

o'clock and 53 minutes p.m.) the Senate took a recess until 2:30 p.m. the same day.

On the expiration of the recess, the Senate reconvened, when called to order by the Presiding Officer (Mr. HANSEN in the chair).

#### CONTINUATION OF AUTHORITY FOR REGULATION OF EXPORTS—CONFERENCE REPORT

Mr. MONDALE. Mr. President, as in legislative session, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4293) to provide for continuation of authority for regulation of exports. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The bill clerk read the report, as follows:

##### CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4293) to provide for continuation of authority for regulation of exports, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows.

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

##### SHORT TITLE

SECTION 1. This Act may be cited as the "Export Administration Act of 1969".

##### FINDINGS

SEC. 2. The Congress finds that—

(1) the availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States;

(2) the unrestricted export of materials, information, and technology without regard to whether they make a significant contribution to the military potential of any other nation or nations may adversely affect the national security of the United States;

(3) the unwarranted restriction of exports from the United States has a serious adverse effect on our balance of payments; and

(4) the uncertainty of policy toward certain categories of exports has curtailed the efforts of American business in those categories to the detriment of the overall attempt to improve the trade balance of the United States.

##### DECLARATION OF POLICY

SEC. 3. The Congress makes the following declarations:

(1) It is the policy of the United States both (A) to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest, and (B) to restrict the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States.

(2) It is the policy of the United States to use export controls (A) to the extent neces-

sary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal foreign demand, (B) to the extent necessary to further significantly the foreign policy of the United States and to fulfill its international responsibilities, and (C) to the extent necessary to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States.

(3) It is the policy of the United States (A) to formulate, reformulate, and apply any necessary controls to the maximum extent possible in cooperation with all nations with which the United States has defense treaty commitments, and (B) to formulate a unified trade control policy to be observed by all such nations.

(4) It is the policy of the United States to use its economic resources and trade potential to further the sound growth and stability of its economy as well as to further its national security and foreign policy objectives.

(5) It is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States, and (B) to encourage and request domestic concerns engaged in the export of articles, materials, supplies, or information, to refuse to take any action, including the furnishing of information of the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States.

##### AUTHORITY

SEC. 4. (a) (1) The Secretary of Commerce shall institute such organizational and procedural changes in any office or division of the Department of Commerce which has heretofore exercised functions relating to the control of exports and continues to exercise such controls under this Act as he determines are necessary to facilitate and effectuate the fullest implementation of the policy set forth in this Act with a view to promoting trade with all nations with which the United States is engaged in trade, including trade with (A) those countries or groups of countries with which other countries or groups of countries having defense treaty commitments with the United States have a significantly larger percentage of volume of trade than does the United States, and (B) other countries eligible for trade with the United States but not significantly engaged in trade with the United States. In addition, the Secretary shall review any list of articles, materials, or supplies, including technical data or other information, the exportation of which from the United States, its territories and possessions, was heretofore prohibited or curtailed with a view to making promptly such changes and revisions in such list as may be necessary or desirable in furtherance of the policy, purposes, and provisions of this Act. The Secretary shall include a detailed statement with respect to actions taken in compliance with the provisions of this paragraph in the second quarterly report (and in any subsequent report with respect to actions taken during the preceding quarters) made by him to the Congress after the date of enactment of this Act pursuant to section 10.

(2) The Secretary of Commerce shall use all practicable means available to him to keep the business sector of the Nation fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging the widest possible trade.

(b) To effectuate the policies set forth in section 3, the President may prohibit or curtail the exportation from the United States, its territories and possessions, of any articles, materials, or supplies, including technical data or other information, except under such rules and regulations as he shall pre-

