps along the way.

First of all, consumers are more vulnerable to the vagaries of the energy markets than they ever were before. I think the evidence we have of what happened in California with electricity prices is one example.

Second, gasoline supplies are increasingly subject to local crises and price spikes due to the proliferation of inflexible local fuel specifications.

Third, we rely more heavily each year on natural gas—natural gas to heat our homes and to produce electricity. But our system for producing and transporting that natural gas is showing signs that it is reaching its limits.

Fourth, the need to address the fundamental connection between energy and global warming is something that is becoming a major concern of many of us, and I think rightly so.

So I am pleased most of my colleagues in the Senate recognize these challenges. I believe there is a bipartisan consensus in favor of a sensible energy policy that will smooth out the bumps in the market by increasing energy efficiency, by boosting our energy supplies, by modernizing our energy infrastructure.

Technology and policy innovations will be key to achieving this balanced outcome so Americans can have reliable and affordable energy choices that are sustainable over the long term. Our energy problems cannot be effectively addressed by packaging up a collection of tired old wish lists and passing that through the Senate floor in a day or two. Energy consumers and producers, and several committees here in the Senate, will need to focus on new energy approaches if we are to protect our national economic prosperity and do so through smarter ways to produce and use energy.

For this reason, as the Senate takes up and considers energy legislation this fall, we will be talking about the need for proactive policies, about the need for technology-driven approaches to our energy problems. We have made a good start already in the Committee on Energy and Natural Resources. We began our markup in July, before the August recess—a markup of comprehensive energy legislation.

The first part of the bill that we have substantially completed at this point is a comprehensive revitalization of the

national capabilities for energy research and development. Putting research and development first reflects a broad consensus that new science and new technology are at the core of any solution to our national energy challenges. Despite the importance of energy R&D, our recent commitment to it leaves a great deal to be desired. The level of effort we are making today in Federal energy technology research and development is equivalent in constant dollars to what we were making in 1966. Yet our economy is three times larger today than it was in 1966. It is very hard to see how we can build a 21st century energy system on a 1960s level of effort in the research and development budgets.

The committee will begin its deliberations beginning this next week and its effort to mark up a bill this next week. Major topic areas before the committee as we move forward in this markup will include policy proposals to improve energy efficiency, to improve our ability to produce energy from a great diversity of sources, and to tackle the tough issues related to electricity restructuring.

Today I am releasing a detailed description of the proposed chairman's mark in these various areas. I am also releasing the text of the major portions of the bill we will be working on in committee—the next major portion of the bill. This part of the bill will deal with electricity, and it will provide a framework to integrate new technologies into electricity markets to provide high-quality, efficient electricity generation in every community and to give consumers new ways to manage and control energy use and energy costs.

I would like to take an opportunity to describe some of the key proposals in the mark that we will be considering in a little more detail. With respect to energy efficiency, the chairman's mark that we will be considering for the energy policy bill will contain provisions that will improve energy efficiency in household appliances—also provisions that will improve energy efficiency in Federal and other facilities and industry itself.

Let me state my belief, though, that increasing vehicle fuel efficiency is one of the highest legislative priorities that the Senate should have in energy legislation. In addition to our growing dependence on foreign imported oil, we have reached the limits of our current infrastructure to refine and distribute fuels. A policy of simply continuing to increase the demand for gasoline is not sustainable. Fortunately, advanced technology in a variety of areas to improve automotive fuel efficiency offers a better answer, and we need to move in that direction.

The National Academy of Sciences has given us some very useful ways of thinking how to reformulate the CAFE program. Clearly, consumers want the option to choose the type of vehicle that suits their needs and preferences. They also want to be able to count on reliable and affordable fuel supplies.

While CAFE standards are not in the Energy Committee's jurisdiction, a number of other mechanisms to encourage greater fuel efficiency in cars and trucks are in our jurisdiction. The mark will contain purchase requirements for Federal fleets that will provide greater incentive to automobile and truck manufacturers to produce more highly efficient vehicles.

A topic closely allied to vehicle fuel efficiency is the question of the fuels that we will need in the future to power cars and trucks. Here, the Congress has a clear duty to address the growing multiplicity of fuel specifications around the country. Part of the solution to this problem will be provided by a bill in the Committee on Environment and Public Works, sponsored by Senators SMITH and REID. I hope that these provisions find their way into our overall energy bill in the Senate.

The Chairman's mark will include a number of energy efficiency provisions relating to appliances. Perhaps the most visible proposal in this regard will be one that enacts a 13 Seasonal Energy Efficiency Rating for central air-conditioning units. Such a standard was finalized earlier this year, but since then the Bush Administration has attempted to withdraw it and substitute a lesser standard. The Committee on Energy and Natural Resources held hearings on this topic and the record before the committee has persuaded me that the administration based its decision on economic information that was outdated and inaccurate.

A 13 SEER rating for central air-conditioning units can do a lot to help avoid summer blackouts and brownouts when high temperatures send electricity demand soaring. During the intense heat wave we had in early August, which was felt nationwide, peak demand from air-conditioning did, in fact, lead to problems in electricity availability in some parts of the country, while others were uncomfortably close to the margin. We need to build more efficiency into this part of our system over the long term, and a higher standard for these large air-conditioning units will help.

The Chairman's mark will also require the Federal government to purchase Energy Star or other efficient products designated by the Federal Energy Management Program. This is a requirement that, again, makes eminent sense. Taxpayers save money, and the cost of energy-efficient appliances to consumers comes down, when the Federal government takes a leadership role in purchasing highly energy efficient computers, office machines, and other appliances.

The mark also authorizes a grant program to help build energy-efficient schools. School districts can ill afford to waste taxpayer funds on excessive energy bills because of the inefficiency of school buildings.

With respect to new energy sources, it is important that the Senate look to policies that will truly improve our supplies of domestic energy security, including measures to improve our supply of natural gas and to diversify our energy mix to include a greater reliance on domestic renewable resources. These are the types of provisions that I will include in the Chairman's mark.

I will not be including in the mark any provisions relating to drilling for oil in the Arctic National Wildlife Refuge. The debate over oil drilling in the Arctic National Wildlife Refuge—a long-standing bone of contention in energy policy—is in many ways a distraction from more important opportunities to bolster our domestic energy security. Oil produced from the arctic refuge is not likely to influence the world price of oil, or the prices that U.S. consumers pay for gasoline. I plan to focus attention in the Energy Committee mark-up on a number of issues that will have a greater impact on our domestic production of oil and gas and a larger near-term impact than drilling in the Arctic.

The first such issue is another Arctic resource that could be brought to U.S. markets—natural gas. The exploration for oil in the Prudhoe Bay region of Alaska has resulted in the discovery of abundant supplies of natural gas, but there is now no way to bring that gas to markets in the lower 48 States that could benefit from it. The projection of growing demand for natural gas has reawakened interest in building a pipeline from Prudhoe Bay to Alberta, Canada, where it would join with existing gas pipelines that serve the United States. That pipeline would be an enormous construction project on the part of the private sector, requiring perhaps 2,000 miles of steel pipe and costing $20 billion. A lot of spurious job numbers have been floated about drilling in the Arctic Refuge. The gas pipeline would be the real thing as far as job creation is concerned.

If we do not act while there is substantial private-sector interest in building the Arctic gas pipeline, we will lose an important opportunity to bolster our national energy security in natural gas. If we do not bring the Alaska gas to market, then our growing demand for gas will be met by large-scale import of liquefied natural gas. At $3 or less per million BTU, imported LNG will be cheaper than Alaska gas. But it would be foolhardy to look at the issue solely through the prism of short-term economics. We are already more than 50 percent dependent on foreign oil. If we do nothing about the Arctic gas, we could wind up being similarly dependent on foreign natural gas, from many of the same OPEC countries from which we import oil. That is an economic and national security issue.

We face a clear moment of decision. The Chairman's mark that I will bring before the Committee will contain authorizing provisions to streamline the

regulatory approval process to move forward with the pipeline. We may find a mechanism to ensure that the domestic option for a pipeline route is chosen. I hope to be able to work with my colleague from Alaska during the mark-up to help make that happen.

The second key initiative for domestic production is to undertake a top-to-bottom review of both federal and State royalty and tax policy on domestic oil and gas production. Our current policies were put in place when the U.S. had abundant and easily accessible reserves. We have fewer such reserves now, and while technology for finding oil has continued to improve, we should consider whether the financial structure we have in place should change to one that enhances the economics of exploring for oil and gas in more challenging geological formations. It should also take into account the boom-and-bust nature of the industry, and provide incentives to maintain domestic production when prices are low.

The third proposal is to provide adequate funding for the federal programs that actually make new leases for oil and gas available to domestic producers. For all the rhetoric from the administration about the need to boost production, it has not asked for enough money in order to bring this about. The result is likely to be further delays and frustration on the part of U.S. oil and gas producers. In the mark that I will present to the committee, we will authorize a higher level of funding for the necessary personnel to make the decisions and to process applications for domestic production.

The area of electricity, as I mentioned earlier in these remarks, is the next major topic that we will take up in the markup. We do need to provide for reliable and diverse electric power generation and distribution sources in the country. Electricity is a central part of modern life. Yet our electric system largely operates on a design that is nearly a century old. There are many problems in our electricity markets that need to be addressed. The problems faced by California and the West earlier this year should be a wakeup call to all of us.

What the electricity crisis in California showed is that the institutions that developed in the last century have not evolved enough to ensure reliable and affordable supplies of electricity. We face a crucial turning point. During the next few years, billions of dollars of investment will be planned and committed to electric generation and transmission. Those investments will have a 30- to 50-year lifespan. Will we put in place a structure to maximize the chances that investments will go to new technologies that will give consumers real choices over their energy use or will Congress, by its inaction, perpetuate obsolete frameworks for managing electricity markets, with the result that we wind up with little improvement in the status quo?

I believe that we in Congress and the President have a great opportunity to be visionary about the future of electricity. A transmission grid that is open to a wide variety of generation options, including distributed generation, will ensure the power quality and efficiency that our 21st century society will need in order to sustain our economic prosperity.

That opportunity creates a great duty on the part of Congress and the President to focus on electricity as a major part of comprehensive energy legislation. Our task must be to build a regulatory structure that has adequate authority to resolve market defects, without interfering unduly in those markets.

I believe we need to move forward now with a legislative solution to these problems. To leave electricity legislation for another day would be to perpetuate an obsolete system that will not provide the reliability, quality, affordability, and choice that consumers will want and need.

The changes that I believe are needed, and that we are going to be trying to address in the chairman's mark, include the following:

First, we will try to clarify who has jurisdiction over regulating electricity transmission in interstate commerce. That is a key part of what the legislation will do. That role is assigned to the Federal energy Regulatory Commission, or FERC. FERC will be given authority to ensure that all electric transmitting organizations in interstate commerce play by a consistent set of fair rules.

Second, the chairman's mark will give FERC the responsibility for taking the current voluntary system for promoting reliability in electric transmission and making adherence to reliability rules mandatory.

Third, the chairman's mark will give the FERC the tools to ensure that competitive markets work well to provide customers with affordable electricity.

Fourth, the chairman's mark will address the tough issue of siting new transmission facilities. This is something the President has indicated his support for. A national transmission grid is a necessity, but cannot occur without a new approach to transmission planning, expansion, and siting. Federal eminent domain, by itself, is not likely to lead to an effective approach to meeting this need. What is needed is to use federal eminent domain as a backstop to a more cooperative, regionally based approach to transmission and siting issues. Thus, the chairman's mark will rely on regional transmission organizations to do the bulk of transmission planning, expansion and siting. Only if those regional entities are stymied will a federal eminent domain authority be invoked, and that authority will be used only to implement the decisions taken regionally.

The chairman's mark will include a repeal of the 1935 Public Utility Holding Company Act, or PUHCA, but the protections in that act will be replaced by giving FERC jurisdiction over mergers of holding companies that own utilities and over acquisitions of generation assets.

Finally, the chairman's mark will ensure that there is transparent information on market transactions.

As part of a balanced and comprehensive legislative solution, the chairman's mark also includes numerous benefits and protections for consumers, so that we don't repeat the mistakes of telecommunications deregulation. These include an emphasis on ensuring future access by rural, remote, and Indian communities to electricity; protection of consumers from unfair trade practices; and a Public Benefits Fund to ensure that there is a way to fund electricity programs in the public interest.

The chairman's mark also includes a series of provisions to ensure that we have a greater role in our electricity generating system of the future for renewables and distributed generation, while maintaining the contribution made by existing sources of baseload generation, such as hydropower and nuclear. Among the important tools for making sure we have diversity in our sources of electricity is a renewable portfolio standard, uniform interconnection standards to the electric grid, greater flexibility and predictability to the process of relicensing hydroelectric dams, and a reauthorization of parts of the Price-Anderson Act.

Finally, a common thread among may of the provisions that I have mentioned in this chamber today and that we will be considering in the bill is perhaps the most important public policy challenges of the 21st century, and that is climate change. Climate change policy and energy policy are inseparably linked, because energy production and the use of energy are leading sources of greenhouse gases that affect the atmosphere. The Senate must ensure that the energy legislation it passes makes a meaningful, positive contribution to dealing with this issue. Many of the provisions that I have already discussed—energy efficiency, the focus on more renewables—make a contribution to this goal. The mark that we will be considering in committee will contain some additional provisions to promote better information and policy on greenhouse gas emissions.

Energy policy is a difficult and complex topic. Getting to a solution that gives America a vibrant energy infrastructure and the right policies for the 21st century will require careful work on complicated issues. Our Nation's future economic prosperity, and the jobs of millions of Americans, are at stake. I hope that the approach taken in the Senate combines a thoughtful analysis of our current energy challenges with a willingness to take some bold policy steps to address those challenges. That certainly is the spirit in which I will be making proposals before the committee.

I look forward to working with all my colleagues in the Senate to produce constructive legislation for the future of our country.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from Ohio.

UNITED STATES-MEXICO ENGAGEMENT: AN UNPRECEDENTED OPPORTUNITY FOR COOPERATION

Mr. DEWINE. Mr. President, earlier today we welcomed to the historic House Chamber President Vicente Fox, the President of Mexico. At this moment, President Bush and President Fox are in my home State of Ohio. They traveled to Toledo, OH, making several visits there. So we welcome both Presidents to our home State.

As an opposition candidate, President Fox's election and inauguration last year overturned 71 years of one-party rule in Mexico, one-party rule domination of the executive branch by the Institutional Revolutionary Party, PRI. That election made history. And today, with his Presidency, and with President Bush in office, we are continuing to make history, as our nations have the unprecedented opportunity to implement positive changes and to create lasting progress for our entire hemisphere.

I say to my colleagues, it is important that we not squander this opportunity, that we not squander this chance. Because of Mexico's critical importance to our Nation and our hemisphere, it was not at all surprising that President Bush chose to travel to Mexico for his first official foreign trip as President.

This week we welcome President Fox to our country. These historic meetings demonstrate the vital nature of our relationship with Mexico and the importance of bilateral cooperation.

I commend both leaders on their ongoing commitment to hemispheric partnership, and look forward to even greater cooperation stemming from this week's meetings.

No one can deny the importance of our involvement with Mexico—our neighbor—a nation with which we share an over 2,000-mile common border.

Additionally, over 21 million Americans living in this country are of Mexican heritage; that is 67 percent, two-thirds of our total U.S.-Hispanic population. Indeed, many people and many issues bind our nations together. It is in the interest of both Mexico and the United States that we make that bond even stronger.

That is why we want to see President Fox succeed. He is off to a good start.

President Fox's election was received as a positive step in Mexico's maturing economy and has fueled new investment in the country, raising expectations for better economic opportunities for the Mexican people. At the same time, Mr. Fox also has raised expectations here in Washington for better opportunities to improve U.S.-Mexico bilateral cooperation on a wide range of issues.

As an advocate of free trade in the Americas, Mr. Fox recognizes that a strong, steady economy in Mexico can be the foundation to help solve many of our shared challenges and advance our mutual interests.

I am confident that President Fox's visit to the United States will advance our growing and strengthening partnership and that both leaders will engage in constructive dialog to promote cooperation, enhance the security and prosperity of both nations, and enable each country to establish mutually agreed-upon goals in at least four areas: First, economic development and trade; two, the environment; three, immigration; and four, law enforcement and counterdrug policy.

In each of these four areas, both countries should seek to implement realistic and practical steps that will build confidence in our partnership and help set the stage for continued discussions and further progress.

A good demonstration of our relationship's success is the economic cooperation spearheaded by the North American Free Trade Agreement, NAFTA.

Thanks to this partnership, trade between the United States and Mexico now amounts to over $250 billion annually, making our neighbor to the south now our second largest trading partner behind Canada.

In the last decade, U.S. exports to Mexico have increased over 200 percent, and today 85 percent of Mexico's entire exports go to the United States. However, progress in our partnership cannot occur absent continued progress in Mexico's economy.

Although Mexico is in its fifth consecutive year of recovery following the 1994–1995 peso crisis, improved living standards and economic opportunities have not been felt nationwide in Mexico. In fact, as could be expected, the slowdown in the U.S. economy has also had an impact on Mexico. Lack of jobs and depressed wages are particularly acute in the interior of the country, once you get away from the U.S.-Mexican border in the north. That is even true in President Fox's home state of Guanajuato.

As long as enormous disparities in wages and living conditions exist between Mexico and the United States, our Nation will simply not fully realize the potential of Mexico as an export market, nor will we be able to deal adequately with the resulting problems that come about because of that poor economy, because of that great disparity in wealth that brings about illegal immigration, border crime, drug trafficking, and other problems.

In keeping with the market-oriented approach that we started with NAFTA, the United States can take a number of constructive steps to continue economic progress in Mexico and secure its support for a free trade agreement with the Americas, which is something that clearly this administration and this Congress must push.

First, we can bring to Mexico the Overseas Private Investment Corporation, a loan program that also assists U.S. small business investments in many other countries.

Second, we can encourage entrepreneurship in Mexico through increased U.S. funding of microcredit and microenterprise programs, which will encourage small business development.

Third, we should expand the mandate of the North American Development Bank beyond the current situation where it only extends to the U.S.-Mexico border.

This bank has been a successful source of private-public financing of infrastructure projects along our borders. Extending its authority inland not only would bring good jobs into the interior of Mexico but also would help to develop and further nationalize a transportation and economic infrastructure.

Continued investments in the NADBank also would facilitate greater environmental cooperation between the United States and Mexico through projects geared toward advancing the environmental goals and objectives set forth in NAFTA and also would enhance the overall protection of U.S. and Mexican natural resources.

Both nations need to pursue a joint immigration policy that takes into account the realities of the economic conditions of our countries. At a minimum, President Bush should continue to evaluate the temporary visa program for unskilled workers, which has proven burdensome for U.S. farmers and small business men and women. Any liberalization of this program should be linked to concrete programs to reduce illegal immigration into the United States. This is not going to be an easy issue. We have heard discussion from President Fox and President Bush over the last several days about this. Many Members of Congress have very strong opinions about it. I believe it is important for us to deal with this issue in a practical and rational way.

Additionally, in a quick and simple fix, the administration should eliminate the annual cap on the number of visas issued to Mexican business executives who enter the United States. Currently, the cap stands at 5,500. And under current law, it will be phased out in the year 2004. The United States does not have such a cap for Canada. Repealing the cap now would send a very positive signal to President Fox and to the Mexican people about their nation's value to us as an economic partner.

Further, it is important for the United States to be seen as a partner and resource, as President Fox undertakes his pledge to reform Mexico's entire judicial system.

I have had the opportunity, as I know many Members of the Senate have, to travel to Mexico and see the problems,

the inherent problems, historic problems, problems of long standing in regard to the police and the judicial system. It was very insightful and important that today, when President Fox spoke to the Congress, he talked about the need for judicial reform. This is an area where, frankly, for all the problems of this country, we do it very well.

We have the ability to help Mexico. We have the ability to help them in this area. We should continue to do so.

With the law enforcement system in Mexico plagued with inherent corruption and institutional and financial deterioration, President Fox will face numerous challenges.

It is in our interest to help Mr. Fox in his quest, if needed, whether it be through financial or technical assistance. It is in our own interest in the United States that Mexico succeed in this reform because our country cannot reverse effectively the flow of drugs across our common border without the full cooperation and support of our Mexican law enforcement friends. The relationship between our law enforcement—our DEA, FBI, Border Patrol, and their counterparts in Mexico—is so very important. I have watched this over the years, and that relationship has been problematic. But I will say this: I believe it is improving. I believe clearly President Vicente Fox has made this a top priority of his administration. It will not be easy, but we can help.

The issues that impact the United States and Mexico are numerous. It is not going to be easy to resolve these problems. All are important, and each is, in a sense, interrelated with the other. Together they present an enormous task for the Presidents of both countries. Perhaps most important, they are evidence of the enormous importance of Mexico to the future prosperity and security of our country, as well as our entire hemisphere.

I commend President Bush and President Fox for the many advancements they have achieved so far. I encourage them to continue this cooperation and this effort. Together, our nations can, in this historic time, redefine the United States-Mexican relationship and protect and promote prosperity throughout our shared hemisphere.

In conclusion, President Fox mentioned a topic which has been debated on this floor many times and which we have taken up and looked at, and we have thought a lot about it; that is, the drug certification process that we go through as a country every year, where we basically say how well other countries are doing in their antidrug effort and whether they are cooperating with the United States. I think the time is here for us to re-evaluate our law. I think the time is here for us to put a temporary moratorium on this certification process. I think it will help our relationship with Mexico. I think it would help our relationship with other countries. I think the time is appropriate to do this.

Mexico has a new President. Mexico has a President who has stated that one of his main objectives is the reform of the judicial system, to do away with the corruption in the judiciary, to do away with the problems they have had in the law enforcement realm. So I think the time is right. If we are ever going to do this, the time is right to do it. I don't think we have a great deal to lose. The current system has not worked very well. It has not accomplished a great deal. So I think the time is ripe now for us to put a temporary moratorium on the certification process.

President Fox, throughout his speech, talked about trust. I think that is the right word. We have to have trust between our two countries. That does not mean we are not going to have disputes. It doesn't mean we are not going to have problems. It doesn't mean these problems are going to be easy to resolve. We know they are not—the immigration problem and the drug problem, just to name a few. We know they are not easy.

I think the right tone was set in today's speech by President Fox.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPORT ADMINISTRATION ACT OF 2001—Continued

Mr. ENZI. Mr. President, we are entering the period where we make a few last minute comments before the 4 o'clock vote regarding the Export Administration Act, a process we have been working on for 3 years, a law that expired in 1994, and we have had 12 attempts at change since that time. The last time the law was revised, people were wearing bell bottoms and polyester suits and Jimmy Carter was in office.

It has been time for a change and recognition of that. I ask unanimous consent a letter from the National Association of Manufacturers endorsing the bill and recognizing the need for this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF MANUFACTURERS,
Washington, DC, September 4, 2001.

Hon. THOMAS A. DASCHLE,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR DASCHLE: I am writing on behalf of the 14,000 member companies of the National Association of Manufacturers (NAM) to seek your active support for the passage of S. 149, the Export Administration Act of 2001, without inappropriate amendments that would upset the careful balance in the legislation.

NAM member companies are some of the leading exporters of high-technology products, including computers, telecommunications equipment semiconductors, chemicals and aerospace equipment. The Export Administration Act, which establishes broad-ranging exports controls on dual-use products and technologies, will have a direct impact on their business activities in countries around the world.

Our companies take seriously their obligation to protect national security. They devote substantial resources to maintaining internal compliance programs and keeping up to date on the latest export control regulations. In an increasingly competitive global economy, however, Congress should not require excessively burdensome controls that hurt U.S. industry but do little, if anything to enhance national security.

The NAM supports S. 149, as reported by the Banking Committee, because it provides a good balance between U.S. national security and global trade interests. The bill has strong bipartisan support, having been approved by the Banking Committee on a vote of 19 to 1. President Bush has endorsed S. 149, as reported, and his national security advisor has indicated repeatedly that the Administration opposes amendments which would upset the careful balance achieved in the Banking Committee bill.

I strongly urge you to play a leadership role in supporting passage of S. 149 and opposing inappropriate amendments.

Sincerely,

JERRY JASMOWSKI,
President.

Mr. ENZI. I ask unanimous consent a letter received from many of the computer folks, including Dell Computer, IBM Corporation, Intel, Hewlett-Packard, NCR, Motorola, and Unisys, pointing out the need for this legislation, and the fact they are happy with it, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 5, 2001.

Hon. MICHAEL B. ENZI,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR: As the Senate begins debate on S. 149, the Export Administration Act of 2001, we strongly urge you to support the bill as it was reported out 19–1 by the Senate Banking Committee and to oppose all restrictive amendments during its floor consideration. Passage of S. 149 will represent an important step forward in the development of an export control system that more effectively accounts for modern developments in technology and international market conditions, while protecting national security.

S. 149 enjoys broad, bipartisan support in Congress, as well as the endorsement of President Bush and his national security team, which opposes amendments that would upset the careful balance achieved in the Banking Committee bill.

Among S. 149's many provisions is one of critical importance to the U.S. computer industry. Section 702(k) would eliminate those provisions in the National Defense Authorization Act for 1998 that lock the President into using a specific metric, known as MTOPS (millions of theoretical operations per second), to establish export control thresholds for computers. Section 702(k) would not eliminate current restrictions on computer exports, but would give the President the authority and flexibility needed to review the MTOPS control system and develop a more modern, effective framework

for computer exports. The need for Presidential flexibility in this area is especially clear in light of recent reports by the Center for Strategic and International Studies, the Department of Defense, the Henry Stimson Center, the General Accounting Office, and the Defense Science Board, which have all concluded that the MTOPS-based approach is obsolete and fails to advance U.S. national security.

The U.S. computer industry needs new export control policies that take into account the global, technological and economic realities of the 21st century. As a result, we urge you to support S. 149, as reported, and oppose any amendments that would delay the implementation of the important reforms contained in the bill.

Sincerely,

Michael S. Dell, Dell Computer; Louis V. Gerstner, Jr., IBM Corporation; Andy Grove, Intel Corporation; Carleton Florina, Hewlett-Packard; Michael Capellas, Compaq Computer; Christopher B. Galvin, Motorola; Lars Nyberg, NCR Corporation; Lawrence Weinbach, Unisys Corporation.

Mr. ENZI. I take this time to thank Senators GRAMM and SARBANES for their tremendous leadership and for entrusting Senator JOHNSON and I to do some of the background work before the legislation reached this stage. It is very important.

I thank Marty Gruenberg on Senator SARBANES's staff; Katherine McGuire, my legislative director; and Joel Oswald, now a Texas A&M student who worked for 3 years on the bill; Mary O'Brien; Kara Calvert; on Senator JOHNSON's staff, Naomi Camper and Paul Nash; from the staff of Senator HAGEL, Dave Dorman; and the staff of Senator BAYH, Catherine Wojtasik; and other staff includes Jim Jochum who previously worked for Senator GRAMM.

I ask unanimous consent to have printed in the RECORD a list of the summary of the EAA discussions we have had to this point that have been contributed on a number of people's behalf to make the bill come together and be successful.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF EAA DISCUSSIONS, 1999–2000

January 20, 1999, 10 a.m.: Subcommittee on International Trade and Finance—Hearing on the Reauthorization of the Export Administration Act.

January 28, 1999, 3:30 p.m.: Enzi staff meets with Thompson staff to discuss issues regarding reauthorization of EAA.

February 8, 1999, 10 a.m.: Enzi staff meet with Gary Milhollin, Wisconsin Nuclear Arms Control Project.

February 8, 1999, 2 p.m.: Enzi staff meet with NSA staff.

February 9, 1999, 10 a.m.: Enzi staff meet with Senate Intelligence Committee staff member (Joan).

March 16, 1999, 9:30 a.m.: Subcommittee on International Trade and Finance—Hearing on the Reauthorization of the Export Administration Act and Managing Security Risks for High Tech Exports.

March 18, 1999, 3 p.m.: Enzi staff meet with WMD Commission staff.

April 14, 1999, 10 a.m.: Subcommittee on International Trade and Finance—Hearing on the Export Control Process.

April 28, 1999, 1 p.m.: Enzi staff meet with Kyl staff.

June 7, 1999, 9 a.m.: Banking staff meet with Cox Commission investigator.

June 10, 1999, 10 a.m.: Banking Committee Hearing on Export Control Issues in the Cox Report.

June 17, 1999, 10 a.m.: Banking Committee Hearing on Emerging Technology Issues and Reauthorization of the Export Administration Act.

June 22, 1999, 10:30 a.m.: Enzi staff meets with John Barker, State Department.

June 23, 1999, 10 a.m.: Banking Committee Hearing on Reauthorization of the Export Administration Act: Government Agency Views.

June 24, 1999, 10 a.m.: Banking Committee Hearing on Reauthorization of the Export Administration Act: Private Sector Views.

June 28, 1999, 4 p.m.: Enzi staff meet with Mack staff.

June 29, 1999, 9:30 a.m.: Enzi staff meet with Kyl staff.

June–July/September, 1999: Numerous meetings with Administration (BXA, State, Defense, intelligence), industry, Senators and staff to discuss draft EAA.

September 16, 1999, 9 a.m.: Banking Committee staff meet with AIPAC staff.

September 23, 1999, 10 a.m.: Banking Committee Votes 20–0 to Approve Export Administration Act of 1999.

September 27, 1999, 11 a.m.: Banking Committee meets with DoD staff to discuss S. 1712 issues.

October 6, 1999, 10 a.m.: Banking Committee meets with AIPAC staff.

October 10, 1999, 10 a.m.: Enzi meets with Cochran. Cochran says he will not hold up consideration of the bill.

October 20, 1999, 11:30 a.m.: Enzi meets with Kyl.

October 25, 1999, 4:15 p.m.: Warner meets with Gramm/Enzi. Warner staff (SASC Joan) says she has not seen the reported bill. Warner commits that his staff will review the bill and get back to us.

October 28, 1999, 4 p.m.: Gramm/Enzi meet with Lott to discuss consideration of bill. Lott says window is narrow. Will consider if it will only take one or two days.

November 1, 1999, 6 p.m.: Banking Committee staff meet with SFRC staff (Marshall Billingslea). He provides us with extensive list of concerns, mostly jurisdictional in nature.

November 4, 1999, 3 p.m.: Banking Committee staff meet with SASC staff. SASC says they don't know how the bill will impact military since military now incorporates more off the shelf commercial items.

November 5, 1999, 1:30 p.m.: Banking Committee staff meet with SASC staff, Hamre, NSA.

December 14, 1999, 11 a.m.: Banking Committee staff meet with Thompson staff (Curt Silvers introduces Chris Ford, new staff).

Friday, January 21, 12:30 a.m.: Banking Committee staff to meet with Marshall Billingslea.

Wednesday, February 2, 10 a.m.: Banking staff meets with SASC staff.

Wednesday, February 9: Senators Warner, Helms, Shelby, and Thompson send a letter to Sen. Lott expressing concerns with S. 1712 and requesting referral to the Committees on Armed Services, Foreign Relations, Governmental Affairs, and Intelligence.

Wednesday, February 9, 3 p.m.: Senators Gramm and Enzi meet with Senator Lott in the Leader's office.

Thursday, February 10, 5 p.m.: Senators Gramm and Enzi meet with business community in Senator Gramm's office.

Friday, February 11, 10 a.m.: Lott staff holds meeting with Gramm, Enzi, Warner, Helms, Shelby, and Thompson staff in Approps Cmte room [3 hours].

Tuesday, February 15, 11 a.m.: Lott staff schedules staff meeting/canceled by Lott Staff.

Wednesday, February 16, 12 p.m.: Lott staff holds second meeting with Gramm, Enzi, Warner, Helms, Shelby, Thompson, and Kyl staff in Leader's office [2.5 hours].

Thursday, February 17, 3 p.m.: Banking staff hold informational briefing re S. 1712 for all Senate staff in Banking hearing room.

Friday, February 18, 1 p.m.: Lott staff hosts third meeting with Gramm, Enzi, Warner, Helms, Shelby, Thompson, and Kyl staff in Leader's office; Gramm/Enzi staff provide document outlining provisions that may be accepted. [45 minutes].

Tuesday, February 22, 9:30 a.m.: Senator Lott meets with Senators Gramm, Enzi, Warner, Kyl, Shelby, and Thompson in Leader's office; Senators Gramm and Enzi identify three key issues in contention; agree to provide Managers' Amdt.

Wednesday, February 23: Gramm and Enzi staff provide Managers' Amdt CRA00.098 to other senators' staff.

Friday, February 25: Gramm and Enzi staff provide pullout CRA00.120 regarding three issues to other senators' staff.

Friday, February 25: Senator Thompson sends a letter to Senators Gramm and Enzi, cc'd to Senator Lott and the other senators, expressing ''grave concerns'' about S. 1712.

Monday, February 28, 4 p.m.: Senator Warner holds SASC hearing on EAA; Senators Enzi and Johnson among witnesses.

Monday, February 28, 6 p.m.: Warner staff host impromptu meeting with DOD and DOC officials and Enzi and Johnson staff in SASC hearing room; walk through differences [4 hours].

Tuesday, February 29, 10 a.m.: Warner staff host meeting with DOD and DOC officials and Gramm, Enzi, Sarbanes, Johnson, Levin staff in SASC hearing room [2.5 hours].

Tuesday, February 29: Senators Warner, Helms, Shelby, Kyl, Thompson, Roberts, Inhofe, and B. Smith send a letter to Senator Lott to express ''continuing concerns'' with S. 1712, stating that ''even with its proposed managers' amendment'' the bill fails to address concerns, and objecting to its consideration.

Tuesday, February 29: Senators Abraham and Bennett send a letter to Senators Lott and Daschle urging that they make Senate consideration of S. 1712 a priority.

Wednesday, March 1, 2 p.m.: Gramm, Enzi, Sarbanes, Johnson staff meet with business community in Banking hearing room.

Friday, March 3, 2 p.m.: Senators Gramm and Enzi meet with Senators Warner, Helms, Kyl, and Thompson in Senator Gramm's office; walk through their concerns [3.5 hours.]

Monday, March 6, 11 a.m.: Senator Gramm meets with Sen. Kyl in Senator Gramm's office to discuss concerns [1 hour].

Monday, March 6, 1 p.m.: Senators Gramm, Enzi, Johnson, with Sarbanes staff, meet in Senator Gramm's office to discuss concerns raised [1 hour].

Monday, March 6, 3:30 p.m.: Senators Gramm and Enzi meet with Senators Warner, Helms, Shelby, Kyl, and Thompson in Sen. Gramm's office; finish walking through their concerns [2 hours].

Tuesday, March 7, 8 a.m.: Senators Gramm and Enzi meet with business community in Banking hearing room to discuss ongoing member negotiations.

Tuesday, March 7, 4:30 p.m.: Gramm and Enzi staff meet with Warner, Helms, Kyl, Thompson, and Shelby staff: walk through 4-page Managers' Amdt document [1.5 hours].

Tuesday, March 7, 5:45 p.m.: Senator Lott brings up EAA by unanimous consent Senator Thompson raises concerns on floor but does not object).

Wednesday, March 8, 11 a.m.: Senators Gramm and Enzi meet with Senators Warner, Helms, Shelby, Kyl, and Thompson at those senators' request. Members agree to

suspend floor consideration of EAA until details agreed; Gramm/Enzi provide revised 4-page Managers' Amdt document and ask for comments by the end of the day [1 hour].

Wednesday, March 8, 12:30 p.m.: Senator Gramm takes EAA off floor via special UC agreement among Senators Lott, Daschle, Thompson, Reid, and others.

Wednesday, March 8, 4 p.m.: Gramm and Enzi staff provide other senators' staff with revised Managers' Amdmt CRA00.262.

Thursday, March 9, 3 p.m.: Senator Warner gives Senators Gramm and Enzi misdated letter with attachment of proposed amendments to Managers' Amendment.

Thusday, March 9: Senators Warner, Helms, Shelby, Kyl, and Thompson send another letter to Senator Lott expressing ''continuing concerns'' with S. 1712 and objecting to moving to its consideration.

Friday, March 10, 12 p.m.: Senator Gramm meets with Senator Warner (other senators represented by staff); gives him Gramm/Enzi final response document; asks for final decision from senators.

Week of March 13–17: Gramm/Enzi staff wait for response re 3/10 document.

Thursday, March 16: Senator Gramm schedules members' meeting for 10 a.m. Friday 17th to get response to 3/10 document; postpones to following week after being told that Kyl/Helms/Shelby not in town and Warner and his staff both ''unable to attend''.

Monday, March 20: Senator Gramm schedules members' meeting for 2 p.m. Tuesday 21st to get response to 3/10 document; postpones to later same week after being told that Shelby not back until Tuesday night and that the senators first need to meet to confer.

Week of March 20–23: Gramm/Enzi staff continue to wait for response re 3/10 document.

Tuesday, March 21: Senator Warner announces sudden SASC hearing for Thursday 23rd; cites ''considerable differences'' remaining between Banking and other senators.

Wednesday, March 22, 1 p.m.: House International Relations Subcommittee on Economic Policy reluctantly removes Senators Gramm and Enzi from their witness list, and instead holds hearing solely with industry witnesses; hints at marking up narrow EAA bills.

Wednesday, March 22: [Other senators apparently hold meeting to confer].

Thursday, March 23, 10 a.m.: Senator Warner holds second SASC hearing, at which he presses GAO witness to say S. 1712 ''must'' be strengthened, and states that ''the four chairmen have not received some legislative language which we feel is essential to making our decisions on this''.

Thursday, March 23: Senator Reid gives floor statement urging Senate passage of S. 1712, noting that its sponsors ''tried to move a bill . . . but frankly, the majority is unable to join with us to allow us to move this bill forward''.

