

**EXTENSION OF THE EXPORT ADMINISTRATION ACT  
OF 1969**

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**MARKUP SESSIONS  
OF THE  
COMMITTEE ON  
INTERNATIONAL RELATIONS  
HOUSE OF REPRESENTATIVES  
NINETY-FOURTH CONGRESS**

**SECOND SESSION**

**ON**

**H.R. 7665**

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**PART II**

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**AUGUST 26, 31, AND SEPTEMBER 1, 1976**

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# EXTENSION OF THE EXPORT ADMINISTRATION ACT OF 1969

THURSDAY, AUGUST 28, 1978

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INTERNATIONAL RELATIONS,  
*Washington, D.C.*

The committee met in open markup session at 10:15 a.m. in room 2172, Rayburn House Office Building, Hon. Thomas E. Morgan (chairman of the committee) presiding.

Chairman MORGAN. A quorum is on its way.

If the committee will please come to order.

The committee is meeting today to consider the extension of the Export Administration Act of 1969 and various amendments.

The bill before the committee is H.R. 7665, the administration request to extend the act.

Unless there is objection, the Chair would propose to take up the amendments in the following order and consider any additional amendments as they are referred to the Chair or as they are proposed:

First, I think Mr. Bingham has an amendment to an existing provision of the bill before you.

Second, I plan to offer an amendment to the bill that would increase the penalties under the act which the administration has requested.

Third, the committee will take up the Zablocki-Findley amendment on nuclear exports.

Fourth, we will consider a package of 11 amendments which Mr. Bingham has suggested to improve the export licensing process. The committee held hearings on these amendments on August 10. Except for a few deletions, the package before members is essentially the same as the amendments considered at the hearing.

Then we will consider the amendment which various members have been drafting regarding foreign boycotts.

If there is no objection, the clerk will read.

## EXTENSION OF THE ACT

Mr. CZARNECKI. [reading].

H.R. 7665, a bill to extend the Export Administration Act of 1969, is amended in section 14 by striking out "September 30, 1976" and inserting in lieu thereof "September 30, 1977".

Mr. BINGHAM. I have an amendment.

Chairman MORGAN. The amendment is in front of each member.

The gentleman from New York is recognized for 5 minutes in behalf of his amendment.

Mr. CZARNECKI. Amendment offered by Mr. Bingham: "Page 1, line 7, strike out '1979' and insert in lieu thereof '1971'."

Mr. BINGHAM. Mr. Chairman, there are various reasons for limiting the extension of the act to 1 year in this case.

This act, of course, is new to the committee. This is the first year we have had the jurisdiction and the annual review does seem desirable at least in the beginning. At a later stage, we might want to have longer extensions. Certainly, the 1-year review seems desirable at this point.

This is particularly true because presumably we will be adding new provisions to the act and will want to know and watch how they operate. This will be, I think, particularly true if the committee adopts the nuclear proliferation amendment and the Arab boycott amendment.

The administration would prefer a longer extension but I think that for the reasons I have outlined a 1-year extension is wise in this instance.

Chairman MORGAN. Any further discussion on the amendment offered by the gentleman from New York?

If not, all in favor of the amendment will indicate by giving the usual vote, "aye".

All opposed?

The "ayes" have it, and the amendment is adopted.

#### PENALTIES UNDER THE ACT

Under the procedure outlined by the Chair, the Chair offers the next amendment.

Mr. CZARNECKI. Page 1, immediately after line 7, insert the following new section:

#### PENALTIES FOR VIOLATIONS

SEC. 2. (a) Section 6(a) of the Export Administration Act of 1969 is amended—

(1) in the first sentence, by striking out "\$10,000" and inserting in lieu thereof "\$25,000"; and

(2) in the second sentence, by striking out "\$20,000" and inserting in lieu thereof "\$50,000".

(b) Section 6(v) of such Act is amended by striking out "\$20,000" and inserting in lieu thereof "\$50,000".

(c) Section 6(c) of such Act is amended by striking out "\$1,000" and inserting in lieu thereof "\$10,000".

(d) Section 6(d) of such Act is amended by adding at the end thereof the following new sentences: "Further, the payment of any penalty imposed pursuant to subsection (c) may be deferred or suspended in whole or in part for a time equal to or less than any probation period (which may exceed one year) that may be imposed upon such person. Such deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled."

Chairman MORGAN. I am offering this amendment at the request of the administration.

This amendment would increase the fines that can be levied for violation of the act and allow deferral payments of penalties. The penalties in the existing act were set at a time before there was rampant inflation. They have been superseded by soaring prices, as everybody knows.

In many cases, fines can easily be covered by a profit made on the deal and do not serve as a deterrent for violation of the act.

Raising these fines will serve to discourage companies and individuals from violating the act.

The second part of the amendment simply provides for deferral or suspension of the penalty and is intended to provide the Department of Commerce with greater flexibility in implementing the act.

I agree with the procedures outlined by the administration and feel that it would be better if we had these changes; therefore, I ask for their adoption.

Mr. BINGHAM. A parliamentary inquiry.

Chairman MORGAN. Mr. Bingham.

Mr. BINGHAM. Mr. Chairman, would I be correct in assuming that section 6(a) could be further amended at a later time?

Chairman MORGAN. Yes, Mr. Bingham.

Mr. BINGHAM. Thank you.

Chairman MORGAN. All in favor of the amendment indicate by the word "aye."

All opposed?

The "ayes" have it, and the amendment is adopted.