scribe. To the extent necessary to achieve effective enforcement of this Act, such rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation therein by any person. Rules and regulations prescribed in the interest of the national security shall provide that express permission and authority must be sought and obtained to export articles, materials, or supplies, including technical data or other information, from the United States, its territories and possessions, to any nation or combination of nations, if the President determines that (1) such articles, materials, supplies, data, or information would make a significant contribution to the military potential of such nation or nations which would prove detrimental to the national security of the United States, and (2) articles, materials, supplies, data, or information of comparable quality and technology to that sought to be exported are not readily available to such nation or nations from other sources: *Provided*, That express permission and authority shall be required to be sought and obtained, in accordance with such rules and regulations, in order to export to any nation or nations articles, materials, supplies, data, or information with respect to which the President has not made the determination referred to in clause (2), if the President (A) determines such action to be necessary in the interest of national security, and (B) includes in the first quarterly report submitted, pursuant to section 10, after taking such action a full and detailed statement with respect to such action setting forth the pertinent articles, materials, supplies, data, or information; the nation or nations affected thereby; and the reasons therefor. Rules and regulations prescribed under this subsection shall implement the provisions of section 3(5) of this Act and shall require that all domestic concerns receiving requests for the furnishing of information or the signing of agreements as specified in such section must report this fact to the Secretary of Commerce for such action as he may deem appropriate to carry out the purposes of such section.

(c) Nothing in this Act, or in the rules and regulations authorized by it, shall in any way be construed to require authority and permission to export articles, materials, supplies, data, or information except where the national security, the foreign policy of the United States, or the need to protect the domestic economy from the excessive drain of scarce materials makes such requirement necessary.

(d) The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may deem appropriate.

(e) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils, during any period for which the supply of such commodity is determined by the Secretary of Agriculture to be in excess of the requirements of the domestic economy, except to the extent required to effectuate the policies set forth in clause (B) or (C) of paragraph (2) of section 3 of this Act.

##### CONSULTATION AND STANDARDS

SEC. 5. (a) In determining what shall be controlled hereunder, and in determining the extent to which exports shall be limited, any department, agency, or official making these determinations shall seek information and advice from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. Consistent with considerations of national security, the President shall from time to time seek information and advice from various segments of private industry in connection with the making of these determinations.

(b) In authorizing exports, full utilization of private competitive trade channels shall

be encouraged insofar as practicable, giving consideration to the interests of small business, merchant exporters as well as producers, and established and new exporters, and provision shall be made for representative trade consultation to that end. In addition, there may be applied such other standards as criteria as may be deemed necessary by the head of such department, or agency, or official to carry out the policies of this Act.

#### VIOLATIONS

SEC. 6. (a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than \$10,000 or imprisoned not more than one year, or both. For a second or subsequent offense, the offender shall be fined not more than three times the value of the exports involved or \$20,000, whichever is greater, or imprisoned not more than five years, or both.

(b) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any Communist-dominated nation, shall be fined not more than five times the value of the exports involved or \$20,000, whichever is greater, or imprisoned not more than five years, or both.

(c) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed \$1,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(d) The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to 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.

(e) Any amount paid in satisfaction of any penalty imposed pursuant to subsection (c) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within two years after payment, on the ground of a material error of fact or law in the imposition. Notwithstanding section 1346(a) of title 28 of the United States Code, no action for the refund of any such penalty may be maintained in any court.

(f) In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. In any such action, the court shall determine de novo all issues necessary to the establishment of liability. Except as provided in this subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(g) Nothing in subsection (c), (d), or (f) limits—

(1) the availability of other administrative or judicial remedies with respect to violations 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 violations of this Act, or any regulation, order, or license issued under this Act; 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)).

#### ENFORCEMENT

SEC. 7. (a) To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpoena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and 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, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46) shall apply with respect to any individual who specifically claims such privilege.

(c) No department, agency, or official exercising any functions under this Act shall publish or disclose information obtained hereunder which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, unless the head of such department or agency determines that the withholding thereof is contrary to the national interest.

(d) In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology. A detailed statement with respect to any action taken in compliance with this subsection shall be included in the first quarterly report made pursuant to section 10 after such action is taken.

#### EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 8. The functions exercised under this Act are excluded from the operation of sections 551, 553-559, and 701-706, of title 5 United States Code.

#### INFORMATION TO EXPORTERS

SEC. 9. In order to enable United States exporters to coordinate their business activities with the export control policies of the United States Government, the agencies, departments, and officials responsible for implementing the rules and regulations authorized under this Act shall, if requested, and insofar as it is consistent with the national security, the foreign policy of the United States, the effective administration of this Act, and requirements of confidentiality contained in this Act—

(1) inform each exporter of the considerations which may cause his export license request to be denied or to be the subject of lengthy examination;

(2) in the event of undue delay, inform each exporter of the circumstances arising during the Government's consideration of his export license application which are cause for denial or for further examination;

(3) give each exporter the opportunity to present evidence and information which he believes will help the agencies, departments, and officials concerned to resolve any problems or questions which are, or may be, connected with his request for a license; and

(4) inform each exporter of the reasons for a denial of an export license request.