Friday, March 24: Two weeks from the date on which they gave the other senators their final offer, Senators Gramm and Enzl receive a letter dated March 23 from Senators Warner, Helms, Shelby, Kyl, and Thompson. The letter stated:

''As you know, on March 6 [sic], 2000, we provided you with a package describing the issues that we consider critical to reaching an agreement on the proposed reauthorization of S. 1712 [sic], the Export Administration Act. We were disappointed that you were only able to agree to at most four of the eighteen issues we identified, and were unable to agree to some issues on which we believed we had previously reached agreement in principle. Accordingly, we cannot agree at this time to return the bill to the Senate floor under the terms of the unanimous consent agreement field on March 8.

''There are important issues remaining to be resolved, and we feel that negotiations should continue in order to for there being hope for achieving an Export Administration Act that successfully balances the needs of industry and national security.''

Week of March 27–31: Gramm/Enzi staff do not hear from other senators' staff.

Week of April 3: Gramm/Enzi staff do not hear from other senators' staff.

Tuesday, April 4: Senator McCain holds hearing on S. 1712, at which he expresses concern that the bill does not adequately protect national security; Senators Thompson and Enzi testify.

Tuesday, April 11: Gramm staff call the staff of other senators to alert them that Senator Lott planned to make a pro forma effort to bring up S. 1712 by UC on Wednesday, at which point Senator Gramm would object pursuant to the gentleman's agreement made with the other senators on March 8; and that Senators Lott and Gramm then would file cloture on a motion to proceed to S. 1712.

Wednesday, April 12: At Senator Lott's requests, Senators Gramm and Enzi give Senator Lott two cloture petitions (one on a motion to proceed to S. 1712, and one on S. 1712); both were signed by 16 Republicans representing a broad diversity of states and of Senate Committees (including SASC, SFRC, SGAC, and SCST).

Wednesday, April 12: Senator Thompson holds SGAC hearing on multilateral export controls.

April, May: Gramm/Enzi staff do not hear from other senators' staff.

Thursday, May 25: Senators Thompson and Torricelli hold a press conference on S. 2645. According to press reports, Senator Thompson said that in his opinion, legislation to reauthorize the Export Administration Act is probably dead as a stand-alone measure in 2000; when asked whether he was partly responsible, he replied ''Let's just say that truth and justice were served''.

Friday, May 26: Senator Thompson holds SGAC hearing on mass market/foreign availability; no Administration witnesses are invited.

Mr. ENZI. I will make a few remarks after the vote particularly to thank Senator SARBANES for his understanding of the bill.

I yield the floor to Senator SARBANES.

Mr. SARBANES. How much time remains?

The PRESIDING OFFICER. One minute for the proponent and 4 minutes for the opponent.

Mr. SARBANES. I will take the 1 minute at this point. I urge my colleagues to support this legislation. It has been hard work. We think it is good, balanced legislation. I join with Senator ENZI in thanking the staff: Steve Harris, Marty Gruenberg, and Laurie Better of my staff; Katherine McGuire has done a wonderful job; and Joel Oswald and Kara Calvert of Senator ENZI's staff; Naomi Camper and Paul Nash of Senator JOHNSON's staff; and Wayne Abernathy and Amy Dunathan from Senator GRAMM's staff. I thank Senator GRAMM. We worked very closely on this bill. I pay tribute to Senator ENZI and Senator JOHNSON who worked together so assiduously, so skillfully, in helping to develop and evolve this legislation.

I would be less than fair if I did not take a moment to say to Senator ENZI I think his dedication in working this legislation through and his very strong commitment and willingness to talk to everyone at great length, over and over and over again, contributed significantly to shaping legislation that we are finally going to be able to move through the Senate, with a very sizable consensus.

I say to the opponents, I think we engaged this in a proper Senate fashion in terms of our debate and our efforts to respond to some concerns. We consulted with everyone—the administration, of course, perhaps first and foremost. My own view is we have brought together a good package. I urge my colleagues to support it when we go to the vote at 4 o'clock.

I yield the floor.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. THOMPSON. Mr. President, I yield myself 4 minutes unless any of my colleagues appear and want part of that.

I, too, think congratulations are in order. Senator ENZI has worked so hard on this bill, Senator GRAMM and Senator SARBANES have taken the matter of leadership in this area, and Senator JOHNSON did an excellent job in shepherding it through over a long period of time. It has taken a long time primarily because some Members have seen to it that it took a longer period of time than it otherwise would have.

I still must respectfully oppose this bill. This bill is going to pass by a large margin. I understand that. The business community is strongly behind it. The administration supports it. The majority of both sides of the aisle support it. I believe they are in error. I believe it is a mistake. I think we should recognize exactly what we are doing. I will say it one more time; that is, in an era of increased technological proliferation, with the world becoming a more dangerous place, where rogue nations are developing technology that will enable them to endanger this country and a world where these rogue nations are getting their technology from countries such as China and Russia, for which this bill will liberalize export trade, in this environment, in this era, we are loosening our export controls.

At a time when we know that some of those to whom we will be sending more high-tech sensitive exports have in times past used them for military purposes, and that committees such as the Cox committee have reported to us that part of their increased capabilities have come about due to our lax export laws, this is the environment in which we pass a bill that gives the Department of Commerce substantial powers to make decisions concerning national security. The Department of Commerce is rightfully engaged in the considerations of trade and commerce. They should not be given the responsibility of national security.

We are going to pass a bill that will have broad categories of subjects that are deemed to be mass marketed or have foreign availability status. If someone over in the bowels of the Department of Commerce decides these items belong in those categories, then they are taken out of the regulatory process altogether, and you don't even have to have a license.

I do not think it is too much to ask for a few days of a license process with officials of the U.S. Government who are concerned about matters of proliferation of weapons of mass destruction and matters of national security, it is not too much to ask that they be given a few days to make sure, as in times past, that we are not exporting something we should not be exporting. We give the President some override authority, but it is almost as if to say, ''Catch me if you can.'' We are greatly liberalizing things on this end and giving the President some power—which cannot be delegated, incidentally—giving the President some power to catch something here and there and stop it if he deems it necessary.

At a time that we are trying to persuade the world we need a missile defense system, which I believe we need because of the dangers posed by the proliferation of weapons of mass destruction, we are liberalizing export rules which I fear will contribute toward the ability of the countries with which we are trading, and in turn these rogue nations with which they are trading, to increase their weapons of mass destruction capabilities.

It is not that we want to hamper trade. It is not that we want to be obstructionist—because our friends on the other side of this issue are very well-meaning and make very good points. It is not those factors at all that motivate the few of us who remain on this side. It is that we can afford to be wrong. If our concerns are too great, it will mean that a few companies are held up a few extra days before they can export goods. But if our friends on the other side of this issue are wrong, I fear it could cause serious harm.

We are doing this in an environment where, even though the law has required us in times past to do a national security assessment of the decontrol of these laws, we have never done so. That is the basis of our concern. That is why, although we have had a wonderful, responsible, senatorial debate and discussion and vote, both on the floor and off, and think it has produced a better bill than we had originally, I must respectfully oppose it.

I yield the floor.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. SARBANES. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. MURKOWSKI) is necessarily absent.

The PRESIDING OFFICER. (Mr. JOHNSON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 14, as follows:

[Rollcall Vote No. 275 Leg.]

YEAS—85

Akaka	Domenici	Lincoln
Allard	Dorgan	Lott
Allen	Durbin	Lugar
Baucus	Edwards	McConnell
Bayh	Ensign	Mikulski
Bennett	Enzi	Miller
Biden	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham	Nickles
Breaux	Gramm	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Burns	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hatch	Sarbanes
Carnahan	Hollings	Schumer
Carper	Hutchinson	Smith (OR)
Chafee	Hutchison	Snowe
Cleland	Inouye	Stabenow
Clinton	Jeffords	Stevens
Collins	Johnson	Thomas
Conrad	Kennedy	Torricelli
Corzine	Kerry	Voinovich
Craig	Kohl	Warner
Crapo	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	
Dodd	Lieberman	

NAYS—14

Byrd	Inhofe	Smith (NH)
Cochran	Kyl	Specter
DeWine	McCain	Thompson
Feingold	Sessions	Thurmond
Helms	Shelby	

NOT VOTING—1

Murkowski

The bill (S. 149) was passed, as follows:

S. 149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Export Administration Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. DEFINITIONS.

In this Act:

(1) AFFILIATE.—The term ''affiliate'' includes both governmental entities and commercial entities that are controlled in fact by the government of a country.

(2) CONTROL OR CONTROLLED.—The terms ''control'' and ''controlled'' mean any requirement, condition, authorization, or prohibition on the export or reexport of an item.

(3) CONTROL LIST.—The term ''Control List'' means the Commerce Control List established under section 101.

(4) CONTROLLED COUNTRY.—The term ''controlled country'' means a country with respect to which exports are controlled under section 201 or 301.

(5) CONTROLLED ITEM.—The term ''controlled item'' means an item the export of which is controlled under this Act.

(6) COUNTRY.—The term ''country'' means a sovereign country or an autonomous customs territory.

(7) COUNTRY SUPPORTING INTERNATIONAL TERRORISM.—The term ''country supporting international terrorism'' means a country designated by the Secretary of State pursuant to section 310.

(8) DEPARTMENT.—The term ''Department'' means the Department of Commerce.

(9) EXPORT.—

(A) The term ''export'' means—

(i) an actual shipment, transfer, or transmission of an item out of the United States;

(ii) a transfer to any person of an item either within the United States or outside of the United States with the knowledge or intent that the item will be shipped, transferred, or transmitted to an unauthorized recipient outside the United States; or

(iii) a transfer of an item in the United States to an embassy or affiliate of a country, which shall be considered an export to that country.

(B) The term includes a reexport.

(10) FOREIGN AVAILABILITY STATUS.—The term ''foreign availability status'' means the status described in section 211(d)(1).

(11) FOREIGN PERSON.—The term ''foreign person'' means—

(A) an individual who is not—

(i) a United States citizen;

(ii) an alien lawfully admitted for permanent residence to the United States; or

(iii) a protected individual as defined in section 274B(a)(3) of the Immigration and Nationality Act. (8 U.S.C. 1324b(a)(3));

(B) any corporation, partnership, business association, society, trust, organization, or other nongovernmental entity created or organized under the laws of a foreign country or that has its principal place of business outside the United States; and

(C) any governmental entity of a foreign country.

(12) ITEM.—

(A) IN GENERAL.—The term ''item'' means any good, technology, or service.

(B) OTHER DEFINITIONS.—In this paragraph:

(i) GOOD.—The term ''good'' means any article, natural or manmade substance, material, supply or manufactured product, including inspection and test equipment, including source code, and excluding technical data.

(ii) TECHNOLOGY.—The term ''technology'' means specific information that is necessary for the development, production, or use of an item, and takes the form of technical data or technical assistance.

(iii) SERVICE.—The term ''service'' means any act of assistance, help or aid.

(13) MASS-MARKET STATUS.—The term ''mass-market status'' means the status described in section 211(d)(2).

(14) MULTILATERAL EXPORT CONTROL REGIME.—The term ''multilateral export control regime'' means an international agreement or arrangement among two or more countries, including the United States, a purpose of which is to coordinate national export control policies of its members regarding certain items. The term includes regimes such as the Australia Group, the Wassenaar Arrangement, the Missile Technology Control Regime (MTCR), and the Nuclear Suppliers' Group Dual Use Arrangement.

(15) NATIONAL SECURITY CONTROL LIST.—The term ''National Security Control List'' means the list established under section 202(a).

(16) PERSON.—The term ''person'' includes—

(A) any individual, or partnership, corporation, business association, society, trust, organization, or any other group created or organized under the laws of a country; and

(B) any government, or any governmental entity, including any governmental entity operating as a business enterprise.

(17) REEXPORT.—The term ''reexport'' means the shipment, transfer, transshipment, or diversion of items from one foreign country to another.

(18) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(19) UNITED STATES.—The term ''United States'' means the States of the United States, the District of Columbia, and any commonwealth, territory, dependency, or possession of the United States, and includes the outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a)).

(20) UNITED STATES PERSON.—The term ''United States person'' means—

(A) any United States citizen, resident, or national (other than an individual resident outside the United States who is employed by a person other than a United States person);

(B) any domestic concern (including any permanent domestic establishment of any foreign concern); and

(C) any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations prescribed by the President.

TITLE I—GENERAL AUTHORITY

SEC. 101. COMMERCE CONTROL LIST.

(a) IN GENERAL.—Under such conditions as the Secretary may impose, consistent with the provisions of this Act, the Secretary—

(1) shall establish and maintain a Commerce Control List (in this Act referred to as the ''Control List'') consisting of items the export of which are subject to licensing or other authorization or requirement; and

(2) may require any type of license, or other authorization, including recordkeeping and reporting, appropriate to the effective and efficient implementation of this Act with respect to the export of an item on the Control List or otherwise subject to control under title II or III of this Act.

(b) TYPES OF LICENSE OR OTHER AUTHORIZATION.—The types of license or other authorization referred to in subsection (a)(2) include the following:

(1) SPECIFIC EXPORTS.—A license that authorizes a specific export.

(2) MULTIPLE EXPORTS.—A license that authorizes multiple exports in lieu of a license for each export.

(3) NOTIFICATION IN LIEU OF LICENSE.— A notification in lieu of a license that authorizes a specific export or multiple exports subject to the condition that the exporter file with the Department advance notification of the intent to export in accordance with regulations prescribed by the Secretary.

(4) LICENSE EXCEPTION.—Authority to export an item on the Control List without prior license or notification in lieu of a license.

(c) AFTER-MARKET SERVICE AND REPLACEMENT PARTS.—A license to export an item under this Act shall not be required for an exporter to provide after-market service or replacement parts in order to replace on a one-for-one basis parts that were in an item that was lawfully exported from the United States, unless—

(1) the Secretary determines that such license is required to export such parts; or

(2) the after-market service or replacement parts would materially enhance the capability of an item which was the basis for the item being controlled.

(d) INCIDENTAL TECHNOLOGY.—A license or other authorization to export an item under this Act includes authorization to export technology related to the item, if the level of the technology does not exceed the minimum necessary to install, repair, maintain, inspect, operate, or use the item.

(e) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to carry out the provisions of this Act.

SEC. 102. DELEGATION OF AUTHORITY.

(a) IN GENERAL.—Except as provided in subsection (b) and subject to the provisions of this Act, the President may delegate the power, authority, and discretion conferred upon the President by this Act to such departments, agencies, and officials of the Government as the President considers appropriate.

(b) EXCEPTIONS.—

(1) DELEGATION TO APPOINTEES CONFIRMED BY SENATE.—No authority delegated to the President under this Act may be delegated by the President to, or exercised by, any official of any department or agency the head of which is not appointed by the President, by and with the advice and consent of the Senate.

(2) OTHER LIMITATIONS.—The President may not delegate or transfer the President's power, authority, or discretion to overrule or modify any recommendation or decision made by the Secretary, the Secretary of Defense, or the Secretary of State under this Act.

SEC. 103. PUBLIC INFORMATION; CONSULTATION REQUIREMENTS.

(a) PUBLIC INFORMATION.—The Secretary shall keep the public fully informed of changes in export control policy and procedures instituted in conformity with this Act.

(b) CONSULTATION WITH PERSONS AFFECTED.—The Secretary shall consult regularly with representatives of a broad spectrum of enterprises, labor organizations, and citizens interested in or affected by export controls in order to obtain their views on United States export control policy and the foreign availability or mass-market status of controlled items.

SEC. 104. RIGHT OF EXPORT.

No license or other authorization to export may be required under this Act, or under regulations issued under this Act, except to carry out the provisions of this Act.

SEC. 105. EXPORT CONTROL ADVISORY COMMITTEES.

(a) APPOINTMENT.—Upon the Secretary's own initiative or upon the written request of representatives of a substantial segment of any industry which produces any items subject to export controls under this Act or being considered for such controls, the Secretary may appoint export control advisory committees with respect to any such items. Each such committee shall consist of representatives of United States industry and Government officials, including officials from the Departments of Commerce, Defense, and State, and other appropriate departments and agencies of the Government. The Secretary shall permit the widest possible participation by the business community on the export control advisory committees.

(b) FUNCTIONS.—

(1) IN GENERAL.—Export control advisory committees appointed under subsection (a) shall advise and assist the Secretary, and any other department, agency, or official of the Government carrying out functions under this Act, on actions (including all aspects of controls imposed or proposed) designed to carry out the provisions of this Act concerning the items with respect to which such export control advisory committees were appointed.

(2) OTHER CONSULTATIONS.—Nothing in paragraph (1) shall prevent the United States Government from consulting, at any time, with any person representing an industry or the general public, regardless of whether such person is a member of an export control advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary, to present information to such committees.

(c) REIMBURSEMENT OF EXPENSES.—Upon the request of any member of any export

control advisory committee appointed under subsection (a), the Secretary may, if the Secretary determines it to be appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by such member in connection with the duties of such member.

(d) CHAIRPERSON.—Each export control advisory committee appointed under subsection (a) shall elect a chairperson, and shall meet at least every 3 months at the call of the chairperson, unless the chairperson determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this section. Each such committee shall be terminated after a period of 2 years, unless extended by the Secretary for additional periods of 2 years each. The Secretary shall consult with each such committee on such termination or extension of that committee.

(e) ACCESS TO INFORMATION.—To facilitate the work of the export control advisory committees appointed under subsection (a), the Secretary, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security and intelligence sources and methods, pertaining to the reasons for the export controls which are in effect or contemplated for the items or policies for which that committee furnishes advice. Information provided by the export control advisory committees shall not be subject to disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest.

SEC. 106. PRESIDENT'S TECHNOLOGY EXPORT COUNCIL.

The President may establish a President's Technology Export Council to advise the President on the implementation, operation, and effectiveness of this Act.

SEC. 107. PROHIBITION ON CHARGING FEES.

No fee may be charged in connection with the submission or processing of an application for an export license under this Act.

TITLE II—NATIONAL SECURITY EXPORT CONTROLS

Subtitle A—Authority and Procedures

SEC. 201. AUTHORITY FOR NATIONAL SECURITY EXPORT CONTROLS.

(a) AUTHORITY.—

(1) IN GENERAL.—In order to carry out the purposes set forth in subsection (b), the President may, in accordance with the provisions of this Act, prohibit, curtail, or require a license, or other authorization for the export of any item subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The President may also require recordkeeping and reporting with respect to the export of such item.

(2) EXERCISE OF AUTHORITY.—The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of Defense, the intelligence agencies, and such other departments and agencies as the Secretary considers appropriate.

(b) PURPOSES.—The purposes of national security export controls are the following:

(1) To restrict the export of items that would contribute to the military potential of countries so as to prove detrimental to the national security of the United States, its allies or countries sharing common strategic objectives with the United States.

(2) To stem the proliferation of weapons of mass destruction, and the means to deliver them, and other significant military capabilities by—

(A) leading international efforts to control the proliferation of chemical and biological weapons, nuclear explosive devices, missile delivery systems, key-enabling technologies, and other significant military capabilities;

(B) controlling involvement of United States persons in, and contributions by United States persons to, foreign programs intended to develop weapons of mass destruction, missiles, and other significant military capabilities, and the means to design, test, develop, produce, stockpile, or use them; and

(C) implementing international treaties or other agreements or arrangements concerning controls on exports of designated items, reports on the production, processing, consumption, and exports and imports of such items, and compliance with verification programs.

(3) To deter acts of international terrorism.

(c) END USE AND END USER CONTROLS.—Notwithstanding any other provision of this title, controls may be imposed, based on the end use or end user, on the export of any item, that could contribute to the proliferation of weapons of mass destruction or the means to deliver them.

(d) ENHANCED CONTROLS.—

(1) IN GENERAL.—Notwithstanding any other provisions of this title, the President may determine that applying the provisions of section 204 or 211 with respect to an item on the National Security Control List would constitute a significant threat to the national security of the United States and that such item requires enhanced control. If the President determines that enhanced control should apply to such item, the item may be excluded from the provisions of section 204, section 211, or both, until such time as the President shall determine that such enhanced control should no longer apply to such item. The President may not delegate the authority provided for in this subsection.

(2) REPORT TO CONGRESS.—The President shall promptly report any determination described in paragraph (1), along with the specific reasons for the determination, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives.

SEC. 202. NATIONAL SECURITY CONTROL LIST.

(a) ESTABLISHMENT OF LIST.—

(1) ESTABLISHMENT.—The Secretary shall establish and maintain a National Security Control List as part of the Control List.

(2) CONTENTS.—The National Security Control List shall be composed of a list of items the export of which is controlled for national security purposes under this title.

(3) IDENTIFICATION OF ITEMS FOR NATIONAL SECURITY CONTROL LIST.—The Secretary, with the concurrence of the Secretary of Defense and in consultation with the head of any other department or agency of the United States that the Secretary considers appropriate, shall identify the items to be included on the National Security Control List provided that the National Security Control List shall, on the date of enactment of this Act, include all of the items on the Commerce Control List controlled on the day before the date of enactment of this Act to protect the national security of the United States, to prevent the proliferation of weapons of mass destruction and the means to deliver them, and to deter acts of international terrorism. The Secretary shall review on a continuing basis and, with the concurrence of the Secretary of Defense and in consultation with the head of any other department or agency of the United States that the Secretary considers appropriate, adjust the National Security Control List to add items that require control under this section and to remove items that no longer warrant control under this section.

(b) RISK ASSESSMENT.—

(1) REQUIREMENT.—In establishing and maintaining the National Security Control List, the risk factors set forth in paragraph (2) shall be considered, weighing national security concerns and economic costs.

(2) RISK FACTORS.—The risk factors referred to in paragraph (1), with respect to each item, are as follows:

(A) The characteristics of the item.

(B) The threat, if any, to the United States or the national security interest of the United States from the misuse or diversion of such item.

(C) The effectiveness of controlling the item for national security purposes of the United States, taking into account mass-market status, foreign availability, and other relevant factors.

(D) The threat to the national security interests of the United States if the item is not controlled.

(E) Any other appropriate risk factors.

(c) REPORT ON CONTROL LIST.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit a report to Congress which lists all items on the Commerce Control List controlled on the day before the date of enactment of this Act to protect the national security of the United States, to prevent the proliferation of weapons of mass destruction and the means to deliver them, and to deter acts of international terrorism, not included on the National Security Control List pursuant to the provisions of this Act.

SEC. 203. COUNTRY TIERS.

(a) IN GENERAL.—

(1) ESTABLISHMENT AND ASSIGNMENT.—In administering export controls for national security purposes under this title, the President shall, not later than 120 days after the date of enactment of this Act—

(A) establish and maintain a country tiering system in accordance with subsection (b); and

(B) based on the assessments required under subsection (c), assign each country to an appropriate tier for each item or group of items the export of which is controlled for national security purposes under this title.

(2) CONSULTATION.—The establishment and assignment of country tiers under this section shall be made after consultation with the Secretary, the Secretary of Defense, the Secretary of State, the intelligence agencies, and such other departments and agencies as the President considers appropriate.

(3) REDETERMINATION AND REVIEW OF ASSIGNMENTS.—The President may redetermine the assignment of a country to a particular tier at any time and shall review and, as the President considers appropriate, reassign country tiers on an on-going basis. The Secretary shall provide notice of any such reassignment to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives.

(4) EFFECTIVE DATE OF TIER ASSIGNMENT.—An assignment of a country to a particular tier shall take effect on the date on which notice of the assignment is published in the Federal Register.

(b) TIERS.—

(1) IN GENERAL.—The President shall establish a country tiering system consisting of not less than 3 tiers for purposes of this section.

(2) RANGE.—Countries that represent the lowest risk of diversion or misuse of an item on the National Security Control List shall be assigned to the lowest tier. Countries that represent the highest risk of diversion or misuse of an item on the National Security

Control List shall be assigned to the highest tier.

(3) OTHER COUNTRIES.—Countries that fall between the lowest and highest risk to the national security interest of the United States with respect to the risk of diversion or misuse of an item on the National Security Control List shall be assigned to a tier other than the lowest or highest tier, based on the assessments required under subsection (c).

(c) ASSESSMENTS.—The President shall make an assessment of each country in assigning a country tier taking into consideration risk factors including the following:

(1) The present and potential relationship of the country with the United States.

(2) The present and potential relationship of the country with countries friendly to the United States and with countries hostile to the United States.

(3) The country's capabilities regarding chemical, biological, and nuclear weapons and the country's membership in, and level of compliance with, relevant multilateral export control regimes.

(4) The country's capabilities regarding missile systems and the country's membership in, and level of compliance with, relevant multilateral export control regimes.

(5) Whether the country, if a NATO or major non-NATO ally with whom the United States has entered into a free trade agreement as of January 1, 1986, controls exports in accordance with the criteria and standards of a multilateral export control regime as defined in section 2(14) pursuant to an international agreement to which the United States is a party.

(6) The country's other military capabilities and the potential threat posed by the country to the United States or its allies.

(7) The effectiveness of the country's export control system.

(8) The level of the country's cooperation with United States export control enforcement and other efforts.

(9) The risk of export diversion by the country to a higher tier country.

(10) The designation of the country as a country supporting international terrorism under section 310.

(d) TIER APPLICATION.—The country tiering system shall be used in the determination of license requirements pursuant to section 201(a)(1).

SEC. 204. INCORPORATED PARTS AND COMPONENTS.

(a) EXPORT OF ITEMS CONTAINING CONTROLLED PARTS AND COMPONENTS.—Controls may not be imposed under this title or any other provision of law on an item solely because the item contains parts or components subject to export controls under this title, if the parts or components—

(1) are essential to the functioning of the item,

(2) are customarily included in sales of the item in countries other than controlled countries, and

(3) comprise 25 percent or less of the total value of the item,

unless the item itself, if exported, would by virtue of the functional characteristics of the item as a whole make a significant contribution to the military or proliferation potential of a controlled country or end user which would prove detrimental to the national security of the United States, or unless failure to control the item would be contrary to the provisions of section 201(c), section 201(d), or section 309 of this Act.

(b) REEXPORTS OF FOREIGN-MADE ITEMS INCORPORATING UNITED STATES CONTROLLED CONTENT.—

(1) IN GENERAL.—No authority or permission may be required under this title to reexport to a country an item that is produced in a country other than the United States and incorporates parts or components that are subject to the jurisdiction of the United States, if the value of the controlled United States content of the item produced in such other country is 25 percent or less of the total value of the item; except that in the case of reexports of an item to a country designated as a country supporting international terrorism pursuant to section 310, controls may be maintained if the value of the controlled United States content is more than 10 percent of the total value of the item.

(2) DEFINITION OF CONTROLLED UNITED STATES CONTENT.—For purposes of this paragraph, the term ''controlled United States content'' of an item means those parts or components that—

(A) are subject to the jurisdiction of the United States;

(B) are incorporated into the item; and

(C) would, at the time of the reexport, require a license under this title if exported from the United States to a country to which the item is to be reexported.

SEC. 205. PETITION PROCESS FOR MODIFYING EXPORT STATUS.

(a) ESTABLISHMENT.—The Secretary shall establish a process for interested persons to petition the Secretary to change the status of an item on the National Security Control List.

(b) EVALUATIONS AND DETERMINATIONS.—Evaluations and determinations with respect to a petition filed pursuant to this section shall be made in accordance with section 202.

Subtitle B—Foreign Availability and Mass-Market Status

SEC. 211. DETERMINATION OF FOREIGN AVAILABILITY AND MASS-MARKET STATUS.

(a) IN GENERAL.—The Secretary shall—

(1) on a continuing basis,

(2) upon a request from the Office of Technology Evaluation, or

(3) upon receipt of a petition filed by an interested person,

review and determine the foreign availability and the mass-market status of any item the export of which is controlled under this title.

(b) PETITION AND CONSULTATION.—

(1) IN GENERAL.—The Secretary shall establish a process for an interested person to petition the Secretary for a determination that an item has a foreign availability or mass-market status. In evaluating and making a determination with respect to a petition filed under this section, the Secretary shall consult with the Secretary of Defense, Secretary of State, and other appropriate Government agencies and with the Office of Technology Evaluation (established pursuant to section 214).

(2) TIME FOR MAKING DETERMINATION.—The Secretary shall, within 6 months after receiving a petition described in subsection (a)(3), determine whether the item that is the subject of the petition has foreign availability or mass-market status and shall notify the petitioner of the determination.

(c) RESULT OF DETERMINATION.—In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that an item described in subsection (a) has—

(1) a foreign availability status, or

(2) a mass-market status,

the Secretary shall notify the President (and other appropriate departments and agencies) and publish the notice of the determination in the Federal Register. The Secretary's determination shall become final 30 days after the date the notice is published, the item shall be removed from the National Security Control List, and a license or other authorization shall not be required under this title with respect to the item, unless the President makes a determination described in section 212 or 213, or takes action under section 309, with respect to the item in that 30-day period.

(d) CRITERIA FOR DETERMINING FOREIGN AVAILABILITY AND MASS-MARKET STATUS.—

(1) FOREIGN AVAILABILITY STATUS.—The Secretary shall determine that an item has foreign availability status under this subtitle, if the item (or a substantially identical or directly competitive item)—

(A) is available to controlled countries from sources outside the United States, including countries that participate with the United States in multilateral export controls;

(B) can be acquired at a price that is not excessive when compared to the price at which a controlled country could acquire such item from sources within the United States in the absence of export controls; and

(C) is available in sufficient quantity so that the requirement of a license or other authorization with respect to the export of such item is or would be ineffective.

(2) MASS-MARKET STATUS.—

(A) IN GENERAL.—In determining whether an item has mass-market status under this subtitle, the Secretary shall consider the following criteria with respect to the item (or a substantially identical or directly competitive item):

(i) The production and availability for sale in a large volume to multiple potential purchasers.

(ii) The widespread distribution through normal commercial channels, such as retail stores, direct marketing catalogues, electronic commerce, and other channels.

(iii) The conduciveness to shipment and delivery by generally accepted commercial means of transport.

(iv) The use for the item's normal intended purpose without substantial and specialized service provided by the manufacturer, distributor, or other third party.

(B) DETERMINATION BY SECRETARY.—If the Secretary finds that the item (or a substantially identical or directly competitive item) meets the criteria set forth in subparagraph (A), the Secretary shall determine that the item has mass-market status.

(3) SPECIAL RULES.—For purposes of this subtitle—

(A) SUBSTANTIALLY IDENTICAL ITEM.—The determination of whether an item in relation to another item is a substantially identical item shall include a fair assessment of end-uses, the properties, nature, and quality of the item.

(B) DIRECTLY COMPETITIVE ITEM.—

(i) IN GENERAL.—The determination of whether an item in relation to another item is a directly competitive item shall include a fair assessment of whether the item, although not substantially identical in its intrinsic or inherent characteristics, is substantially equivalent for commercial purposes and may be adapted for substantially the same uses.

(ii) EXCEPTION.—An item is not directly competitive with a controlled item if the item is not of comparable quality to the controlled item with respect to characteristics that resulted in the export of the item being controlled.

SEC. 212. PRESIDENTIAL SET-ASIDE OF FOREIGN AVAILABILITY STATUS DETERMINATION.

(a) CRITERIA FOR PRESIDENTIAL SET-ASIDE.—

(1) GENERAL CRITERIA.—

(A) IN GENERAL.—If the President determines that—

(i) decontrolling or failing to control an item constitutes a threat to the national security of the United States, and export controls on the item would advance the national security interests of the United States,

(ii) there is a high probability that the foreign availability of an item will be eliminated through international negotiations within a reasonable period of time taking into account the characteristics of the item, or

(iii) United States controls on the item have been imposed under section 309,

the President may set aside the Secretary's determination of foreign availability status with respect to the item.

(B) NONDELEGATION.—The President may not delegate the authority provided for in this paragraph.

(2) REPORT TO CONGRESS.—The President shall promptly—

(A) report any set-aside determination described in paragraph (1), along with the specific reasons for the determination, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives; and

(B) publish the determination in the Federal Register.

(b) PRESIDENTIAL ACTION IN CASE OF SET-ASIDE.—

(1) IN GENERAL.—

(A) NEGOTIATIONS.—In any case in which export controls are maintained on an item because the President has made a determination under subsection (a), the President shall actively pursue negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability.

(B) REPORT TO CONGRESS.—Not later than the date the President begins negotiations, the President shall notify in writing the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives that the President has begun such negotiations and why the President believes it is important to the national security that export controls on the item involved be maintained.

(2) PERIODIC REVIEW OF DETERMINATION.—The President shall review a determination described in subsection (a) at least every 6 months. Promptly after each review is completed, the Secretary shall submit to the committees of Congress referred to in paragraph (1)(B) a report on the results of the review, together with the status of international negotiations to eliminate the foreign availability of the item.

(3) EXPIRATION OF PRESIDENTIAL SET-ASIDE.—A determination by the President described in subsection (a)(1)(A) (i) or (ii) shall cease to apply with respect to an item on the earlier of—

(A) the date that is 6 months after the date on which the determination is made under subsection (a), if the President has not commenced international negotiations to eliminate the foreign availability of the item within that 6-month period;

(B) the date on which the negotiations described in paragraph (1) have terminated without achieving an agreement to eliminate foreign availability;

(C) the date on which the President determines that there is not a high probability of eliminating foreign availability of the item through negotiation; or

(D) the date that is 18 months after the date on which the determination described in subsection (a)(1)(A) (i) or (ii) is made if the President has been unable to achieve an agreement to eliminate foreign availability within that 18-month period.

(4) ACTION ON EXPIRATION OF PRESIDENTIAL SET-ASIDE.—Upon the expiration of a Presidential set-aside under paragraph (3) with respect to an item, the Secretary shall not require a license or other authorization to export the item.

SEC. 213. PRESIDENTIAL SET-ASIDE OF MASS-MARKET STATUS DETERMINATION.

(a) CRITERIA FOR PRESIDENTIAL SET-ASIDE.—

(1) GENERAL CRITERIA.—If the President determines that—

(A)(i) decontrolling or failing to control an item constitutes a serious threat to the national security of the United States, and

(ii) export controls on the item would advance the national security interests of the United States, or

(B) United States controls on the item have been imposed under section 309,

the President may set aside the Secretary's determination of mass-market status with respect to the item.

(2) NONDELEGATION.—The President may not delegate the authority provided for in this subsection.

(b) PRESIDENTIAL ACTION IN CASE OF SET-ASIDE.—

(1) IN GENERAL.—In any case in which export controls are maintained on an item because the President has made a determination under subsection (a), the President shall promptly report the determination, along with the specific reasons for the determination, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives, and shall publish notice of the determination in the Federal Register not later than 30 days after the Secretary publishes notice of the Secretary's determination that an item has mass-market status.

(2) PERIODIC REVIEW OF DETERMINATION.—The President shall review a determination made under subsection (a) at least every 6 months. Promptly after each review is completed, the Secretary shall submit a report on the results of the review to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives.

SEC. 214. OFFICE OF TECHNOLOGY EVALUATION.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF OFFICE.—The Secretary shall establish in the Department of Commerce an Office of Technology Evaluation (in this section referred to as the ''Office''), which shall be under the direction of the Secretary. The Office shall be responsible for gathering, coordinating, and analyzing all the necessary information in order for the Secretary to make determinations of foreign availability and mass-market status under this Act.

(2) STAFF.—

(A) IN GENERAL.—The Secretary shall ensure that the Office include persons to carry out the responsibilities set forth in subsection (b) of this section that have training, expertise, and experience in—

(i) economic analysis;

(ii) the defense industrial base;

(iii) technological developments; and

(iv) national security and foreign policy export controls.

(B) DETAILEES.—In addition to employees of the Department of Commerce, the Secretary may accept on nonreimbursable detail to the Office, employees of the Departments of Defense, State, and Energy and other departments and agencies as appropriate.

(b) RESPONSIBILITIES.—The Office shall be responsible for—

(1) conducting foreign availability assessments to determine whether a controlled item is available to controlled countries and whether requiring a license, or denial of a license for the export of such item, is or would be ineffective;

(2) conducting mass-market assessments to determine whether a controlled item is available to controlled countries because of the mass-market status of the item;

(3) monitoring and evaluating worldwide technological developments in industry sectors critical to the national security interests of the United States to determine foreign availability and mass-market status of controlled items;

(4) monitoring and evaluating multilateral export control regimes and foreign government export control policies and practices that affect the national security interests of the United States;

(5) conducting assessments of United States industrial sectors critical to the United States defense industrial base and how the sectors are affected by technological developments, technology transfers, and foreign competition, including imports of manufactured goods; and

(6) conducting assessments of the impact of United States export control policies on—

(A) United States industrial sectors critical to the national security interests of the United States; and

(B) the United States economy in general.

(c) REPORTS TO CONGRESS.—The Secretary shall make available to the Committee on International Relations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate as part of the Secretary's annual report required under section 701 information on the operations of the Office, and on improvements in the Government's ability to assess foreign availability and mass-market status, during the fiscal year preceding the report, including information on the training of personnel, and the use of Commercial Service Officers of the United States and Foreign Commercial Service to assist in making determinations. The information shall also include a description of determinations made under this Act during the preceding fiscal year that foreign availability or mass-market status did or did not exist (as the case may be), together with an explanation of the determinations.

(d) SHARING OF INFORMATION.—Each department or agency of the United States, including any intelligence agency, and all contractors with any such department or agency, shall, consistent with the need to protect intelligence sources and methods, furnish information to the Office concerning foreign availability and the mass-market status of items subject to export controls under this Act.

TITLE III—FOREIGN POLICY EXPORT CONTROLS

SEC. 301. AUTHORITY FOR FOREIGN POLICY EXPORT CONTROLS.