#### ZABLOCKI-FINDLEY AMENDMENT ON NUCLEAR EXPORTS

The Chair at this time, under procedure outlined by the committee, will now call up the Zablocki-Findley amendment on nuclear exports.

Mr. Zablocki and Mr. Findley, either one of you can proceed.

The clerk will read the amendment.

Mr. CZARNECKI [reading]:

Add the following new section at the end of the bill:

#### NUCLEAR EXPORTS

SEC. —. The Export Administration Act of 1969 is amended by adding at the end thereof the following new section:

#### "NUCLEAR EXPORTS

"Sec. 15. (a) (1) The Congress finds that the export by the United States of nuclear material, equipment, and devices, if not properly regulated, could allow countries to come unacceptably close to a nuclear weapon capability, thereby adversely affecting international stability, the foreign policy objectives of the United States, and undermining the principle of nuclear nonproliferation agreed to by the United States as a signatory to the Treaty on the Non-Proliferation of Nuclear Weapons.

"(2) The Congress finds that the nuclear export activities which enable countries to possess strategically significant quantities of unirradiated, readily fissionable material are inherently unsafe.

"(3) It is, therefore, the purpose of this section to implement the policies stated in paragraphs (1) and (2) of section 3 of this Act by regulating the export of nuclear material, equipment, and devices which could prove detrimental to United States national security and foreign policy objectives."

Chairman MORGAN. Mr. Findley.

Mr. FINDLEY. I ask unanimous consent that the amendment be considered as read.

Chairman MORGAN. Any objection to the request of the gentleman from Illinois?

The Chair hears no objection and the amendment is considered as read.

Mr. Zablocki.

**Mr. ZABLOCKI.** Mr. Chairman, I am pleased to offer this amendment jointly with our distinguished colleague from Illinois, Mr. Findley.

I do want to point out that this amendment has bipartisan support. Besides Mr. Findley and myself, Mr. du Pont, Mr. Lagomarsino, Mr. Winn, Mr. Fascell, Mr. Fraser, Mr. Hamilton, Mr. Bingham, Mr. Solarz, Mrs. Meyner, Mr. Derwinski, Mr. Buchanan, and Mr. Gilman, are also cosponsors.

As is obvious from the title, the amendment deals with the issue of nuclear exports. More specifically, it is intended to help solve one of the most challenging problems facing us today, that of nuclear proliferation.

#### HOUSE CONCURRENT RESOLUTION 570

Mr. Chairman, as the members of the committee know, this is a subject on which the Subcommittee on International Security and Scientific Affairs has held extensive hearings. One result of those hearings over a period of time was House Concurrent Resolution 570. That resolution, favorably reported by this committee on April 13, was adopted by the House on May 3. That House concurrent resolution urged certain courses of action aimed at stopping the rising worldwide spread of nuclear technology and the resulting increased threat of nuclear war.

One provision in the original version of House Concurrent Resolution 570 dealt with the reprocessing of nuclear fuel, an important aspect of the nuclear proliferation problem.

During the extended course of our deliberations, however, serious questions arose regarding the wisdom and adequacy of that provision. Therefore, rather than advocate an ill-advised and inadequate solution, the subcommittee decided to delete the provision in markup when we were considering House Concurrent Resolution 570.

Since that time, on the basis of additional hearings and studies conducted by respected nuclear experts, the approach contained in this amendment has been devised.

Mr. Chairman, I go somewhat lengthy into this background only by way of reflecting the care and the seriousness with which the issue has been considered. Because nuclear proliferation is a complex issue and because the failure to control proliferation could result in some very serious threat to civilization, it has demanded care and precision.

In effect, then, the amendment before us actually picks up where we prudently left off several months ago.

On the basis of very careful and exhaustive review, I believe it is a sound, balanced, and effective legislative remedy to an extraordinary complex and dangerous problem.

#### SERIOUS IMPLICATIONS OF NUCLEAR PROLIFERATION

Evidence accumulated during our hearings points up the seriousness of the danger. For example, nuclear material from which nuclear explosives could ultimately be made now exist in approximately 30 countries. In less than 10 years, by 1985, it is estimated that nearly 50 countries will have nuclear powerplants producing enough plutonium each year for at least several dozen nuclear explosives.

By the year 2000, the annual rate of plutonium production, worldwide, will be nearly 1 million kilograms, enough to make 100,000 nuclear explosive devices. Clearly, a spread of this magnitude will not only erode world stability but, as we learned only 2 days ago from our Defense Department witness, it will seriously degrade the effectiveness of our nuclear forces, as well.

It is this urgent and frightening prospect to which this amendment addresses itself.

I believe the amendment achieves its goal prudently and without damage to our domestic nuclear industry.

In closing, Mr. Chairman, I would only observe that the time for responsible legislative initiative is short. Action is needed and it is needed now.

I am convinced that this amendment is necessary and responsible. Therefore, I am proud to be associated with it and to cosponsor it with the bipartisan membership that I have enumerated and I know the wide interest throughout the Congress in both Houses, in the Senate and House of Representatives, and therefore I urge my colleagues to vote for it.

#### COUNTRIES WITH REPROCESSING PLANTS

Mr. BROOMFIELD. I wonder if you can tell us how many countries presently have reprocessing facilities.

Mr. ZABLOCKI. As the witness for the Defense Department stated the other day, there are no commercial reprocessing plants although there are three countries, if I recall correctly, that have reprocessing capability and do have reprocessing plants.

Mr. BROOMFIELD. What countries are they?