#### QUARTERLY REPORT

SEC. 10. The head of any department or agency, or other official exercising any functions under this Act, shall make a quarterly report, within 45 days after each quarter, to the President and to the Congress of his operations hereunder.

#### DEFINITION

SEC. 11. The term "person" as used in this Act includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof.

#### EFFECTS ON OTHER ACTS

SEC. 12. (a) The Act of February 15, 1936 (49 Stat. 1140), relating to the licensing of exports of tinplate scrap, is hereby superseded; but nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) The authority granted to the President under this Act shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934).

#### EFFECTIVE DATE

SEC. 13. (a) This Act takes effect upon the expiration of the Export Control Act of 1949.

(b) All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 or section 6 of the Act of July 2, 1940 (54 Stat. 714), shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act.

#### TERMINATION DATE

SEC. 14. The authority granted by this Act terminates on June 30, 1971, or upon any prior date which the Congress by concurrent resolution or the President by proclamation may designate.

And the Senate agree to the same.

EDMUND S. MUSKIE,  
HARRISON A. WILLIAMS,  
WALTER F. MONDAGE,  
HAROLD E. HUGHES,  
JOHN G. TOWER,  
WALLACE F. BENNETT,  
EDWARD W. BROOKE.

Managers on the Part of the Senate.

WRIGHT PATMAN,  
LEONOR K. SULLIVAN,  
HENRY S. REUSS,  
THOMAS L. ASHLEY.

Managers on the Part of the House.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. MONDALE. Mr. President, this measure is one which the Senate sent to conference and which liberalizes the export control policy of this Government. It represents the agreement of a majority of the conferees.

I understand the Senator from Utah

(Mr. BENNETT) has some questions concerning the measure.

Mr. BENNETT. I thank the Senator.

Mr. President, I was a member of the conference committee, and I signed the report, so this is not an attempt to upset that report, and I hope it will be approved. But, as is frequently the case, some questions have arisen as to the meaning of some aspects of the report; and, with the cooperation of my friend from Minnesota, I would like to make a legislative record to clear up those questions.

I have four questions.

The first is a question about the proposed act's ability to detect and subject to appropriate control new items and emerging technology of strategic importance.

Under the existing law, to protect against the export, either inadvertent or otherwise, of strategic items not previously identified as such by Commerce, the Office of Export Control controls certain "categories of products not elsewhere classified" called basket categories. These cover groups of similar products rather than individual items and require that before exporting such products the shipper must apply for an export license thereby enabling Commerce to determine whether or not the product is strategic.

Certainly, the new bill does not abolish the basket categories which the President thinks are so important.

I would like to ask my friend whether his opinion is the same as mine.

Mr. MONDALE. Mr. President, obviously the Export Control Office has to have the authority to review items of new commodities and new technology to determine whether or not a license should be required, and to determine in what way the item is related to the export control policy. It is certainly my belief that it was the intention that the office should continue to have that authority.

Mr. BENNETT. Under the present situation, when a new product or a new system or technology originates, it is probably fair to say that it is automatically subject to control, until they have had a chance to review it.

Mr. MONDALE. I do not see how they can pass judgment on it unless they are given the right to look at it. I am sure that is the intent of Congress.

Mr. BENNETT. That would probably mean that, until a question is raised, it will remain under their control.

Mr. MONDALE. That is right.

Mr. BENNETT. And at that time, when an application for a license is filed, they will have to decide whether to—

Mr. MONDALE. I am answering on the basis of first impression, because I do not recall this issue being specifically heard or discussed at the time. But it seems to me to be commonsense that they have to have a right to look at these items to know whether or not a license is to be required. Of course, it has to be done in the context and spirit of the legislation, but it would seem to me that power must necessarily exist in the Export Control Office.

Mr. BENNETT. I am sure that, in the spirit of the legislation, the agency would be expected to look at new programs as soon as possible or as soon as there is

any question raised about their exportability.

Mr. MONDALE. As the Senator knows, the legislation clearly prohibits items of significant military status, and surely the export control licensor has to have authority to look at these items under the other provisions of the act.