(a) AUTHORITY.—

(1) IN GENERAL.—In order to carry out the purposes set forth in subsection (b), the President may, in accordance with the provisions of this Act, prohibit, curtail, or require a license, other authorization, recordkeeping, or reporting for the export of any item subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States.

(2) EXERCISE OF AUTHORITY.—The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of State and such other departments and agencies as the Secretary considers appropriate.

(b) PURPOSES.—The purposes of foreign policy export controls are the following:

(1) To promote the foreign policy objectives of the United States, consistent with

the purposes of this section and the provisions of this Act.

(2) To promote international peace, stability, and respect for fundamental human rights.

(3) To use export controls to deter and punish acts of international terrorism and to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism.

(c) FOREIGN PRODUCTS.—No authority or permission may be required under this title to reexport to a country an item that is produced in a country other than the United States and incorporates parts or components that are subject to the jurisdiction of the United States, except that in the case of reexports of an item to a country designated as a country supporting international terrorism pursuant to section 310, controls may be maintained if the value of the controlled United States content is more than 10 percent of the value of the item.

(d) CONTRACT SANCTITY.—

(1) IN GENERAL.—The President may not prohibit the export of any item under this title if that item is to be exported—

(A) in performance of a binding contract, agreement, or other contractual commitment entered into before the date on which the President reports to Congress the President's intention to impose controls on that item under this title; or

(B) under a license or other authorization issued under this Act before the earlier of the date on which the control is initially imposed or the date on which the President reports to Congress the President's intention to impose controls under this title.

(2) EXCEPTION.—The prohibition contained in paragraph (1) shall not apply in any case in which the President determines and certifies to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives that—

(A) there is a serious threat to a foreign policy interest of the United States;

(B) the prohibition of exports under each binding contract, agreement, commitment, license, or authorization will be instrumental in remedying the situation posing the serious threat; and

(C) the export controls will be in effect only as long as the serious threat exists.

SEC. 302. PROCEDURES FOR IMPOSING CONTROLS.

(a) NOTICE.—

(1) INTENT TO IMPOSE FOREIGN POLICY EXPORT CONTROL.—Except as provided in section 306, not later than 45 days before imposing or implementing an export control under this title, the President shall publish in the Federal Register—

(A) a notice of intent to do so; and

(B) provide for a period of not less than 30 days for any interested person to submit comments on the export control proposed under this title.

(2) PURPOSES OF NOTICE.—The purposes of the notice are—

(A) to provide an opportunity for the formulation of an effective export control policy under this title that advances United States economic and foreign policy interests; and

(B) to provide an opportunity for negotiations to achieve the purposes set forth in section 301(b).

(b) NEGOTIATIONS.—During the 45-day period that begins on the date of notice described in subsection (a), the President may negotiate with the government of the foreign country against which the export control is proposed in order to resolve the reasons underlying the proposed export control.

(c) CONSULTATION.—

(1) REQUIREMENT.—The President shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives regarding any export control proposed under this title and the efforts to achieve or increase multilateral cooperation on the issues or problems underlying the proposed export control.

(2) CLASSIFIED CONSULTATION.—The consultations described in paragraph (1) may be conducted on a classified basis if the Secretary considers it necessary.

SEC. 303. CRITERIA FOR FOREIGN POLICY EXPORT CONTROLS.

Each export control imposed by the President under this title shall—

(1) have clearly stated and specific United States foreign policy objectives;

(2) have objective standards for evaluating the success or failure of the export control;

(3) include an assessment by the President that—

(A) the export control is likely to achieve such objectives and the expected time for achieving the objectives; and

(B) the achievement of the objectives of the export control outweighs any potential costs of the export control to other United States economic, foreign policy, humanitarian, or national security interests;

(4) be targeted narrowly; and

(5) seek to minimize any adverse impact on the humanitarian activities of United States and foreign nongovernmental organizations in the country subject to the export control.

SEC. 304. PRESIDENTIAL REPORT BEFORE IMPOSITION OF CONTROL.

(a) REQUIREMENT.—Before imposing an export control under this title, the President shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives a report on the proposed export control. The report may be provided on a classified basis if the Secretary considers it necessary.

(b) CONTENT.—The report shall contain a description and assessment of each of the criteria described in section 303. In addition, the report shall contain a description and assessment of—

(1) any diplomatic and other steps that the United States has taken to accomplish the intended objective of the proposed export control;

(2) unilateral export controls imposed, and other measures taken, by other countries to achieve the intended objective of the proposed export control;

(3) the likelihood of multilateral adoption of comparable export controls;

(4) alternative measures to promote the same objectives and the likelihood of their potential success;

(5) any United States obligations under international trade agreements, treaties, or other international arrangements, with which the proposed export control may conflict;

(6) the likelihood that the proposed export control could lead to retaliation against United States interests;

(7) the likely economic impact of the proposed export control on the United States economy, United States international trade and investment, and United States agricultural interests, commercial interests, and employment; and

(8) a conclusion that the probable achievement of the objectives of the proposed export control outweighs any likely costs to United States economic, foreign policy, humanitarian, or national security interests, including any potential harm to the United States agricultural and business firms and to the international reputation of the United States as a reliable supplier of goods, services, or technology.

SEC. 305. IMPOSITION OF CONTROLS.

The President may impose an export control under this title after the submission of the report required under section 304 and publication in the Federal Register of a notice of the imposition of the export control .

SEC. 306. DEFERRAL AUTHORITY.

(a) AUTHORITY.—The President may defer compliance with any requirement contained in section 302(a), 304, or 305 in the case of a proposed export control if—

(1) the President determines that a deferral of compliance with the requirement is in the national interest of the United States; and

(2) the requirement is satisfied not later than 60 days after the date on which the export control is imposed under this title.

(b) TERMINATION OF CONTROL.—An export control with respect to which a deferral has been made under subsection (a) shall terminate 60 days after the date the export control is imposed unless all requirements have been satisfied before the expiration of the 60-day period.

SEC. 307. REVIEW, RENEWAL, AND TERMINATION.

(a) RENEWAL AND TERMINATION.—

(1) IN GENERAL.—Any export control imposed under this title shall terminate on March 31 of each renewal year unless the President renews the export control on or before such date. For purposes of this section, the term ''renewal year'' means 2003 and every 2 years thereafter.

(2) EXCEPTION.—This section shall not apply to an export control imposed under this title that—

(A) is required by law;

(B) is targeted against any country designated as a country supporting international terrorism pursuant to section 310; or

(C) has been in effect for less than 1 year as of February 1 of a renewal year.

(b) REVIEW.—

(1) IN GENERAL.—Not later than February 1 of each renewal year, the President shall review all export controls in effect under this title.

(2) CONSULTATION.—

(A) REQUIREMENT.—Before completing a review under paragraph (1), the President shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representative regarding each export control that is being reviewed.

(B) CLASSIFIED CONSULTATION.—The consultations may be conducted on a classified basis if the Secretary considers it necessary.

(3) PUBLIC COMMENT.—conducting the review of each export control under paragraph (1), the President shall provide a period of not less than 30 days for any interested person to submit comments on renewal of the export control. The President shall publish notice of the opportunity for public comment in the Federal Register not less than 45 days before the review is required to be completed.

(c) REPORT TO CONGRESS.—

(1) REQUIREMENT.—Before renewing an export control imposed under this title, the President shall submit to the committees of Congress referred to in subsection (b)(2)(A) a report on each export control that the President intends to renew.

(2) FORM AND CONTENT OF REPORT.—The report may be provided on a classified basis if the Secretary considers it necessary. Each report shall contain the following:

(A) A clearly stated explanation of the specific United States foreign policy objective

that the existing export control was intended to achieve.

(B) An assessment of—

(i) the extent to which the existing export control achieved its objectives before renewal based on the objective criteria established for evaluating the export control; and

(ii) the reasons why the existing export control has failed to fully achieve its objectives and, if renewed, how the export control will achieve that objective before the next renewal year.

(C) An updated description and assessment of—

(i) each of the criteria described in section 303, and

(ii) each matter required to be reported under section 304(b) (1) through (8).

(3) RENEWAL OF EXPORT CONTROL.—The President may renew an export control under this title after submission of the report described in paragraph (2) and publication of notice of renewal in the Federal Register.

SEC. 308. TERMINATION OF CONTROLS UNDER THIS TITLE.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President—

(1) shall terminate any export control imposed under this title if the President determines that the control has substantially achieved the objective for which it was imposed; and

(2) may terminate at any time any export control imposed under this title that is not required by law.

(b) EXCEPTION.—Paragraphs (1) and (2) of subsection (a) do not apply to any export control imposed pursuant to section 310.

(c) EFFECTIVE DATE OF TERMINATION.—The termination of an export control pursuant to this section shall take effect on the date notice of the termination is published in the Federal Register.

SEC. 309. COMPLIANCE WITH INTERNATIONAL OBLIGATIONS.

Notwithstanding any other provision of this Act setting forth limitations on authority to control exports and except as provided in section 304, the President may impose controls on exports to a particular country or countries—

(1) of items listed on the control list of a multilateral export control regime, as defined in section 2(14); or

(2) in order to fulfill obligations or commitments of the United States under resolutions of the United Nations and under treaties, or other international agreements and arrangements, to which the United States is a party.

SEC. 310. DESIGNATION OF COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

(a) LICENSE REQUIRED.—Notwithstanding any other provision of this Act setting forth limitations on the authority to control exports, a license shall be required for the export of any item to a country if the Secretary of State has determined that—

(1) the government of such country has repeatedly provided support for acts of international terrorism; and

(2) the export of the item could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism.

(b) NOTIFICATION.—The Secretary and the Secretary of State shall notify the Committee on International Relations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before issuing any license required by subsection (a).

(c) DETERMINATIONS REGARDING REPEATED SUPPORT.—Each determination of the Secretary of State under subsection (a)(1), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1989, shall be published in the Federal Register.

(d) LIMITATIONS ON RESCINDING DETERMINATION.—A determination made by the Secretary of State under subsection (a)(1) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Banking, Housing, and Urban Affairs and the Chairman of the Committee on Foreign Relations of the Senate—

(1) before the proposed rescission would take effect, a report certifying that—

(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(B) that government is not supporting acts of international terrorism; and

(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

(2) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(e) INFORMATION TO BE INCLUDED IN NOTIFICATION.—The Secretary and the Secretary of State shall include in the notification required by subsection (b)—

(1) a detailed description of the item to be offered, including a brief description of the capabilities of any item for which a license to export is sought;

(2) the reasons why the foreign country or international organization to which the export or transfer is proposed to be made needs the item which is the subject of such export or transfer and a description of the manner in which such country or organization intends to use the item;

(3) the reasons why the proposed export or transfer is in the national interest of the United States;

(4) an analysis of the impact of the proposed export or transfer on the military capabilities of the foreign country or international organization to which such export or transfer would be made;

(5) an analysis of the manner in which the proposed export would affect the relative military strengths of countries in the region to which the item which is the subject of such export would be delivered and whether other countries in the region have comparable kinds and amounts of the item; and

(6) an analysis of the impact of the proposed export or transfer on the United States relations with the countries in the region to which the item which is the subject of such export would be delivered.

SEC. 311. CRIME CONTROL INSTRUMENTS.

(a) IN GENERAL.—In order to promote respect for fundamental human rights, crime control and detection instruments and equipment shall be approved for export by the Secretary only pursuant to an individual export license. Notwithstanding any other provision of this Act—

(1) any determination by the Secretary of what goods or technology shall be included on the list established pursuant to this subsection as a result of the export restrictions imposed by this section shall be made with the concurrence of the Secretary of State, and

(2) any determination by the Secretary to approve or deny an export license application to export crime control or detection instruments or equipment shall be made in concurrence with the recommendations of the Secretary of State submitted to the Secretary with respect to the application pursuant to section 401 of this Act,

except that, if the Secretary does not agree with the Secretary of State with respect to any determination under paragraph (1) or (2), the matter shall be referred to the President for resolution.

(b) EXCEPTION.—Except as herein provided, the provisions of this section shall not apply with respect to exports to countries that are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand, or to such other countries as the President shall designate consistent with the purposes of this section and section 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2304). The provisions of subsection (a) shall apply with respect to exports of any of the items identified in subsection (c).

(c) REPORT.—Notwithstanding the provisions of section 602 or any other confidentiality requirements, the Secretary shall include in the annual report submitted to Congress pursuant to section 701 a report describing the aggregate number of licenses approved during the preceding calendar year for the export of any items listed in the following paragraphs identified by country and control list number:

(1) Serrated thumbcuffs, leg irons, thumbscrews, and electro-shock stun belts.

(2) Leg cuffs, thumbcuffs, shackle boards, restraint chairs, straitjackets, and plastic handcuffs.

(3) Stun guns, shock batons, electric cattle prods, immobilization guns and projectiles, other than equipment used exclusively to treat or tranquilize animals and arms designed solely for signal, flare, or saluting use.

(4) Technology exclusively for the development or production of electro-shock devices.

(5) Pepper gas weapons and saps.

(6) Any other item or technology the Secretary determines is a specially designed instrument of torture or is especially susceptible to abuse as an instrument of torture.

TITLE IV—PROCEDURES FOR EXPORT LICENSES AND INTERAGENCY DISPUTE RESOLUTION

SEC. 401. EXPORT LICENSE PROCEDURES.

(a) RESPONSIBILITY OF THE SECRETARY.—

(1) IN GENERAL.—All applications for a license or other authorization to export a controlled item shall be filed in such manner and include such information as the Secretary may, by regulation, prescribe.

(2) PROCEDURES.—In guidance and regulations that implement this section, the Secretary shall describe the procedures required by this section, the responsibilities of the Secretary and of other departments and agencies in reviewing applications, the rights of the applicant, and other relevant matters affecting the review of license applications.

(3) CALCULATION OF PROCESSING TIMES.—In calculating the processing times set forth in this title, the Secretary shall use calendar days, except that if the final day for a required action falls on a weekend or holiday, that action shall be taken no later than the following business day.

(4) CRITERIA FOR EVALUATING APPLICATIONS.—In determining whether to grant an application to export a controlled item under this Act, the following criteria shall be considered:

(A) The characteristics of the controlled item.

(B) The threat to—

(i) the national security interests of the United States from items controlled under title II of this Act; or

(ii) the foreign policy of the United States from items controlled under title III of this Act.

(C) The country tier designation of the country to which a controlled item is to be exported pursuant to section 203.

(D) The risk of export diversion or misuse by—

(i) the exporter;

(ii) the method of export;

(iii) the end-user;

(iv) the country where the end-user is located; and

(v) the end-use.

(E) Risk mitigating factors including, but not limited to—

(i) changing the characteristics of the controlled item;

(ii) after-market monitoring by the exporter; and

(iii) post-shipment verification.

(b) INITIAL SCREENING.—

(1) UPON RECEIPT OF APPLICATION.—Upon receipt of an export license application, the Secretary shall enter and maintain in the records of the Department information regarding the receipt and status of the application.

(2) INITIAL PROCEDURES.—

(A) IN GENERAL.—Not later than 9 days after receiving any license application, the Secretary shall—

(i) contact the applicant if the application is improperly completed or if additional information is required, and hold the application for a reasonable time while the applicant provides the necessary corrections or information, and such time shall not be included in calculating the time periods prescribed in this title; and

(ii) upon receipt of completed application—

(I) ensure that the classification stated on the application for the export items is correct;

(II) refer the application, through the use of a common data-base or other means, and all information submitted by the applicant, and all necessary recommendations and analyses by the Secretary to the Secretary of Defense, the Secretary of State, and the heads of any other departments and agencies the Secretary considers appropriate; or

(III) return the application if a license is not required.

(B) REFERRAL NOT REQUIRED.—In the event that the head of a department or agency determines that certain types of applications need not be referred to the department or agency, such department or agency head shall notify the Secretary of the specific types of such applications that the department or agency does not wish to review.

(3) WITHDRAWAL OF APPLICATION.—An applicant may, by written notice to the Secretary, withdraw an application at any time before final action.

(c) ACTION BY OTHER DEPARTMENTS AND AGENCIES.—

(1) REFERRAL TO OTHER AGENCIES.—The Secretary shall promptly refer a license application to the departments and agencies under subsection (b) to make recommendations and provide information to the Secretary.

(2) RESPONSIBILITY OF REFERRAL DEPARTMENTS AND AGENCIES.—The Secretary of Defense, the Secretary of State, and the heads of other reviewing departments and agencies shall take all necessary actions in a prompt and responsible manner on an application. Each department or agency reviewing an application under this section shall establish and maintain records properly identifying and monitoring the status of the matter referred to the department or agency.

(3) ADDITIONAL INFORMATION REQUESTS.—Each department or agency to which a license application is referred shall specify to the Secretary any information that is not in the application that would be required for the department or agency to make a determination with respect to the application, and the Secretary shall promptly request such information from the applicant. The time that may elapse between the date the information is requested by that department or agency and the date the information is received by that department or agency shall not be included in calculating the time periods prescribed in this title.

(4) TIME PERIOD FOR ACTION BY REFERRAL DEPARTMENTS AND AGENCIES.—Within 30 days after the Secretary refers an application under this section, each department or agency to which an application has been referred shall provide the Secretary with a recommendation either to approve the license or to deny the license. A recommendation that the Secretary deny a license shall include a statement of reasons for the recommendation that are consistent with the provisions of this title, and shall cite both the specific statutory and regulatory basis for the recommendation. A department or agency that fails to provide a recommendation in accordance with this paragraph within that 30-day period shall be deemed to have no objection to the decision of the Secretary on the application.

(d) ACTION BY THE SECRETARY.—Not later than 30 days after the date the application is referred, the Secretary shall—

(1) if there is agreement among the referral departments and agencies to issue or deny the license—

(A) issue the license and ensure all appropriate personnel in the Department (including the Office of Export Enforcement) are notified of all approved license applications; or

(B) notify the applicant of the intention to deny the license; or

(2) if there is no agreement among the referral departments and agencies, notify the applicant that the application is subject to the interagency dispute resolution process provided for in section 402.

(e) CONSEQUENCES OF APPLICATION DENIAL.—

(1) IN GENERAL.—If a determination is made to deny a license, the applicant shall be informed in writing, consistent with the protection of intelligence information sources and methods, by the Secretary of—

(A) the determination;

(B) the specific statutory and regulatory bases for the proposed denial;

(C) what, if any, modifications to, or restrictions on, the items for which the license was sought would allow such export to be compatible with export controls imposed under this Act, and which officer or employee of the Department would be in a position to discuss modifications or restrictions with the applicant and the specific statutory and regulatory bases for imposing such modifications or restrictions;

(D) to the extent consistent with the national security and foreign policy interests of the United States, the specific considerations that led to the determination to deny the application; and

(E) the availability of appeal procedures.

(2) PERIOD FOR APPLICANT TO RESPOND.—The applicant shall have 20 days from the date of the notice of intent to deny the application to respond in a manner that addresses and corrects the reasons for the denial. If the applicant does not adequately address or correct the reasons for denial or does not respond, the license shall be denied. If the applicant does address or correct the reasons for denial, the application shall be considered in a timely manner.

(f) APPEALS AND OTHER ACTIONS BY APPLICANT.—

(1) IN GENERAL.—The Secretary shall establish appropriate procedures for an applicant to appeal to the Secretary the denial of an application or other administrative action under this Act. In any case in which the Secretary proposes to reverse the decision with respect to the application, the appeal under this subsection shall be handled in accordance with the interagency dispute resolution process provided for in section 402(b)(3).

(2) ENFORCEMENT OF TIME LIMITS.—

(A) IN GENERAL.—In any case in which an action prescribed in this section is not taken on an application within the time period established by this section (except in the case of a time period extended under subsection (g) of which the applicant is notified), the applicant may file a petition with the Secretary requesting compliance with the requirements of this section. When such petition is filed, the Secretary shall take immediate steps to correct the situation giving rise to the petition and shall immediately notify the applicant of such steps.

(B) BRINGING COURT ACTION.—If, within 20 days after a petition is filed under subparagraph (A), the processing of the application has not been brought into conformity with the requirements of this section, or the processing of the application has been brought into conformity with such requirements but the Secretary has not so notified the applicant, the applicant may bring an action in an appropriate United States district court for an order requiring compliance with the time periods required by this section.

(g) EXCEPTIONS FROM REQUIRED TIME PERIODS.—The following actions related to processing an application shall not be included in calculating the time periods prescribed in this section:

(1) AGREEMENT OF THE APPLICANT.—Delays upon which the Secretary and the applicant mutually agree.

(2) PRELICENSE CHECKS.—A prelicense check (for a period not to exceed 60 days) that may be required to establish the identity and reliability of the recipient of items controlled under this Act, if—

(A) the need for the prelicense check is determined by the Secretary or by another department or agency in any case in which the request for the prelicense check is made by such department or agency;

(B) the request for the prelicense check is initiated by the Secretary within 5 days after the determination that the prelicense check is required; and

(C) the analysis of the result of the prelicense check is completed by the Secretary within 5 days.

(3) REQUESTS FOR GOVERNMENT-TO-GOVERNMENT ASSURANCES.—Any request by the Secretary or another department or agency for government-to-government assurances of suitable end-uses of items approved for export, when failure to obtain such assurances would result in rejection of the application, if—

(A) the request for such assurances is sent to the Secretary of State within 5 days after the determination that the assurances are required;

(B) the Secretary of State initiates the request of the relevant government within 10 days thereafter; and

(C) the license is issued within 5 days after the Secretary receives the requested assurances.

(4) EXCEPTION.—Whenever a prelicense check described in paragraph (2) or assurances described in paragraph (3) are not requested within the time periods set forth therein, then the time expended for such prelicense check or assurances shall be included in calculating the time periods established by this section.

(5) MULTILATERAL REVIEW.—Multilateral review of a license application to the extent that such multilateral review is required by a relevant multilateral regime.

(6) CONGRESSIONAL NOTIFICATION.—Such time as is required for mandatory congressional notifications under this Act.

(7) CONSULTATIONS.—Consultation with foreign governments, if such consultation is provided for by a relevant multilateral regime as a precondition for approving a license.

(h) CLASSIFICATION REQUESTS AND OTHER INQUIRIES.—

(1) CLASSIFICATION REQUESTS.—In any case in which the Secretary receives a written request asking for the proper classification of an item on the Control List or the applicability of licensing requirements under this title, the Secretary shall promptly notify the Secretary of Defense and the head of any department or agency the Secretary considers appropriate. The Secretary shall, within 14 days after receiving the request, inform the person making the request of the proper classification.

(2) OTHER INQUIRIES.—In any case in which the Secretary receives a written request for information under this Act, the Secretary shall, within 30 days after receiving the request, reply with that information to the person making the request.

SEC. 402. INTERAGENCY DISPUTE RESOLUTION PROCESS.

(a) IN GENERAL.—All license applications on which agreement cannot be reached shall be referred to the interagency dispute resolution process for decision.

(b) INTERAGENCY DISPUTE RESOLUTION PROCESS.—

(1) INITIAL RESOLUTION.—The Secretary shall establish, select the chairperson of, and determine procedures for an interagency committee to review initially all license applications described in subsection (a) with respect to which the Secretary and any of the referral departments and agencies are not in agreement. The chairperson shall consider the positions of all the referral departments and agencies (which shall be included in the minutes described in subsection (c)(2)) and make a decision on the license application, including appropriate revisions or conditions thereto.

(2) INTELLIGENCE COMMUNITY.—The analytic product of the intelligence community should be fully considered with respect to any proposed license under this title.

(3) FURTHER RESOLUTION.—The President shall establish additional levels for review or appeal of any matter that cannot be resolved pursuant to the process described in paragraph (1). Each such review shall—

(A) provide for decision-making based on the majority vote of the participating departments and agencies;

(B) provide that a department or agency that fails to take a timely position, citing the specific statutory and regulatory bases for a position, shall be deemed to have no objection to the pending decision;

(C) provide that any decision of an interagency committee established under paragraph (1) or interagency dispute resolution process established under this paragraph may be escalated to the next higher level of review at the request of an official appointed by the President, by and with the advice of the Senate, or an officer properly acting in such capacity, of a department or agency that participated in the interagency committee or dispute resolution process that made the decision; and

(D) ensure that matters are resolved or referred to the President not later than 90 days after the date the completed license application is referred by the Secretary.

(c) FINAL ACTION.—

(1) IN GENERAL.—Once a final decision is made under subsection (b), the Secretary shall promptly—

(A) issue the license and ensure that all appropriate personnel in the Department (including the Office of Export Enforcement) are notified of all approved license applications; or

(B) notify the applicant of the intention to deny the application.

(2) MINUTES.—The interagency committee and each level of the interagency dispute resolution process shall keep reasonably detailed minutes of all meetings. On each matter before the interagency committee or before any other level of the interagency dispute resolution process in which members disagree, each member shall clearly state the reasons for the member's position and the reasons shall be entered in the minutes.

TITLE V—INTERNATIONAL ARRANGEMENTS; FOREIGN BOYCOTTS; SANCTIONS; AND ENFORCEMENT

SEC. 501. INTERNATIONAL ARRANGEMENTS.

(a) MULTILATERAL EXPORT CONTROL REGIMES.—

(1) POLICY.—It is the policy of the United States to seek multilateral arrangements that support the national security objectives of the United States (as described in title II) and that establish fairer and more predictable competitive opportunities for United States exporters.

(2) PARTICIPATION IN EXISTING REGIMES.—Congress encourages the United States to continue its active participation in and to strengthen existing multilateral export control regimes.

(3) PARTICIPATION IN NEW REGIMES.—It is the policy of the United States to participate in additional multilateral export control regimes if such participation would serve the national security interests of the United States.

(b) ANNUAL REPORT ON MULTILATERAL EXPORT CONTROL REGIMES.—Not later than February 1 of each year, the President shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives a report evaluating the effectiveness of each multilateral export control regime, including an assessment of the steps undertaken pursuant to subsections (c) and (d). The report, or any part of this report, may be submitted in classified form to the extent the President considers necessary.

(c) STANDARDS FOR MULTILATERAL EXPORT CONTROL REGIMES.—The President shall take steps to establish the following features in any multilateral export control regime in which the United States is participating or may participate:

(1) FULL MEMBERSHIP.—All supplier countries are members of the regime, and the policies and activities of the members are consistent with the objectives and membership criteria of the multilateral export control regime.

(2) EFFECTIVE ENFORCEMENT AND COMPLIANCE.—The regime promotes enforcement and compliance with the regime's rules and guidelines.

(3) PUBLIC UNDERSTANDING.—The regime makes an effort to enhance public understanding of the purpose and procedures of the multilateral export control regime.

(4) EFFECTIVE IMPLEMENTATION PROCEDURES.—The multilateral export control regime has procedures for the uniform and consistent interpretation and implementation of its rules and guidelines.

(5) ENHANCED COOPERATION WITH REGIME NONMEMBERS.—There is agreement among the members of the multilateral export control regime to—

(A) cooperate with governments outside the regime to restrict the export of items controlled by such regime; and

(B) establish an ongoing mechanism in the regime to coordinate planning and implementation of export control measures related to such cooperation.

(6) PERIODIC HIGH-LEVEL MEETINGS.—There are regular periodic meetings of high-level representatives of the governments of members of the multilateral export control regime for the purpose of coordinating export control policies and issuing policy guidance to members of the regime.

(7) COMMON LIST OF CONTROLLED ITEMS.—There is agreement on a common list of items controlled by the multilateral export control regime.

(8) REGULAR UPDATES OF COMMON LIST.—There is a procedure for removing items from the list of controlled items when the control of such items no longer serves the objectives of the members of the multilateral export control regime.

(9) TREATMENT OF CERTAIN COUNTRIES.—There is agreement to prevent the export or diversion of the most sensitive items to countries whose activities are threatening to the national security of the United States or its allies.

(10) HARMONIZATION OF LICENSE APPROVAL PROCEDURES.—There is harmonization among the members of the regime of their national export license approval procedures, practices, and standards.

(11) UNDERCUTTING.—There is a limit with respect to when members of a multilateral export control regime—

(A) grant export licenses for any item that is substantially identical to or directly competitive with an item controlled pursuant to the regime, where the United States has denied an export license for such item, or

(B) approve exports to a particular end user to which the United States has denied export license for a similar item.

(d) STANDARDS FOR NATIONAL EXPORT CONTROL SYSTEMS.—The President shall take steps to attain the cooperation of members of each regime in implementing effective national export control systems containing the following features:

(1) EXPORT CONTROL LAW.—Enforcement authority, civil and criminal penalties, and statutes of limitations are sufficient to deter potential violations and punish violators under the member's export control law.

(2) LICENSE APPROVAL PROCESS.—The system for evaluating export license applications includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end users.

(3) ENFORCEMENT.—The enforcement mechanism provides authority for trained enforcement officers to investigate and prevent illegal exports.

(4) DOCUMENTATION.—There is a system of export control documentation and verification with respect to controlled items.

(5) INFORMATION.—There are procedures for the coordination and exchange of information concerning licensing, end users, and enforcement with other members of the multilateral export control regime.

(6) RESOURCES.—The member has devoted adequate resources to administer effectively the authorities, systems, mechanisms, and procedures described in paragraphs (1) through (5).

(e) OBJECTIVES REGARDING MULTILATERAL EXPORT CONTROL REGIMES.—The President shall seek to achieve the following objectives with regard to multilateral export control regimes:

(1) STRENGTHEN EXISTING REGIMES.—Strengthen existing multilateral export control regimes—

(A) by creating a requirement to share information about export license applications among members before a member approves an export license; and

(B) harmonizing national export license approval procedures and practices, including the elimination of undercutting.

(2) REVIEW AND UPDATE.—Review and update multilateral regime export control lists with other members, taking into account—

(A) national security concerns;

(B) the controllability of items; and

(C) the costs and benefits of controls.

(3) ENCOURAGE COMPLIANCE BY NONMEMBERS.—Encourage nonmembers of the multilateral export control regime—

(A) to strengthen their national export control regimes and improve enforcement;

(B) to adhere to the appropriate multilateral export control regime; and

(C) not to undermine an existing multilateral export control regime by exporting controlled items in a manner inconsistent with the guidelines of the regime.

(f) TRANSPARENCY OF MULTILATERAL EXPORT CONTROL REGIMES.—

(1) PUBLICATION OF INFORMATION ON EACH EXISTING REGIME.—Not later than 120 days after the date of enactment of this Act, the Secretary shall, for each multilateral export control regime, to the extent that it is not inconsistent with the arrangements of that regime (in the judgment of the Secretary of State) or with the national interest, publish in the Federal Register and post on the Department of Commerce website the following information with respect to the regime:

(A) The purposes of the regime.

(B) The members of the regime.

(C) The export licensing policy of the regime.

(D) The items that are subject to export controls under the regime, together with all public notes, understandings, and other aspects of the agreement of the regime, and all changes thereto.

(E) Any countries, end uses, or end users that are subject to the export controls of the regime.

(F) Rules of interpretation.

(G) Major policy actions.

(H) The rules and procedures of the regime for establishing and modifying any matter described in subparagraphs (A) through (G) and for reviewing export license applications.

(2) NEW REGIMES.—Not later than 60 days after the United States joins or organizes a new multilateral export control regime, the Secretary shall, to the extent that it is not inconsistent with arrangements under the regime (in the judgment of the Secretary of State) or with the national interest, publish in the Federal Register and post on the Department of Commerce website the information described in subparagraphs (A) through (H) of paragraph (1) with respect to the regime.

(3) PUBLICATION OF CHANGES.—Not later than 60 days after a multilateral export control regime adopts any change in the information published under this subsection, the Secretary shall, to the extent not inconsistent with the arrangements under the regime or the national interest, publish such changes in the Federal Register and post such changes on the Department of Commerce website.

(g) SUPPORT OF OTHER COUNTRIES' EXPORT CONTROL SYSTEMS.—The Secretary is encouraged to continue to—

(1) participate in training of, and provide training to, officials of other countries on the principles and procedures for implementing effective export controls; and

(2) participate in any such training provided by other departments and agencies of the United States.

SEC. 502. FOREIGN BOYCOTTS.

(a) PURPOSES.—The purposes of this section are as follows:

(1) To counteract restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person.

(2) To encourage and, in specified cases, require United States persons engaged in the export of items to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person.

(b) PROHIBITIONS AND EXCEPTIONS.—

(1) PROHIBITIONS.—In order to carry out the purposes set forth in subsection (a), the President shall issue regulations prohibiting any United States person, with respect to that person's activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country that is friendly to the United States and is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, or requirement of, or a request from or on behalf of the boycotting country (subject to the condition that the intent required to be associated with such an act in order to constitute a violation of the prohibition is not indicated solely by the mere absence of a business relationship with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person).

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminate against any United States person on the basis of the race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information (other than furnishing normal business information in a commercial context, as defined by the Secretary) about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person that is known or believed to be restricted from having any business relationship with or in the boycotting country.

(E) Furnishing information about whether any person is a member of, has made a contribution to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement the compliance with which is prohibited by regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) EXCEPTIONS.—Regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) compliance, or agreement to comply, with requirements—

(i) prohibiting the import of items from the boycotted country or items produced or provided, by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country; or

(ii) prohibiting the shipment of items to the boycotting country on a carrier of the boycotted country or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) compliance, or agreement to comply, with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment, or the name of the provider of other services, except that, for purposes of applying any exception under this subparagraph, no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms, other than with respect to carriers or route of shipment as may be permitted by such regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) compliance, or agreement to comply, in the normal course of business with the unilateral and specific selection by a boycotting country, or a national or resident thereof, or carriers, insurers, suppliers of services to be performed within the boycotting country, or specific items which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) compliance, or agreement to comply, with export requirements of the boycotting country relating to shipment or transshipment of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual, or agreement by an individual to comply, with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country, or agreement by such a person to comply, with the laws of the country with respect to the person's activities exclusively therein, and such regulations may contain exceptions for such resident complying with the laws or regulations of the foreign country governing imports into such country of trademarked, tradenamed, or similarly specifically identifiable products, or components of products for such person's own use, including the performance of contractual services within that country.

(3) LIMITATION ON EXCEPTIONS.—Regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) ANTITRUST AND CIVIL RIGHTS LAWS NOT AFFECTED.—Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) EVASION.—This section applies to any transaction or activity undertaken by or through a United States person or any other person with intent to evade the provisions of

this section or the regulations issued pursuant to this subsection. The regulations issued pursuant to this section shall expressly provide that the exceptions set forth in paragraph (2) do not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) that are otherwise prohibited, pursuant to the intent of such exceptions.

(c) ADDITIONAL REGULATIONS AND REPORTS.—

(1) REGULATIONS.—In addition to the regulations issued pursuant to subsection (b), regulations issued pursuant to title III shall implement the purposes set forth in subsection (a).

(2) REPORTS BY UNITED STATES PERSONS.—The regulations shall require that any United States person receiving a request to furnish information, enter into or implement an agreement, or take any other action referred to in subsection (a) shall report that request to the Secretary, together with any other information concerning the request that the Secretary determines appropriate. The person shall also submit to the Secretary a statement regarding whether the person intends to comply, and whether the person has complied, with the request. Any report filed pursuant to this paragraph shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any item to which such report relates may be treated as confidential if the Secretary determines that disclosure of that information would place the United States person involved at a competitive disadvantage. The Secretary shall periodically transmit summaries of the information contained in the reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary, considers appropriate to carry out the purposes set forth in subsection (a).

(d) PREEMPTION.—The provisions of this section and the regulations issued under this section shall preempt any law, rule, or regulation that—

(1) is a law, rule, or regulation of any of the several States or the District of Columbia, or any of the territories or possessions of the United States, or of any governmental subdivision thereof; and

(2) pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

SEC. 503. PENALTIES.

(a) CRIMINAL PENALTIES.—

(1) VIOLATIONS BY AN INDIVIDUAL.—Any individual who willfully violates, conspires to violate, or attempts to violate any provision of this Act or any regulation, license, or order issued under this Act shall be fined up to 10 times the value of the exports involved or $1,000,000, whichever is greater, imprisoned for not more than 10 years, or both, for each violation.

(2) VIOLATIONS BY A PERSON OTHER THAN AN INDIVIDUAL.—Any person other than an individual who willfully violates, conspires to violate, or attempts to violate any provision of this Act or any regulation, license, or order issued under this Act shall be fined up to 10 times the value of the exports involved or $5,000,000, whichever is greater, for each violation.

(b) FORFEITURE OF PROPERTY INTEREST AND PROCEEDS.—

(1) FORFEITURE.—Any person who is convicted under paragraph (1) or (2) of subsection (a) shall, in addition to any other penalty, forfeit to the United States—

(A) any of that person's security or other interest in, claim against, or property or contractual rights of any kind in the tangible items that were the subject of the violation;

(B) any of that person's security or other interest in, claim against, or property or contractual rights of any kind in the tangible property that was used in the export or attempt to export that was the subject of the violation; and

(C) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

(2) PROCEDURES.—The procedures in any forfeiture under this subsection, and the duties and authority of the courts of the United States and the Attorney General with respect to any forfeiture action under this subsection, or with respect to any property that may be subject to forfeiture under this subsection, shall be governed by the provisions of chapter 46 of title 18, United States Code (relating to criminal forfeiture), to the same extent as property subject to forfeiture under that chapter.

(c) CIVIL PENALTIES; ADMINISTRATIVE SANCTIONS.—

(1) CIVIL PENALTIES.—The Secretary may impose a civil penalty of up to $500,000 for each violation of a provision of this Act or any regulation, license, or order issued under this Act. A civil penalty under this paragraph may be in addition to, or in lieu of, any other liability or penalty which may be imposed for such a violation.