Mr. ZABLOCKI. United States, Great Britain, and Germany.

Mr. BROOMFIELD. Basically, the thrust of your amendment would make it mandatory that all the reprocessing be done in the United States? In other words, we could not, under any circumstances, and I certainly support this, permit any building of reprocessing plants in any other country; is that right?

Mr. ZABLOCKI. That section would indicate that reprocessing plants should be in the United States. However, I don't think we can by legislation in this body regulate or mandate that reprocessing plants could not be in any other country.

#### DENIAL OF U.S. REACTOR MATERIAL AND TECHNOLOGY TO NONCOMPLYING COUNTRIES

Mr. WOLFF. I agree there is a very noble purpose behind this amendment and I feel that it will help us to exercise some control. I am wondering, however, what the remedies are in the event that the nations to whom we sell the material or the plants thumb their noses at us as they have in the past.

Mr. ZABLOCKI. I think we can stop supplying them with nuclear material or technology if they do not subscribe.

However, the main thrust of this proposal is that we show an example, that we take the first step. Hopefully, the others will follow.

Mr. WOLFF. But the point remains that we did sell the heavy water

to India with the idea that they would not use this for an explosive device and they went ahead and used it in a fashion that was not originally intended.

Mr. ZABLOCKI. If we had the legislation that is being proposed in this amendment, India would not be doing what it did.

Mr. WOLFF. What remedy do we have?

Mr. ZABLOCKI. India would know beforehand that we would not supply—

Mr. WOLFF. They don't need it any more from us.

The point is that the minute we go into one of these agreements on the sale, we lose the control over both the material as well as the plant itself.

It would seem to me that we should have some tighter type of control—perhaps that no future sales would be permitted at all or that some of these items would be solely on loan, on a recoverable basis in the future to prevent being improperly used.

Mr. ZABLOCKI. I agree with the gentleman, that could very well be the next step, but I don't think we can take it at this time.

Mr. WOLFF. There may not be time for a next step with some of these countries.

Mr. ZABLOCKI. I do want to point out to the gentleman that since the Indian incident the IAEA has improved its safeguard regulations. We hope that with this proposal further tightening will result.

I yield my time.

Chairman MORGAN. The time of the gentleman has expired.

Mr. Findley.

#### SUPPORT FOR ZABLOCKI-FINDLEY AMENDMENT

Mr. FINDLEY. Mr. Chairman, first of all, I want to thank my good friend, Mr. Zablocki, for his strong support of this amendment. In fact, had it not been for his initiative in scheduling hearings on language that I put together, I do not think the amendment would be before us today. Those hearings provided the focal point for wide discussion by prominent personalities within the executive branch as well as in the private sector calling attention to the weakness of existing administration policy and the need for better controls over our own export of nuclear materials and technology.

I want to thank my colleagues on the committee for the input that several of them have made in the formulation of the language. It has been a long and arduous task, a highly technical subject.

The only voice of opposition that I am aware of comes from the Department of State. Notwithstanding that opposition, which I hope will be reviewed and changed, several important personalities in the executive branch did help us and helped us very substantially in the development of this amendment.

Mr. ZABLOCKI. However, I think I should point out that the representative of the Department of Defense endorsed the amendment.

Mr. FINDLEY. Yes.

The witness testifying just a couple days ago did state his support for the direction taken by this amendment.

I realize that the executive branch never speaks finally except with one voice but in this instance several voices were heard and with one exception all supported and encouraged us in this endeavor.

#### NEED FOR ACTION

This amendment is offered at a time when grave doubts are being raised about the seriousness of our Government's efforts to curb the spread of nuclear weapons. It is offered at a point when the proliferation problem, itself, is close to getting out of control. It was only 2 years ago that Henry Kissinger asserted that we had at best 2 years to get control of the problem. Those 2 years are gone and certainly the time is short.

This amendment takes note of the fact that not all nuclear exports are equally dangerous in their proliferation capacity.

The principal effect of this legislation is to close important loopholes in existing export arrangements and to set forth intelligent standards to help make safeguards truly safe. It provides a needed corrective while there is still time to make these changes.

It anticipates the next phase of the proliferation crisis, that is, reprocessing, rather than belatedly reacting to it.

It is not expected to be a cure-all for all proliferation problems in the future. It may well be that it would not have prevented what happened in India. It is very plain, as we look back on our own experience with India, that we did not use all the influence that we had in our hands to prevent India from taking the action it did.

Some argue that the United States can do nothing in this area without the agreement of the other supplier states. If this attitude had prevailed at the outset, we would have had no IAEA safeguards today, however imperfect those safeguards might be.

If we act in a responsible, self-restrictive way, we can remove the cloud of commercial suspicion that hangs perpetually over our proliferation announcements.

#### ROLE OF CONGRESS

Greater consistency and clarity in U.S. policy can strengthen our position and stimulate real progress in helping to curb the spread of nuclear weapons. The chief opposition comes from the State Department. The State Department says they agree in principle with all the provisions but they tremble at the prospect of the guidelines being laid down by Congress. It is an encumbrance they would prefer not to have, and this is natural. And yet, only recently we were being urged to set forth broad guidelines rather than meddle with individual exports.

As Henry Rowen, the former president of Rand Corp., put it, the nice thing about a democracy is that once in a while the Congress has a chance to play a role, and here is a chance to play a constructive role.

The attitude of the State Department is not shared by the Department of Defense. Nor is it shared by other perceptive officials within our Government.