Mr. BENNETT. Just to nail it down, I have an example here, and it might help make the legislative record.

The Office of Export Control list includes a basket category called "other machines and equipment for treatment of materials by a process involving a change in temperature."

At one time it was thought that perhaps no items of a strategic character were left in this basket. However, Commerce recently received an export application for helium liquefaction equipment to East Germany which the company filled because it was considered to fall only in this basket. A study indicated that the preponderance of this type of equipment is used in research sponsored by DOD and AEC. Had this basket been required to be removed from the Commerce list, the exporter would have been free to ship his equipment without a license and Commerce would not have had the occasion to study it. One of the more important new uses of liquid helium is to cool masers which are used in supersensitive microwave and radar receivers for satellite communication and missile detection. The application for exportation of this item was denied and the equipment was placed under full control.

I am sure the Senator agrees that that is a proper exercise of the responsibility of the Department.

Mr. MONDALE. I agree with the Senator. I do not know anything about this item. I would not know how I could pass judgment on it, and I am sure that that is not what the Senator is asking. However, this is the sort of authority that must remain in the Export Control Office in order to enable it to make its determination as to whether an item within the terms of the act is to be controlled by license or not.

Mr. BENNETT. I have another example I would like to have in the Record.

A few years ago a device called the isostatic press first came into commercial production. This has been found to be of great significance in the fabrication of nuclear weapon components, nuclear reactor parts, missile nose cones, and rocket nozzle inserts. Before the existence of this press and its strategic uses could come to the knowledge of the Office of Export Control, such presses and the technology to make them would have been exportable freely, but for the fact that the Office has a basket category on its list called "other machines and mechanical appliances, not elsewhere classified." Such presses could not be otherwise controlled because they were not specifically known and, therefore, could not be named as such on the list.

Today such presses are in a specific entry on the U.S. list and also controlled by Cocom at our instigation.

Since the experience with isostatic presses, other relatively new or hitherto unknown strategic items have been

found in this basket and pulled out. Examples are numerically controlled filament winding equipment for solid rocket motor cases and other military items, and batch-type solid rocket propellant mixers.

I thank the Senator, and I shall move on to another question.

In the authority section of the bill, I think some clarification is needed about one of the new, main thrusts of the legislation. This is the matter requiring that the President take into consideration the availability from other countries of articles comparable to U.S. goods, to determine whether the U.S. goods require export licenses. The language of the bill states: "available to such nation or nations from other sources." There is no further explanation as to whether the other sources are limited to nations with which we have defense treaties, or whether they may also include all the free world countries and even Communist nations such as Russia and China, and the rest.

If Czechoslovakia or even Sweden might offer to the Soviet Union some strategic machine-tool or electrical equipment that is reasonably comparable or similar to equipment of ours, would it be necessary for us to make our similar equipment, which might be considered strategic, available to a country behind the Iron Curtain?

Mr. MONDALE. I refer the Senator to the report of the Senate committee on that language, as it appears on the bottom of page 13, which speaks of items available from free-world sources. The language of the statute is silent, I think, on the question which the Senator asked.

Mr. BENNETT. That is why the question was raised.

Mr. MONDALE. The committee language speaks primarily of focusing on the question of free-world alternative sources. I would include Sweden within that definition.

Mr. BENNETT. Yes.

Mr. MONDALE. But a question arises: Suppose an item is available from an alternative source, an item produced in Eastern Europe, but not in one of the so-called free-world countries. I find it difficult to answer this question, although I think the thrust or focus of the bill is on the availability of such items, say from England, West Germany, France, Italy, and Japan.

Mr. BENNETT. The free world.

Mr. MONDALE. Yes; including the Scandinavian countries and other sources of supply that are increasingly capable of producing the same kind of items as the United States. It was the feeling of the committee that it was desired not to deny U.S. businessmen the opportunity to sell such items when the same item could be freely purchased by Eastern European countries from those other sources.

I think that is the focus. We did not deal with this problem in the committee. It is hard for me to answer the question directly.

Mr. BENNETT. Let me turn it around. If the controller or administrator discovered that a certain process was available in Czechoslovakia or Poland, and the Soviet Union, Russia, wanted to pur-

chase it, would the Senator feel that under this law, its availability in another Iron Curtain country would mandate us to permit export of an article manufactured in this country of a similar nature, or for a similar purpose, automatically because it was available behind the Iron Curtain?