(2) DENIAL OF EXPORT PRIVILEGES.—The Secretary may deny the export privileges of any person, including the suspension or revocation of the authority of such person to export or receive United States-origin items subject to this Act, for a violation of a provision of this Act or any regulation, license, or order issued under this Act.

(3) EXCLUSION FROM PRACTICE.—The Secretary may exclude any person acting as an attorney, accountant, consultant, freight forwarder, or in any other representative capacity from participating before the Department with respect to a license application or any other matter under this Act.

(d) PAYMENT OF CIVIL PENALTIES.—

(1) PAYMENT AS CONDITION OF FURTHER EXPORT PRIVILEGES.—The payment of a civil penalty imposed under subsection (c) may be made a condition for the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. The period for which the payment of a penalty may be made such a condition may not exceed 1 year after the date on which the payment is due.

(2) DEFERRAL OR SUSPENSION.—

(A) IN GENERAL.—The payment of a civil penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period no longer than any probation period (which may exceed 1 year) that may be imposed upon the person on whom the penalty is imposed.

(B) NO BAR TO COLLECTION OF PENALTY.—A deferral or suspension under subparagraph (A) shall not operate as a bar to the collection of the penalty concerned in the event that the conditions of the suspension, deferral, or probation are not fulfilled.

(3) TREATMENT OF PAYMENTS.—Any amount paid in satisfaction of a civil penalty imposed under subsection (c) shall be covered into the Treasury as miscellaneous receipts.

(e) REFUNDS.—

(1) AUTHORITY.—

(A) IN GENERAL.—The Secretary may, in the Secretary's discretion, refund any civil penalty imposed under subsection (c) on the ground of a material error of fact or law in imposition of the penalty.

(B) LIMITATION.—A civil penalty may not be refunded under subparagraph (A) later than 2 years after payment of the penalty.

(2) PROHIBITION ON ACTIONS FOR REFUND.—Notwithstanding section 1346(a) of title 28, United States Code, no action for the refund of any civil penalty referred to in paragraph (1) may be maintained in any court.

(f) EFFECT OF OTHER CONVICTIONS.—

(1) DENIAL OF EXPORT PRIVILEGES.—Any person convicted of a violation of—

(A) a provision of this Act or the Export Administration Act of 1979,

(B) a provision of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.),

(C) section 793, 794, or 798 of title 18, United States Code,

(D) section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)),

(E) section 38 of the Arms Export Control Act (22 U.S.C. 2778),

(F) section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16),

(G) any regulation, license, or order issued under any provision of law listed in subparagraph (A), (B), (C), (D), (E), or (F),

(H) section 371 or 1001 of title 18, United States Code, if in connection with the export of controlled items under this Act or any regulation, license, or order issued under the International Emergency Economic Powers Act, or the export of items controlled under the Arms Export Control Act,

(I) section 175 of title 18, United States Code,

(J) a provision of the Atomic Energy Act (42 U.S.C. 201 et seq.),

(K) section 831 of title 18, United States Code, or

(L) section 2332a of title 18, United States Code,

may, at the discretion of the Secretary, be denied export privileges under this Act for a period not to exceed 10 years from the date of the conviction. The Secretary may also revoke any export license under this Act in which such person had an interest at the time of the conviction.

(2) RELATED PERSONS.—The Secretary may exercise the authority under paragraph (1) with respect to any person related through affiliation, ownership, control, or position of responsibility to a person convicted of any violation of a law set forth in paragraph (1) upon a showing of such relationship with the convicted person. The Secretary shall make such showing only after providing notice and opportunity for a hearing.

(g) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a proceeding in which a civil penalty or other administrative sanction (other than a temporary denial order) is sought under subsection (c) may not be instituted more than 5 years after the later of the date of the alleged violation or the date of discovery of the alleged violation.

(2) EXCEPTION.—

(A) TOLLING.—In any case in which a criminal indictment alleging a violation under subsection (a) is returned within the time limits prescribed by law for the institution of such action, the limitation under paragraph (1) for bringing a proceeding to impose a civil penalty or other administrative sanction under this section shall, upon the return of the criminal indictment, be tolled against all persons named as a defendant.

(B) DURATION.—The tolling of the limitation with respect to a defendant under subparagraph (A) as a result of a criminal indictment shall continue for a period of 6 months from the date on which the conviction of the defendant becomes final, the indictment against the defendant is dismissed, or the criminal action has concluded.

(h) VIOLATIONS DEFINED BY REGULATION.—Nothing in this section shall limit the authority of the Secretary to define by regulation violations under this Act.

(i) CONSTRUCTION.—Nothing in subsection (c), (d), (e), (f), or (g) limits—

(1) the availability of other administrative or judicial remedies with respect to a violation of a provision of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to any such violation; or

(3) the authority to compromise, remit, or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

SEC. 504. MISSILE PROLIFERATION CONTROL VIOLATIONS.

(a) VIOLATIONS BY UNITED STATES PERSONS.—

(1) SANCTIONS.—

(A) IN GENERAL.—If the President determines that a United States person knowingly—

(i) exports, transfers, or otherwise engages in the trade of any item on the MTCR Annex, in violation of the provisions of section 38 (22 U.S.C. 2778) or chapter 7 of the Arms Export Control Act, title II or III of this Act, or any regulations or orders issued under any such provisions,

(ii) conspires to or attempts to engage in such export, transfer, or trade, or

(iii) facilitates such export, transfer, or trade by any other person,

then the President shall impose the applicable sanctions described in subparagraph (B).

(B) SANCTIONS DESCRIBED.—The sanctions which apply to a United States person under subparagraph (A) are the following:

(i) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person, for a period of 2 years, licenses for the transfer of missile equipment or technology controlled under this Act.

(ii) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category I of the MTCR Annex, then the President shall deny to such United States person, for a period of not less than 2 years, all licenses for items the export of which is controlled under this Act.

(2) DISCRETIONARY SANCTIONS.—In the case of any determination referred to in paragraph (1), the Secretary may pursue any other appropriate penalties under section 503.

(3) WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to an item if the President certifies to Congress that—

(A) the item is essential to the national security of the United States; and

(B) such person is a sole source supplier of the item, the item is not available from any alternative reliable supplier, and the need for the item cannot be met in a timely manner by improved manufacturing processes or technological developments.

(b) TRANSFERS OF MISSILE EQUIPMENT OR TECHNOLOGY BY FOREIGN PERSONS.—

(1) SANCTIONS.—

(A) IN GENERAL.—Subject to paragraphs (3) through (7), if the President determines that a foreign person, after the date of enactment of this section, knowingly—

(i) exports, transfers, or otherwise engages in the trade of any MTCR equipment or technology that contributes to the design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act,

(ii) conspires to or attempts to engage in such export, transfer, or trade, or

(iii) facilitates such export, transfer, or trade by any other person,

or if the President has made a determination with respect to a foreign person under section 73(a) of the Arms Export Control Act, then the President shall impose on that foreign person the applicable sanctions under subparagraph (B).

(B) SANCTIONS DESCRIBED.—The sanctions which apply to a foreign person under subparagraph (A) are the following:

(i) If the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years, licenses for the transfer to such foreign person of missile equipment or technology the export of which is controlled under this Act.

(ii) If the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years, licenses for the transfer to such foreign person of items the export of which is controlled under this Act.

(iii) If, in addition to actions taken under clauses (i) and (ii), the President determines that the export, transfer, or trade has substantially contributed to the design, development, or production of missiles in a country that is not an MTCR adherent, then the President shall prohibit, for a period of not less than 2 years, the importation into the United States of products produced by that foreign person.

(2) INAPPLICABILITY WITH RESPECT TO MTCR ADHERENTS.—Paragraph (1) does not apply with respect to—

(A) any export, transfer, or trading activity that is authorized by the laws of an MTCR adherent, if such authorization is not obtained by misrepresentation or fraud; or

(B) any export, transfer, or trade of an item to an end user in a country that is an MTCR adherent.

(3) EFFECT OF ENFORCEMENT ACTIONS BY MTCR ADHERENTS.—Sanctions set forth in paragraph (1) may not be imposed under this subsection on a person with respect to acts described in such paragraph or, if such sanctions are in effect against a person on account of such acts, such sanctions shall be terminated, if an MTCR adherent is taking judicial or other enforcement action against that person with respect to such acts, or that person has been found by the government of an MTCR adherent to be innocent of wrongdoing with respect to such acts.

(4) ADVISORY OPINIONS.—The Secretary, in consultation with the Secretary of State and the Secretary of Defense, may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this subsection. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

(5) WAIVER AND REPORT TO CONGRESS.—

(A) WAIVER.—In any case other than one in which an advisory opinion has been issued under paragraph (4) stating that a proposed activity would not subject a person to sanctions under this subsection, the President may waive the application of paragraph (1) to a foreign person if the President determines that such waiver is essential to the national security of the United States.

(B) REPORT TO CONGRESS.—In the event that the President decides to apply the waiver described in subparagraph (A), the President shall so notify Congress not less than 20 working days before issuing the waiver. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

(6) ADDITIONAL WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

(A) the product or service is essential to the national security of the United States; and

(B) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

(7) EXCEPTIONS.—The President shall not apply the sanction under this subsection prohibiting the importation of the products of a foreign person—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines that the person to which the sanctions would be applied is a sole source supplier of the defense articles and services, that the defense articles or services are essential to the national security of the United States, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security of the United States under defense coproduction agreements or NATO Programs of Cooperation;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or

(C) to—

(i) spare parts,

(ii) component parts, but not finished products, essential to United States products or production,

(iii) routine services and maintenance of products, to the extent that alternative sources are not readily or reasonably available, or

(iv) information and technology essential to United States products or production.

(c) DEFINITIONS.—In this section:

(1) MISSILE.—The term ''missile'' means a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems.

(2) MISSILE TECHNOLOGY CONTROL REGIME; MTCR.—The term ''Missile Technology Control Regime'' or ''MTCR'' means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto.

(3) MTCR ADHERENT.—The term ''MTCR adherent'' means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR.

(4) MTCR ANNEX.—The term ''MTCR Annex'' means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto.

(5) MISSILE EQUIPMENT OR TECHNOLOGY; MTCR EQUIPMENT OR TECHNOLOGY.—The terms ''missile equipment or technology'' and ''MTCR equipment or technology'' mean those items listed in category I or category II of the MTCR Annex.

(6) FOREIGN PERSON.—The term ''foreign person'' means any person other than a United States person.

(7) PERSON.—

(A) IN GENERAL.—The term ''person'' means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity.

(B) IDENTIFICATION IN CERTAIN CASES.—In the case of countries where it may be impossible to identify a specific governmental entity referred to in subparagraph (A), the term ''person'' means—

(i) all activities of that government relating to the development or production of any missile equipment or technology; and

(ii) all activities of that government affecting the development or production of aircraft, electronics, and space systems or equipment.

(8) OTHERWISE ENGAGED IN THE TRADE OF.—The term ''otherwise engaged in the trade of'' means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consignee or end user of the item to be exported or transferred.

SEC. 505. CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION SANCTIONS.

(a) IMPOSITION OF SANCTIONS.—

(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of enactment of this section, has knowingly and materially contributed—

(A) through the export from the United States of any item that is subject to the jurisdiction of the United States under this Act, or

(B) through the export from any other country of any item that would be, if it were a United States item, subject to the jurisdiction of the United States under this Act,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

(A) any foreign country that the President determines has, at any time after the date of enactment of this Act—

(i) used chemical or biological weapons in violation of international law;

(ii) used lethal chemical or biological weapons against its own nationals; or

(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

(B) any foreign country whose government is determined for purposes of section 310 to be a government that has repeatedly provided support for acts of international terrorism; or

(C) any other foreign country, project, or entity designated by the President for purposes of this section.

(3) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

(A) the foreign person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person;

(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following the consultations, the President shall impose sanctions unless the President determines and certifies to Congress that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to Congress that government is in the process of taking the actions described in the preceding sentence.

(3) REPORT TO CONGRESS.—The President shall report to Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTIONS.—

(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

(C) to—

(i) spare parts,

(ii) component parts, but not finished products, essential to United States products or production, or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

(e) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to Congress that such waiver is important to the national security interests of the United States.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term ''foreign person'' means—

(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.

SEC. 506. ENFORCEMENT.

(a) GENERAL AUTHORITY AND DESIGNATION.—

(1) POLICY GUIDANCE ON ENFORCEMENT.—The Secretary, in consultation with the Secretary of the Treasury and the heads of other departments and agencies that the Secretary considers appropriate, shall be responsible for providing policy guidance on the enforcement of this Act.

(2) GENERAL AUTHORITIES.—

(A) EXERCISE OF AUTHORITY.—To the extent necessary or appropriate to the enforcement of this Act, officers and employees of the Department designated by the Secretary, officers and employees of the United States Customs Service designated by the Commissioner of Customs, and officers and employees of any other department or agency designated by the head of a department or agency exercising functions under this Act, may exercise the enforcement authority under paragraph (3).

(B) CUSTOMS SERVICE.—In carrying out enforcement authority under paragraph (3), the Commissioner of Customs and employees of the United States Customs Service designated by the Commissioner may make investigations within or outside the United States and at ports of entry into or exit from the United States where officers of the

United States Customs Service are authorized by law to carry out law enforcement responsibilities. Subject to paragraph (3), the United States Customs Service is authorized, in the enforcement of this Act, to search, detain (after search), and seize items at the ports of entry into or exit from the United States where officers of the United States Customs Service are authorized by law to conduct searches, detentions, and seizures, and at the places outside the United States where the United States Customs Service, pursuant to agreement or other arrangement with other countries, is authorized to perform enforcement activities.

(C) OTHER EMPLOYEES.—In carrying out enforcement authority under paragraph (3), the Secretary and officers and employees of the Department designated by the Secretary may make investigations within the United States, and may conduct, outside the United States, pre-license and post-shipment verifications of controlled items and investigations in the enforcement of section 502. The Secretary and officers and employees of the Department designated by the Secretary are authorized to search, detain (after search), and seize items at places within the United States other than ports referred to in subparagraph (B). The search, detention (after search), or seizure of items at the ports and places referred to in subparagraph (B) may be conducted by officers and employees of the Department only with the concurrence of the Commissioner of Customs or a person designated by the Commissioner.

(D) AGREEMENTS AND ARRANGEMENTS.—The Secretary and the Commissioner of Customs may enter into agreements and arrangements for the enforcement of this Act, including foreign investigations and information exchange.

(3) SPECIFIC AUTHORITIES.—

(A) ACTIONS BY ANY DESIGNATED PERSONNEL.—Any officer or employee designated under paragraph (2), in carrying out the enforcement authority under this Act, may do the following:

(i) Make investigations of, obtain information from, make inspection of any books, records, or reports (including any writings required to be kept by the Secretary), premises, or property of, and take the sworn testimony of, any person.

(ii) Administer oaths or affirmations, and by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both. In the case of contumacy by, or refusal to obey a subpoena issued to, any such person, a district court of the United States, on request of the Attorney General and after notice to any such person and a hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both. Any failure to obey such order of the court may be punished by such court as a contempt thereof. The attendance of witnesses and the production of documents provided for in this clause may be required from any State, the District of Columbia, or in any territory of the United States at any designated place. Witnesses subpoenaed under this subsection shall be paid the same fees and mileage allowance as paid witnesses in the district courts of the United States.

(B) ACTIONS BY OFFICE OF EXPORT ENFORCEMENT AND CUSTOMS SERVICE PERSONNEL.—

(i) OFFICE OF EXPORT ENFORCEMENT AND CUSTOMS SERVICE PERSONNEL.—Any officer or employee of the Office of Export Enforcement of the Department of Commerce (in this Act referred to as ''OEE'') who is designated by the Secretary under paragraph (2), and any officer or employee of the United States Customs Service who is designated by the Commissioner of Customs under paragraph (2), may do the following in carrying out the enforcement authority under this Act:

(I) Execute any warrant or other process issued by a court or officer of competent jurisdiction with respect to the enforcement of this Act.

(II) Make arrests without warrant for any violation of this Act committed in his or her presence or view, or if the officer or employee has probable cause to believe that the person to be arrested has committed, is committing, or is about to commit such a violation.

(III) Carry firearms.

(ii) OEE PERSONNEL.—Any officer or employee of the OEE designated by the Secretary under paragraph (2) shall exercise the authority set forth in clause (i) pursuant to guidelines approved by the Attorney General.

(C) OTHER ACTIONS BY CUSTOMS SERVICE PERSONNEL.—Any officer or employee of the United States Customs Service designated by the Commissioner of Customs under paragraph (2) may do the following in carrying out the enforcement authority under this Act:

(i) Stop, search, and examine a vehicle, vessel, aircraft, or person on which or whom the officer or employee has reasonable cause to suspect there is any item that has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(ii) Detain and search any package or container in which the officer or employee has reasonable cause to suspect there is any item that has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(iii) Detain (after search) or seize any item, for purposes of securing for trial or forfeiture to the United States, on or about such vehicle, vessel, aircraft, or person or in such package or container, if the officer or employee has probable cause to believe the item has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(4) OTHER AUTHORITIES NOT AFFECTED.—The authorities conferred by this section are in addition to any authorities conferred under other laws.

(b) FORFEITURE.—

(1) IN GENERAL.—Any tangible items lawfully seized under subsection (a) by designated officers or employees shall be subject to forfeiture to the United States.

(2) APPLICABLE LAWS.—Those provisions of law relating to—

(A) the seizure, summary and judicial forfeiture, and condemnation of property for violations of the customs laws;

(B) the disposition of such property or the proceeds from the sale thereof;

(C) the remission or mitigation of such forfeitures; and

(D) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subsection, insofar as applicable and not inconsistent with this Act.

(3) FORFEITURES UNDER CUSTOMS LAWS.—Duties that are imposed upon a customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws may be performed with respect to seizures and forfeitures of property under this subsection by the Secretary or any officer or employee of the Department that may be authorized or designated for that purpose by the Secretary (or by the Commissioner of Customs or any officer or employee of the United States Customs Service designated by the Commissioner), or, upon the request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

(c) REFERRAL OF CASES.—All cases involving violations of this Act shall be referred to the Secretary for purposes of determining civil penalties and administrative sanctions under section 503 or to the Attorney General for criminal action in accordance with this Act or to both the Secretary and the Attorney General.

(d) UNDERCOVER INVESTIGATION OPERATIONS.—

(1) USE OF FUNDS.—With respect to any undercover investigative operation conducted by the OEE that is necessary for the detection and prosecution of violations of this Act—

(A) funds made available for export enforcement under this Act may be used to purchase property, buildings, and other facilities, and to lease equipment, conveyances, and space within the United States, without regard to sections 1341 and 3324 of title 31, United States Code, the third undesignated paragraph under the heading ''miscellaneous'' of the Act of March 3, 1877, (40 U.S.C. 34), sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22), subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254 (a) and (c)), and section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255);

(B) funds made available for export enforcement under this Act may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 1341, 3324, and 9102 of title 31, United States Code;

(C) funds made available for export enforcement under this Act and the proceeds from undercover operations may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code; and

(D) the proceeds from undercover operations may be used to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3302 of title 31, United States Code,

if the Director of OEE (or an officer or employee designated by the Director) certifies, in writing, that the action authorized by subparagraph (A), (B), (C), or (D) for which the funds would be used is necessary for the conduct of the undercover operation.

(2) DISPOSITION OF BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation has a net value of more than $250,000 and is to be liquidated, sold, or otherwise disposed of, the Director of OEE shall report the circumstances to the Secretary and the Comptroller General of the United States as much in advance of such disposition as the Director of the OEE (or the Director's designee) determines is practicable. The proceeds of the liquidation, sale, or other disposition, after obligations incurred by the corporation or business enterprise are met, shall be deposited in the Treasury of the United States as miscellaneous receipts. Any property or equipment purchased pursuant to paragraph (1) may be retained for subsequent use in undercover operations under this section. When such property or equipment is no longer needed, it shall be considered surplus and disposed of as surplus government property.

(3) DEPOSIT OF PROCEEDS.—As soon as the proceeds from an OEE undercover investigative operation with respect to which an action is authorized and carried out under this

subsection are no longer needed for the conduct of such operation, the proceeds or the balance of the proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(4) AUDIT AND REPORT.—

(A) AUDIT.—The Director of OEE shall conduct a detailed financial audit of each closed OEE undercover investigative operation and shall submit the results of the audit in writing to the Secretary. Not later than 180 days after an undercover operation is closed, the Secretary shall submit to Congress a report on the results of the audit.

(B) REPORT.—The Secretary shall submit annually to Congress a report, which may be included in the annual report under section 701, specifying the following information:

(i) The number of undercover investigative operations pending as of the end of the period for which such report is submitted.

(ii) The number of undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted.

(iii) The number of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect to the operation.

(5) DEFINITIONS.—For purposes of paragraph (4)—

(A) the term ''closed'', with respect to an undercover investigative operation, refers to the earliest point in time at which all criminal proceedings (other than appeals) pursuant to the investigative operation are concluded, or covert activities pursuant to such operation are concluded, whichever occurs later; and

(B) the terms ''undercover investigative operation'' and ''undercover operation'' mean any undercover investigative operation conducted by the OEE—

(i) in which the gross receipts (excluding interest earned) exceed $25,000, or expenditures (other than expenditures for salaries of employees) exceed $75,000, and

(ii) which is exempt from section 3302 or 9102 of title 31, United States Code, except that clauses (i) and (ii) shall not apply with respect to the report to Congress required by paragraph (4)(B).

(e) WIRETAPS.—

(1) AUTHORITY.—Interceptions of communications in accordance with section 2516 of title 18, United States Code, are authorized to further the enforcement of this Act.

(2) CONFORMING AMENDMENT.—Section 2516(1) of title 18, United States Code, is amended by adding at the end the following:

''(q)(i) any violation of, or conspiracy to violate, the Export Administration Act of 2001 or the Export Administration Act of 1979.''.

(f) POST-SHIPMENT VERIFICATION.—The Secretary shall target post-shipment verifications to exports involving the greatest risk to national security.

(g) REFUSAL TO ALLOW POST-SHIPMENT VERIFICATION.—

(1) IN GENERAL.—If an end-user refuses to allow post-shipment verification of a controlled item, the Secretary shall deny a license for the export of any controlled item to such end-user until such post-shipment verification occurs.

(2) RELATED PERSONS.—The Secretary may exercise the authority under paragraph (1) with respect to any person related through affiliation, ownership, control, or position of responsibility, to any end-user refusing to allow post-shipment verification of a controlled item.

(3) REFUSAL BY COUNTRY.—If the country in which the end-user is located refuses to allow post-shipment verification of a controlled item, the Secretary may deny a license for the export of that item, any substantially identical or directly competitive item or class of items, any item that the Secretary determines to be of equal or greater sensitivity than the controlled item, or any controlled item for which a determination has not been made pursuant to section 211 to all end-users in that country until such post-shipment verification is allowed.

(h) FREIGHT FORWARDERS BEST PRACTICES PROGRAM AUTHORIZATION.—There is authorized to be appropriated for the Department of Commerce $3,500,000 and such sums as may be necessary, to be available until expended, to hire 20 additional employees to assist United States freight forwarders and other interested persons in developing and implementing, on a voluntary basis, a ''best practices'' program to ensure that exports of controlled items are undertaken in compliance with this Act.

(i) END-USE VERIFICATION AUTHORIZATION.—

(1) IN GENERAL.—There is authorized to be appropriated for the Department of Commerce $4,500,000 and such sums as may be necessary, to be available until expended, to hire 10 additional overseas investigators to be posted in the People's Republic of China, the Russian Federation, the Hong Kong Special Administrative Region, the Republic of India, Singapore, Egypt, and Taiwan, or any other place the Secretary deems appropriate, for the purpose of verifying the end use of high-risk, dual-use technology.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Department shall, in its annual report to Congress on export controls, include a report on the effectiveness of the end-use verification activities authorized under subsection (a). The report shall include the following information:

(A) The activities of the overseas investigators of the Department.

(B) The types of goods and technologies that were subject to end-use verification.

(C) The ability of the Department's investigators to detect the illegal transfer of high risk, dual-use goods and technologies.

(3) ENHANCEMENTS.—In addition to the authorization provided in paragraph (1), there is authorized to be appropriated for the Department of Commerce $5,000,000, to be available until expended, to enhance its program for verifying the end use of items subject to controls under this Act.

(j) ENHANCED COOPERATION WITH UNITED STATES CUSTOMS SERVICE.—Consistent with the purposes of this Act, the Secretary is authorized to undertake, in cooperation with the United States Customs Service, such measures as may be necessary or required to enhance the ability of the United States to detect unlawful exports and to enforce violations of this Act.

(k) REFERENCE TO ENFORCEMENT.—For purposes of this section, a reference to the enforcement of this Act or to a violation of this Act includes a reference to the enforcement or a violation of any regulation, license, or order issued under this Act.

(l) AUTHORIZATION FOR EXPORT LICENSING AND ENFORCEMENT COMPUTER SYSTEM.—There is authorized to be appropriated for the Department $5,000,000 and such other sums as may be necessary, to be available until expended, for planning, design, and procurement of a computer system to replace the Department's primary export licensing and computer enforcement system.

(m) AUTHORIZATION FOR BUREAU OF EXPORT ADMINISTRATION.—The Secretary may authorize, without fiscal year limitation, the expenditure of funds transferred to, paid to, received by, or made available to the Bureau of Export Administration as a reimbursement in accordance with section 9703 of title 31, United States Code (as added by Public Law 102–393). The Secretary may also authorize, without fiscal year limitation, the expenditure of funds transferred to, paid to, received by, or made available to the Bureau of Export Administration as a reimbursement from the Department of Justice Assets Forfeiture Fund in accordance with section 524 of title 28, United States Code. Such funds shall be deposited in an account and shall remain available until expended.

(n) AMENDMENTS TO TITLE 31.—

(1) Section 9703(a) of title 31, United States Code (as added by Public Law 102–393) is amended by striking ''or the United States Coast Guard'' and inserting '', the United States Coast Guard, or the Bureau of Export Administration of the Department of Commerce''.

(2) Section 9703(a)(2)(B)(i) of title 31, United States Code is amended (as added by Public Law 102–393)—

(A) by striking ''or'' at the end of subclause (I);

(B) by inserting ''or'' at the end of subclause (II); and

(C) by inserting at the end, the following new subclause:

''(III) a violation of the Export Administration Act of 1979, the Export Administration Act of 2001, or any regulation, license, or order issued under those Acts;''.

(3) Section 9703(p)(1) of title 31, United States Code (as added by Public Law 102–393) is amended by adding at the end the following: ''In addition, for purposes of this section, the Bureau of Export Administration of the Department of Commerce shall be considered to be a Department of the Treasury law enforcement organization.''.

(o) AUTHORIZATION FOR LICENSE REVIEW OFFICERS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Department of Commerce $2,000,000, to be available until expended, to hire additional license review officers.

(2) TRAINING.—There is authorized to be appropriated to the Department of Commerce $2,000,000, to be available until expended, to conduct professional training of license review officers, auditors, and investigators conducting post-shipment verification checks. These funds shall be used to—

(A) train and certify, through a formal program, new employees entering these positions for the first time; and

(B) the ongoing professional training of experienced employees on an as needed basis.

(p) AUTHORIZATION.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

(A) $72,000,000 for the fiscal year 2002, of which no less than $27,701,000 shall be used for compliance and enforcement activities;

(B) $73,000,000 for the fiscal year 2003, of which no less than $28,312,000 shall be used for compliance and enforcement activities;

(C) $74,000,000 for the fiscal year 2004, of which no less than $28,939,000 shall be used for compliance and enforcement activities;

(D) $76,000,000 for the fiscal year 2005, of which no less than $29,582,000 shall be used for compliance and enforcement activities; and

(E) such additional amounts, for each such fiscal year, as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.

(2) LIMITATION.—The authority granted by this Act shall terminate on September 30, 2004, unless the President carries out the following duties:

(A) Provides to Congress a detailed report on—

(i) the implementation and operation of this Act; and

(ii) the operation of United States export controls in general.

(B)(i) Provides to Congress legislative reform proposals in connection with the report described in subparagraph (A); or

(ii) certifies to Congress that no legislative reforms are necessary in connection with such report.

SEC. 507. ADMINISTRATIVE PROCEDURE.

(a) EXEMPTIONS FROM ADMINISTRATIVE PROCEDURE.—Except as provided in this section, the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) PROCEDURES RELATING TO CIVIL PENALTIES AND SANCTIONS.—

(1) ADMINISTRATIVE PROCEDURES.—Any administrative sanction imposed under section 503 may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code. The imposition of any such administrative sanction shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code, except that the review shall be initiated in the United States Court of Appeals for the District of Columbia Circuit, which shall have jurisdiction of the review.

(2) AVAILABILITY OF CHARGING LETTER.—Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the regulations issued under section 502 shall be made available for public inspection and copying.

(c) COLLECTION.—If any person fails to pay a civil penalty imposed under section 503, the Secretary may ask the Attorney General to commence a civil action in an appropriate district court of the United States to recover the amount imposed (plus interest at currently prevailing rates from the date of the final order). No such action may be commenced more than 5 years after the order imposing the civil penalty becomes final. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(d) IMPOSITION OF TEMPORARY DENIAL ORDERS.—

(1) GROUNDS FOR IMPOSITION.—In any case in which there is reasonable cause to believe that a person is engaged in or is about to engage in any act or practice which constitutes or would constitute a violation of this Act, or any regulation, order, or license issued under this Act, including any diversion of goods or technology from an authorized end use or end user, and in any case in which a criminal indictment has been returned against a person alleging a violation of this Act or any of the statutes listed in section 503, the Secretary may, without a hearing, issue an order temporarily denying that person's United States export privileges (hereafter in this subsection referred to as a ''temporary denial order''). A temporary denial order shall be effective for such period (not in excess of 180 days) as the Secretary specifies in the order, but may be renewed by the Secretary, following notice and an opportunity for a hearing, for additional periods of not more than 180 days each.

(2) ADMINISTRATIVE APPEALS.—The person or persons subject to the issuance or renewal of a temporary denial order may appeal the issuance or renewal of the temporary denial order, supported by briefs and other material, to an administrative law judge who shall, within 15 working days after the appeal is filed, issue a decision affirming, modifying, or vacating the temporary denial order. The temporary denial order shall be affirmed if it is shown that—

(A) there is reasonable cause to believe that the person subject to the order is engaged in or is about to engage in any act or practice that constitutes or would constitute a violation of this Act, or any regulation, order, or license issued under this Act; or

(B) a criminal indictment has been returned against the person subject to the order alleging a violation of this Act or any of the statutes listed in section 503.

The decision of the administrative law judge shall be final unless, within 10 working days after the date of the administrative law judge's decision, an appeal is filed with the Secretary. On appeal, the Secretary shall either affirm, modify, reverse, or vacate the decision of the administrative law judge by written order within 10 working days after receiving the appeal. The written order of the Secretary shall be final and is not subject to judicial review, except as provided in paragraph (3). The materials submitted to the administrative law judge and the Secretary shall constitute the administrative record for purposes of review by the court.

(3) COURT APPEALS.—An order of the Secretary affirming, in whole or in part, the issuance or renewal of a temporary denial order may, within 15 days after the order is issued, be appealed by a person subject to the order to the United States Court of Appeals for the District of Columbia Circuit, which shall have jurisdiction of the appeal. The court may review only those issues necessary to determine whether the issuance of the temporary denial order was based on reasonable cause to believe that the person subject to the order was engaged in or was about to engage in any act or practice that constitutes or would constitute a violation of this title, or any regulation, order, or license issued under this Act, or whether a criminal indictment has been returned against the person subject to the order alleging a violation of this Act or of any of the statutes listed in section 503. The court shall vacate the Secretary's order if the court finds that the Secretary's order is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(e) LIMITATIONS ON REVIEW OF CLASSIFIED INFORMATION.—Any classified information that is included in the administrative record that is subject to review pursuant to subsection (b)(1) or (d)(3) may be reviewed by the court only on an ex parte basis and in camera.

TITLE VI—EXPORT CONTROL AUTHORITY AND REGULATIONS

SEC. 601. EXPORT CONTROL AUTHORITY AND REGULATIONS.

(a) EXPORT CONTROL AUTHORITY.—

(1) IN GENERAL.—Unless otherwise reserved to the President or a department (other than the Department) or agency of the United States, all power, authority, and discretion conferred by this Act shall be exercised by the Secretary.

(2) DELEGATION OF FUNCTIONS OF THE SECRETARY.—The Secretary may delegate any function under this Act, unless otherwise provided, to the Under Secretary of Commerce for Export Administration or to any other officer of the Department.

(b) UNDER SECRETARY OF COMMERCE; ASSISTANT SECRETARIES.—

(1) UNDER SECRETARY OF COMMERCE.—There shall be within the Department an Under Secretary of Commerce for Export Administration (in this section referred to as the ''Under Secretary'') who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall carry out all functions of the Secretary under this Act and other provisions of law relating to national security, as the Secretary may delegate.

(2) ADDITIONAL ASSISTANT SECRETARIES.—In addition to the number of Assistant Secretaries otherwise authorized for the Department of Commerce, there shall be within the Department of Commerce the following Assistant Secretaries of Commerce:

(A) An Assistant Secretary for Export Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall assist the Secretary and the Under Secretary in carrying out functions relating to export listing and licensing.

(B) An Assistant Secretary for Export Enforcement who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall assist the Secretary and the Under Secretary in carrying out functions relating to export enforcement.

(c) ISSUANCE OF REGULATIONS.—

(1) IN GENERAL.—The President and the Secretary may issue such regulations as are necessary to carry out this Act. Any such regulations the purpose of which is to carry out title II or title III may be issued only after the regulations are submitted for review to such departments or agencies as the President considers appropriate. The Secretary shall consult with the appropriate export control advisory committee appointed under section 105(a) in formulating regulations under this title. The second sentence of this subsection does not require the concurrence or approval of any official, department, or agency to which such regulations are submitted.

(2) AMENDMENTS TO REGULATIONS.—If the Secretary proposes to amend regulations issued under this Act, the Secretary shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives on the intent and rationale of such amendments. Such report shall evaluate the cost and burden to the United States exporters of the proposed amendments in relation to any enhancement of licensing objectives. The Secretary shall consult with the appropriate export control advisory committees appointed under section 105(a) in amending regulations issued under this Act.

SEC. 602. CONFIDENTIALITY OF INFORMATION.

(a) EXEMPTIONS FROM DISCLOSURE.—

(1) INFORMATION OBTAINED ON OR BEFORE JUNE 30, 1980.—Except as otherwise provided by the third sentence of section 502(c)(2) and by section 507(b)(2), information obtained under the Export Administration Act of 1979, or any predecessor statute, on or before June 30, 1980, which is deemed confidential, including Shipper's Export Declarations, or with respect to which a request for confidential treatment is made by the person furnishing such information, shall not be subject to disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed, unless the Secretary determines that the withholding thereof is contrary to the national interest.

(2) INFORMATION OBTAINED AFTER JUNE 30, 1980.—Except as otherwise provided by the third sentence of section 502(c)(2) and by section 507(b)(2), information obtained under this Act, under the Export Administration Act of 1979 after June 30, 1980, or under the Export Administration regulations as maintained and amended under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1706), may be withheld from disclosure only to the extent permitted by statute, except that information submitted, obtained, or considered in connection with an application for an export license

or other export authorization (or record-keeping or reporting requirement), enforcement activity, or other operations under the Export Administration Act of 1979, under this Act, or under the Export Administration regulations as maintained and amended under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1706), including—

(A) the export license or other export authorization itself,

(B) classification requests described in section 401(h),

(C) information or evidence obtained in the course of any investigation by an employee or officer of the Department of Commerce,

(D) information obtained or furnished under title V in connection with any international agreement, treaty, or other obligation, and

(E) information obtained in making the determinations set forth in section 211 of this Act,

and information obtained in any investigation of an alleged violation of section 502 of this Act except for information required to be disclosed by section 502(c)(2) or 507(b)(2) of this Act, shall be withheld from public disclosure and shall not be subject to disclosure under section 552 of title 5, United States Code, unless the release of such information is determined by the Secretary to be in the national interest.

(b) INFORMATION TO CONGRESS AND GAO.—

(1) IN GENERAL.—Nothing in this title shall be construed as authorizing the withholding of information from Congress or from the General Accounting Office.

(2) AVAILABILITY TO THE CONGRESS—

(A) IN GENERAL.—Any information obtained at any time under this title or under any predecessor Act regarding the control of exports, including any report or license application required under this title, shall be made available to any committee or subcommittee of Congress of appropriate jurisdiction upon the request of the chairman or ranking minority member of such committee or subcommittee.

(B) PROHIBITION ON FURTHER DISCLOSURE.—No committee, subcommittee, or Member of Congress shall disclose any information obtained under this Act or any predecessor Act regarding the control of exports which is submitted on a confidential basis to the Congress under subparagraph (A) unless the full committee to which the information is made available determines that the withholding of the information is contrary to the national interest.

(3) AVAILABILITY TO THE GAO.—

(A) IN GENERAL.—Notwithstanding subsection (a), information described in paragraph (2) shall, consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities, as determined by the agency that originally obtained the information, and consistent with the provisions of section 716 of title 31, United States Code, be made available only by the agency, upon request, to the Comptroller General of the United States or to any officer or employee of the General Accounting Office authorized by the Comptroller General to have access to such information.

(B) PROHIBITION ON FURTHER DISCLOSURES.—No officer or employee of the General Accounting Office shall disclose, except to Congress in accordance with this paragraph, any such information which is submitted on a confidential basis and from which any individual can be identified.