I view the amendment as temperate, foresighted; it represents one of our last remaining chances to exercise restraint on the proliferation of nuclear states.

Mr. WOLFF. What effect would this amendment have upon the existing law which requires, according to my recollection, that sales of nuclear plants be submitted to the Congress, to the Joint Committee on Atomic Energy, and the Congress, itself, before consummation?

Mr. FINDLEY. This would not interfere in any way with that requirement.

Mr. WOLFF. In other words, if this amendment were passed, the same procedures that have been followed whereby Congress has to be informed of the sale and, in addition to that, Congress has to act on the sale would prevail. Is that correct?

Mr. FINDLEY. That is correct.

#### DETERMINATION OF ADEQUATE SAFEGUARDS

Mr. SOLARZ. I have two questions concerning paragraph 4 on page 3. On lines 24 and 25, it says:

\* \* \* the Secretary of State may only determine that safeguards can be applied effectively \* \* \* if technology permits timely warning well in advance of the time the material can be diverted for nuclear purposes.

Supposing the Secretary is unable to make that determination, I am sure that I see language elsewhere in the amendment which would have the effect of prohibiting the transaction in the absence of such a determination.

Mr. FINDLEY. Under existing law a determination must be made that safeguards can be applied effectively. This must occur under existing law.

This simply provides one criterim which must be met before such a determination can be made. If our Government cannot come to that conclusion, then the export license cannot be issued.

Mr. SOLARZ. The gentleman can assure us that that is an existing provision?

Mr. FINDLEY. It is.

Mr. SOLARZ. I appreciate that observation.

The second question I have has to do with the language on line 3—

Mr. FINDLEY. As the gentleman knows, that restriction applies to reprocessing.

Mr. SOLARZ. I understand that.

#### TIMELY WARNING

On line 3 of page 4, the original draft of this amendment—the gentleman and the distinguished ranking majority member are to be congratulated and complimented, for helping to devise this significant step—provides there would have to be a period of 90 days between the point at which the material was diverted and the time in which it could be transformed into a nuclear weapon.

That was obviously changed in the amendment before us to read, "well in advance".

I would appreciate it if the gentleman could let us know why that specific time period was changed.

Mr. FINDLEY. Ninety days could be a time thought to be a precise period of time. Yet, we felt there should be language in this amendment which would convey clearly to the executive branch that there should be a substantial period of time, not days but months.

The committee report will make reference to the 90-day period and urge that this less precise language of the amendment be interpreted in the light of a time frame around the 90-day period. What we really need, of course, is a time frame somewhat analogous to that obtaining today in the case of normal spent fuel in countries without a reprocessing plant.

Mr. SOLARZ. Just to establish legislative history on this point, in the event that the best we could get would be, say, 60 days advance notice, I would assume that that would not be considered well in advance under the terms of this amendment.

Mr. FINDLEY. No; it would not.

We do not yet know what technology will develop in the way of better reprocessing techniques. It is our hope that the safeguards that will become common practice as a result of this language will be such as to give neighboring states and the rest of the world at least several months' notice. So that there is time for responsible action before a state can transform its diverted plutonium into a nuclear weapon.

Mr. SOLARZ. You are now talking about a matter of months, not a matter of weeks?

Mr. FINDLEY. That is correct.

Chairman MORGAN. The time of the gentleman from Illinois has expired.

Mr. du Pont.

#### DEVELOPMENT OF THE ZABLOCKI-FINDLEY AMENDMENT

Mr. DU PONT. Thank you, Mr. Chairman.

I think this amendment is an example of how a few Members of Congress can sit down and do their homework and come up with a change in U.S. policy that is effective, that is meaningful, and that moves the State Department in the right direction, the direction in which we want it to go.

I was happy to work very closely with Mr. Zablocki and Mr. Findley in doing this.

I think we ought to thank the three members of our staff who did the difficult work on a highly technical amendment. They did a fine job in pulling it together and making it possible.

Mr. Chairman, I think this is an extremely important amendment because through this nuclear export policy that the United States has been following we are enabling nations to come within days or even within hours of manufacturing nuclear explosive devices. I don't think we can accept a world in which nations are continuously only months away from possessing nuclear bombs.

The situation is dangerous; it is destabilizing; and this amendment recognizes that fact and proposes a number of safeguards to deal with it.

## ROLE OF SAFEGUARDS

The possibility has existed that any nation with a nuclear reactor can divert material from it, from civilian use to military use. We have recognized this possibility in our insistence on safeguards for all nuclear exports.

But safeguards don't prevent diversion. They merely detect them. They are, in effect, sophisticated accounting methods to tell us whether there is any discrepancy between the amount of nuclear material a nation should have and the amount that it actually does have. If there is a difference in those figures, then you can suspect that nuclear material is being diverted for military purposes.

The safeguards we have in the law are normally adequate for nuclear reactors that we export. Unaccounted for spent fuel from a reactor requires a year of storage and difficult treatment before you can use it to manufacture a nuclear bomb.

Notice of a diversion, therefore, gives us plenty of time to take concrete steps to deter a nation from completing an atomic weapon.

But the safeguards are not adequate for reprocessing and reprocessed fuel. Reprocessing shortens the time the Nation needs to complete a bomb from a period of almost a year to a matter of days and, therefore, a nation that has reprocessing fuel on hand, even one reactor load, has the equivalent of a nuclear bomb.

Thus, once reprocessing is over, we are in a very difficult position; we don't have sufficient time to deal with a nation making a bomb. That is why we put safeguards in our bill, to prevent the reprocessing.