Mr. MONDALE. Mr. President (Mr. Cook in the chair), my difficulty in answering that is that I do not think the committee or the Senate considered it, except that our committee language and most of the data we developed before the hearings was directed at sources of supply in the free world.

In addition, it is difficult to answer the question because I suppose we should know something about the kind of item involved. Suppose, for example, that East Germany was producing an early generation of video tape that was similar to video tape produced by U.S. businessmen, and it was simply a question of buying it there or from us. I frankly do not know what the result would be under this statute, because I do not think we focused on it except as the language of the report reflects, and I do not know how large a problem that is. Frankly, I was not under the impression that this was a very significant problem. If it is, it never arose in the hearings or in the debate.

Mr. BENNETT. Apparently the Department of Commerce is concerned about it, and apparently they fear that this bill might take away from them their power to interdict the export of something from the United States that might have military significance to the buyer, because it is available in another country, and that other country might be another Iron Curtain country.

Mr. MONDALE. I think it is very clear that the Export Control Office retains clear authority, indeed a responsibility, to prohibit the sale of American items of military significance. The exact language of the statute appears—

Mr. BENNETT. I have it here; let me read it. It is section 4(b), about half way down.

Mr. MONDALE. Yes. The standard is a significant contribution to the military potential of such nation or nations.

Mr. BENNETT. Yes; and articles, materials, and so on which are not readily available to such nation from other sources.

Mr. MONDALE. Yes. One of the difficulties in this area, of course, is that there are several other statutes that bear upon matters of military significance as well.

Mr. BENNETT. Yes.

Mr. MONDALE. I am not completely familiar with the operation of those statutes, but those are to be read in context with this legislation in dealing with matters of military significance.

Mr. BENNETT. Therefore, the Senator does not feel that the use of the word "and" to connect (1) and (2) would take away from the administrator any power he needs to control the export of articles with military significance?

Mr. MONDALE. When an item is sold for the purpose of making a significant military contribution, it was the intention of the committee, in my view, that

it would be restricted by the Export Control Office, under this and other acts.

Mr. BENNETT. Regardless of whether or not it was available from any other source?

Mr. MONDALE. Yes. If that is the intent and the purpose for which it is being sold. But if it is for a peaceful use, then the alternative source consideration would come into play.

Mr. BENNETT. And it would be the responsibility of the Department of Commerce to decide whether or not it had enough significant military application to warrant its being put on the list?

Mr. MONDALE. They would have to determine whether it was for the purpose of contributing significantly to the military potential.

Mr. BENNETT. But they would have the responsibility and the authority to make that determination?

Mr. MONDALE. Yes.

Mr. BENNETT. I thank the Senator. My third question goes to the meaning of section 4(c). I want to make sure that this provision will not preclude the export administrator from dealing effectively with an exporter who has demonstrated his lack of trustworthiness to handle strategic exports. They can now deal with him by barring him from making any exports whatever, strategic or nonstrategic. Otherwise, such an untrustworthy exporter cannot practically be prevented from evading controls over strategic goods.

Let me turn that around. As the Senator knows, at the present time the Department of Commerce issues general licenses for goods being shipped to free world destinations. These general licenses minimize the paper work and requirements. Once an exporter has a general license, he can go on exporting that particular product or those products without getting a specific license every time.

It seems to me that in our effort to assist businessmen in their exports, we do not want to interfere in any way with the ability of the Department of Commerce to issue these general licenses, because I think the alternative might be more onerous on the business community, and, as indicated, might take away from the Department its chance to protect itself against the unscrupulous exporter. I should like to have the Senator's opinion on this particular problem.

Mr. MONDALE. The violation section of the export control bill before us gives several remedies to deal with exporters who operate fraudulently and in other unlawful ways, in the form of fines, and criminal penalties for aggravated violations. It is my opinion of this measure that the Export Control Office, nevertheless, would retain the authority to refuse to grant a license to an applicant who has proved time and time again his untrustworthiness, to the point where they just cannot deal with him with any faith and confidence whatsoever.

The spirit of the bill, however, is so designed in cases where that does not exist to encourage and facilitate U.S. businessmen involved in nonstrategic items coming within the control of this act.