(c) INFORMATION EXCHANGE.—Notwithstanding subsection (a), the Secretary and the Commissioner of Customs shall exchange licensing and enforcement information with each other as necessary to facilitate enforcement efforts and effective license decisions.

(d) PENALTIES FOR DISCLOSURE OF CONFIDENTIAL INFORMATION.—

(1) DISCLOSURE PROHIBITED.—No officer or employee of the United States, or any department or agency thereof, may publish, divulge, disclose, or make known in any manner or to any extent not authorized by law any information that—

(A) the officer or employee obtains in the course of his or her employment or official duties or by reason of any examination or investigation made by, or report or record made to or filed with, such department or agency, or officer or employee thereof; and

(B) is exempt from disclosure under this section.

(2) CRIMINAL PENALTIES.—Any such officer or employee who knowingly violates paragraph (1) shall be fined not more than $50,000, imprisoned not more than 1 year, or both, for each violation of paragraph (1). Any such officer or employee may also be removed from office or employment.

(3) CIVIL PENALTIES; ADMINISTRATIVE SANCTIONS.—The Secretary may impose a civil penalty of not more than $5,000 for each violation of paragraph (1), except that no civil penalty may be imposed on an officer or employee of the United States, or any department or agency thereof, without the concurrence of the department or agency employing such officer or employee. Sections 503 (e), (g), (h), and (i) and 507 (a), (b), and (c) shall apply to actions to impose civil penalties under this paragraph. At the request of the Secretary, a department or agency employing an officer or employee found to have violated paragraph (1) shall deny that officer or employee access to information exempt from disclosure under this section. Any officer or employee who commits a violation of paragraph (1) may also be removed from office or employment by the employing agency.

SEC. 603. AGRICULTURAL COMMODITIES, MEDICINE, MEDICAL DEVICES.

(a) APPLICABILITY OF TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000.—Nothing in this Act authorizes the exercise of authority contrary to the provisions of the Trade Sanctions Reform and Export Enhancement Act of 2000 (Public Law 106–387; 114 Stat. 1549, 549A–45) applicable to exports of agricultural commodities, medicine, or medical devices.

(b) TITLE II LIMITATION.—Title II does not authorize export controls on food.

(c) TITLE III LIMITATION.—Except as set forth in section 906 of the Trade Sanctions Reform and Export Enhancement Act of 2000, title III does not authorize export controls on agricultural commodities, medicine, or medical devices unless the procedures set forth in section 903 of such Act are complied with.

(d) DEFINITION.—In this section, the term ''food'' has the same meaning as that term has under section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)).

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. ANNUAL REPORT.

(a) ANNUAL REPORT.—Not later than February 1 of each year, the Secretary shall submit to Congress a report on the administration of this Act during the fiscal year ending September 30 of the preceding calendar year. All Federal agencies shall cooperate fully with the Secretary in providing information for each such report.

(b) REPORT ELEMENTS.—Each such report shall include in detail—

(1) a description of the implementation of the export control policies established by this Act, including any delegations of authority by the President and any other changes in the exercise of delegated authority;

(2) a description of the changes to and the year-end status of country tiering and the Control List;

(3) a description of the petitions filed and the determinations made with respect to foreign availability and mass-market status, the set-asides of foreign availability and mass-market status determinations, and negotiations to eliminate foreign availability;

(4) a description of any enhanced control imposed on an item pursuant to section 201(d);

(5) a description of the regulations issued under this Act;

(6) a description of organizational and procedural changes undertaken in furtherance of this Act;

(7) a description of the enforcement activities, violations, and sanctions imposed under this Act;

(8) a statistical summary of all applications and notifications, including—

(A) the number of applications and notifications pending review at the beginning of the fiscal year;

(B) the number of notifications returned and subject to full license procedure;

(C) the number of notifications with no action required;

(D) the number of applications that were approved, denied, or withdrawn, and the number of applications where final action was taken; and

(E) the number of applications and notifications pending review at the end of the fiscal year;

(9) summary of export license data by export identification code and dollar value by country;

(10) an identification of processing time by—

(A) overall average, and

(B) top 25 export identification codes;

(11) an assessment of the effectiveness of multilateral regimes, and a description of negotiations regarding export controls;

(12) a description of the significant differences between the export control requirements of the United States and those of other multilateral control regime members, and the specific differences between United States requirements and those of other significant supplier countries;

(13) an assessment of the costs of export controls;

(14) a description of the progress made toward achieving the goals established for the Department dealing with export controls under the Government Performance Results Act;

(15) a description of the assessment made pursuant to section 214, including any recommendations to ensure that the defense industrial base (including manufacturing) is sufficient to protect national security; and

(16) any other reports required by this Act to be submitted to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives.

(c) FEDERAL REGISTER PUBLICATION REQUIREMENTS.—Whenever information under this Act is required to be published in the Federal Register, such information shall, in addition, be posted on the Department of Commerce or other appropriate government website.

SEC. 702. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REPEAL.—The Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) is repealed.

(b) ENERGY POLICY AND CONSERVATION ACT.—

(1) Section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212) is repealed.

(2) Section 251(d) of the Energy Policy and Conservation Act (42 U.S.C. 6271(d)) is repealed.

(c) ALASKA NATURAL GAS TRANSPORTATION ACT.—Section 12 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719j) is repealed.

(d) MINERAL LEASING ACT.—Section 28(u) of the Mineral Leasing Act (30 U.S.C. 185(u)) is repealed.

(e) EXPORTS OF ALASKAN NORTH SLOPE OIL.—Section 28(s) of the Mineral Leasing Act (30 U.S.C. 185(s)) is repealed.

(f) DISPOSITION OF CERTAIN NAVAL PETROLEUM RESERVE PRODUCTS.—Section 7430(e) of title 10, United States Code, is repealed.

(g) OUTER CONTINENTAL SHELF LANDS ACT.—Section 28 of the Outer Continental Shelf Lands Act (43 U.S.C. 1354) is repealed.

(h) ARMS EXPORT CONTROL ACT.—

(1) Section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(A) in subsection (e)—

(i) in the first sentence, by striking ''subsections (c)'' and all that follows through ''12 of such Act,'' and inserting ''subsections (b), (c), (d) and (e) of section 503 of the Export Administration Act of 2001, by subsections (a) and (b) of section 506 of such Act, and by section 602 of such Act,''; and

(ii) in the third sentence, by striking ''11(c) of the Export Administration Act of 1979'' and inserting ''503(c) of the Export Administration Act of 2001''; and

(B) in subsection (g)(1)(A)(ii), by inserting ''or section 503 of the Export Administration Act of 2001'' after ''1979''.

(2) Section 39A(c) of the Arms Export Control Act (22 U.S.C. 2779a(c)) is amended—

(A) by striking ''subsections (c),'' and all that follows through ''12(a) of such Act'' and inserting ''subsections (c), (d), and (e) of section 503, section 507(c), and subsections (a) and (b) of section 506, of the Export Administration Act of 2001''; and

(B) by striking ''11(c)'' and inserting ''503(c)''.

(3) Section 40(k) of the Arms Export Control Act (22 U.S.C. 2780(k)) is amended—

(A) by striking ''11(c), 11(e), 11(g), and 12(a) of the Export Administration Act of 1979'' and inserting ''503(b), 503(c), 503(e), 506(a), and 506(b) of the Export Administration Act of 2001''; and

(B) by striking ''11(c)'' and inserting ''503(c)''.

(i) OTHER PROVISIONS OF LAW.—

(1) Section 5(b)(4) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)(4)) is amended by striking ''section 5 of the Export Administration Act of 1979, or under section 6 of that Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States'' and inserting ''titles II and III of the Export Administration Act of 2001''.

(2) Section 502B(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2)) is amended in the second sentence—

(A) by striking ''Export Administration Act of 1979'' the first place it appears and inserting ''Export Administration Act of 2001''; and

(B) by striking ''Act of 1979)'' and inserting ''Act of 2001)''.

(3) Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(a)) is amended—

(A) in paragraph (1)(B), by inserting ''or section 310 of the Export Administration Act of 2001'' after ''Act of 1979''; and

(B) in paragraph (2), by inserting ''or 310 of the Export Administration Act of 2001'' after ''6(j) of the Export Administration Act of 1979''.

(4) Section 40(e)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2712(e)(1)) is amended by striking ''section 6(j)(1) of the Export Administration Act of 1979'' and inserting ''section 310 of the Export Administration Act of 2001''.

(5) Section 205(d)(4)(B) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 305(d)(4)(B)) is amended by striking ''section 6(j) of the Export Administration Act of 1979'' and inserting ''section 310 of the Export Administration Act of 2001''.

(6) Section 110 of the International Security and Development Cooperation Act of 1980 (22 U.S.C. 2778a) is amended by striking ''Act of 1979'' and inserting ''Act of 2001''.

(7) Section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)) is amended by striking ''section 5 of the Export Administration Act of 1979, or under section 6 of such Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States'' and inserting ''the Export Administration Act of 2001''.

(8) Section 1605(a)(7)(A) of title 28, United States Code, is amended by striking ''section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j))'' and inserting ''section 310 of the Export Administration Act of 2001''.

(9) Section 2332d(a) of title 18, United States Code, is amended by striking ''section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405)'' and inserting ''section 310 of the Export Administration Act of 2001''.

(10) Section 620H(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2378(a)(1)) is amended by striking ''section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j))'' and inserting ''section 310 of the Export Administration Act of 2001''.

(11) Section 1621(a) of the International Financial Institutions Act (22 U.S.C. 262p–4q(a)) is amended by striking ''section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j))'' and inserting ''section 310 of the Export Administration Act of 2001''.

(12) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking ''section 11 (relating to violations) of the Export Administration of 1979'' and inserting ''section 503 (relating to penalties) of the Export Administration Act of 2001''.

(13) Section 904(2)(B) of the Trade Sanctions Reform and Export Enhancement Act of 2000 is amended by striking ''Export Administration Act of 1979'' and inserting ''Export Administration Act of 2001''.

(14) Section 983(i)(2) of title 18, United States Code (as added by Public Law 106–185), is amended—

(A) by striking the ''or'' at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting ''; or''; and

(C) by inserting the following new subparagraph:

''(F) the Export Administration Act of 2001.''.

(j) CIVIL AIRCRAFT EQUIPMENT.—Notwithstanding any other provision of law, any product that is standard equipment, certified by the Federal Aviation Administration, in civil aircraft, and is an integral part of such aircraft, shall be subject to export control only under this Act. Any such product shall not be subject to controls under section 38(b)(2) of the Arms Export Control Act (22 U.S.C. 2778(b)).

(k) CIVIL AIRCRAFT SAFETY.—Notwithstanding any other provision of law, the Secretary may authorize, on a case-by-case basis, exports and reexports of civil aircraft equipment and technology that are necessary for compliance with flight safety requirements for commercial passenger aircraft. Flight safety requirements are defined as airworthiness directives issued by the Federal Aviation Administration (FAA) or equipment manufacturers' maintenance instructions or bulletins approved or accepted by the FAA for the continued airworthiness of the manufacturers' products.

(l) REPEAL OF CERTAIN EXPORT CONTROLS.—Subtitle B of title XII of division A of the National Defense Authorization Act for Fiscal Year 1998 (50 U.S.C. App. 2404 note) is repealed.

SEC. 703. SAVINGS PROVISIONS.

(a) IN GENERAL.—All delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under—

(1) the Export Control Act of 1949, the Export Administration Act of 1969, the Export Administration Act of 1979, or the International Emergency Economic Powers Act when invoked to maintain and continue the Export Administration regulations, or

(2) those provisions of the Arms Export Control Act which are amended by section 702,

and are in effect on the date of enactment of this Act, shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act or the Arms Export Control Act.

(b) ADMINISTRATIVE AND JUDICIAL PROCEEDINGS.—

(1) EXPORT ADMINISTRATION ACT.—This Act shall not affect any administrative or judicial proceedings commenced or any application for a license made, under the Export Administration Act of 1979 or pursuant to Executive Order 12924, which is pending at the time this Act takes effect. Any such proceedings, and any action on such application, shall continue under the Export Administration Act of 1979 as if that Act had not been repealed.

(2) OTHER PROVISIONS OF LAW.—This Act shall not affect any administrative or judicial proceeding commenced or any application for a license made, under those provisions of the Arms Export Control Act which are amended by section 702, if such proceeding or application is pending at the time this Act takes effect. Any such proceeding, and any action on such application, shall continue under those provisions as if those provisions had not been amended by section 702.

(c) TREATMENT OF CERTAIN DETERMINATIONS.—Any determination with respect to the government of a foreign country under section 6(j) of the Export Administration Act of 1979, or Executive Order 12924, that is in effect on the day before the date of enactment of this Act, shall, for purposes of this title or any other provision of law, be deemed to be made under section 310 of this Act until superseded by a determination under such section 310.

(d) LAWFUL INTELLIGENCE ACTIVITIES.—The prohibitions otherwise applicable under this Act do not apply with respect to any transaction subject to the reporting requirements of title V of the National Security Act of 1947. Notwithstanding any other provision of this Act, nothing shall affect the responsibilities and authorities of the Director of Central Intelligence under section 103 of the National Security Act of 1947.

(e) IMPLEMENTATION.—The Secretary shall make any revisions to the Export Administration regulations required by this Act no later than 180 days after the date of enactment of this Act.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. SARBANES. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business with Senators permitted to speak therein for not to exceed 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming.

EXPORT ADMINISTRATION ACT

Mr. ENZI. Mr. President, what I would like to do is take some time, because I did not have an opportunity just before the vote, to thank all the people who worked on and participated in this bill that we have just completed, and that includes the people who are both for the bill and against the bill. Everybody made a contribution on this one.

As I mentioned before, all 100 Senators are interested in national security—deeply interested, deathly interested in national security. That has been demonstrated by the work that has been put in on this bill. They are also extremely interested that the economy of the country advance. We just passed a bill that will allow both of those things to happen, and happen safely.

We have been without the kind of a bill that we have needed for a long period of time. We just passed one that is considerably better than what we had in place, and is even better than the 1979 act when it was extended. So we are in a position now where we can go, with some real credibility, to the House side to ask them to move the bill forward and to join with the White House in getting this passed quickly, as the White House asked. And, of course, we will be asking for all the people who have an interest in this bill to also help work on the House side. We know they will take quick action and that we will get this huge problem to the United States solved.

I would like to particularly thank those people who have worked closely on the bill. I will start with Senator GRAMM, who allowed me to be the subcommittee chairman and get this assignment.

I have to tell you, when I first got the assignment, I thought, this has failed about 12 times so I assume this is one of those tasks that freshman Senators get. I didn't expect much to happen on it, but we began the process of learning about it, and the Cox commission report came out. Of course, it was just a secret report at first, but it still got publicity that brought to the attention of the American people the problem of secrets being stolen from the United States.

That raised the level of this bill so that I and Senator JOHNSON of South Dakota could work through our subcommittee to really find out what was happening with it, to see how those things in the Cox commission and other reports, as they came out, fit into this bill. We put them into that bill, worked together to find solutions, met—''interminably'' might not be the right word, but it feels like the right word sometimes—with a number of groups and anybody who was interested in the bill and worked hard to heighten the interest of those people in the bill.

Fortunately, Senator JOHNSON and I got to work under the direction of Senator GRAMM and Senator SARBANES, two vastly different personalities with different ways of working. I have to say that working under those two people on any piece of legislation is an education. They are very considerate in everything they do. They both study it to a very deep knowledge. They ask penetrating questions, and they have that ability and sense of when to move forward and when to hold back. Particularly when you have the combination of Senator SARBANES and Senator GRAMM, you have these two personalities that cover all aspects of the spectrum of dealing with people.

Of course, with both of them, you have vast years of knowledge of doing this kind of work, which is different than any other job I think anybody can have.

They recognize the ways to work with people and the mechanisms to do it and have just been tremendous in guidance as we have gone through this.

I would be real remiss if I did not place some special thanks on all of the staff people who worked on this. Again, staff do a lot of the preparation, a lot of the study. They do meetings among themselves and then bring the results of those meetings to us for resolution. There were some real experts involved in this, people who really know how to network. And I would be surprised if there has been any other bill that had the kind of trust between staff and between Senators that this bill has had.

We worked on it for a long time. Of course, that built up the trust as we slowly got to the point where we had a draft to put through.

During that time, we did find out that it was an issue that affected everybody in the country. So then, of course, it affects both sides of the aisle. This is one of those examples of bipartisan effort. It results in a bipartisan vote and gives us some real strength as we continue this process.

Again, I thank my fellow Senator, Mr. JOHNSON, for his efforts on this bill and all of the different presentations we had to give over the course of time to different groups as we got them to buy in. Everybody had to come to the middle on this one because previous efforts had gone too far in one direction or the other. As a result, it picked up a majority in opposition.

One thing about passing a bill is that to pass it, you have to get it through all of the different steps. A ''no'' vote at any one of those steps kind of stops it dead in its tracks and sends you back to ground zero.

We are at the halfway point on this one now. We have gotten it through several votes successfully. It is much easier sometimes to create confusion and pick up the votes on the other side. I appreciate the Senators who helped to promote and to clarify this. Again, the clarification came from both sides.

Senator THOMPSON and Senator KYL particularly are to be congratulated for their tenacity at bringing up different points. You will find on the list of meetings that we put in that a lot of those meetings were with those two individuals. And as I mentioned numerous times, we put in 59 changes. One of the biggest changes, of course, is the override that the President has. We gave a trump to the President on everything in the bill.

We put in some new sections, and we said that the President has the right to set those aside in specific instances. It makes a huge difference in how this bill will work. It really will allow the limited resources that we have—and we are increasing those resources, but they are still limited—to concentrate on the worst situations and to make them better. That is what we are trying to achieve with the bill.

I would also like to thank the Majority Leader, Senator DASCHLE, for his strong support and willingness to bring the bill to the floor for debate. Senator REID was also instrumental in negotiating the bill to the floor for debate. His support and guidance was very much appreciated.

Again, I thank everybody who worked on the bill. I particularly appreciate all of the hours Senator SARBANES has spent on the floor this week, not only in debate, in clarifying things, which showed his vast depth of knowledge of the bill, but particularly with the administrative work he did as he helped to get people together who needed to talk about different parts of this bill. His steady hand certainly played a big role in the kind of vote we received.

I again thank everybody who worked on the bill and congratulate everybody who worked on the bill. That is both those who were for and those who were against. We will see everybody on the House side.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, we are in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. Will the Senator from Kentucky yield for a unanimous consent request?

Mr. MCCONNELL. I yield for that purpose.

Mr. DORGAN. I understand the Senator from Kentucky and the Senator from California, Mrs. FEINSTEIN, are going to seek recognition. I ask unanimous consent that I be recognized in morning business for 15 minutes following their presentation.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Kentucky.

(The remarks of Mr. MCCONNELL and Mrs. FEINSTEIN pertaining to the introduction of S. 1409 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. REID. Will the Senator yield for a brief statement?

Mr. DORGAN. Of course, I will be happy to yield.

Mr. REID. Mr. President, on behalf of Senator DASCHLE, there will be no more votes tonight. The majority leader indicated in the morning he is going to move forward on some legislation. It is not for sure what it is. We are hopeful we will move to an appropriations bill. Senator DASCHLE has an important meeting tonight to see if that can be done. Senator DASCHLE asked I advise everyone there is a possibility of votes in the morning. Everyone should be prepared in that regard. There will be no more votes tonight.

The PRESIDING OFFICER. The Senator from North Dakota.

SENATE BUSINESS

Mr. DORGAN. Mr. President, with respect to the announcement by my colleague from Nevada, I am a bit confused what is happening in the Senate. We have the month of September to finish our appropriations bills. We have had no conferences on any appropriations bill at this point. We have 13 of them to do. We have a very short period of time in which to finish the work of the appropriations committees in the House and the Senate.

It is inexplicable to me that we are at this moment at 5 o'clock in the afternoon unable to go to another appropriations bill. They are ready to come to the floor. We are being blocked. There are objections to the motion to proceed to an appropriations bill. It makes no sense to me. This Senate must do its work and pass the appropriations bills. It will have to be sooner or later. It is much better if it is sooner. This is the work of the American people passing appropriations bills that contain the money for essentially the operation of Government. We have so much work to do and so little time in which to get it done.

The appropriations bills and the question of whether this fiscal policy adds up is very important for everyone. This town and, in ways, the country are asking a lot of questions these days about a softening economy, a surplus that used to exist that has now largely vanished, and a fiscal policy that was put in place when it was expected there would be nothing but surpluses as far as the eye could see that now does not add up at all.

I want to show a quote on a chart from Mr. Mitch Daniels, the head of the Office of Management and Budget in a statement he made on Sunday on ''Meet the Press'' because it is central to this question about fiscal policy. What are the resources? How many resources do we have? How do we use those resources? Mr. Daniels says we have the second largest surplus in the history of the country. We are ''awash in cash,'' he says. But, of course, what he is talking about is the Social Security trust fund and the money in the trust fund.

There used to be $125 billion expected above that, which indeed is a surplus, but that is now gone. That has evaporated. What is left belongs to the Social Security trust fund. When he says we are ''awash in cash,'' he is talking about Social Security trust fund moneys. Mr. Russert, the moderator of ''Meet the Press,'' said:

> The surplus is money that you got through payroll taxes, which are designated towards Social Security. And to tap into that is a violation of what George Bush pledged during the campaign.

To which Mr. Daniels replied:

> Well, it's not designated for Social Security, Tim.

It is not designated for Social Security. That is from the head of the Office of Management and Budget from this administration who says that the trust funds are not in the trust fund. The taxes that come out of all the workers' paychecks in this country, called Social Security taxes, that are put into a dedicated trust fund, we are told now by the head of the Office of Management and Budget that this money is not designated for Social Security.

He could not be more wrong or more unsuited for that job if he really believes that. It is possible this is a mistake. It is not a mistake in transcription. That is what he said, but it is possible he misspoke. If he did, let's hear that. If he did not misspeak, if this is what he believes, he is sadly mistaken.

This is a big, big issue. This is a $162 billion issue in this year alone. It is a half-a-trillion-dollar issue in the next 5 years. It is essential to the construct of a fiscal policy that works to understand that this money does not belong to them; it does not belong to the Government; it belongs to the American workers. They paid it. It is their taxes, and they were told it was going to go into a trust fund.

The message ought to be: Keep your hands off those trust funds.

All of us face difficulty as a result of a softening economy. I am not here pointing fingers at who is to blame and who is not to blame. The fact is, we have had an economy that always has had a business cycle: an expansion side and a contraction side. Nobody has ever changed that.

We suffered a contraction. We went through a period when everybody thought the stock market would always go up and never go down. That is not the case. We went through a period when everybody thought there was one way the economy moves: upward, steadily, relentlessly.

Now they are experiencing what we learned in economics. I actually taught economics for a while, and I have overcome that, as I often say. We taught the business cycle. The business cycle is inevitable. There is an expansion and a contraction. It all has to do with people's confidence in the future. Sometimes there is more confidence and sometimes less confidence.

The point is, we all now inherit this economy that has softened. It is incumbent on us all to get together and work together; that the President and the Congress understand the plan that existed before, anticipating surpluses forever, is a plan that now does not add up. It is desperately short of the resources to do that which the President wants to do. It would make good sense, in my judgment, for the President to join us in an economic summit of sorts to work through a new plan that represents an understanding that there is a new reality to this economy and the numbers in the current plan do not add up.

Let's create a plan together that makes sense for the American people, one that invests in the American people's future and one that tries to provide the stimulus and incentive to help promote confidence and start this economy, once again, on an upward trend. That is what we have a responsibility to do.

Fingers that are pointed mean very little at this point. We are all in this ship of state together. It is not as if there is an engine room with dials, knobs, gauges, and levers so that if we can just get Alan Greenspan, or someone in charge of fiscal policies, to move these gauges and levers just right so the ship of state will move. That is not the way the economic engine behaves.

This ship of state moves forward and the economy grows when people have confidence in the future. The American people, the bond markets, and stock markets do not have confidence in a fiscal plan they know does not add up. That is why it is important for the President to recognize that reality and work with us to construct a new plan.

INTERNATIONAL TRADE

Mr. DORGAN. Mr. President, I wish to take a moment to speak about a different subject, international trade. I will do it briefly because I understand my colleague, Senator BYRD, wishes to address the Senate. I certainly do not want to disadvantage him. If my colleague, Senator BYRD, will indulge me for a few more minutes, I want to make a comment about international trade.

Mr. BYRD. Please.

Mr. DORGAN. Mr. President, my colleague, as always, is gracious, and I deeply appreciate that.

Congress Daily today says:

Vote on trade negotiating authority suffers another delay.

This is a story about the House of Representatives deciding to delay a vote on what we normally call fast track. They have delayed it because the Speaker of the House says they need time to get all their ''ducks in a row.''

I simply point out to those who are working to get their ''ducks in a row'' in the House of Representatives to pass fast track trade authority, that when it comes to the Senate, there are not going to be ducks in a row to pass fast track trade authority for our President.

I would not support it for President Clinton and I will not support it for this President, and I want to explain why. I believe a band of Senators who feel as passionately as I do about our trade policy believe it is not only undemocratic to cede to someone else the ability to go to negotiated trade agreements with the promise that no Senator has the opportunity to offer a change to that agreement when it comes to the floor of the Senate. But I also want to explain why I think those who have negotiated our trade agreements are not entitled to be given a blank check for trade negotiation authority by this Congress.

Let me give a couple of examples to describe why. Here is what has happened to our merchandise trade deficit. It has ballooned from $132 billion in 1993 to $449 billion last year. It is exploding. We are exporting manufacturing jobs at a rapid pace, and this is a trade debt that we must repay in the future with a lower standard of living in the United States. This is serious. It is trouble and we must get it under control.

We have had a trade deficit with Mexico. Let us look at what has happened with Mexico. In 1993, we passed the North American Free Trade Agreement. Before the agreement, we had small deficits with Mexico, $5 billion, and then $2 billion or $3 billion. Then, a few years before the agreement, we had a surplus with Mexico.

What has happened since NAFTA was passed? We are drowning in red ink with the country of Mexico.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. DORGAN. Yes, of course, I will be happy to yield.

Mr. BYRD. What are those figures representing our drowning?

Mr. DORGAN. Their the current accounts deficit. With Mexico alone, it is over $30 billion a year. In fact, our aggregate merchandise trade deficit is over a billion and a quarter a day, every single day. It is many trade partners including Japan, China, Canada, Mexico and Europe. It's a huge growing dangerous debt.

How does all of this happen? Let me give a few examples. Vehicles in Korea. In 2000, Korea shipped 570,000 vehicles to the United States of America. How many vehicles did we produce and ship to Korea? Only 1,700.

Is it because we do not make automobiles? No, that is not the reason. It is because if Ford makes a car and ships it to Korea, by the time it gets through all of their taxes, tariffs and other obstructions, it costs thousands more than it ought to cost. Therefore the Koreans do not buy it.

First of all, one has trouble getting it, but if they get it in the country they do not buy it because it is thousands more than it should be. So the result is our automobile trade with Korea is extremely unbalanced. They send us 570,000 vehicles a year and we send them 1,700. That is vehicles to Korea.

How about T-bone steak to Tokyo, beef to Japan? Do my colleagues know that every single pound of American beef we send to Japan has a 38.5 percent tariff on it, every single pound? To buy a T-bone steak in Tokyo is very expensive. Do you know why? Because they restrict the amount of beef coming in. We reached a beef agreement with Japan and our negotiators celebrated it. Twelve years later we still have a 38.5 percent tariff on every single pound of beef going to Japan. T-bones to Tokyo, that is unfair trade; cars from Korea. How about high-fructose corn syrup to Mexico? Here they levy the equivalent of a 43 percent to 73 percent tariff on corn syrup, despite being in violation of NAFTA. Or how about durum wheat to this country from Canada? Fundamentally unfair trade. There are millions of bushels coming across in 18-wheel trucks. The Canadians have a monopoly that would be illegal in this country called the Canadian Wheat Board. They ship wheat to this country at secret prices. When we say to them, ''open up your records,'' they simply thumb their nose at us and say, ''We do not intend to shed one bit of light on this. We do not intend to share any data with you at all.'' That is the way trade is.

So I say to those in the House who are getting their ducks in a row to pass fast track trade authority, ''Well, go ahead and get your ducks in a row. But you should understand that ducks are not going to be in a row when that gets to the U.S. Senate.''

I did not believe President Clinton ought to have this authority, and he did not get it. I do not believe this President ought to have this authority, and, in my judgment, he is not going to get it.

The first step, and I have said this to the Commerce Secretary: ''Do you want to talk about fast track? I will tell you what you ought to fast track. Why don't you put on the fast track a few trade solutions.'' I say to the trade negotiator and others, ''Get some good negotiators. Fit them with jerseys, just like we do with the Olympics. Make sure the jerseys have a big ''USA'' on the front so that occasionally our negotiators can look down at their chests and see who they are representing and for whom they are negotiating.'' Send them over to the negotiating table and say, ''Stand up for this country's interests.''

Do not build walls and keep things out of here. But our negotiators need to say, ''We expect fair trade.'' We expect them to stand up for this country's interests. Stand up for the American worker. Stand up for American business. Stand up for American products. We are sick and tired of unfair trade bargains that put us in a sea of red ink and put our employees and businesses at a disadvantage.

That is true with Japan. It is true with China. I have not spoken about China. I should, but out of respect for my colleague who is waiting to speak, I will do that at a later time.

Japan, China, Korea, Canada, Mexico, Europe. This country is drowning in a sea of red ink, in international trade deficits, and it ought to stop. I will not be a part of a Senate that is going to try to give fast track authority to a President.

There will be a group of Senators who believe, as I do, that it is worth the passion, energy, and time to see that the priority in this country, and the priority in trade policy, is not to grant fast track authority to the Administration so they can go off and negotiate new trade agreements. Rather, we need to get some people who know how to negotiate solutions to the problems in the old trade agreements.

Let us fix the problems they have already created instead of running off and trying to create new trade agreements. This is especially true when we have this trade deficit that is becoming an albatross around the neck of our children. A trade deficit that will and must be repaid. One that must be repaid with a lower standard of living in this country. That is why it is important now to solve this problem. It will not be solved by more trade if it is unfair.

I am for expanded trade. I am for more trade. I am for all the things that people want to do to engage around the world in commerce, but I demand on behalf of this country, and on behalf of American workers and businesses, that trade agreements be fair to America for a change.

Trade agreements with Japan, China, and others have been negotiated in an incompetent way. You can put a blindfold on. It does not matter whether it is Republicans or Democrats in office.

Will Rogers once said the United States of America has never lost a war and never won a conference. He certainly must have been thinking about our trade negotiators. We can do a whole lot better than that.

My point very simply is, on fast track, get your ducks in the row in the House, but understand when it gets to the Senate it is not going any further. There are plenty of us who are going to see that fast track is not passed in the U.S. Senate.

Yes, we are for trade, but we are for fair trade. It is time to insist on fair trade and get rid of these ballooning trade deficits.

Let me thank my colleague, Senator BYRD, from West Virginia. He is, as is always the case, most gracious to allow me to continue beyond the time allotted.

Mr. BYRD. Will the Senator yield briefly?

Mr. DORGAN. I will be happy to yield.

Mr. BYRD. Sign me up. Sign me up as one of those who will stand with the Senator to defeat fast track. We have seen too many American jobs take a fast track out of this country. We have seen what happened to pottery in my State. We have seen what happened to glass, what happened to leather goods, what has happened to textiles, what is happening to steel, what is happening to chemicals.

I will be with my colleague. I am opposed to fast track. I am for free trade but fair trade.

Next year will be my 50th year in Congress, and I see one administration after another, Republican and Democrat, go down this same fast track, and I am tired of it. I have been against it. I do not stand here today and propose we ought to deliberate on putting a duty on every toothbrush or every fiddle or fiddle string or every paint brush that comes into this country, but there are a few major questions that we should be allowed to debate and offer amendments on when that measure comes before the Senate. What's wrong with that? I wouldn't mind, half a dozen, six, three, but why should we go along with our eyes closed and continue to join in this fast track of American jobs and American industries across the seas?

Getting our ducks in a row, we have become sitting ducks. These are the ducks that our forefathers gave us to put in a row. Section 8, article I, the U.S. Constitution:

> The Congress shall have Power to regulate Commerce with foreign Nations, and among the several States * * *

It doesn't say anything about getting our ducks in a row. It doesn't say anything about fast track. It doesn't say anything about binding and gagging ourselves when it comes to trade legislation. It says the Congress shall have power to regulate commerce.

Let's exercise that power. Let's exercise our rights as Members of the Senate, elected by a free people. Count me, register me, make me a first lieutenant in the ranks. I am ready. I volunteer.

I thank the Senator for his contributions. I thank him very much for his leadership on this issue.

Is the Senate in a period for morning business?

The PRESIDING OFFICER (Ms. STABENOW). The Senator is correct.

Mr. BYRD. Are there any limitations?

The PRESIDING OFFICER. Each Senator is restricted to 15 minutes.

Mr. BYRD. I ask unanimous consent to speak for not to exceed 45 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I thank the Chair.

U.S. IMMIGRATION POLICY

Mr. BYRD. Madam President, the inscription on the base of the Statue of Liberty that has welcomed immigrants for generations can be found in the poem, ''The New Colossus,'' by Emma Lazarus:

> Not like the brazen giant of Greek fame,
> With conquering limbs astride from land to land;
> Here at our sea-washed, sunset gates shall stand
> A mighty woman with a torch, whose flame
> Is the imprisoned lightning, and her name
> Mother of Exiles. From her beacon-hand
> Glows world-wide welcome; her mild eyes command
> The air-bridged harbor that twin cities frame.
> ''Keep ancient lands, your storied pomp!'' cries she
> With silent lips. ''Give me your tired, your poor,
> Your huddled masses yearning to breathe free,
> The wretched refuse of your teeming shore.
> Send these, the homeless, tempest-tost to me,
> I lift my lamp beside the golden door!''

The United States has a proud history of welcoming immigrants fleeing religious persecution, political oppression, and economic hardship. My own forebear on my father's side came to these shores in 1657, settled on the banks of the Rappahannock River where all—with the exception of possibly one in this Chamber—are children, grandchildren, great-grandchildren, and great-great-grandchildren of immigrants. The magnanimous promise of a better life that is inscribed in the base of the Statue of Liberty has deep roots in both the American mind and American law. George Washington captured that promise in his dictum two centuries ago that the United States should be ''a country which may afford an asylum, if we are wise enough to pursue the paths which lead to virtue and happiness, to the oppressed and needy of the Earth.''

I understand the American dream that has lured immigrants here for more than 200 years. I have a son-in-law who is an immigrant from Iran. He is a physicist. I have a grandson who is married to an immigrant from Korea. My own State of West Virginia has benefitted from the many contributions made by our foreign-born citizens. West Virginia's coal miner population in the early part of the 20th Century reads like a United Nations roster: British—English, Welch, Scottish—Irish, Italian, Hungarian, Lithuanian, Swedish, Austrian, Russian, Greek, Syrian, Romanian, German, Polish, Slavic, and on and on.

In recent months, this administration has been working with its Mexican counterparts to craft a new immigration policy that would, among other things, legalize three to four million undocumented Mexican immigrants now working in the United States.

According to the latest numbers from the U.S. Census Bureau, immigrants now comprise about 11 percent of the total U.S. population. That is about 30 million immigrants living in the United States—13 million to 14 million of whom arrived just in the last 10 years.

These numbers are quite extraordinary because they suggest that at least 1.3 million immigrants are settling in the United States each year. That is more than arrived during the last great wave of immigration between 1900 and 1910, when about 850,000 people entered the country each year.

In addition to their arrival in the United States, during the 1990's, immigrant women gave birth to an estimated 6.9 million children. If we add together the number of births to immigrants and the number of new arrivals, immigration during the 1990's led to the addition of 20 million—or two-thirds of the nearly 30 million people who populated the United States over the last 10 years.

If current trends continue, according to the Census Bureau's middle-range projections, the U.S. population will grow from 280 million to 404 million people by 2050, with immigration accounting for about 63 percent of that growth. That means the number of new immigrants entering this country over the next 50 years, about 78 million immigrants, will be roughly equal to 43 times the current population of West Virginia.

As I have said, many of these immigrants will contribute to the economic, cultural, and political development of the United States. But, let us not forget, let us not be unmindful of the fact that there will also be real costs associated with this population increase. Many of these new citizens will come in search of access to quality health care services. Yet too many of our Nation's 5,000 emergency rooms are already operating at critical capacity.

Go over to Fairfax Hospital. I just had my wife of 64 years over to that hospital twice within the last 6 weeks. And I took her both times—once through a call to 911. You will be amazed at what you see. The hospitals are overcrowded.

According to the LA Times, at many of the nation's hospitals, ''ambulances are being turned away and patients are stacked in the hallways.'' If we are to accept these new citizens, it is clear that we will have to spend billions of taxpayer dollars to expand our health care infrastructure.

This Nation also has the responsibility to provide a quality public education to its citizens. Yet, the Department of Education recently reported that the number of children in public schools has grown by nearly 8 million in the last two decades. This growth has strained the resources of many

school districts, resulting in overcrowded classrooms and overgrown schools where discipline is difficult if not almost impossible, and individual attention is nearly impossible.

These are questions we ought to think about. We need to think about these things.

In 2000, there were about 8 million school-age children—ages 5 to 17—of immigrants who had arrived since 1970, according to the Center for Immigration Studies. This is roughly equal to the total growth in elementary and secondary school enrollment over the last 20 years. If we invite more immigrants into our public school system, we must consider the absorption capacity of American public education. This means that we will have to spend billions of taxpayer dollars to expand our public education infrastructure. The current infrastructure is being strained to the hilt.