We have a definition in this bill that defines safeguards as those sufficient to give us an ample warning period and we have all genuinely interpreted that as 90 days, though, as the gentleman from Illinois just stated, that figure is not final.

But this definition is critical if we want to preserve our policy options in this amendment, and we should recognize this necessarily places a temporary ban on the export of all reprocessing facilities from the United States and also a ban on the reprocessing of U.S. supplied fuel in either U.S. reactors or foreign reactors.

## STATE DEPARTMENT AND INTERNATIONAL AGREEMENTS

I think it is an important amendment. I wish the State Department was going to take an aggressive view in support of it but, as long as they are not, this committee and the Congress ought to take an aggressive view so that we stop the spread of nuclear weapons.

Mr. FINDLEY. Just one point of clarity.

The amendment would apply only to new agreements. There are some existing agreements and this would not establish a ban on such shipments.

Mr. DU PONT. The gentleman is correct.

I would like to see us move to a more aggressive stand on such agreements. Hopefully, with prodding, the State Department and the administration will do that.

Mr. BINGHAM. Will you yield?

Isn't it worth pointing out on page 3, paragraph 2, "The Secretary of State shall undertake consultation with all parties to agreements \* \* \*."

Mr. FINDLEY. It is not mandatory.

Mr. DU PONT. Yes; we are prodding the Secretary to move in that direction and if the prodding is sharp enough, hopefully, he will and we will get existing agreements redefined.

Mr. BINGHAM. I would like to join in complimenting the principal sponsors of this amendment. I think it is a most important amendment aimed at a tremendously important objective.

#### COMMITTEE JURISDICTION

I am somewhat concerned about the jurisdictional problem that I think may be raised by the Joint Committee on Atomic Energy.

I think what we are doing here is putting into the Export Administration Act a provision which the joint committee may feel, and I think with some reason, amounts to amendment to the basic act, the Atomic Energy Act of 1954. I don't believe we should be perturbed by that but I believe we should recognize that may be a problem.

Mr. ZABLOCKI. The Joint Atomic Energy Committee would request referral, regardless.

Chairman MORGAN. The time of the gentleman has expired.

Mr. Biester.

#### DEFICIENCY OF A U.S. UNILATERAL POLICY

Mr. BIESTER. Mr. Chairman, I would like to vote for and support this amendment and I may but I also may not. I am not very optimistic. Let me explain why.

I think anybody who is not concerned about this problem is a lunatic. I think anybody who believes the United States can resolve it by passing legislation is naive. I think this committee should try to find itself somewhere between lunacy and naivete. That is why I am ambivalent about my support of this amendment.

I am reminded somewhat of the fellow who tried to get a 10-ton truck out of the ditch with five kittens. When someone said, "You can't do that," he said, "Why not? I have a big whip."

There are certain forces that make it very difficult to manipulate the future of this world. Those forces do not depend upon the policy of the U.S. Government on a week-by-week, month-by-month, or year-by-year basis. One of those forces is the inherent development and spread of technology of all kinds. We do not have a monopoly on this technology any longer. We never had a reasonable expectation of a permanent monopoly on this technology. We certainly do not have the monopoly on the intellect to produce this technology and to presume that we do is, I think, a mix of naivete and arrogance.

Let me approach what I think maybe is the worst case situation. The worst case situation, it seems to me, is to believe that we can pass this amendment and then turn our backs on this problem and say, "Now we have solved it; now we can go on to something else," because that just is not the case.

Now, someone said earlier that it is very difficult to peer into the future. Maybe so. It seems to me inevitably most national societies in this world are going to have nuclear weapons or none will have them or there will be no individual national society. We are not going to

be able to control that particular development or the direction of development in one of those directions by passing this legislation.

#### VIOLATION OF RESTRICTION ON REPROCESSING

Now, I am also disturbed about the problem of what we do in the event someone violates this agreement. People have referred to concrete steps. What would those concrete steps be? A mailgram? The Midway? What are the sanctions? What exercise of power would the United States take with respect to a proposed violation or the discovery of a violation of these agreements?

Mr. DU PONT. One concrete step we could take is the same step that Canada took in relation to India. That is, they stopped the program. They stopped the nuclear cooperation program with India. That is the kind of thing you can do and do effectively.

Mr. BIESTER. That is interesting.

Does India still have nuclear power?

Mr. DU PONT. Yes; because the United States has refused to stop.

Mr. BIESTER. Is any collection of countries able now to stop India from continuing its development and becoming a nuclear military power?

The answer is no.

Mr. FINDLEY. Will the gentleman yield?

I don't think anyone should view this as a cure-all and an end to the problem for all time. If it becomes law, I think it will slow up the proliferation at the very least. I think it will buy some time in order to perfect better fuel cycle arrangements which, in tandem with speedy detection safeguards, can provide a greater degree of real protection. We can also, through our defense and alliance policies, help to remove the concern that motivates the Nation to go the weapon route.

Mr. BIESTER. I really doubt that world public opinion is going to believe that the United States, by controlling which countries shall have and which countries shall not have nuclear capacity, will be pleasantly convinced that they should adopt and ride the trail of the American Government in that respect.

I am still left with the unanswered question of exactly what the concrete steps are going to be in the event there is a violation of these agreements.

I have extended beyond my time, Mr. Chairman, and I apologize for doing so.

As I say, I am stuck with not knowing whether we should press on this amendment, pass it, or whether we should not. I lean toward voting for it but without any great optimism it will accomplish the result.