Mr. President, I read from the committee report on page 15, which says:

The committee wishes to underscore its belief that the American exports are an inherent part of the economic foundations and wellbeing of this country. The right of American businessmen to freely export its products should not abridge except where necessary to fulfill some overriding national interest.

I do not want my answer to be construed in a way that would frustrate the spirit of what we are trying to accomplish. We had abundant testimony from some of the most responsible business leaders in this country, men from responsible, patriotic corporations, who testified about the extended delays and uncertainties and bureaucratic redtape and the vagueness and the frustrations involved in dealing with the Export Control Office.

This is not the case of an untrustworthy businessman. This is the case of a reluctant and timid bureaucracy that would not encourage the businessmen to become actively engaged in trading in nonstrategic items. And it is the hope and spirit behind the legislation not only to passively permit them to engage in the trade of items not of military significance, but also to administer the act in such a way that they are encouraged to become involved where the national interests of this country are concerned.

Having said that, if there is a businessman who has proved his utter untrustworthiness, whose applications cannot be believed, and whose words cannot be believed, I think it would be the intent of the legislation that the Export Control Office could refuse to do business with him.

Mr. BENNETT. With respect to exporters who, on the contrary, have exhibited trustworthiness and dependability, as I understand it, under the present setup they issue him a general license to export certain things, and he does not have to keep coming back for a special license. Would the Senator see any reason to change that provision?

Mr. MONDALE. That particular policy, I think, is based more on the item than on the morality of the applicant.

Some licenses are granted on general licenses and others on special licenses. It is not my understanding of the testimony that that was related to the trustworthiness of the applicant.

As I understand the question, it goes to the matter of whether the Export Control Office can refuse to grant a license to a businessman who has manifestly demonstrated his untrustworthiness. I think that power must reside in them.

Mr. BENNETT. Perhaps two questions are involved here. The other refers to the pattern of using a general license on items that have been released from any control.

Does the Senator see any reason for changing that pattern?

Mr. MONDALE. We did not in this legislation rule in favor of a special license as against a general license or in favor of a general license against a special license. That was not the intent of the legislation.

What we did want to do was, first of all, change the standards so that they

did not include economic significance, because obviously any commercial bargain has economic significance. So, we wanted to change the standards so that it would be limited to significant military application, and we wanted to deal with the area within which items are freely available elsewhere and only the U.S. businessman is prevented from participating because of our unilateral restrictions.

I do not think we intended to draw any conclusions about what device is utilized by the Export Control Office, to effectuate the intent of whether they use a general or special license, or devise some new method of controls, so long as they give effect to the purposes and intent of the new law.

Mr. BENNETT. Mr. President, in reading the new law, there is some question whether it did not require the Control Office to allow people to export nonstrategic material without a license and just allow them to go free. This, I think, should be cleared up.

Mr. MONDALE. Mr. President, I understand that a general license is the equivalent of no license. A special license is one issued pursuant to a specific application requirement. The only way I can answer is to refer the Senator to the language of the bill which, I think, tries to draw a distinction, which obviously will change depending on the facts in each case, to determine in which case there should be free availability to the markets and in which cases it is determined that the item is of sufficient military application—a fact that the Export Control Office must determine.

I would point out in making this clear that one of the compromises made in the bill was to provide in this standard that the President still retained the power to control any item he deems necessary to control.

Mr. BENNETT. Mr. President, I think the question is an administrative one. And I think the Senator has answered it, at least to my satisfaction.

As I understand the answer, if the administration wants to use a general license for items that are generally available in order to get some information out of the issuing of the license, the bill would not prevent it.

Mr. MONDALE. The Senator is correct. And my answer must be given in the context of the bill we are now dealing with and the hope for a relaxation of the bureaucratic restrictions and a relaxation of the export control restrictions where items not of significant military application are freely available elsewhere.

That is the basic thrust. However, this is not only a passive determination by the Senate, but also an affirmative hope that we are encouraging a support of the U.S. businessmen. This is not only a technical act, but also a symbolic step made by the U.S. Congress to tell the American businessmen that we support them in their efforts to become involved in this market.

Mr. BENNETT. Mr. President, I thank my friend, the Senator from Minnesota.

My last question refers to another practical problem. Under section 4(a) (1), the Secretary is required to review the commodity control list in order

promptly to make such changes in provisions as may be necessary or desirable. He is further required to report to Congress the action he has taken in the second quarterly report after the date of the enactment of this act.