We also have a responsibility to ensure that these new citizens, at the very least, have access to the resources to become proficient in the English language. The Census Bureau recently reported that nearly one in five Americans does not speak English at home. Among Spanish speakers, only half the adults described themselves as speaking English well, and only two-thirds of the school-age children in Spanish-speaking homes described themselves as speaking English very well. If we accept these potential citizens, we have an obligation to help ensure that they can assimilate themselves into our society.

Population growth will also continue to cause more and more land to be developed. Both past experience and common sense strongly suggest that population growth of this kind has important implications for the preservation of farm land, open space, and the overall quality of life throughout our country. A nation simply cannot add nearly 120 million people to its population without having to develop a great deal of undeveloped land.

There are also environmental concerns that must be considered. A growing nation requires increasing amounts of energy and greater recovery of natural resources, which results in larger output of pollution in our streams and greater accumulations of solid waste in our landfills.

Our resources, as never before, are limited. For all the talk we have heard in recent months from the administration about liberalizing our immigration laws, the President has not made any suggestions—I haven't heard them if he has made any—about how to pay for the additional infrastructure investments that will be required.

Just look around you. The infrastructure is being asked to bear far more than the traffic will bear. Look at our schools. Look at our hospitals. Look at our welfare programs.

Does the Administration want to increase taxes to support these newcomers? We have been cutting taxes. How much of our limited resources is the administration willing to sacrifice? At what price are we willing to accept all of these new immigrants?

These are the questions that our immigration policy needs to address if we are to offer a higher standard of living and a better life to the immigrants that our nation accepts. Instead, the American public is witnessing an immigration debate unfold that threatens to move this nation's immigration laws in exactly the wrong direction.

Today the President of Mexico, Vicente Fox, in addressing a joint session of Congress, spoke about the need to regularize the flow of migrant workers between the United States and Mexico. The Bush Administration contends that we can regularize this migrant flow through a new ''temporary worker'' program.

I assure you, that there is nothing new about ''temporary worker'' programs and the amnesties that usually accompany them. In fact, these kinds of proposals have become a frightenly familiar routine in recent years that have contradicted our immigration laws and sent exactly the wrong message abroad.

In 1986, Congress granted an amnesty to 2.7 million illegal immigrants, based on the promise that it would stem the tide of illegal immigration when combined with a ban on the hiring of illegal immigrants by employers. I supported that proposal, although it later proved to be a false promise. Illegal immigration increased dramatically.

More recently, there have been efforts by Congress to pass the so-called 245(i) status adjustment, which would allow illegals—for a $1,000 fee—to waive the requirement that would force them to leave the country and effectively bars them from reentering the United States for up to 10 years.

This kind of legislation, in particular, flies right in the face—right in the face of the Congress' recent efforts to stop the flow of illegal immigrants. The section 245(i) provision nullifies those measures passed by the Congress that would punish immigrants who enter this country illegally.

Not only is this legislation unfair to every immigrant—both present and past—who waited to legally enter this country, but it sends the message abroad that as long as you can gather together enough money, you can circumvent our laws whenever they prove to be inconvenient.

State and local governments have not done much better at discouraging illegal immigration. Many States are making it easier for undocumented immigrants to apply for a driver's license, government health care benefits, and lower state college tuition. None of these initiatives will act as a deterrent to illegal immigration.

Let us continue to have legal immigration. Let us not offer attractions to illegal immigration.

The Immigration and Naturalization Service estimates that there are about 6 million illegal aliens living in the United States, a number which increases by more than 200,000 per year. And these numbers are based on 1997 population statistics. Once the Census 2000 population statistics are available, immigration experts expect this number to increase to somewhere between 8.5 million illegals and 13 million illegals. That's double the estimated number of illegals in 1986.

The number of amnesties that have been proposed in recent years, and the corresponding rise in illegal immigrants, suggests that something is seriously wrong with this country's immigration laws. It suggests that the basic framework either doesn't work or that we are not serious about enforcing it.

I am amazed at the political support for these amnesty proposals. As I say, I voted for them. I was misled.

Both political parties—Republican and Democrat—support broader immigration rules.

But no one is talking about the additional costs to the American taxpayers. Not one is talking about the strain on our natural and financial resources.

Building a political base is no reason to encourage illegal immigration, nor is building up union membership, nor is importing cheaper labor to replace U.S. workers. We must not glibly rush forward on immigration policy without adequate thought about unintended consequences, tangential ramifications or adequate public education and debate. Whether this rush to loosen our enforcement of immigration laws is due to jockeying for political advantage as cynics might contend, or simply an outgrowth of commendable altruistic urges on the part of our nation's political system, we need to step back, slow down and take a serious look at our immigration policies.

I well understand that there are segments of the American economy which profit greatly by the labors of illegal immigrants. I well understand the human sorrows endured by immigrant families who cannot earn an adequate living in their native land, and so must send a wage earner across the border to work and establish a foot hold for future generations. My experience growing up in the coal fields during the years of the Great Depression was not too far afield from the immigrant experience of today. I know extreme poverty. I know what it is to start out life with the bottom rungs of life's ladder missing. I remember being at the mercy of the coal company employer in the coalfields. I understand the stigma of being undereducated, poor, and without the bottom rungs in the ladder. I understand that. That is why I am so concerned about the direction of our immigration policy of today.

I believe that not enough thought has been given and not enough questions have been asked. I question the sincerity of our rush to appease. Are we really acting in the best interests of the Mexican immigrants or of our own citizens?

I have lived 84 years and one lesson that I have learned in my years of observation and service is that the most precious commodity in public policy is that of honesty—intellectual honesty.

I hope that this rush to further relax our immigration laws is not just a competition for political advantage, but I fear that that is in fact the driving force. If I am right, and ''votes ripe for plucking'' is driving the altruistic claims of both parties, I urge that we draw back and face the ugly possibility of unintended exploitation of foreign workers as the outcome of political jockeying for the Hispanic vote.

In the first place there is no easily identifiable ''Hispanic vote.'' Cuban peoples, Mexican peoples, and other Latin peoples who may have immigrated to the United States have radically different political views and decidedly different priorities. In the second place hispanic peoples who have resided in the United States for some years often deplore the laxer rules which allow new immigrants easier access to U.S. shores, and resent the unfortunate image which newer immigrants may project. The Hispanic votes is not a monolith and it is an insulting, shallow proposition to portray all people's of Latin descent as such.

Then there is the question of honesty again. Are we not skating dangerously close to falsehood when we politicians pretend that we can handle these vast numbers of future immigrants in any sort of decent and humane way? Anyone even vaguely familiar with the health care system in this nation knows that it is inadequate to service our present population and becoming more inadequate each day. Go visit the hospitals in the area. How can we pretend that we can address even the most mundane health care needs of these new immigrants?

We read about those needs in the newspapers—in the Washington Post and the Washington Times. The stories are frequent in those newspapers about the health needs, about the poverty, and about education shortcomings. We are so stretched now that we cannot handle the present load. Our infrastructure just simply can't handle it.

How can we pretend that our overcrowded, underachieving school system can possibly deal with thousands of new immigrant children and come even close to preparing them to cope with the competitive job market in America today.

We are not being intellectually honest. We are not being honest with the legal immigrants who are already in this country. We are not being honest with these people.

We are not being honest with ourselves.

We can't assure these children an adequate education, and that is the truth. Are we consigning these children to a sort of permanent underclass when we fail to give them basic tools with which they can achieve? The truth is, our American infrastructure—both physical and human resource related—is 20 years behind, and falling further behind with each passing year.

From everything to inadequate roads and transportation, to a health care system that assists fewer and fewer people, to an education system that fails to impart either discipline or knowledge, we need to face the fact that our resources are limited. It is a sad yet very true fact that we must all face. And we ought to think about it. I think these are proper questions to ask. We are no longer a land of unlimited possibilities because we no longer provide the basics which allow the people to flourish. We have disinvested in our own Nation. We have disinvested in our own people. The cupboard is not bare, but its contents are decidedly skimpy, and it is a grave disservice to invite the neighbors to a sumptuous feast at our house when we know that there is nothing left in the cupboard, nothing to serve but poke greens and salads that are cut from the hillside.

We risk turning a blind eye to the needs of our own Nation in future years when we try to absorb huge, huge numbers of underskilled, uninsured, undereducated immigrants without a cogent plan for handling their needs and fostering their eventual assimilation into our own society.

We must not rush to appease the demands of our friends to the south of our border without stopping to contemplate the consequences. President Fox of Mexico has the responsibility of delivering on his promise to the Mexican people of more jobs and a stronger economy. He cannot look solely to the United States to solve his economic and political problems.

We must also proceed with caution when we advocate policies that circumvent the intent of our own immigration laws. Those laws are passed by the Congress of the United States and signed by a President of the United States. Those laws are intended to allow for the orderly absorption of immigrant populations, and to prepare that population to become productive, participating English literate, United States citizens.

I can tell you Madam President, as the chairman of the Appropriations Committee in the Senate and as a member of the Senate Budget Committee—as is the distinguished Presiding Officer at this moment—we do not have the infrastructure in place to absorb the number of immigrants to whom this administration is seeking to open our borders.

It would be nice, it would be good, if we were able to solve the economic problems of other countries and provide a higher standard of living for people around the world—but, we cannot. This is no longer the late 19th century or the mid 18th century. Our resources are more limited today than they were a hundred years ago.

The Congress already faces enormous challenges in stretching our ever shrinking financial resources—and they are ever shrinking. The Congress will have to appropriate the 13 annual appropriations bills this year with less than adequate resources to finance our infrastructure needs. I am opposed to the further erosion and draining of the limited resources that are available.

I did not vote for the tax cut. I vigorously opposed it. And my wife and I are returning our check. And as resources shrink, we run the risk of resentment, increasing resentment between those who are coming and those who are here, and those are forces that we do not want to unleash.

We cannot be so generous that we strain our own resources to the breaking point. And if we allow illegal Mexicans to come here, and to stay, what about illegal immigrants from elsewhere? How can we be fair to them if we do not treat them all alike? We cannot be so generous that we strain our own resources to the breaking point.

It is time for us to think of the people of America, and their children and their grandchildren. We need a national debate. We do not need something that can be rushed through on the consent calendar. We need a national debate on our immigration policies. The people out there must seriously ask the politicians, what are the answers to these questions that are being asked? They are legitimate questions. What are the answers?

We must seriously ask ourselves just how many more people our country will be able to accommodate. This is not something, Madam President, that should be rushed through Congress in 4 months or in 4 years, without adequate debate. These are questions that should be thoroughly aired.

Whatever proposal the President sends to Congress, it should be debated at length in the Senate. The American people must know what costs they are being asked to absorb. They must know what sacrifices they are being asked to make. And legal immigrants should be asking the same questions. What are the sacrifices they are supposed to make on behalf of illegal immigrants? Those immigrants who have waited patiently, knocking at the door, how do they feel about it? America is a nation of immigrants. Our golden door should always be open to those who seek refuge from oppression—''those huddled masses yearning to breathe free.'' But we must not turn America's promise into a hollow shell. It is well to remember that illegal immigrants don't just break the law when they come here. They undermine the earning power of America's workforce by reducing wages for the U.S. workforce who do not have high school diplomas.

Madam President, in 1939, John Steinbeck's epic novel, the ''Grapes of Wrath,'' was published. Its protagonists, the Joad family, traveled from the Midwest to California, not to make their fortunes but merely to survive as migrant workers. Through labor camps, hobo jungles, and ruined farms westward to California, they faced a

peculiar kind of torment—the torment and isolation of hardship and poverty amid plenty. Let us proceed with caution—I say this to my political colleagues in this body, in the other body, and in the executive branch, and in the State legislatures, in the counties, in the towns and communities, cities across this Nation—let us proceed with caution, lest we turn America's sweet promise of a cornucopia to bitter grapes of wrath for us all, including our legal immigrants.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Florida). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Madam President, I ask unanimous consent that I may proceed as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MISSILE DEFENSE

Mr. COCHRAN. Mr. President, I will take a few minutes to make some observations about some of the discussions I have read in recent days in various news articles and have heard from Senators who have commented on these articles relating to missile defense and the President's efforts to discuss with Russia and other friends and allies around the world our intentions with respect to the development of missile defenses to protect the security interests of the United States.

For some reason or other, in recent weeks there have been some misinterpretations made of comments that have appeared in news articles. Some have suggested that the administration, for example, is going to abandon the ABM Treaty or is developing plans and asking for funding in this year's appropriations bills to conduct tests and do development projects for missile defense which would violate the provisions of the ABM Treaty.

It is clear from everything the President himself has said that he would like to replace the ABM Treaty, after full discussions with Russian officials, allies, and friends around the world, with a new strategic framework that more closely reflects the facts as they exist now in the relationship we have with Russia.

The ABM Treaty was written, as we know, in 1972. It was written in an atmosphere where the prevailing doctrine of national security was mutual assured destruction where we would actually have, as a matter of national policy, a plan to annihilate or destroy cities with innocent civilians in retaliation against a nuclear missile strike against the United States from the Soviet Union. And the mutual assured destruction doctrine was very troubling in and of itself, but it was the only thing we had. Deterrence was a way of life—and also a promise of a way of death in case someone decided to authorize a strike against the other. This was an agreement that was entered into at a time when each side seemed to be intent on building new and more sophisticated and more lethal weapons systems targeted to military targets in the other's nation state.

But times have changed. The Soviet Union no longer exists. Even though the Clinton administration attempted to negotiate a succession agreement, it has never been submitted to the Senate for ratification. The succession agreement lists Russia, Belarus, and another nation state as the successor states to the Soviet Union. Think about that. I am sure the Senate would discuss that very carefully and probably at great length, and whether or not the Senate would advise and consent and permit the ratification of that treaty, to permit it to go into effect and have the force and effect of law, is problematical.

But that is just one indication of how times have changed. The Clinton administration continued to respect the ABM Treaty to the extent that it would not undertake testing of even theater missile defense systems if the Russians objected. And in the discussions with our representatives in Geneva and elsewhere, talking on these subjects, it became clear that this country was going to be inhibited in its testing programs of theater missile defense systems because of provisions of the ABM Treaty.

By now, it ought to be very clear that there are threats to our soldiers and sailors who are deployed around the world from these very theater missile offensive systems that we saw Iraq use in the desert war—in the war that we helped organize and wage against them to liberate Kuwait. Twenty-eight or twenty-nine members of a National Guard unit lost their lives in Dhahran as a result of a Scud missile attack.

We cannot tolerate being inhibited and subject to the approval of another country to test and develop and deploy a system that would protect soldiers in that circumstance in the future. We have already, as a matter of fact, developed follow-on systems to the Patriot system, which was the only thing we used to try to counter the Scud missile attacks. And we continue to upgrade and make progress in developing systems that will offer the kind of protection against those missile attacks in the future. The PAC–3 program, for example, has had a succession of successful tests, using the hit-to-kill technology of a defensive system.

There are other examples of theater missile programs. The Army's High Altitude Air Defense Systems—the acronym is THAAD. It sounds like my name is a system that offers protection against missile attack. But to hear some Senators and look at the authorization committee's mark right now, you would think these theater systems were the same as the national missile defense system. We saw reports in the paper that the chairman had presented the Armed Services Committee with a committee print of a military authorization bill for the next fiscal year, and it cuts $1.3 billion out of missile defense. This is being described in the newspapers, and by Senators, too, as a reduction in the amount of money that would be authorized for national missile defense.

When you look at the exact dollar amounts in the bill—and it is not national missile defense—approximately $347 million is cut from the Navy theater-wide program in the chairman's mark, along with $210 million for the THAAD program and $80 million from the airborne laser program. These are not long-range missile programs. These are not missile programs designed to counter intercontinental ballistic missile threats to our country; these are designed to protect men and women in the military service of the United States who are deployed all over the world right now. And they are now under threats from the same kind of missile weapons systems that were used by Iraq. Now they have been modernized, we hear from our intelligence sources, and are more accurate and more reliable and more lethal than they were in the desert war.

These programs should not be cut in the name of trying to restrict the President from using funds that the Congress appropriates for national missile defense. These are intermediate-range defensive systems, the testing and deployment of which were not intended to be covered by the ABM Treaty. And even though the Clinton administration was negotiating with the Russians our rights to test in developing these programs—to some degree at least—it is not the subject of the ABM Treaty. The ABM Treaty wasn't designed to deal with these threats at all.

So what I am suggesting is that the Senate ought to be on early warning that we are seeing an effort being developed here—at least in the Armed Services Committee—to lay groundwork for restrictions on funding, for restrictive language, which I understand is also included in the chairman's mark, which would more closely restrict the President and the Department of Defense in their effort to fully explore the use of technologies that would help defend our service men and women when they are in harm's way around the world today.

There are some other programs that are cut in this bill that I understand are in the chairman's mark. One is the space-based infrared system, which will provide satellites to track missiles after launch—$97 billion is cut from that program.

So there is a pattern here of undermining the entire effort to develop our

defenses to the capability they need to be to fully assure the security interests of the United States. It doesn't have anything to do with the ABM Treaty, in my view, but that is being used as an excuse to hold back these programs. The chairman's mark cuts $350 million from a program previously known as national missile defense, though in reality the number is far higher, as the administration has sought to remove the artificial barriers between the labels ''national'' and ''theater'' missile defense.

The President is talking about missile defenses. We need to have an aggressive, robust testing program so that we can fully understand how these technologies can be harnessed to fully defend our country's interests and protect the security of our Nation.

The chairman's mark even cuts funds that would be used for cooperative missile defense modeling and simulation with Russia. We are hearing a lot about trying to interact more in a positive way with Russia. Here is an example of a program that would give us an opportunity to do that more successfully, and that is proposed for cutbacks in the Armed Services Committee.

There are various legislative restrictions, one of which will provide the Defense Department's missile activities can proceed only in accordance with the ABM Treaty.

That is redundant, isn't it? Or it suggests that the President is planning to undertake something that is inconsistent with the treaty. He has said he is not going to do that. He recognizes the treaty is an agreement that is legally binding. The President has said that.

He is hoping to replace the treaty after negotiations with the Russians with a new strategic framework, but everybody is pronouncing that around here as dead on arrival. Give the President a chance at least to discuss it fully with the Russians rather than rushing over and getting some Russian official to make some derogatory statement about the process and then quoting it as if it is national policy in Russia.

We should give the negotiators a chance. That is what I am suggesting. So writing a bill here that presumes the President is going to violate the ABM Treaty is not getting us off to a good start, particularly if this sends a signal to the Russians: You do not have to worry about negotiating with the President of the United States in good faith because the Senate is going to take over, the Senate is going to make it impossible for the President to negotiate an agreement.

We should not undermine the President's capacity to negotiate a better agreement that will serve our national security interests in a more effective way and replace an outdated, outmoded treaty, a cold war relic, when we could, if we are successful under the President's leadership, negotiate a better agreement that more fully protects our country's national security interests. This kind of provision is needless piling on, making it more and more difficult for our President. I hope the Armed Services Committee will look very carefully at these provisions.

There are a lot of other concerns that I have. I know there may be others who want to discuss issues on other subjects of great national concern, but they are talking about now in one other line of articles that I have seen—and this was discussed in our Defense appropriations hearing yesterday by some Senators—the fact there was a quote in the paper from an administration official saying: We were not bothered by China's buildup, the modernization of their nuclear weapons capability and whether they were going to do that or not would not have any effect on our decisions with respect to missile defense programs.

Secretary Rumsfeld made it very clear at the hearing, responding to one Senator's question, that neither he nor Secretary Powell nor Dr. Condoleezza Rice had made any statement of that kind, and they knew of no one in the Department of Defense or the Department of State or at the White House who had said anything like that.

There is no quote attributed to any particular individual, but yet not only the press have taken that and made stories out of it and repeated them, but now Senators are repeating them as if it was a fact. The fact is, China has been modernizing its military for years. They did not just start a new generation of nuclear weapons or intercontinental ballistic missile technologies and systems after we began improving our missile defense capabilities. China is going to make the decisions they make based on their own considerations of what is in their interests.

I am hopeful, of course, as everyone in this administration and in this Congress, we will be able to have a stable and friendly relationship based on mutual respect with China. Efforts are being made in discussions by the Secretary of State and many others with Chinese leaders in order to develop an understanding, trying to resolve problems as they develop, and we know what they are.

The incident with the surveillance plane in the area presented its own special set of problems, but we worked our way through that with calm and thoughtful leadership and decisionmaking by the President and his Cabinet officials.

The whole point of this is, we can be a party to inciting the passions of those who worry about the capacity of our country's leadership to function to protect our security interests, and we can do more harm than good by the things we say and the way we discuss these issues and the way we handle bills that come through this Senate.

We should take very seriously the provisions that are in the chairman's print of this authorization bill before the Armed Services Committee, and all Senators ought to notice what is beginning as an official part of our legislative responsibility: an effort that is clear to undermine the President's leadership capacity in developing missile defense systems that will protect our soldiers and sailors and the security interests of our country.

Those who say he is going to abandon the ABM Treaty need to look at what the President said. He is trying to replace it with a new framework, a new agreement. I have suggested to some that we ought to consider having a peace treaty as a replacement to the ABM Treaty. We are not at war with Russia any longer. They do not profess to be at war with us. The cold war is over. When wars end, peace treaties are signed. Let's sign a peace treaty with Russia. That would supplant the ABM Treaty.

The ABM Treaty locks into law the doctrine of mutual assured destruction. We do not want to destroy Russia. They should not want to destroy us. So why perpetuate that doctrine with that treaty? Let's work to develop a new framework that more clearly defines the real relationship we have with Russia now.

That is what the President wants to do. Why can't the Senate join with the President, applaud that initiative, support that effort, pass legislation to fund the efforts to strengthen our military forces so we can do the job of protecting the security of this country?

I am not going to suggest these are political games that are being played because I know there are serious differences of opinion on this and other issues that come before the Senate.

I am not questioning anybody's motives. I am just saying I hope Senators will take a careful look at the facts. As we proceed through this process of authorization and appropriation for our defense needs, let's try to work in harmony and unity as much as possible so we will not create any misunderstandings in Russia, in China, or among potential adversaries out there, the so-called rogue states, that continue to acquire technology, that continue to acquire systems, missiles, other means of developing intercontinental ballistic missile capability.

It is a dangerous place out there, and we need to be sure we are doing what we can do and ought to do to protect our security interests in this environment.

Mr. President, I yield the floor.

DISPOSAL OF RADIOACTIVE WASTE

Mr. DOMENICI. Mr. President, I rise to share some news with my Senate colleagues. And even though my subject involves radioactive waste, I'm most pleased to report that this is all good news.

As a Nation, we haven't made great progress on disposal of radioactive wastes, Yucca Mountain was supposed

to open in 1998—now it might open in 2010 if it progresses at the most optimistic rate.

But in New Mexico, the Waste Isolation Pilot Plant in the city of Carlsbad opened for disposal operations in March of 1999. WIPP is the nation's first repository for the permanent disposal of defense-generated radioactive waste left from the research and production of nuclear weapons.

WIPP represents the single most dramatic advance this Nation has made in disposal of radioactive waste. In fact, WIPP is a showcase facility for the entire world for demonstrating that mankind can safely remove complex wastes from any impact on our environment.

WIPP accepts a particular kind of waste, transuranic or TRU waste, that is contaminated with certain elements, especially plutonium. This type of waste must be handled with great care to ensure safety of the public and workers. WIPP represents a cornerstone of DOE's national cleanup effort dealing with the nation's nuclear weapons complex. Today, I want to announce that WIPP has filled their first underground room to full capacity.

This is no small achievement. That room now holds over 10,000 drums of TRU waste. The waste arrived in 352 shipments from five DOE sites—Los Alamos, Rocky Flats, Idaho, Hanford, and Savannah River. That required lots of transportation, in fact about one-third of a million miles. And even with so many miles, equivalent to 13 trips around the earth, there were no accidents or even serious incidents. For those who doubt that radioactive cargoes can be shipped safely, WIPP is proof that a well-engineered transportation system can be operated to the highest standards.

The team at WIPP isn't stopping to celebrate this milestone. As I speak, they're busily accepting more waste. Earlierr this week, the shipment number was up to 373 and more then 11,000 drums had moved into the facility.

In closing, I personally commend the Department of Energy, especially the Carlsbad Field Office, for their careful attention to safe operations. The community of Carlsbad deserves tremendous praise for their consistent support of WIPP and its critical national mission. And both the Environmental Protection Agency and the New Mexico Environment Department deserve compliments for their roles in oversight of this facility.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 31, 1991 in Coronado, CA. A gay man was choked and beaten by three men. Three Marines, David William Bell and Jeffrey Martin Davis, both 20, and Steven Louis Fair, 26, were charged with attempted murder, assault, robbery and a hate crime.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

GENERAL HENRY H. SHELTON 14TH CHAIRMAN OF JOINT CHIEFS AND A GREAT NORTH CAROLINIAN

Mr. HELMS. Mr. President, North Carolina, down through history has been blessed with countless remarkable sons and daughters, and in my judgment, one of the truly great has been General Hugh H. Shelton, the 14th Chairman of the Joint Chiefs of Staff, who was confirmed by the Senate on October 1, 1997, and reconfirmed by the Senate for a second 2-year term in 1999.

In this capacity, this great son of Eastern North Carolina served as the principal military advisor to the President of the United States, the Secretary of Defense, and the National Security Council.

Prior to becoming Chairman, General Shelton served as Commander in Chief of the U.S. Special Operations Command.

The General was born in Tarboro, NC, in January 1942. He earned a bachelor of science degree from North Carolina State University and a master of science from Auburn University. His military education includes attendance at the Air Command and Staff College in Montgomery, AL, and at the National War College at Fort McNair, Washington, DC.

He was commissioned a second lieutenant in the infantry in 1963 through the Reserve Officer Training Corps, and spent the next 24 years in a variety of command and staff positions in the continental United States, Hawaii, and Vietnam. He served two tours in Vietnam—the first with the 5th Special Forces Group, the second with the 173rd Airborne Brigade. He also commanded the 3rd Battalion, 60th Infantry in the 9th Infantry Division at Fort Lewis, WA; he served as the 9th Infantry Division's assistant chief of staff for operation.

He then returned to North Carolina where he commanded the 1st Brigade of the 82nd Airborne Division at Fort Bragg; and then served as the Chief of Staff of the 10th Mountain Division at Fort Drum, NY.

Following his selection as brigadier general in 1987, General Shelton served 2 years in the Operations Directorate of the Joint Staff. In 1989, he began a 2-year assignment as Assistant Division Commander for Operations of the 101st Airborne Division (Air Assault), a tour that included the Division's 7-month deployment to Saudi Arabia for Operations Desert Shield and Desert Storm.

Upon returning from the Gulf War, General Shelton was promoted to major general and again assigned to Fort Bragg where this time he commanded the 82nd Airborne Division. In 1993, he was again promoted—to lieutenant general—and assumed command of the XVIII Airborne Corps.

In 1994, while serving as corps commander, General Shelton commanded the Joint Task Force that conducted Operation Uphold Democracy in Haiti. In March 1996, he was promoted to general and became Commander in Chief of the U.S. Special Operations Command.

In his 4 years as Chairman of the Joint Chiefs of Staff, General Shelton worked tirelessly to improve the quality of life for military members and their families. He championed numerous initiatives including the largest across-the-board pay raise for the military in 18 years—helping to narrow the civilian-military ''pay gaps.''

His push for pay table reform targeted greater increases for mid-grade noncommissioned officers, and his retirement reform package reinstated benefits for those entering service after 1986, and, thanks to his dedication and support, an enhanced housing allowance was implemented gradually to eliminate out of pocket expenses for service members living off post.

Chairman Shelton was a strong advocate of the effort to reform medical health care, to make medical care more responsive—to include military retirees over 65. He made great strides to improve the readiness of the U.S. military by articulating a regiment for increased defense spending. As a result, the Department of Defense realized a $112 billion increase in defense spending over the 5-year defense plan to arrest declining readiness rates. He additionally implemented new processes to carefully manage high demand/low density resources in support of the National Security Strategy.

Chairman Shelton and his staff published Joint Vision 2020 to establish goals and the metrics for the future joint force; he established the U.S. Joint Forces Command as the proponent for Joint Experimentation and Joint Force readiness. He established Joint Task Force-Civil Support to increase the military's ability to respond to crises in the U.S. homeland and established Joint Task Force-Computer Network Operations to enhance protection of U.S. information networks.

The General directed numerous initiative designed to improve the interoperability of the four Services including a Joint Airfighting Logistics Initiative, development of a Global Information Grid, revision of all Joint Professional Military Education programs and an enhancement on the joint warfighting focus of the Joint Requirements Oversight Council.

General Shelton's awards and decorations include the Defense Distinguished Service Medal (with two oak leaf clusters), Distinguished Service Medal, Legion of Merit (with oak leaf cluster), Bronze Star Medal with V device (with three oak leaf clusters), and the Purple Heart.

He has also been awarded the Combat Infantryman Badge, Joint Chiefs of Staff Identification Badge, Master Parachutist Badge, Pathfinder Badge, Air Assault Badge, Military Freefall Badge, and Special Forces and Ranger Tabs and numerous foreign awards and badges.

Mrs. Shelton is the former Carolyn L. Johnson of Speed, NC, who was young Hugh Shelton's high school sweetheart. As Mrs. Hugh H. Shelton, she has been actively involved with service issues and support to military families throughout General Shelton's career. The General and Mrs. Shelton have three sons: Jonathan, a special agent in the U.S. Secret Service; Jeffrey, a U.S. Army Special Operations soldier, and Mark, their youngest son.

Mr. President, Dot Helms and I are proud to have General Shelton and Carolyn as our very special friends—and to be theirs. The General has represented the U.S. military with great distinction for the past four years as its senior military officer.

This splendid North Carolinian has participated in policy-making at the highest levels of Government but he never lost the common tough with our men and women in uniform. He will be remembered as a soldier's soldier and a quiet professional, along with his lovely wife and three sons.

RETIREMENT OF GENERAL MICHAEL E. RYAN

Mrs. HUTCHISON. Mr. President, I rise today to honor General Michael E. Ryan, the Chief of Staff of the United States Air Force. General Ryan is a great American and, more important, and I'm sure no surprise to my colleagues, he is a fellow Texan. General Ryan has long been a tribute to Texas, the Nation, and especially to the Air Force.

General Ryan graduated from the Air Force Academy in 1965, and during his 36 years of service he commanded at the squadron, wing, numbered air force and major command levels, and accumulated more than 4,100 flying hours in seven different aircraft with 153 combat missions. He flew combat in Southeast Asia, including 100 missions over North Vietnam, and he served in key staff assignments at the major command level, at Headquarters U.S. Air Force and the Joint Staff. As commander of 16th Air Force and Allied Air Forces Southern Europe in Italy, he directed the NATO air combat operations in Bosnia-Herzegovina. We owe him a huge debt of thanks for just this duty alone as his leadership directly contributed to the Dayton Peace Accords.

General Ryan is, fortunately, not an unsung hero as he has received many decorations and medals including: the Defense Distinguished Service Medal with oak leaf cluster, the Distinguished Service Medal, the Legion of Merit with two oak leaf clusters, the Distinguished Flying Cross, the Meritorious Service Medal with two oak leaf clusters, the Air Medal with 11 oak leaf clusters, the Air Force Commendation Medal with two oak leaf clusters and the Vietnam Service Medal with three service stars.

After serving as the commander of U.S. Air Forces in Europe and commander, Allied Air Forces Central Europe, General Ryan ''took the stick'' of the Air Force as its 16th Chief of Staff. During his tenure, he has exemplified the quiet dignity and honor of that office through his leadership, integrity and foresight. A true leader who understood that his role was to set the course for our 21st Century Air Force and then clear the path to allow his commanders to truly lead their units, General Ryan personifies once said: ''I don't think leadership should be personalized. Good ideas are best when they don't have a single identity. Leadership is a team effort.''

This is a lesson those of us here in Congress would be wise to learn!

Meanwhile, General Ryan's accomplishments are critical and easily quantifiable. He and his leadership team successfully arrested the Air Force's readiness decline of the last decade, and built stability into the expeditionary operations our nation demands by reorganizing the service. At the same time though, General Ryan ensured that despite the Air Force being an all-volunteer force competing in a strong job market, its retention and recruiting efforts never sacrificed quality for quantity. He also led the effort to provide lifetime health care to our men and women who willingly put their lives at risk, as well as a retirement system that properly compensates their service to country.

In a period of leadership challenges and chaos, General Ryan led our Air Force, balancing reductions in forces with dramatically increased operational tasking. Without question, the U.S. Air Force is the world's premier force and our country owes a debt of gratitude to Mike Ryan.

At the same time, we owe a debt of gratitude to the person General Ryan owes much of his success—his wife, Jane Ryan. With dignity and grace she selflessly gave her time and attention to the men and women of the Air Force family. Her sacrifice and devotion have served as an example and inspiration for others. The Air Force will lose not one, but two very exceptional people.

In fact, General Ryan's departure from active duty will signal an historic occurrence for the first time in 63 years, there will no longer be a Ryan in the ranks of the United States Air Force. While General Ryan distinguished himself as an airmen, leader, and trusted advisor to both the President and the U.S. Congress, his father, General John Ryan, also served as the senior uniformed Air Force officer.

The Air Force is a better institution today than it was four years ago. General Ryan's distinguished and faithful service provided a significant and lasting contribution to our Air Force and to our Nation's security. He has served our Nation with honor and distinction. I know the Members of the Senate will join me in paying tribute to this outstanding American patriot upon his retirement from the Air Force. We thank him and wish him and his family much health, happiness and Godspeed.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, September 5, 2001, the Federal debt stood at $5,769,122,055,290.29, five trillion, seven hundred sixty-nine billion, one hundred twenty-two million, fifty-five thousand, two hundred ninety dollars and twenty-nine cents.

One year ago, September 5, 2000, the Federal debt stood at $5,678,475,470,839.16, five trillion, six hundred seventy-eight billion, four hundred seventy-five million, four hundred seventy thousand, eight hundred thirty-nine dollars and sixteen cents.

Five years ago, September 5, 1996, the Federal debt stood at $5,225,564,391,083.90, five trillion, two hundred twenty-five billion, five hundred sixty-four million, three hundred ninety-one thousand, eight-three dollars and ninety cents.

Ten years ago, September 5, 1991, the Federal debt stood at $3,623,548,000,000, three trillion, six hundred twenty-three billion, five hundred forty-eight million.

Fifteen years ago, September 5, 1986, the Federal debt stood at $2,112,803,000,000, two trillion, one hundred twelve billion, eight hundred three million, which reflects a debt increase of more than $3 trillion, $3,656,319,055,290.29, Three trillion, six hundred fifty-six billion, three hundred nineteen million, fifty-five thousand, two hundred ninety dollars and twenty-nine cents during the past 15 years.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECTION 245(i) EXTENSION ACT OF 2001

Mr. REID. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of calendar No. 73, H.R. 1885, the 245(i) family unification bill; that the bill be amended

with a substitute amendment, which is a modified text of S. 778 as reported by the Judiciary Committee, which I send to the desk on behalf of Senator LOTT; that the amendment be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements thereon be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Amendment No. 1532 was agreed to, as follows:

AMENDMENT NO. 1532

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Section 245(i) Extension Act of 2001''.

SEC. 2 EXTENSION OF DEADLINE.

(a) IN GENERAL.—Section 245(i)(1) of the Immigration and Nationality Act (8 U.S.C. 1255(i)(1)) is amended—

(1) in subparagraph (B)—

(A) in clause (i), by striking ''on or before April 20, 2001; or'' and inserting ''on or before the earlier of April 30, 2002, and the date that is 120 days after the date on which the Attorney General first promulgates final or interim final regulations to carry out the Section 245(i) Extension Act of 2001; or''; and

(B) in clause (ii), by striking ''on or before such date; and'' and inserting ''on or before the earlier date described in clause (i);'';

(2) in subparagraph (C), by adding ''and'' at the end; and

(3) by inserting after subparagraph (C) the following:

''(D) who, in the case of a beneficiary of a petition for classification, or an application for labor certification, described in subparagraph (B) that was filed after April 30, 2001, demonstrates that the familial relationship existed before August 15, 2001, or the application for labor certification that is the basis of such petition for classification was filed before August 15, 2001;''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the Legal Immigration Family Equity Act (114 Stat. 2762A–345), as enacted into law by section 1(a)(2) of Public Law 106–553.

The bill (H.R. 1885), as amended, was read the third time and passed.

Mr. DASCHLE. Mr. President, I am so pleased tonight we were able to pass a measure that honors our heritage as a nation of immigrants, and provides American and immigrant families some relief from our outdated immigration laws.

Today, immigrants who don't have the proper documentation to stay in the United States, but do have the legal right to become permanent residents because they are the spouses of US citizens can be stuck in a horrible catch-22 situation. If they return to their home country to get the immigrant visa to which they are entitled, they can be barred from re-entering the United States for up to 10 years.

Take the example of a woman named Norma. Norma entered the U.S. from Mexico, and settled in North Carolina. She then married a U.S. citizen. They have been married over two years, have a child, are expecting another this fall, and recently bought a new home for their growing family. Norma and her husband are torn on what to do about her immigration status. As the wife of a citizen, she qualifies for an immigrant visa. However, if she returns to Mexico to obtain her visa, she would be barred from re-entering the U.S. for 10 years. Norma doesn't want to leave her husband, her children, or her home for 10 years—and she shouldn't have to.

This action allows Norma's family—and hundreds of thousands of other families—to stay together. S. 778, introduced by Senators HAGEL and KENNEDY, extends the period of time for eligible people to file their petitions for relief with the Immigration and Naturalization Service and the Department of Labor for one year.