Chairman MORGAN. Mr. Winn.

Mr. WINN. Thank you, Mr. Chairman.

#### NEED FOR U.S. LEADERSHIP

Unlike my colleague from Pennsylvania, I do urge your support for this amendment.

No doubt reprocessing is the quickest, easiest, and cheapest means to material for nuclear bombs. We recognize that fact in this amendment. Because we act now, it does not mean, as Mr. Biester stated, that we

turn our backs on the problem of nuclear proliferation. There are those who say little can be done to prevent nuclear proliferation. The proliferative world is the world in which we will all live in a matter of years.

From this pessimistic assessment these same people usually move to the conviction that policy attempts to stem nuclear spread are useless. I would not want to predict how many nations will have joined the nuclear club in the next 20 years, or even in the next 5 or 10 years. Yet, I do know that even the bleakest of predictions would not force me to the conclusion that the United States should abandon all attempts to prevent or even to slow nuclear proliferation.

In the past, the United States has been a leader in winning acceptance for the Non-Proliferation Treaty and for IAEA safeguards. It is time for the United States to renew its leadership in working against nuclear proliferation.

This amendment would offer Congress the opportunity to move the United States in that direction.

Again, I urge support of this amendment.

#### COMMITTEE JURISDICTION

Mr. BINGHAM. In reference to the point I made earlier about jurisdiction, I am somewhat reassured and I would like to call the committee's attention to the fact that in the 1974 amendment to the Export Administration Act there was included a section dealing with the problem of proliferation. It appears on page 1543 of our completion. There is a precedent for dealing with this problem in this act.

#### U.S. CONTROL OF PLUTONIUM

Mr. BUCHANAN. Mr. Chairman, I, too, join in urging the adoption of this amendment and would respond to the gentleman from Pennsylvania in this way:

As I understand it, some time ago the gentleman from Indiana, Mr. Hamilton, held hearings at a time when I was ranking on his subcommittee. As I understood the testimony on that occasion, it is true that the technology is widespread that can produce nuclear weapons. We certainly don't hold a monopoly on that.

A growing number of countries will have that technology. Indeed, I think it would take only a handful of people with fissionable material and very simple conditions and equipment to produce nuclear weapons at this point in history, anyway.

But what we do have in the United States is the plutonium, or most of it. We have a substantial amount of fissionable material. I think this is a concrete step toward asserting strong leadership on the part of our country toward restraint, a step toward restoring some degree of retardation of proliferation because we do control so much of the fissionable material.

If we also insist on controlling the reprocessing from which there can come easily the production of nuclear weapons from this material intended for peaceful purposes, unless we do establish firm control of reprocessing, then I think we can make a significant contribution to the retardation of nuclear proliferation.

**Mr. BIESTER.** There are a number of countries today whose economies have peaceful nuclear energy application. One of the byproducts of that application is, of course, plutonium. The plutonium is a fissionable material. Therefore, we are not the only country in the world currently producing an excessive supply of fissionable material.

That material is available from a host of countries over whom we no longer have any control or influence.

**Mr. BUCHANAN.** But we do control a substantial amount of plutonium and fissionable material.

To the extent that we can keep a handle on reprocessing, we can to that extent act as a brake on proliferation and a force for restraint.

**Mr. BIESTER.** If the gentleman will yield further, it seems to me one of the great problems we have here, in terms of world opinion and the earnest support of those fledgling economies which could in the future produce nuclear weapons, is that our policy seems to be we are going to produce more of this stuff and you people will produce none of it.

#### LIMITING REPROCESSING

If we are going to be forthcoming and say, "Look, we are going to put a cap on our own production; we are going to reduce our production of this material; we are going to engage with other countries in reducing our supply," that might make world opinion more receptive to this new measure of ours.

As the gentleman knows, that is not possible under current world conditions.

**Mr. BUCHANAN.** I most respectfully disagree.

As long as we can keep a handle on reprocessing, then we can contribute to the use, the peaceful use, of nuclear power without contributing to proliferation. As long as we keep a handle on processing.

**Mr. BIESTER.** How do we control reprocessing?

**Mr. FINDLEY.** The real point is this: Commercial reprocessing and plutonium recycling is not now essential for the efficient operation of power reactors. Competent studies show that the cost of reprocessing recycling will increase in the future. Even if reprocessing becomes more cost effective, it will never save more than a fraction of a percent or so in terms of delivered kilowatt hour costs of electricity. Moreover, supplier states make extremely small profits on such sales. The real money, to the extent it's there at all, is in reactors and fuel.

We can all afford to wait, then, and in the interim work to perfect genuinely effective safeguard solutions. Why should the other suppliers not join us in this? After all, these are for the most part our allies. Don't we all share a common interest in reducing the ease with which countries can acquire the capacity to make nuclear bombs which they may later decide to use on us. Do we really want to sweeten trade, as Prof. Washletter said, by selling for a few dollars a quasi-nuclear bomb?

I think not. And that is why I think if we lead clearly on this point—and especially if we make better and safer safeguard and fuel cycle technology available—progress can be made.

**Mr. BIESTER.** How do we control reprocessing by other countries?

Mr. FINDLEY. This amendment would put restrictions on the use of our technology and fuel and any fuel used in our reactors shipped abroad.

Chairman MORGAN. The time of the gentleman from Alabama has expired.

Mr. Ryan.