In other words, he has roughly 6 months within which he must make his first report. It is my understanding that in addition to the commodities under international control, the United States maintains unilateral control of approximately 1,200 categories in which are grouped many thousands of separate commodities.

The administration wants to be perfectly clear that the bill does not require them to report on every one of these 1,200 categories within 6 months.

Mr. MONDALE. Mr. President, I think the language seeks to achieve, by referring to the second quarter, as full a response as possible. In other words, I believe it is the spirit and desire of the act that the changed policy called for by the bill will be substantially implemented with a 6-month period. It does not require and tie them down to a terminal date that cannot be, for reasonable grounds, avoided.

What it asks for after the 6-month period is that they continue to make subsequent reports to us with respect to the actions they have taken following that quarter.

Mr. BENNETT. Mr. President, I think the Senator from Utah agrees with the Senator from Minnesota. It is all deliberate speed or all reasonable speed.

Mr. MONDALE. I do not like that phrase too much. It took 16 years, as I recall, to achieve all deliberate speed.

Mr. BENNETT. But the Secretary of Commerce would not be considered to have violated the law if in the first report he had not succeeded in making a report on all the commodities.

Mr. MONDALE. That is correct, with this caution: We were anxious not to tie the Secretary down to a terminal date that could not be accomplished in reasonable terms under the statute; but we did state the second quarter because we were hoping that, to the extent reasonably possible, he could adjust export control policies consistent with this bill by then. But we are not tying him down to that. We just ask him to continue and report in later quarters the subsequent actions he takes.

Mr. BENNETT. My contact with the representatives of the Department indicates that, being a new broom, they are anxious to sweep clean and to get that job done as quickly as possible. I am sure that there will be no question of lack of cooperation on that point of view.

Mr. MONDALE. I hope the Senator is right. What we hope to do here, in part, is to take part of the responsibility off their shoulders. Too often, we leave administrators in a no-man's land. They are damned if they do, and they are damned if they do not. They have to sit there and try to judge not only what the law might provide but also what the congressional reaction is going to be. In this bill we try to take some responsibility for this revised policy.

They have a clear mandate under this bill to get the job done in 6 months, if it

is possible. But we are not in a position to know whether that is reasonable. We do not know enough about the office. So, in effect, it is an appeal for quick action but, accompanying it, an expression on our part that it might not be possible within that time.

Mr. BENNETT. I am sure there is a problem of budget here and a problem of the size of staff. I hope, as does the Senator from Minnesota, that they will move as quickly as possible and be able to report as much progress as possible in the 6 months.

Mr. President, I wish to express my appreciation to the Senator from Minnesota, the manager of this bill, and to join him in suggesting that the report be agreed to.

Mr. MONDALE. May I respond to the Senator by stating how much those of us on the majority side appreciate his thoughtful and deep concern in the consideration of this bill and in the conference. All of us on this side of the aisle are deeply impressed by his thoughtfulness and his fairness. This is a much stronger and a much sounder bill because of the contribution of the Senator from Utah. I wish to express my appreciation.

Mr. BENNETT. I appreciate the Senator's remarks.

Mr. MONDALE. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to.

Mr. MONDALE and Mr. BYRD of West Virginia moved to reconsider the vote by which the conference report was agreed to.

Mr. BENNETT moved to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

#### RANDOM SYSTEM OF DRAFT INDUCTION

Mr. STENNIS. Mr. President, as in legislative session, I announce, for the information of the Senate, that the Committee on Armed Services received testimony this morning from Secretary of Defense Melvin R. Laird, Assistant Secretary of Defense for Manpower Roger T. Kelley, and Gen. Lewis B. Hershey, Director of Selective Service, on H.R. 14001, which would permit the President to initiate a random system of selection to determine the order of induction. The bill would repeal one sentence of the Selective Service Act of 1967 which prohibits this discretionary authority on the part of the President.

Subsequently, after receiving the testimony, the committee voted unanimously to report H.R. 14001 without amendment, with all members being recorded in favor.

The committee report will be filed with the Senate today. It is anticipated that the bill will be considered on the floor of the Senate at an early date.

Mr. President, as of now, I think the feeling and the atmosphere of the Senate concerning this bill is that it will be passed, after discussion of some points that would otherwise be offered as amendments. I do not believe they will be offered.