By doing that, S. 778 would provide real and immediate relief for hundreds of thousands of eligible immigrants.

With 30 Republican and Democratic cosponsors, this bill enjoyed broad bipartisan support:

It passed out of the Senate Judiciary Committee mark up by a unanimous voice vote.

To satisfy critics, Senators HAGEL and KENNEDY compromised by accepting language that immigrants applying under the new 245(i) extension must show that their family or employment relationship existed prior to the enactment of the bill.

I have talked to the President about this issue on more than one occasion, and I raised it again with him this week at the White House. He assured me he shares my concern that we need to take action on this important priority.

Since April 30th of this year, when Section 245(i) last expired, immigrants have been waiting in limbo.

INS statistics show that approximately seventy-five percent of the immigrants who apply for 245(i) relief are the spouses and children of U.S. citizens and permanent residents.

Eight out of 10 legal immigrants come to the United States to join a family member. What message are we sending if our policies pry families apart?

President Vicente Fox's historic visit has helped to focus attention on the need to re-craft our immigration policies in ways that better reflect our core values of family unity, fundamental fairness and economic opportunity.

Passing the Section 245(i) Extension Act of 2001 sends a clear message that we are truly committed to providing real immigration reform.

The Senate has taken the first step. I hope the House will soon follow. Let's put this bill on President Bush's desk, and let's do it this week. Norma's family, and thousands of families just like hers, are looking to us. Let's not let them down.

Mr. KENNEDY. Mr. President, last year's Legal Immigration Family Equity Act extended the deadline under section 245(i) of the immigration laws to April 30, 2001—a window of just 4 months—to enable persons who are eligible for green cards to adjust their status in the United States, rather than have to return to their country of origin to do so. Clearly this new deadline has proved to be inadequate. The short extension created an overwhelming demand for information and services, and many qualified persons did not have enough time to file their petitions.

To address this urgent problem, Senator HAGEL and I introduced new legislation on April 26, a few days before the April 30 deadline. Congress should have acted long before now to extend the deadline, but all of us who support an extension are pleased that the Senate is finally acting on this bill. I know many of my colleagues on both sides of the aisle share my desire to move this bill quickly because it affects so many people. It is a humanitarian measure that has strong bipartisan support. It also has the support of the President.

This bill will provide real and immediate relief to hundreds of thousands of immigrants. INS data show that approximately 75 percent of the immigrants who apply for this relief are the spouses and children of U.S. citizens and permanent residents. These are families who have made lasting contributions to our communities and contributed to the economic vitality of our nation. This bill does not propose substantial new relief, but only a continuation of the prior relief. Last year's temporary extension to April 30, 2001 was designed to benefit immigrants who were in the country by December 21, 2000. This bill will extend the deadline to provide this group of immigrants with more time to file their petitions.

I know that some of my colleagues support the extension, but had concerns with our bill. We worked with them to develop an acceptable compromise. Our bill, with an amendment offered by Senator KYL reflects our compromise. This compromise requires immigrants benefitting from the extension to show that their family or employment relationship existed on or before August 15, 2001. They will have until April 30, 2002 or 4 months from the issuance of regulations to file their applications with the INS.

Some critics are concerned about fraudulent marriages. But the INS, and not Congress, is in the best position to determine whether a case is fraudulent. The INS closely scrutinizes applications based on recent marriages. Under the current law, the INS conducts extensive interviews before deciding these cases, often separately questioning the couples. Anyone who has been married less than 2 years when their application is approved is required to attend a second INS interview 2 years later, in which INS again reviews the case to determine whether there is a bona fide marriage. Only after the second interview will a recently married immigrant receive a permanent green card.

In INS determines that an individual has committed marriage fraud, that person is permanently barred from receiving a green card and can be criminally prosecuted. Many of us feel that this new restriction is unnecessary, and will lead to needless confusion, delay and hardship. But in the spirit of compromise, we accepted this amendment.

I am pleased that we are moving this bill forward, as this legislation will keep immigrant families together. We cannot continue to delay; otherwise, the purpose of this legislation—to prevent the separation of immigrant families—will be defeated. This measure is of critical importance to Mexican President Vicente Fox, who is in Washington for an historic visit. Our two countries are negotiating important immigration policies which will profoundly affect and benefit our peoples and our economies. Extension of section 245(i) is an immediate and important first step in these negotiations.

Finally, if we are truly to live up to our history and heritage as a nation of immigrants, we must also address the pressing needs of uniting other families separated by our current immigration laws, and meeting the needs of our labor market. I look forward to working with my colleagues to meet these great challenges, and am pleased that the Senate has approved this bill as a downpayment on the reforms that are so long overdue.

Mr. LEAHY. Mr. President, this legislation accomplishes a goal supported by President Bush and a bipartisan coalition of Senators—making it easier for people who are eligible to become legal permanent residents to apply for their green cards without leaving the United States. There could not be a more opportune time to pass this bill than during the visit of President Vicente Fox to our nation, and I applaud the Majority Leader for making passage today possible. I hope that the approval of this bill serves as a signal of the Congress' willingness to work with the Mexican Government to achieve our common goals, and to maintain fair immigration policies.

I was pleased to schedule this bill for a markup as soon as I became Chairman of the Judiciary Committee. Although I would have preferred that the Committee report the bill as it was introduced, I am glad that a compromise was reached that allowed the bill to receive the Committee's support and make it to the floor of the Senate.

This bill extends section 245(i) of the Immigration and Nationality Act, which expired on April 30, 2001. Section 245(i) allows foreign-born people who are present in the United States and eligible for legal permanent residency to apply for that status from within the country instead of having to return to their nation of origin to apply. We reauthorized section 245(i) last year, but only for a four-month period. Many eligible immigrants were unable to find attorneys and submit applications during that brief period.

There are at least three good reasons to extend 245(i). First, it allows families to stay together in the United States instead of forcing family members to return to their native countries to apply for their green cards. Second, because immigrants can also qualify to become legal permanent residents based on an employment relationship, extending 245(i) will allow businesses to retain vital employees. Third, because immigrants have to pay a $1000 fee to apply under 245(i), this program raises millions of dollars for the Federal treasury.

Senators KENNEDY and HAGEL deserve great credit for their sponsorship of and support for this bill. I am pleased that the Senate has approved this bipartisan bill to keep families together, and I urge the House to follow the Senate's lead.

Mr. REID. Mr. President, let me briefly say that this is extremely important. With President Fox in the country, this sends a message to him that we really are trying to work toward making things easier in relations between the United States and Mexico. But this has wide application to places other than Mexico. It is important legislation. It is something we worked on very hard. We almost got it done toward the end of last year. It is now completed.

We hope the House will expeditiously move forward on this matter. The chairman of the House Judiciary Committee has been involved in this, Representative SENSENBRENNER. We are grateful for everyone's cooperation.

UNANIMOUS CONSENT AGREEMENT—H.R. 2500

Mr. REID. Mr. President, I ask unanimous consent that on Monday, September 10, at 12 noon, the Senate proceed to the consideration of calendar No. 96, H.R. 2500, the Departments of Commerce, Justice, and State appropriations bill; that once the bill is reported, the majority manager or his designee be recognized to offer the text of the Senate committee reported bill as a substitute amendment, and that the amendment be considered agreed to as original text for the purpose of further amendments, provided that no points of order be waived by this agreement.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

OBSERVANCE OF THE OLYMPIC TRUCE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 112, S. Res. 126.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A bill (S. Res. 126) expressing the sense of the Senate regarding observance of the Olympic Truce.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The resolution (S. Res. 126) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 126

Whereas the Olympic Games are a unique opportunity for international cooperation and the promotion of international understanding;

Whereas the Olympic Games bring together embattled rivals in an arena of peaceful competition;

Whereas the Olympic Ideal is to serve peace, friendship, and international understanding;

Whereas participants in the ancient Olympic Games, as early as 776 B.C., observed an ''Olympic Truce'' whereby all warring parties ceased hostilities and laid down their weapons for the duration of the games and during the period of travel for athletes to and from the games;

Whereas war extracts a terrible price from the civilian populations that suffer under it, and truces during war allow for the provision of humanitarian assistance to those suffering populations;

Whereas truces may lead to a longer cessation of hostilities and, ultimately, a negotiated settlement and end to conflict;

Whereas the Olympics can and should be used as a tool for international public diplomacy, rapprochement, and building a better world;

Whereas terrorist organizations have used the Olympics not to promote international understanding but to perpetrate cowardly acts against innocent participants and spectators;

Whereas, since 1992, the International Olympic Committee has urged the international community to observe the Olympic Truce;

Whereas the International Olympic Committee and the Government of Greece established the International Olympic Truce Center in July 2000, and that Center seeks to uphold the observance of the Olympic Truce and calls for all hostilities to cease during the Olympic Games; and

Whereas the United Nations General Assembly, with the strong support of the United States, has three times called for member states to observe the Olympic Truce, most recently for the XXVII Olympiad in Sydney, Australia: Now, therefore, be it

Resolved,

SECTION 1. SENSE OF THE SENATE WITH RESPECT TO THE OLYMPIC TRUCE.

(a) COMMENDATION OF THE IOC AND THE GOVERNMENT OF GREECE.—The Senate commends the efforts of the International Olympic Committee and the Government of Greece to urge the international community to observe the Olympic Truce.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the United States Government should join efforts to use the Olympic Truce as an instrument to promote peace and reconciliation in areas of conflict; and

(2) the President should continue efforts to work with Greece—

(A) in its preparations for a successful XXVIII Olympiad in Greece in 2004; and

(B) to uphold and extend the spirit of the Olympic Truce during the XXVIII Olympiad.

SEC. 2. TRANSMITTAL OF RESOLUTION.

The Secretary of the Senate shall transmit a copy of this resolution to the President with the request that he further transmit such copy to the International Olympic Committee and the Government of Greece.

TENTH ANNUAL MEETING OF THE ASIA PACIFIC PARLIAMENTARY FORUM

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 113, S. Con. Res. 58.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 58) expressing support for the tenth annual meeting of the Asia Pacific Parliamentary Forum.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 58) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

Whereas the Asia Pacific Parliamentary Forum was founded by former Japanese Prime Minister Yasuhiro Nakasone in 1993;

Whereas the Tokyo Declaration, signed by 59 parliamentarians from 15 countries, entered into force as the founding charter of the forum on January 14 and 15, 1993, establishing the basic structure of the forum as an interparliamentary organization;

Whereas the original 15 members, one of which was the United States, have increased to 27 member countries;

Whereas the forum serves to promote regional identification and cooperation through discussion of matters of common concern to all member states and serves, to a great extent, as the legislative arm of the Asia-Pacific Economic Cooperation;

Whereas the focus of the forum lies in resolving political, economic, environmental, security, law and order, human rights, education, and cultural issues;

Whereas the forum will hold its tenth annual meeting on January 6 through 9, 2002, which will be the first meeting of the forum hosted by the United States;

Whereas approximately 270 parliamentarians from 27 countries in the Asia Pacific region will attend this meeting;

Whereas the Secretariat of the meeting will be the Center for Cultural and Technical Exchange Between East and West in Honolulu, Hawaii;

Whereas the East-West Center is an internationally recognized education and research organization established by the United States Congress in 1960 largely through the efforts of the Eisenhower administration and the Congress;

Whereas it is the mission of the East-West Center to strengthen understanding and relations between the United States and the countries of the Asia Pacific region and to help promote the establishment of a stable, peaceful and prosperous Asia Pacific community in which the United States is a natural, valued, and leading partner; and

Whereas it is the agenda of this meeting to advance democracy, peace, and prosperity in the Asia Pacific region: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) expresses support for the tenth annual meeting of the Asia Pacific Parliamentary Forum and for the ideals and concerns of this body;

(2) commends the East-West Center for hosting the meeting of the Asia Pacific Parliamentary Forum and the representatives of the 27 member countries; and

(3) calls upon all parties to support the endeavors of the Asia Pacific Parliamentary Forum and to work toward achieving the goals of the meeting.

ADDITIONAL STATEMENTS

50TH ANNIVERSARY OF AL-ANON FAMILY GROUPS

• Mr. WELLSTONE. Mr. President, today I congratulate Al-Anon Family Groups on their 50th anniversary and to acknowledge their contributions to many individuals, families and communities who come together to support those in recovery from alcohol addiction. The Al-Anon Family Groups have been a source of help and hope for families and friends of alcoholics for 50 years in communities throughout the United States and worldwide. Although Al-Anon, and its group for younger members, Alateen, have their roots in the United States, there are now over 26,000 Al-Anon and Alateen groups around the world in 115 countries.

The theme for the September 2001 National Alcohol and Drug Addiction Recovery Month is ''We Recover Together: Family, Friends and Community,'' with its clear message that we need to work together to promote treatment for alcohol and drug addiction throughout our country. The Al-Anon Family Groups is an outstanding example of how a community can support the families, friends and communities of those who are in recovery from addiction.

Scientific research has shown us the devastation that alcohol addiction can have on the brain and the biological systems of the body. But addiction can also damage souls, relationships, families and communities. Effective treatments can help those with addiction illnesses, but it is through the support of groups like Al-Anon that communities and families can join together to make recovery work well for everyone who is affected.

I urge my colleagues to join me in recognizing Al-Anon Family Groups for the work they have done to help the countless numbers of those whose lives have been affected by addiction. With treatment and support, people can recover from alcohol addiction, and make positive contributions to their families, workplaces, communities, state and nation. Through the support offered by Al-Anon and Alateen, families and friends of those with addiction illnesses can find the support they need in their lives as well.

With gratitude and respect for the work they do, I offer my congratulations to Al-Anon Family Groups on their 50th anniversary.•

TRIBUTE TO OVARIAN CANCER NATIONAL ALLIANCE

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to the Ovarian Cancer National Alliance of Washington, D.C. during Ovarian Cancer Awareness Month of September. The Alliance has been instrumental in implementing a three phase public education program targeting key constituencies to deliver crucial information about ovarian cancer.

The information provided to the public about ovarian cancer has allowed the Alliance to successfully develop the tools, strategies and relationships necessary to educate women about the symptoms, risks and treatment of ovarian cancer.

The main thrust of the education program was the development of a pilot awareness program in the Washington, D.C., metropolitan area. Working closely with the Ovarian Cancer Coalition of Greater Washington, the Alliance trained more than 30 volunteers to go into the community to give educational presentations and partnered with area gynecologic and oncology physicians and nurses to do similar presentations in the medical community.

The combined aspects of the program have reached several hundred healthcare professionals and tens of thousand of women. The pilot program has made a marked impact in raising ovarian cancer awareness in the Washington, D.C. area.

The Alliance has begun to identify other communities around the country in which it will conduct similar educational campaigns to heighten awareness of ovarian cancer.

I commend the Ovarian Cancer National Alliance for its selfless dedication to the education of women concerning ovarian cancer and applaud the efforts to reach thousands of women in our country with life saving information. It is truly an honor and a privilege to represent you in the United States Senate.•

COMMENDING THE SERVICE OF GENERAL THOMAS P. KANE

• Mrs. BOXER. Mr. President, I take this opportunity to bring to the Senate's attention the exemplary career and service of General Thomas Kane,

Commander of the 60th Air Mobility Wing at Travis Air Force Base in California.

General Kane is leaving Travis to accept an assignment with NATO on September 12, 2001. When he arrived in Solano County almost 2 years ago, he brought with him a sense of honor, purpose and teamwork that not only resonated on the base itself but throughout the surrounding community. I am not the only one who will miss his spirit, good nature and strength of character.

General Kane is a career Air Force officer. He graduated from the Air Force Academy in 1974 and has earned numerous advanced degrees since. A pilot and highly decorated officer, he has served in many capacities and in many locations over the course of his time in the Armed Forces including Portugal and Korea. Advancing steadily, he was promoted to Brigadier General on September 1, 2000.

I had the pleasure of meeting General Kane in person once at my office in Washington, DC. To me, the most striking thing about him is how much he cares about the men and women in his command. This impressed me very much. In my opinion, this attitude is more than an approach to leadership; it is the very essence of leadership.

General Kane often likes to mention that if he ever leaves the Air Force he would like to be a baseball coach. I am not sure if America needs more baseball coaches, but I do know that we very much need dedicated people leading our military. General Kane is just such an officer. He is a credit to his uniform and his country. I wish him, his wife Renee and their family the very best.●

TRIBUTE TO ALICE WATERS

● Mrs. BOXER. Mr. President, today I pay tribute to an extraordinary American and Californian, Alice Waters, who has revolutionized our approach to food and the way we eat.

I congratulate her and her flagship restaurant, Chez Panisse, for reaching the milestone of being in business for 30 years. While sustaining a successful restaurant for all of these years is significant, Alice's broader contribution to our culture in the past decades is unparalleled.

While I have known and admired Alice for many years, I am astonished when I consider the effect she has had on our country. Alice has cultivated programs and integrated food and gardening into imaginative projects as ways of fostering love, growth, responsibility and respect of life and work.

Alice's disciples and her philosophy of fresh, local and natural, have spread throughout our land. A remarkable number of protegees have opened their own path-breaking restaurants and have become culinary artists themselves. But her influence goes far beyond the kitchen. Due to the leadership of Alice and her restaurant, Chez Panisse, the National Restaurant Association reports that over 60 percent of the top American restaurants now mention organic ingredients on their menus. Alice worked to pass the Federal organic food law and has helped define new U.S. Department of Agriculture guidelines for school lunches.

Alice has written and co-authored many cookbooks, which provide more than recipes. They have helped to spread her philosophy of food into American home kitchens. She has founded gardening projects at the San Francisco jail and the Edible Schoolyard at Berkeley's Martin Luther King Jr. Middle School, where she established a curriculum that brings organic gardening into classes and where the results of the children's gardening are used in the school's lunch program. The students who participate not only learn valuable skills but also cooperation and responsibility.

Alice believes that as Americans change their thinking about food, America will change for the better. Alice has said about our children that ''Most families in this country don't even eat one meal a day with each other. So how are we going to pass on our values to them if we don't eat with them?''

While Chez Panisse has been graced with many talented people over the years, the one constant has been Alice. She has poured her life into Chez Panisse and into what it represents, and we are all the richer for it.

I am proud to know Alice and I wish her, her good works for our community and nation, and Chez Panisse another 30 years of continued success.●

RECOGNIZING JIM WOSTER FOR HIS SERVICE TO SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, I rise today to recognize a friend and an extraordinary South Dakotan who is about to be inducted into the South Dakota Hall of Fame on Saturday, September 8th. I am very pleased that Mr. Jim Woster, of Sioux Falls, SD has been selected for this very prestigious honor. I am sure this is also a great honor for Jim's wife, Penny, their three children, Jim, Sara, and Michelle, and their new granddaughter, Tessa. Jim's contributions to our State have been many, but he has, in particular, been an absolute champion for the interests of agriculture and South Dakota's rural communities.

After growing up on a ranch near Reliance, SD, Mr. Woster graduated from South Dakota State University with a degree in animal science. As a young man, Jim began to compile an incredibly impressive list of accomplishments in all aspects of South Dakota agriculture. Jim's experiences range from working in the cattle alley at the Sioux Falls Stockyards to conducting important ruminant nutrition research. Jim has been involved in consignment sales of livestock at sale barns throughout the State, and became a highly respected and beloved media personality in our State through his market reports on radio and television. Nobody knows rural America, and nobody knows South Dakota agriculture better than Jim Woster.

Jim has always exhibited a strong commitment to public service. Throughout his career, he has devoted an enormous amount of time and energy to worthy causes such as the American Cancer Society, the Arthritis Foundation, and the Make-A-Wish Foundation. All this while serving our Nation for eight years as a member of the South Dakota National Guard.

The great honor to be bestowed on Mr. Woster is exceptionally well deserved, as he has contributed so much to our State while at the same time serving as a model for other talented South Dakotans to emulate. I join my fellow South Dakotans on extending congratulations and a ''job well done'' to Jim Woster.●

MESSAGE FROM THE HOUSE

At 12:29 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1866. An act to amend title 35, United States Code, to clarify the basis for granting requests for reexamination of patents.

H.R. 1886. An act to amend title 35, United States Code, to provide for appeals by third parties in certain patent reexamination proceedings.

H.R. 2048. An act to require a report on the operations of the State Justice Institute.

H.R. 2277. An act to provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors.

H.R. 2278. An act to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain inntracompany transferees have to be continuously employed before applying for admission to the United States.

H.R. 2291. An act to extend the authorization of Drug-Free Communities Support Program for an additional 5 years, to authorize a National Community Antidrug Coalition Institute, and for other purposes.

H.R. 2510. An act to extend the expiration date of the Defense Production Act of 1950, and for other purposes.

The message also announced that the House has agreed to the following resolution:

H. Res. 234. Resolution stating that the House has heard with profound sorrow of the death of the Honorable Floyd Spence, a Representative from the State of South Carolina.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1866. An act to amend title 35, United States Code, to clarify the basis for granting requests for reexamination of patents; to the Committee on the Judiciary.

H.R. 1886. An act to amend title 35, United States Code, to provide for appeals by third parties in certain patent reexamination proceedings; to the Committee on the Judiciary.

H.R. 2048. An act to require a report on the operations of the State Justice Institute; to the Committee on the Judiciary.

H.R. 2510. An act to extend the expiration date of the Defense Production Act of 1950, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar.

H.R. 2563. An act to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3578. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to military personnel accounts; to the Committees on Appropriations; the Budget; and Armed Services.

EC–3579. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the appropriations report; to the Committee on the Budget.

EC–3580. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–3581. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, a report relative to the funding of the Foreign Comparative Testing Program Projects for Fiscal Year 2002; to the Committee on Armed Services.

EC–3582. A communication from the Under Secretary of Defense, Acquisition and Technology, transmitting, pursuant to law, the report for Department purchases from foreign entities in Fiscal Year 2000; to the Committee on Armed Services.

EC–3583. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–3584. A communication from the Director of the Defense Finance and Accounting Service, transmitting, pursuant to law, a report on Conversion of Department of Defense Commercial Activity to a Private Contractor; to the Committee on Armed Services.

EC–3585. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2001–02 Early Season'' (RIN1018–AH79) received on August 17, 2001; to the Committee on Indian Affairs.

EC–3586. A communication from the Executive Director of the National Commission on Libraries and Information Science, transmitting, pursuant to law, the Annual Report for 1998 and 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–3587. A communication from the General Counsel for the National Science Foundation, transmitting, pursuant to law, the report of a rule entitled ''Non-Governmental Antarctic Expeditions'' (RIN3145–AA36) received on August 15, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–3588. A communication from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Solid Minerals Reporting Requirements'' received on August 17, 2001; to the Committee on Energy and Natural Resources.

EC–3589. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''2001–2002 Refuge-Specific Hunting and Sport Fishing Regulations'' (RIN1018–AG58) received on August 22, 2001; to the Committee on Energy and Natural Resources.

EC–3590. A communication from the Register of Copyrights, Library of Congress, transmitting, pursuant to law, a report entitled ''DMCA Section 104 Report''; to the Committee on the Judiciary.

EC–3591. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to Gulf War Veterans for Calendar Years 1999 and 2000; to the Committee on Veterans' Affairs.

EC–3592. A communication from the Director of the Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Veterans Benefits Administration Nomenclature Changes'' received on August 16, 2001; to the Committee on Veterans' Affairs.

EC–3593. A communication from the Director of the Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Duty to Assist'' (RIN2900–AK69) received on August 23, 2001; to the Committee on Veterans' Affairs.

EC–3594. A communication from the Chairman and President of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Brazil; to the Committee on Banking, Housing, and Urban Affairs.

EC–3595. A communication from the Chairman and President of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the Democratic and Popular Republic of Algeria; to the Committee on Banking, Housing, and Urban Affairs.

EC–3596. A communication from the Chairman and President of the Export-Import Bank of the United States, transmitting, pursuant to law, a report of a transaction involving U.S. exports to the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC–3597. A communication from the Deputy Congressional Liaison, Federal Reserve Board, transmitting, pursuant to law, the report of a rule entitled ''Credit by Brokers and Dealers (Regulation T); List of Foreign Margin Stocks'' received on August 20, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–3598. A communication from the Secretary of the Division of Market Regulation, United States Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''240.3a55–1: Method for determining market capitalization and dollar value of average daily trading volume; application of the definition of narrow-based security index. 240.a55–2: Indexes underlying futures contracts trading for fewer than 30 days. 240.3a55–3: Futures contracts on security indexes trading on or subject to the rules of a foreign board of trade.'' (RIN3235–AI13) received on August 20, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–3599. A communication from the Counsel for Regulations, Government National Mortgage Association, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Government National Mortgage Association Mortgage-Backed Securities Program-Payments to Security Holders; Book-Entry Procedures'' (RIN2503–AA16) received on August 22, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–3600. A communication from the Chairman and President of the Export-Import Bank of the United States, transmitting, pursuant to law, a report of a transaction involving U.S. exports to Austria; to the Committee on Banking, Housing, and Urban Affairs.

EC–3601. A communication from the Chairman and President of the Export-Import Bank of the United States, transmitting, pursuant to law, the report of a transaction involving U.S. exports to Malaysia; to the Committee on Banking, Housing, and Urban Affairs.

EC–3602. A communication from the Deputy Secretary of the Division of Market Regulation, United States Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Registration of Broker-Dealers Pursuant to Section 15(b)(11) of the Securities Exchange Act of 1934'' (RIN3235–AI21) received on August 30, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–3603. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Railroad Track Maintenance Costs'' (Rev. Proc. 2001–46) received on August 21, 2001; to the Committee on Finance.

EC–3604. A communication from the Regulations Officer of the Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Old-Age, Survivors, and Disability Insurance; Revision to Medical-Vocational Guidelines'' (RIN0960–AE42) received on August 22, 2001; to the Committee on Finance.

EC–3605. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—September 2001'' (Rev. Rul. 2001–43) received on August 22, 2001; to the Committee on Finance.

EC–3606. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revise Form W–9'' (Ann. 2001–91) received on August 27, 2001; to the Committee on Finance.

EC–3607. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''2001 National Pool'' (Rev. Proc. 2001–44) received on August 27, 2001; to the Committee on Finance.

EC–3608. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update Notice'' (Notice 2001–52) received on August 27, 2001; to the Committee on Finance.

EC–3609. A communication from the Chief of the Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Change in Flat Rate of Duty on Articles Imported for Personal or Household Use or as Bona Fide Gifts'' (RIN1515–AC90) received on August 30, 2001; to the Committee on Finance.

EC–3610. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law the report of a rule entitled ''Guidance on Amendment of Section 401(a)(17) of the Code by EGTRRA'' (Notice 2001–56) received on September 4, 2001; to the Committee on Finance.

EC–3611. A communication from the Principal Deputy Assistant Secretary of the Army, Civil Works, transmitting, pursuant to law, a report relative to the deep-draft navigation project for Savannah Harbor, Georgia; to the Committee on Environment and Public Works.

EC–3612. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Missouri'' (FRL7032–2) received on August 8, 2001; to the Committee on Environment and Public Works.

EC–3613. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Full Approval of Operating Permits Program in Washington'' (FRL7031–6) received on August 8, 2001; to the Committee on Environment and Public Works.

EC–3614. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Waste Management Systems; Identification and Listing of Hazardous Waste; Final Exclusion'' (FRL7025–3) received on August 8, 2001; to the Committee on Environment and Public Works.

EC–3615. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Idaho: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL7013–5) received on August 8, 2001; to the Committee on Environment and Public Works.

EC–3616. A communication from the Chairman of the Nuclear Regulator Commission, transmitting, the Monthly Status Report on the Licensing Activities and Regulatory Duties for June 2001; to the Committee on Environment and Public Works.

EC–3617. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, a report relative to funding for the emergency declared as a result of extreme fire hazards in the State of Texas; to the Committee on Environment and Public Works.

EC–3618. A communication from the Inspector General of the Environmental Protection Agency, transmitting, pursuant to law, the Annual Super Fund Report for Fiscal Year 2000; to the Committee on Environment and Public Works.

EC–3619. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Amendments for Testing and Monitoring Provision Removal of a Provision for Opacity Monitoring'' (FRL7039–2) received on August 21, 2001; to the Committee on Environment and Public Works.

EC–3620. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Conversion of the Conditional Approval of the 15 Percent Plan for the Pennsylvania Portion of the Philadelphia-Wilmington-Trenton Nonattainment Area to a Full Approval'' (FRL7043–5) received on August 21, 2001; to the Committee on Environment and Public Works.

EC–3621. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Finding of Attainment for PM–10; Shoshone County (City of Pinehurst and Pinehurst Expansion Area'' (FRL7042–5) received on August 21, 2001; to the Committee on Environment and Public Works.

EC–3622. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Determination that the State of California has Corrected Deficiencies and Stay of Sanctions, El Dorado County Air Pollution Control District'' (FRL7028–9) received on August 21, 2001; to the Committee on Environment and Public Works.

EC–3623. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, El Dorado County Air Pollutions Control District'' (FRL7028–7) received on August 21, 2001; to the Committee on Environment and Public Works.

EC–3624. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting; Final Frameworks for Early Season Migratory Bird Hunting Regulations'' (RIN1018–AH79) received on August 21, 2001; to the Committee on Environment and Public Works.

EC–3625. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands'' (RIN1018–AH79) received on August 23, 2001; to the Committee on Environment and Public Works.

EC–3626. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Idaho: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL7031–5) received on August 23, 2001; to the Committee on Environment and Public Works.

EC–3627. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Tennessee'' (FRL7044–4) received on August 23, 2001; to the Committee on Environment and Public Works.

EC–3628. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''The Role of Screening-Level Risk Assessments and Refining Contaminants of Concern in Baseline Risk Assessments (2001)'' received on August 24, 2001; to the Committee on Environment and Public Works.

EC–3629. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Reuse Assessments: Tool to Implement Superfund Land Use'' received on August 24, 2001; to the Committee on Environment and Public Works.

EC–3630. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Operation and Maintenance in the Superfund Program'' received on August 24, 2001; to the Committee on Environment and Public Works.

EC–3631. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Local Emergency Planning Committees and Deliberate Releases'' received on August 24, 2001; to the Committee on Environment and Public Works.

EC–3632. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Drop Out Box Slag Generated at Electric Arc Furnaces'' received on August 24, 2001; to the Committee on Environment and Public Works.

EC–3633. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''FACTSHEET: Tier II Submit'' received on August 24, 2001; to the Committee on Environment and Public Works.

EC–3634. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Superfund Post Construction Completion'' received on August 24, 2001; to the Committee on Environment and Public Works.

EC–3635. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Recreational Use of Land Above Hazardous Waste Containment Areas'' received on August 24, 2001; to the Committee on Environment and Public Works.

EC–3636. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Comprehensive Five-Year Review Guidance'' received on August 24, 2001; to the Committee on Environment and Public Works.

EC–3637. A communication from the Principal Deputy Assistant Secretary of the Army, Civil Works, transmitting, pursuant to law, a report relative to Ocean City, Maryland, and Vicinity Water Resource Study, Final Integrated Feasibility Report and Environmental Impact Statement; to the Committee on Environment and Public Works.

EC–3638. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Unregulated Containment Monitoring Regulation for Public Water Systems; Amendment to the List 2 Rule and Partial Delay of Reporting of Monitoring Results'' (FRL7048–8) received on August 30, 2001; to the Committee on Environment and Public Works.

EC–3639. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Ozone Attainment Plan and Finding of Failure to Attain; State of California, San Francisco

Bay Area'' (FRL7048–1) received on August 30, 2001; to the Committee on Environment and Public Works.

EC–3640. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Final Full Approval of Operating Permit Programs; North Carolina, Mecklenburg County, and Western North Carolina'' (FRL7047–2) received on August 30, 2001; to the Committee on Environment and Public Works.

EC–3641. A communication from the Deputy Inspector General, Department of Defense, transmitting, pursuant to law, the Audit Report on Superfund Financial Transactions for Fiscal Year 2000; to the Committee on Environment and Public Works.

EC–3642. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for Sidalcea oregana var. calva (Wenatchee Mountains checker-mallow)'' (RIN1018–AH05) received on September 4, 2001; to the Committee on Environment and Public Works.

EC–3643. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Kootenai River Population of the White Sturgeon'' (RIN1018–AH06) received on September 4, 2001; to the Committee on Environment and Public Works.

EC–3644. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of VOC Emissions from Marine Vessels Coating Operations'' (FRL7049–3) received on September 4, 2001; to the Committee on Environment and Public Works.

EC–3645. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''FY02 Wetland Program Development Grants Guidelines'' (FRL7047–9) received on September 4, 2001; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 543: A bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits. (Rept. No. 107-61).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 703: A bill to extend the effective period of the consent of Congress to the interstate compact relating to the restoration of Atlantic salmon to the Connecticut River Basin and creating the Connecticut River Atlantic Salmon Commission, and for other purposes..

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1233: A bill to provide penalties for certain unauthorized writing with respect to consumer products.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEVIN for the Committee on Armed Services.

*Michael Parker, of Mississippi, to be an Assistant Secretary of the Army.

By Mr. LEAHY for the Committee on the Judiciary.

Sharon Prost, of the District of Columbia, to be United States Circuit Judge for the Federal Circuit.

Reggie B. Walton, of the District of Columbia, to be United States District Judge for the District of Columbia.

Deborah J. Daniels, of Indiana, to be an Assistant Attorney General.

Richard R. Nedelkoff, of Texas, to be Director of the Bureau of Justice Assistance.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ROCKEFELLER:

S. 1408. A bill to amend title 38, United States Code, to standardize the income threshold for copayment for outpatient medications with the income threshold for inability to defray necessary expense of care, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Mr. DASCHLE, Mr. SCHUMER, Ms. MIKULSKI, Mr. CRAPO, Mrs. CLINTON, Mrs. CARNAHAN, Mrs. BOXER, Mr. TORRICELLI, Mr. EDWARDS, Mr. CLELAND, Mr. ENSIGN, Mr. JOHNSON, and Mr. INOUYE):

S. 1409. A bill to impose sanctions against the PLO or the Palestinian Authority if the President determines that those entities have failed to substantially comply with commitments made to the State of Israel; to the Committee on Foreign Relations.

By Mr. COCHRAN (for himself, Mrs. LINCOLN, Mr. BREAUX, and Mr. LUGAR):

S. 1410. A bill to amend the Internal Revenue Code of 1986 to clarify the excise tax exemptions for aerial applicators of fertilizers or other substances; to the Committee on Finance.

By Mr. CAMPBELL (for himself and Mr. ALLARD):

S. 1411. A bill to authorize the transfer of the Denver Department of Veterans Affairs Medical Center, Colorado, and for other purposes; to the Committee on Veterans' Affairs.

ADDITIONAL COSPONSORS

S. 128

At the request of Mr. JOHNSON, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 128, a bill to amend the Federal Deposit Insurance Act to require periodic cost of living adjustments to the maximum amount of deposit insurance available under that Act, and for other purposes.

S. 311

At the request of Mr. DOMENICI, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 311, a bill to amend the Elementary and Secondary Education Act of 1965 to provide for partnerships in character education.

S. 487

At the request of Mr. LEAHY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 487, a bill to amend chapter 1 of title 17, United States Code, relating to the exemption of certain performances or displays for educational uses from copyright infringement provisions, to provide that the making of copies or phonorecords of such performances or displays is not an infringement under certain circumstances, and for other purposes.

S. 543

At the request of Mr. WELLSTONE, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 567

At the request of Mr. SESSIONS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 567, a bill to amend the Internal Revenue Code of 1986 to provide capital gain treatment under section 631(b) of such Code for outright sales of timber by landowners.

S. 595

At the request of Mr. WELLSTONE, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 595, a bill to amend the Public Health Service Act, Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to provide for nondiscriminatory coverage for substance abuse treatment services under private group and individual health coverage.

S. 653

At the request of Mr. BAYH, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 653, a bill to amend part D of title IV of the Social Security Act to provide grants to States to encourage media campaigns to promote responsible fatherhood skills, and for other purposes.

S. 677

At the request of Mr. HATCH, the names of the Senator from Minnesota (Mr. WELLSTONE), the Senator from North Dakota (Mr. DORGAN) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase

price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 694

At the request of Mr. LEAHY, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 694, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 736

At the request of Mr. ALLARD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 736, a bill to amend title 10, United States Code, to provide for the appointment of a Chief of the Veterinary Corps of the Army in the grade of brigadier general, and for other purposes.

S. 805

At the request of Mr. WELLSTONE, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 805, a bill to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Duchenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and emery-dreifuss muscular dystrophies.

S. 847

At the request of Mr. DAYTON, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 866

At the request of Mr. REID, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 866, a bill to amend the Public Health Service Act to provide for a national media campaign to reduce and prevent underage drinking in the United States.

S. 917

At the request of Ms. COLLINS, the names of the Senator from California (Mrs. BOXER), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 917, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 953

At the request of Mr. MCCONNELL, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 953, a bill to establish a Blue Ribbon Study Panel and an Election Administration Commission to study voting procedures and election administration, to provide grants to modernize voting procedures and election administration, and for other purposes.

S. 998

At the request of Ms. COLLINS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 998, a bill to expand the availability of oral health services by strengthening the dental workforce in designated underserved areas.

S. 1000

At the request of Mr. REED, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1000, a bill to amend the Child Care and Development Block Grant Act of 1990 to provide incentive grants to improve the quality of child care.

S. 1014

At the request of Mr. HARKIN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1014, a bill to amend the Social Security Act to enhance privacy protections for individuals, to prevent fraudulent misuse of the Social Security account number, and for other purposes.

S. 1036

At the request of Mr. HARKIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1036, a bill to amend the Agricultural Trade Development and Assistance Act of 1954 to establish an international food for education and child nutrition program.