#### DIFFICULTY IN CONTROLLING NUCLEAR PROLIFERATION

Mr. RYAN. Mr. Chairman, all this debate strikes me as being somewhat parallel to the arguments over gun control in this country.

I support gun control restrictions on the use of revolvers and other kinds of handguns, and I think there is some logic to that.

But the relationship between that and walking out of this building at 10 o'clock at night to 14th and F Streets, in this city, with some guarantee that you won't get a gun put in your back and have the trigger pulled is a little bit beyond anybody's credibility.

This bill may have some value and this amendment may have some value, but let us take a look at a couple of words used.

The word "proliferation." What does that mean? I don't think anybody here can define that very carefully. There is the assumption that somehow in controlling the development of nuclear weapons we are talking about great, big rockets, with great big nuclear weapons on the end of them being delivered 3,000 or 5,000 miles at a crack and only large nations of the world being involved.

Not too many members of the committee were here the day when we had the Assistant Secretary of Defense for Atomic Energy admit, I think it was admission, that a nuclear weapon consisted of a device using no more than 10 pounds of reprocessed plutonium and that it could be delivered just as well by donkey cart as it could by a propelled rocket.

Any country in the world, I submit, is in the position of using, if it cares to, nuclear devices and delivering it almost anywhere if it chooses to do so.

I suppose, on the other hand, from the comments made by my dear friend Mr. Buchanan of Alabama, that there is some value in doing all this. The more you control it, the less traffic there is.

But even there the U.S. Congress and this House recently passed the Nuclear Assurance Act of 1975 which guarantees one thing: That this country and private enterprise will now begin enrichment programs the Government has controlled up until now but will not control from now on. Not only this Government but I believe four other foreign governments are involved. I don't know.

On one hand, we are doing things which increase the commercial traffic of nuclear material that produce plutonium as a spinoff, and on the other hand this committee sits here piously saying we are going to limit the use of nuclear weapons.

It is a consummation, I believe, as the poet said, devoutly to be wished but I think the wish is much larger than the consummation of the same.

I would suggest that our debate here is interesting more for the idea of trying to keep the peace than actually obtaining it by any kind of specific and tough action we take.

This bill and this amendment are simply expressions of hope and not much more than that, as far as I am concerned.

VOTE ON ZABLOCKI-FINDLEY AMENDMENT

Chairman MORGAN. The Chair wants to state that there is a recorded quorum.

I would like, if possible, to dispose of this amendment today and then start on Mr. Bingham's amendments.

All in favor of the amendment offered by Mr. Zablocki, Mr. Findley, Mr. du Pont, et al., do so by giving the usual voting sign, "aye".

All opposed?

The "ayes" have it, and the amendment is adopted.

The committee will take a 15-minute recess.

[A brief recess was taken.]

Chairman MORGAN. The committee will please come to order.

Fifteen members are present. A quorum is on the way.

Under the agreement announced at the beginning of the meeting, we will consider the amendments offered by Mr. Bingham.

BINGHAM AMENDMENT ON IMPROVING THE EXPORT LICENSING PROCESS

At this time, the clerk will read the amendments.

Mr. BINGHAM. Mr. Chairman, in view of the fact that the members all have in front of them these amendments—they are designated "Committee Print August 1976, Amendments Proposed by Mr. Bingham"—I ask unanimous consent that these amendments be considered en bloc and be considered as read.

Chairman MORGAN. Any objection to the request of Mr. Bingham?

The Chair hears no objection.

Mr. Bingham is recognized for 5 minutes in behalf of his amendments.

Mr. BINGHAM. Mr. Chairman, I would like to call attention of the members to the summaries that have been passed out, a 2-page mimeographed summary, which gives a brief description of these amendments.

Let me say first, that section 1 of that summary—that already has been done, so we start with section 2.

These amendments are the product of extensive hearings held before the International Trade and Commerce Subcommittee and the full committee; discussions and negotiations with businessmen; and also of considerable compromise with the administration. They are designed to improve the efficiency and effectiveness of the export control program and to clarify and to expand congressional oversight of this important aspect of American trade policy.

I want to emphasize that they make no basic change in the purpose of the act which is to permit maximum export trade consistent with the national security of the United States.

In our hearings, we found really no disagreement, even among businessmen who are very critical of the way the act has been admin-

istered. There is no disagreement with the proposition that the act essentially should be continued.

What we have tried to do in these amendments is to improve some of the aspects of administration that the businessmen have complained about, to speed it up and otherwise to make it more effective.

The committee print before the members, which is the package of amendments that I am now offering, represents a revised and shortened version of an earlier committee print. That earlier print was subject to a hearing before the full committee at which the administration made a number of suggestions and those suggestions and business views on the earlier package of amendments have been taken into account and are reflected in this revised package.

Three amendments to which the administration had the most serious objections have been withdrawn entirely. Most of the others have been modified to meet reasonable administration or business objections or suggestions.

I would like very briefly to go over the amendments and indicate what adjustments we have made in the light of the administration's comment.

#### AUTHORIZATION OF APPROPRIATION

The first amendment provides for specific authorization of funds to carry out the purposes of the Export Administration Act beginning in fiscal year 1978. There is not time to do this for fiscal year 1977. This would be in conformity with what this committee has done with respect to the State Department's requiring an annual authorization bill. It does give us a better control of a process which is under the jurisdiction of this committee.