S. 1083

At the request of Ms. MIKULSKI, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1083, a bill to amend title XVIII of the Social Security Act to exclude clinical social worker services from coverage under the medicare skilled nursing facility prospective payment system.

S. 1084

At the request of Mr. DURBIN, the names of the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Maryland (Ms. MIKULSKI), the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KERRY), the Senator from Minnesota (Mr. WELLSTONE) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 1084, a bill to prohibit the importation into the United States of diamonds unless the countries exporting the diamonds have in place a system of controls on rough diamonds, and for other purposes.

S. 1140

At the request of Mr. HATCH, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1169

At the request of Mr. FEINGOLD, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1169, a bill to streamline the regulatory processes applicable to home health agencies under the medicare program under title XVIII of the Social Security Act and the medicaid program under title XIX of such Act, and for other purposes.

S. 1201

At the request of Mr. HATCH, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1201, a bill to amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes.

S. 1208

At the request of Mr. GRAHAM, the name of the Senator from New York (Mr. SCHUMER) was withdrawn as a cosponsor of S. 1208, a bill to combat the trafficking, distribution, and abuse of Ecstasy (and other club drugs) in the United States.

S. 1209

At the request of Mr. BINGAMAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1209, a bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes.

S. 1349

At the request of Mr. ENSIGN, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from New Hampshire (Mr. SMITH) were added as cosponsors of S. 1349, a bill to provide for a National Stem Cell Donor Bank regarding qualifying human stem cells, and for the conduct and support of research using such cells.

S. RES. 132

At the request of Mr. CAMPBELL, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S.Res. 132, a resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of it.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER:

S. 1408. A bill to amend title 38, United States Code, to standardize the income threshold for copayment for outpatient medications with the income threshold for inability to defray necessary expense of care, and for other purposes; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, I am pleased to introduce today legislation that would exempt certain veterans from copayments for needed prescription drugs.

Currently, veterans with incomes of less than $24,000 a year are exempt from copayments for most VA health care services. However, when it comes to prescription drugs, the income threshold for exemption is just $9,000 a

year. Veterans earning over $9,000, well below the poverty threshold established by the Census Bureau, are required to make copayments. These copayments place an undue burden on our poorest veterans. To compound the problem, the Department of Veterans Affairs recently proposed increasing the copayment for prescription drugs from $2 to $7 per 30-day prescription.

I have serious concerns about what this copayment increase will mean for veterans. Indeed, I have already heard from a number of veterans whose incomes hover just above the $9,000 threshold, who must make the required copayments for their pharmaceuticals. Many of them are on several different medications for multiple medical conditions, each requiring their own copay. There are many veterans like Steven Smith, formerly of Greenwood, WV, who has no health insurance except Medicare and depends upon the VA for his medications. With the lack of a Medicare drug benefit, he, and many veterans like him, are faced with a 350 percent increase in what they must pay for life-sustaining medications.

I am not alone in my concerns about the impact the copayment increase will have on veterans. In commenting on the proposed regulations, the VFW recently cited an example of a veteran who has an annual income of $10,500, just above the current exemption limit set by VA. The increase in the prescription copayment rate would force that veteran to allocate over 8 percent of his annual income just to prescription drugs. There is a grave danger that, faced with this situation, many veterans will stop seeking necessary medical care because they are priced out of the system.

At a glance, the increase to $7 per prescription may seem reasonable enough and in keeping with industry standards. However, consider a veteran with an income of about $9,000 a year who currently pays $2 per prescription for 10 medications a month. He presently incurs out-of-pocket costs of $240 a year. Under the new regulations, his costs would go up to $840 per year, an increase of $600. For someone living barely over the $9,000 annual income threshold, this is a substantial sum.

I am also concerned about disparities in how VA defines who is ''poor'' for the purpose of exemption from health care copayments. For prescription drugs, veterans with more than $9,000 annual income must make copayments, but for outpatient care, hospitalization, and extended care, the income threshold for copayments is $24,000 per year. My proposed legislation would raise the exemption level for prescription copays to make them the same as all other VA health care copays. It will be less confusing to veterans, easier to administer, and quite simply, it's the right thing to do.

My legislation, the Veterans' Copayment Adjustment Act, would also require VA to delay implementing the increase in prescription copayments until we see an adjustment to copayments for other health care services. On July 24, I held a hearing on prescription drug issues in VA. At that hearing, we heard testimony from VA Secretary Anthony Principi who also believes that new drug copayments shouldn't be put into effect until we see a reduction in other health care copayments.

As part of the Veterans Millennium Health Care and Benefits Act, Congress gave VA authority to adjust the different health care copayments. This was intended to make VA's copayments more rational. Currently, veterans must make a copayment of over $50 for outpatient care services. There is no doubt that $50 for a routine outpatient visit is unreasonable at best, and at worst, discourages veterans from getting the primary care they need. By delaying the increase in the medication copayment until VA implements its adjusted outpatient copayment, we will reduce the negative financial impact on our Nation's veterans. I am confident that VA will study this issue closely and will expeditiously set the outpatient copayment to be more in line with managed care plans.

I urge my Senate colleagues to join me in seeking to provide affordable health care for our sick and disabled veterans. They have sacrificed for all of us, and deserve every effort we can make to keep them from having to choose between buying needed prescription drugs and putting food on the table.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1408

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans' Copayment Adjustment Act''.

SEC. 2. STANDARDIZATION OF INCOME THRESHOLDS FOR COPAYMENT FOR OUTPATIENT MEDICATIONS AND FOR INABILITY TO DEFRAY NECESSARY EXPENSES OF CARE.

(a) STANDARDIZATION.—Section 1722A(a)(3)(B) of title 38, United States Code, is amended to read as follows:

''(B) to a veteran whose attributable income is not greater than the amount provided for in subsection (b) of section 1722 of this title, as adjusted from time to time under subsection (c) of that section.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2002, and shall apply with respect to calendar years beginning on or after that date.

SEC. 3. LIMITATION ON IMPLEMENTATION OF INCREASE IN COPAYMENTS FOR OUTPATIENT MEDICATIONS PENDING COLLECTION OF COPAYMENTS FOR OUTPATIENT CARE.

Notwithstanding any other provision of law, the Secretary of Veterans Affairs may not implement under section 1722A(b)(1) of title 38, United States Code, an increase in the copayment amount for medications furnished on an outpatient basis under section 1722A(a) of that title until the Secretary commences collection of amounts for outpatient visits for medical services under section 1710(g) of that title.

By Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Mr. DASCHLE, Mr. SCHUMER, Ms. MIKULSKI, Mr. CRAPO, Mrs. CLINTON, Mrs. CARNAHAN, Mrs. BOXER, Mr. TORRICELLI, Mr. EDWARDS, Mr. CLELAND, Mr. ENSIGN, Mr. JOHNSON, and Mr. INOUYE):

S. 1409. A bill to impose sanctions against the PLO or the Palestinian Authority if the President determines that those entities have failed to substantially comply with commitments made to the State of Israel; to the Committee on Foreign Relations.

MIDDLE EAST PEACE COMPLIANCE ACT OF 2001

Mr. MCCONNELL. Mr. President, I am today joining with my good friend, Senator FEINSTEIN from California, who is in the Chamber as well, in offering the Middle East Peace Compliance Act of 2001. We do that with the support also of our colleagues, Senators DASCHLE, SCHUMER, MIKULSKI, CRAPO, CLINTON, CARNAHAN, BOXER, TORRICELLI, EDWARDS, CLELAND, ENSIGN, and SHELBY.

We also do so with full appreciation of the dire and untenable situation in the Middle East.

Given the ongoing and relentless bloodshed in the Middle East, the time has come for finger pointing. Palestinian Liberation Organization (PLO) Chairman Yasser Arafat—and the terrorists he allows free reign in the West Bank and Gaza—are guilty of waging a guerrilla war against America's most important and reliable ally in that region. Scores of innocent Israeli men, women and children have been killed by bombs, bullets, knives, and stones. In acts of cowardice, Palestinian suicide bombers have caused death and destruction in discos, pizza parlors, cafes, and on the streets of Jerusalem and Tel Aviv.

There appears no end to this madness. On Monday of this week, four bombs exploded in the Jerusalem neighborhood of French Hill. On Tuesday, a Palestinian suicide bomber disguised as an orthodox Jew killed himself and injured others on a Jerusalem street close to two international schools. One wonders how much more of this terror the people of Israel can—or should—endure.

Mr. Arafat and his minions are enlisting Palestinians of all ages to their misguided cause of mutually assured destruction. One Palestinian children's television show reportedly broadcast a song: ''When I wander into Jerusalem, I will become a suicide bomber.'' Mr. President, Israel is well aware of the people in Mr. Arafat's Neighborhood, and they are not ones they, or any

peaceful loving people, would choose to associate with.

The legislation we are introducing will make clear the intentions of Mr. Arafat and the PLO. In a report to Congress, the Administration is required to determine whether or not the PLO has lived up to its 1993 commitments under the Oslo Accords to renounce violence against Israel, and what steps have been taken by the PLO and the Palestinian Authority to investigate and prosecute those responsible for killing American and Israeli citizens. Should the Administration determine that the PLO's actions run contrary to their word, the President is required to immediately suspend all assistance to the West Bank and Gaza, except humanitarian aid. He is also required to initiate additional sanctions against the PLO, which may include denying visas to senior officials and downgrading their representative office in the United States.

I intend to offer this legislation, along with Senator FEINSTEIN, as an amendment to the Foreign Operations Appropriations bill, which may be considered by the full Senate in the near future.

While I will have much more to say on the situation in the Middle East at a later date, let me close by asking a question of my colleagues: If the daily terrorists attacks taking place against Israelis were occurring on American soil against U.S. citizens, what would our response be? A democracy in a region of dictatorships and kingdoms, Israel has the right and responsibility to protect and defend its citizens against terrorism. The United States should be clear in its support of Israel exercising this right, in whatever manner the people of Israel, through their elected leaders, deem appropriate. To date, Israel has shown remarkable restraint.

Mr. MCCONNELL. With great thanks to my colleague from California in collaborating with me on this effort, and looking forward to further efforts on behalf of this proposal, I now yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Kentucky for his leadership. We have consulted together on this bill, and I am very proud to join him as the lead Democratic cosponsor.

I ask unanimous consent to put the following Members from this side of the aisle on the bill: Senators DASCHLE, SCHUMER, MIKULSKI, CLINTON, CARNAHAN, BOXER, TORRICELLI, EDWARDS, and CLELAND.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, the Senator from Kentucky and I joined together in this legislation because we believe that if the violence between the Palestinians and Israel is to end and the peace process is to gain any momentum, the Palestinian leadership must show it can muster the political will that is necessary to meet the commitments they made at Oslo.

Most people, I think, don't know what the Oslo accords were. In fact, the Oslo accords were letters that were sent between the Palestinian and Israeli leadership in 1993. Those letters became the Oslo accords.

I want to indicate what the Palestinians, over the signature of their chairman, Mr. Arafat, said they would do on September 9, 1993:

> The PLO recognizes the right of the State of Israel to exist in peace and security.
>
> The PLO accepts United Nations Security Council Resolutions 242 and 338.
>
> The PLO commits itself to the Middle East peace process, and to a peaceful resolution of the conflict between the two sides and declares that all outstanding issues relating to permanent status will be resolved through negotiations.

These are not my words, these are the words of Chairman Arafat.

It goes on:

> The PLO considers that the signing of the Declaration of Principles constitutes a historic event, inaugurating a new epoch of peaceful coexistence, free from violence and all other acts which endanger peace and stability. Accordingly, the PLO renounces the use of terrorism and other acts of violence and will assume responsibility over all PLO elements and personnel in order to assure their compliance, prevent violence, and discipline violators.
>
> In view of the promise of a new era and the signing of the Declaration of Principles, and based on Palestinian acceptance of Security Council Resolutions 242 and 338, the PLO affirms that those articles of the Palestinian Covenant which deny Israel's right to exist, and the provisions of the Covenant which are inconsistent [with the commitments of this letter] are invalid.

For its part, Israel, under Prime Minister Rabin, in a letter to Chairman Arafat, stated:

> I wish to confirm to you that in light of the PLO commitments included in your letter, the Government of Israel has decided to recognize the PLO as the representative of the Palestinian people and commence negotiations with the PLO within the Middle East peace process.

Mr. President, that was what formed the beginning of Oslo—not the end, but the beginning of the Oslo peace process. They were the necessary minimum threshold to begin that process—a recognition that Israel has the right to exist in peace and security and that the Palestinian people have a right to be represented in peace negotiations by representatives of their own choosing.

Unfortunately, since Camp David last year, the Palestinians have carried out more than 6,700 armed attacks against Israelis in a fundamental violation of their peace process commitments. This Palestinian campaign of terror has killed 155 Israelis, 114 of them civilians, and it has wounded another 1,500 Israelis.

As the Senator from Kentucky pointed out, whether it is a bomb that goes off in a pizza parlor, a discotheque, a school bus, or a shopping mall, this is the way that kind of violence has happened.

Now, Israel has responded. Some have criticized Israel for that response. Yet if Israel is not going to practice that kind of response, the violence—such as the incident that just happened in Jerusalem, I think, yesterday, when somebody dressed as an Orthodox Jew walking down the street with a bomb in his backpack, detonated the bomb when an Israeli officer came up to him—must stop. A group of schoolchildren were nearby, but luckily they were not injured. Many others were.

The subject here is terror, and no Israeli and no Palestinian should have to live with terror every day, when a child gets on that school bus, when a son goes to work, when a wife goes shopping, when friends meet at a cafe or pizzeria or go to a night club.

The bombings, the terror, and the violence must stop. The Palestinian use of this kind of terror over the past 10 months runs contrary to what is expected of a peace partner. Mr. Arafat must understand that allowing an atmosphere of violence and terror to continue will not and cannot lead to peace.

The bill we are proposing today, the Middle East Peace Compliance Act, sends that signal clearly and simply and says either the PLO live up to these commitments or we return to a pre-Oslo posture.

So it is a very simple and very straightforward bill based on these commitments. It calls for the President to issue a report addressing whether the PLO and the Palestinian Authority are in compliance with the fundamental commitments they have repeatedly made to renounce terrorism.

If the President is unable to find that the PLO or the Palestinian Authority is adhering to its commitments, it requires him to restrict nonhumanitarian assistance to the West Bank and Gaza and to impose one of two additional sanctions: Denial of visas to Palestinian Authority officials, or closing the Palestinian office in the United States.

I think this legislation is necessary to send a message that we cannot continue this kind of violence. We cannot see that letter abrogated in chapter and verse—the letter that became the foundation of PLO recognition, and the letter that became the foundation of the Oslo peace process.

Let me be clear. It is also my expectation that the Government of Israel, for its part, must continue to meet the commitments it has made to peace and continue to exercise restraint in reaction to these Palestinian terrorist acts.

Mr. President, we submit this legislation. Again, I am very delighted to work with the distinguished Senator from Kentucky. We have a bill and, as the Senator said, we will also offer this as an amendment to the foreign operations appropriations bill. I thank the Chair and the Senator. It has been a great pleasure to work with him.

I yield the floor.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1409

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Middle East Peace Compliance Act of 2001''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) On September 9, 1993, Palestinian Liberation Organization (PLO) Chairman Yasser Arafat made the following commitments in an exchange of letters with Prime Minister of Israel Yitzhak Rabin:

(A) ''The PLO recognizes the right of the State of Israel to exist in peace and security.''.

(B) ''The PLO accepts United Nations Security Council Resolutions 242 and 338'' pertaining to the cessation of hostilities and the establishment of a just and lasting peace in the Middle East.

(C) ''The PLO commits itself to the Middle East peace process, and to a peaceful resolution of the conflict between the two sides and declares that all outstanding issues relating to permanent status will be resolved through negotiations.''.

(D) ''The PLO considers that the signing of the Declaration of Principles constitutes a historic event, inaugurating a new epoch of peaceful coexistence, free from violence and all other acts which endanger peace and stability. Accordingly, the PLO renounces the use of terrorism and other acts of violence and will assume responsibility over all PLO elements and personnel in order to assure their compliance, prevent violence and discipline violators.''.

(E) ''In view of the promise of a new era and the signing of the Declaration of Principles and based on Palestinian acceptance of Security Council Resolutions 242 and 338, the PLO affirms that those articles of the Palestinian Covenant which deny Israel's right to exist, and the provisions of the Covenant which are inconsistent with the commitments of this letter are now inoperative and no longer valid.''.

(2) The Palestinian Authority, the governing body of autonomous Palestinian territories, was created as a result of the agreements between the PLO and the State of Israel that are a direct outgrowth of the September 9, 1993, commitments.

(3) The United States Congress has provided authorities to the President to suspend certain statutory restrictions relating to the PLO, subject to Presidential certification that the PLO has continued to abide by commitments made.

SEC. 3. REPORTS.

(a) IN GENERAL.—The President shall, at the times specified in subsection (b), transmit to Congress a report—

(1) detailing and assessing the steps that the PLO or the Palestinian Authority, as appropriate, has taken to substantially comply with its 1993 commitments, as specified in section 2(1) of this Act;

(2) a description of the steps taken by the PLO or the Palestinian Authority, as appropriate, to investigate and prosecute those responsible for violence against American and Israeli citizens;

(3) making a determination as to whether the PLO or the Palestinian Authority, as appropriate, has substantially complied with such commitments during the period since the submission of the preceding report, or, in the case of the initial report, during the preceding 6-month period; and

(4) detailing progress made in determining the designation of the PLO, or one or more of its constituent groups (including Fatah and Tanzim) or groups operating as arms of the Palestinian Authority (including Force 17) as a foreign terrorist organization, in accordance with section 219(a) of the Immigration and Nationality Act.

(b) TRANSMISSION.—The initial report required under subsection (a) shall be transmitted not later than 30 days after the date of enactment of this Act. Each subsequent report shall be submitted on the date on which the President is next required to submit a report under the PLO Commitments Compliance Act of 1989 (title VIII of Public Law 101–246) and may be combined with such report.

SEC. 4. IMPOSITION OF SANCTIONS.

(a) IN GENERAL.—If, in any report transmitted pursuant to section 3, the President determines that the PLO or Palestinian Authority, as appropriate, has not substantially complied with the commitments specified in section 2(1), the following sanctions shall apply:

(1) SUSPENSION OF ASSISTANCE.—The President shall suspend all United States assistance to the West Bank and Gaza except for humanitarian assistance.

(2) ADDITIONAL SANCTION OR SANCTIONS.—The President shall impose one or more of the following sanctions:

(A) DENIAL OF VISAS TO PLO AND PALESTINIAN AUTHORITY FIGURES.—The President shall prohibit the Secretary of State from issuance of any visa for any member of the PLO or any official of the Palestinian Authority.

(B) DOWNGRADE IN STATUS OF PLO OFFICE IN THE UNITED STATES.—Notwithstanding any other provision of law, the President shall withdraw or terminate any waiver by the President of the requirements of section 1003 of the Foreign Relations Authorization Act of 1988 and 1989 (22 U.S.C. 5202) (prohibiting the establishment or maintenance of a Palestinian information office in the United States), and such section shall apply so as to prohibit the operation of a PLO or Palestinian Authority office in the United States from carrying out any function other than those functions carried out by the Palestinian information office in existence prior to the Oslo Accord.

(b) DURATION OF SANCTIONS.—The period of time referred to in subsection (a) is the period of time commencing on the date that the report pursuant to section 3 was transmitted and ending on the later of—

(1) the date that is 6 months after such date;

(2) the date that the next report under section 3 is required to be transmitted; or

(3) the date, if any, on which the President determines and informs Congress that the conditions that were the basis for imposing the sanctions are no longer valid.

(c) WAIVER AUTHORITY.—The President may waive any or all of the sanctions imposed under this Act if the President determines that such a waiver is in the national security interest of the United States, and reports such a determination to the appropriate committees of Congress.

SEC. 5. EFFECTIVE DATE; TERMINATION DATE.

(a) EFFECTIVE DATE.—This Act shall take effect on the date of enactment of this Act.

(b) TERMINATION DATE.—This Act shall cease to be effective 5 years after the date of enactment of this Act.

By Mr. CAMPBELL (for himself and Mr. ALLARD):

S. 1411. A bill to authorize the transfer of the Denver Department of Veterans Affairs Medical Center, Colorado, and for other purposes; to the Committee on Veterans' Affairs.

Mr. CAMPBELL. Mr. President, today I am introducing a bill to facilitate the move of the Denver Veterans Affairs Medical Center, DVAMC, from its present site in Denver to the former Fitzsimons Army Medical Center in Aurora, CO. I am happy to be joined in this effort by my friend and colleague Senator ALLARD as an original co-sponsor. The bill would authorize the Secretary of Veterans Affairs to accomplish the transfer in a timely manner. It would also require the Secretary to submit a report to the Veterans Affairs Committee and the Appropriations Committee of both the Senate and House of Representatives. This report would detail the costs of the transfer and would be submitted 60 days prior to awarding a contract for the move.

The relocation of the DVAMC to the former Fitzsimons site offers a unique opportunity to provide the highest quality medical care for our veterans. The University of Colorado Health Sciences Center, UCHSC, is moving its facilities from its overcrowded location near downtown Denver to the Fitzsimons site, a decomissioned Army base. The UCHSC and the DVAMC have long operated on adjacent campuses and have shared faculty, medical residents, and access to equipment. A DVAMC move to the new location would allow such cost-effective cooperation to continue, for the benefits of our veterans and all taxpayers.

The need to move is pressing. A recent VA study concludes that the Colorado State veterans' population will experience one of the highest percent increases nationally in veterans 65 and over between 1990 and 2020. The present VA hospital was built in the 1950's. While still able to provide service, the core facilities are approaching the end of their useful lives and many of the patient care units have fallen horribly out of date. Studies indicate that co-location with the University on a state-of-the-art medical campus would be a cost effective way to give veterans in the region the highest quality of care. The move would also provide a tremendous opportunity to showcase a nationwide model of cooperation between the University and the Department of Veterans Affairs, VA. These cooperative initiatives have proven time and again their effectiveness.

Timing is also very important. The VA needs to move quickly to realize the financial advantages of this unique opportunity. In order to make the move fiscally effective, the VA needs to make a decision not later than 2004. Additionally, our veterans are aging and their needs are increasing. Assisting our veterans with their medical needs is a promise we, as a country, made long ago.

The savings we can realize by approving the timely transfer of our veterans' medical treatment facilities in the Denver region compels me to urge my

colleagues to act quickly on this bill. We must not miss out on this opportunity to serve America's veterans and their families by ensuring that they receive the excellent medical care they deserve.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Denver Veterans Affairs Medical Center Transfer to Fitzsimons Act of 2001''.

SEC. 2. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECT TO FACILITATE TRANSFER OF DENVER DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, COLORADO.

(a) AUTHORIZATION.—The Secretary of Veterans Affairs may carry out a major medical facility project, in the amount appropriated for the project pursuant to the authorization of appropriations in subsection (b), for purposes of the transfer of the Denver Department of Veterans Affairs Medical Center, Colorado, from its current location in Denver, Colorado, to the site of the former Fitzsimons Army Medical Center, Aurora, Colorado.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for the Construction, Major Projects, account such sums as may be necessary for the project authorized by subsection (a).

(c) TRANSFER OF MEDICAL CENTER.—(1) Upon completion of the major medical facility project authorized by subsection (a), the Secretary shall transfer the Denver Department of Veterans Affairs Medical Center to the facility constructed pursuant to that authorization.

(2) Amounts for the cost of the transfer authorized by paragraph (1) shall be derived from amounts in the Construction, Major Projects, account for a category of activity not specific to a project that are available for obligation.

(d) REPORT ON TRANSFER COSTS.—Not later than 60 days before awarding the contract for the major medical facility project authorized by subsection (a), the Secretary shall submit to the appropriate congressional committees a report on the estimated cost of the transfer of the Denver Department of Veterans Affairs Medical Center under subsection (c).

(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means the following:

(1) The Committees on Veterans' Affairs and Appropriations of the Senate.

(2) The Committees on Veterans' Affairs and Appropriations of the House of Representatives.

AMENDMENTS SUBMITTED & PROPOSED

SA 1527. Mr. THOMPSON proposed an amendment to the bill S. 149, to provide authority to control exports, and for other purposes.

SA 1528. Mr. CRAIG (for himself, Mr. CRAPO, and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill S. 149, supra; which was ordered to lie on the table.

SA 1529. Mr. KYL proposed an amendment to the bill S. 149, supra.

SA 1530. Mr. SARBANES (for himself, Mr. GRAMM, Mr. ENZI, and Mr. JOHNSON) proposed an amendment to the bill S. 149, supra.

SA 1531. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 2500, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table.

SA 1532. Mr. REID (for Mr. LOTT) proposed an amendment to the bill H.R. 1885, to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings, and for other purposes.

TEXT OF AMENDMENTS

SA 1527. Mr. THOMPSON proposed an amendment to the bill S. 149, to provide authority to control exports, and for other purposes; as follows:

On page 197, line 15, strike ''substantially inferior'' and insert ''not of comparable quality''.

SA 1528. Mr. CRAIG (for himself, Mr. CRAPO, and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill S. 149, to provide authority to control exports, and for other purposes; which was ordered to lie on the table; as follows:

Insert at the appropriate place the following:

SEC. XXX. SENSE OF THE SENATE REGARDING THE REPUBLIC OF KOREA'S IMPROPER BAILOUT OF HYNIX SEMICONDUCTOR.

(a) FINDINGS.—Congress finds that—

(1) the Government of the Republic of Korea over many years has supplied aid to the Korean semiconductor industry enabling that industry to be the Republic of Korea's leading exporter;

(2) this assistance has occurred through a coordinated series of government programs and policies, consisting of preferential access to credit, low-interest loans, government grants, preferential tax programs, government inducement of private sector loans, tariff reductions, and other measures;

(3) in December 1997, the United States, the International Monetary Fund (IMF), other foreign government entities, and a group of international financial institutions assembled an unprecedented $58,000,000,000 financial package to prevent the Korean economy from declaring bankruptcy;

(4) as part of that rescue package, the Republic of Korea agreed to put an end to corporate cronyism, and to overhaul the banking and financial sectors;

(5) Korea also pledged to permit and require banks to run on market principles, to allow and enable bankruptcies and workouts to occur rather than bailouts, and to end subsidies;

(6) the Republic of Korea agreed to all of these provisions in the Stand-by Arrangement with the IMF dated December 3, 1997;

(7) section 602 of the Foreign Operations, Export Financing, and Related Agencies Appropriations Act, 1999, as enacted by section 101(d) of Division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law 105–277; 112 Stat. 2681–220) specified that the United States would not authorize further IMF payments to Korea unless the Secretary of the Treasury certified that the provisions of the IMF Standby Arrangement were adhered to;

(8) the Secretary of the Treasury certified to Congress on December 11, 1998, and July 2, 1999 that the Stand-by Arrangement was being adhered to, and assured Congress that consultations had been held with the Government of the Republic of Korea in connection with the certifications;

(9) the Republic of Korea has acceded to the World Trade Organization, and to the Agreement of Subsidies and Countervailing Measures (as defined in section 101(d)(12) of the Uruguay Round Agreements Act);

(10) the Agreement on Subsidies and Countervailing Measures specifically prohibits export subsidies, and makes actionable other subsidies bestowed upon a specific enterprise that causes adverse effects.

(11) Hynix Semiconductor is a major exporter of semiconductor products from the Republic of Korea to the United States; and

(12) the Republic of Korea has now engaged in a massive $5,000,000,000 bailout of Hynix Semiconductor which contravenes the commitments the Government of the Republic of Korea made to the IMF, the World Trade Organization and in other agreements, and the understandings and certifications made to Congress under the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999:

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) The Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative should forthwith request consultations with the Republic of Korea under Article 4 and Article 7 of the Agreement on Subsidies and Countervailing Measures of the World Trade Organization, and take immediately such other actions as are necessary to assure that the improper bailout by the Republic of Korea is stopped, and its effects fully offset or reversed;

(2) the relationship between the United States and Republic of Korea has been and will continue to be harmed significantly by the bailout of a major exporter of products from Korea to the United States;

(3) the Republic of Korea should end immediately the bailout of Hynix Semiconductor;

(4) the Republic of Korea should comply immediately with its commitments to the IMF, with its trade agreements, and with the assurances it made to the Secretary of the Treasury; and

(5) the United States Trade Representative and the Secretary of Commerce should monitor and report to Congress on steps that have been taken to end this bailout and reverse its effects.

SA 1529. Mr. KYL proposed an amendment to the bill S. 149, to provide authority to control exports, and for other purposes; as follows:

On page 296, strike line 1 through line 7 and insert the following:

''(3) REFUSAL BY COUNTRY.—If the country in which the end-user is located refuses to allow post-shipment verification of a controlled item, the Secretary may deny a license for the export of that item, any substantially identical or directly competitive item or class of items, any item that the Secretary determines to be of equal or greater sensitivity than the controlled item, or any controlled item for which a determination has not been made pursuant to section 211 to all end-users in that country until such post-shipment verification is allowed.''

SA 1530. Mr. SARBANES (for himself, Mr. GRAMM, Mr. ENZI, and Mr. JOHNSON) proposed an amendment to the bill S. 149, to provide authority to control exports, and for other purposes; as follows:

On page 193, line 10, strike ''party'' and insert ''person''.

On page 193, line 16, strike ''party'' and insert ''person''.

On page 205, line 7, after ''competition'' insert '', including imports of manufactures goods''.

On page 222, line 6, strike ''Crime'' and insert ''In order to promote respect for fundamental human rights, crime''.

On page 223, line 3, strike ''The'' and insert ''Except as herein provided, the''.

On page 223, line 9, after the period, insert the following: ''The provisions of subsection (a) shall apply with respect to exports of any of the items identified in subsection (c).''.

On page 223, between lines 9 and 10, insert the following:

(c) REPORT.—Notwithstanding the provisions of section 602 or any other confidentiality requirements, the Secretary shall include in the annual report submitted to Congress pursuant to section 701 a report describing the aggregate number of licenses approved during the preceding calendar year for the export of any items listed in the following paragraphs identified by country and control list number:

(1) Serrated thumbcuffs, leg irons, thumbscrews, and electro-shock stun belts.

(2) Leg cuffs, thumbcuffs, shackle boards, restraint chairs, straitjackets, and plastic handcuffs.

(3) Stun guns, shock batons, electric cattle prods, immobilization guns and projectiles, other than equipment used exclusively to treat or tranquilize animals and arms designed solely for signal, flare, or saluting use.

(4) Technology exclusively for the development or production of electro-shock devices.

(5) Pepper gas weapons and saps.

(6) Any other item or technology the Secretary determines is a specially designed instrument of torture or is especially susceptible to abuse as an instrument of torture.

On page 226, line 8, insert ''and'' after ''title;''.

On page 226, strike lines 9 through 22 and insert the following:

(ii) upon receipt of completed application—

(I) ensure that the classification stated on the application for the export items is correct;

(II) refer the application, through the use of a common data-base or other means, and all information submitted by the applicant, and all necessary recommendations and analyses by the Secretary to the Secretary of Defense, the Secretary of State, and the heads of any other departments and agencies the Secretary considers appropriate; or

(III) return the application if a license is not required.

On page 296, line 13, strike ''parties'' and insert ''persons''.

On page 296, line 11, after ''necessary'' insert '', to be available until expended,''.

On page 296, line 20, after ''necessary'' insert '', to be available until expended,''.

On page 297, line 20, after ''$5,000,000'' insert '', to be available until expended,''.

On page 298, line 12, after ''necessary'' insert '', to be available until expended,''.

On page 300, line 12, after ''$2,000,000'' insert '', to be available until expended,''.

On page 300, line 14, after ''$2,000,000'' insert '', to be available until expended,''.

On page 311, strike lines 2 though 4 and insert the following: ''other export authorization (or recordkeeping or reporting requirements), enforcement activity, or other operations under the Export Administration Act of 1979, under this Act, or under the Export''.

On page 311, line 14, insert ''by an employee or officer of the Department of Commerce'' after ''investigation''.

On page 315, strike lines 6 through 10 and insert the following: (1), except that no civil penalty may be imposed on an officer or employee of the United States, or any department or agency thereof, without the concurrence of the department or agency employing such officer or employee. Sections 503 (e), (g), (h), and (i) and 507 (a), (b), and (c) shall apply to actions to impose civil penalties under this paragraph. At the request of the Secretary, a department or agency employing an officer or employee found to have violated paragraph (1) shall deny that officer or employee access to information exempt from disclosure under this section. Any officer or employee who commits a violation of paragraph (1) may also be removed from office or employment by the employing agency.

On page 315, line 11, insert the following:

SEC. 603. AGRICULTURAL COMMODITIES, MEDICINE, MEDICAL DEVICES.

(a) APPLICABILITY OF TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000.—Nothing in this Act authorizes the exercise of authority contrary to the provisions of the Trade Sanctions Reform and Export Enhancement Act of 2000 (Public Law 106–387; 114 Stat. 1549, 549A–45) applicable to exports of agricultural commodities, medicine, or medical devices.

(b) TITLE II LIMITATION.—Title II does not authorize export controls on food.

(c) TITLE III LIMITATION.—Except as set forth in section 906 of the Trade Sanctions Reform and Export Enhancement Act of 2000, title III does not authorize export controls on agricultural commodities, medicine, or medical devices unless the procedures set forth in section 903 of such Act are complied with.

(d) DEFINITION.—In this section, the term ''food'' has the same meaning as that term has under section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)).

* * * * *

On page 324, strike lines 1 through 4 and redesignate paragraphs (14) and (15) accordingly.

Beginning on page 324, line 21, strike all through page 325, line 5, and insert the following:

(j) CIVIL AIRCRAFT EQUIPMENT.—Notwithstanding any other provision of law, any product that is standard equipment, certified by the Federal Aviation Administration, in civil aircraft, and is an integral part of such aircraft, shall be subject to export control only under this Act. Any such product shall not be subject to controls under section 38(b)(2) of the Arms Export Control Act (22 U.S.C. 2778(b)).

On page 325, between lines 5 and 6, insert the following:

(k) CIVIL AIRCRAFT SAFETY.—Notwithstanding any other provision of law, the Secretary may authorize, on a case-by-case basis, exports and reexports of civil aircraft equipment and technology that are necessary for compliance with flight safety requirements for commercial passenger aircraft. Flight safety requirements are defined as airworthiness directives issued by the Federal Aviation Administration (FAA) or equipment manufacturers' maintenance instructions or bulletins approved or accepted by the FAA for the continued airworthiness of the manufacturers' products.

On page 325, line 6, strike ''(k)'' and insert ''(l)''.

SA 1531. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 2500, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 35, line 8, after the semicolon insert the following: ''of which $500,000 shall be available for the Learning for Life Program conducted by the Boy Scouts of the National Capital Area;''.

SA 1532. Mr. REID (for Mr. LOTT) proposed an amendment to the bill H.R. 1885, to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Section 245(i) Extension Act of 2001''.

SEC. 2. EXTENSION OF DEADLINE.

(a) IN GENERAL.—Section 245(i)(1) of the Immigration and Nationality Act (8 U.S.C. 1255(i)(1)) is amended—

(1) is subparagraph (B)—

(A) in clause (i), by striking ''on or before April 30, 2001; or'' and inserting ''on or before the earlier of April 30, 2002, and the date that is 120 days after the date on which the Attorney General first promulgates final or interim final regulations to carry out the Section 245(i) Extension Act of 2001; or''; and

(B) in clause (ii), by striking ''on or before such date; and'' and inserting ''on or before the earlier date described in clause (i);'';

(2) in subparagraph (C), by adding ''and'' at the end; and

(3) by inserting after subparagraph (C) the following:

''(D) who, in the case of a beneficiary of a petition for classification, or an application for labor certification, described in subparagraph (B) that was filed after April 30, 2001, demonstrates that the familial relationship existed before August 15, 2001, or the application for labor certification that is the basis of such petition for classification was filed before August 15, 2001;''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the Legal Immigration Family Equity Act (114 Stat. 2762A–345), as enacted into law by section 1(a)(2) of Public Law 106–553.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, September 6 at 9:30 a.m. in closed session to mark up the Department of Defense authorization Act for fiscal year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Brian Jones, of California, to be General Counsel, Department of Education during the session of the Senate on Thursday, September 6, 2001. At 10:00 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, September 6, 2001 at 10:00 a.m., in SD226.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 6, 2001 at 9:30 a.m. to hold a mark-up.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Technology and Space of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, September 6, 2001, at 2:30 p.m. on shuttle safety.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Strategic of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, September 6, 2001 at 1:30 p.m. in closed session to mark up the strategic programs and provisions contained in the Department of Defense Authorization Act for fiscal year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, SEPTEMBER 10, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 11 a.m., Monday, September 10. I further ask unanimous consent that on Monday, immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate conduct a period of morning business until 12 noon with Senators permitted to speak for up to 10 minutes each with the following exceptions: Senator THOMAS or a designee from 11 to 11:30; Senator DURBIN from 11:30 to 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I express my appreciation and that of the Senate for the patience of the Presiding Officer. We thought we would be finished several hours ago. I know the Senator from Florida had many other things to do. As usual, he is such a team player. On behalf of the whole Senate, I express my appreciation.

PROGRAM

Mr. REID. Mr. President, therefore, on Monday, September 10, as a result of the consent agreements that have been entered, the Senate will convene at 11 a.m. with a period of morning business until 12 noon. At 12 noon, the Senate will take up the Commerce-State-Justice appropriations bill. Rollcall votes will occur on Monday after 5 p.m.

ADJOURNMENT UNTIL 11 A.M. MONDAY, SEPTEMBER 10, 2001

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:29 p.m., adjourned until Monday, September 10, 2001, at 11 a.m.