The amount of money involved is not large; it is about \$20 million. However, in order for us to have good control and also to have a greater influence than we have had in the past with the Appropriations Committee, it seems desirable to do this. This year, the Appropriations Committee made really drastic cuts in the funds for the administration of these programs, which we feel will really make it more difficult for the administration to function effectively and properly. The biggest single problem that businessmen face with this program are the delays that they encounter, and we are afraid that these cuts made by the Appropriations Committee are going to make those delays worse rather than better.

#### FOREIGN AVAILABILITY

The second and third amendments in the package—rather, sections 3 and 4—are designed to maximize business opportunities for American firms by expediting action on export licenses without jeopardizing national security. One of the complaints that the businessmen made was that they were in some cases denied the licenses even where the goods were available from foreign competitors. Now we have modified the terms with respect to that to make it clear that, in general, where the goods are available from foreign competitors a license should be issued. However, we still provide for an exception if it is absolutely necessary in the opinion of the administration.

Mr. SOLARZ. Could the gentleman give us an example of a situation where comparable materials were available on an unrestricted basis

from other countries but where the President might find that permission for American firms to sell it would constitute a threat to the national security of our own country?

It is hard for me to envision such a situation.

Mr. BINGHAM. I can't give the gentleman an example.

We have put this in only because the administration expressed concern about it. I think the effect of this will be to permit the issuance, require the issuance of the licenses where the goods are available, as you notice, in significant quantities and comparable in quality, from other sources. But we have tried to be cooperative with the administration, and we don't feel that giving the President this power is likely to be abused.

Mr. SOLARZ. If the President, for some reason, made this kind of determination, is that subject in any way or in any form to appeal, or is his judgment considered conclusive?

Mr. BINGHAM. I think his judgment would be considered as conclusive.

#### 90-DAY PERIOD

The next proposal has to do with the matter of licenses being issued within a 90-day period. In our proposed provisions, we had provided that if the 90-day period passed without any action by the administration even requesting an extension of the time, that the license would automatically issue.

The administration expressed concern about that, saying that it was possible that an application might be lost, or otherwise. So, in order to avoid that problem, we have modified that provision so as to provide that the license must issue or a reason be given for an extension of time. The remedy, if neither one of those things has occurred, would be for the exporter to go to court to require the issuance of the license. In other words, to flag the administration of the fact that they are in default. They would not automatically be able to export the item if they had not heard from the administration.

Mr. FINDLEY. Would you yield on that point?

I read the administration's concern. Then I read the language of your section 4.

I believe you could meet their very valid problem by substituting the word "receipt" for "submission" at each of the three places it appears in your section 4. They could use the return receipt request on mail. If they didn't get the return receipt back, the person seeking the license would know that the application had not been received and therefore would have no right to proceed.

But if he did get it back with the receipt date on it, then he could, with assurance, expect a license at the end of the 90-day period.

Mr. BINGHAM. I think that would cover part of the problem. I don't think it would cover all the administration was concerned about in the sense that they might have received the application, but it might have gotten lost in the bureaucracy.

What we want to be sure of, and I think we have taken care of the problem, is that the exporter can't just go ahead at the end of 90 days and make the export without having received any communication from the Department of Commerce.

## ACCESS TO INFORMATION

The next four amendments are designed to lift slightly the veil of secrecy that covers the export licensing process. You could call them "Sunshine" amendments. We would permit somewhat greater public and congressional scrutiny of licensing decisions with due consideration for cases where there is a legitimate reason to maintain secrecy to protect the national security.

The major objection the administration had to these amendments was the possibility of excessive congressional release of confidential information provided to it under section 5. We have responded to that objection by stipulating that no committee or subcommittee would release such confidential information unless it formally decided—that would be presumably by majority vote—that it is in the national interest to do so. This is the same congressional discretionary authority that is now given in the act to the Secretary of Commerce. We feel that the Congress should be given that same discretionary authority. As you will note from the summary, section 5 reaffirms congressional intent that the secrecy provisions of the act do not justify withholding information from Congress.

Section 6 provides for the Department of Commerce to report on the use made of the technical advisory committees. These committees ask for a requirement that if their recommendations are not taken, an explanation be given to them. We did not go along with them in this respect, but we do require that the Secretary include in his annual report what use has been made of the advice rendered by the technical advisory committees. We feel that this will relieve somewhat their sense of frustration.

Section 7 simply requires that the Secretary of Commerce investigate the possibility of simplifying the export rules and regulations.

## NATIONAL SECURITY

The basic policy of the act is to restrict exports of goods and technology which would significantly increase military potential to the detriment of U.S. national security. That is not the present language of the present section 4(H) which tells the Secretary of Defense to recommend against exports which would increase the military capability of the recipient country, regardless of the effect of such an increase on U.S. national security.

Section 8 in no way changes the de facto veto which the Defense Department exercises on exports on the basis of national security. It does, however, make the basis for such veto consistent with the rest of the act and, in effect, directs the Secretary of Defense to develop clear and consistent criteria for distinguishing proposed exports that would be detrimental to national security from those that would not.

## TITLE II OF THE BATTLE ACT

Section 9 simply repeals an obsolete and redundant provision of the Battle Act which has been superseded by the Export Administration Act.

Mr. SOLARZ. Would the gentleman yield?

Mr. BINGHAM. Yes.

Mr. SOLARZ. I am not an expert, as the gentleman is, on these matters, but what is the relationship between title II, which your amendment proposes to repeal, and the embargo on trade with Cuba?

Does the adoption of your amendment, in effect, result in the elimination of the embargo on Cuba.

Mr. BINGHAM. No; it would not. The embargo on Cuba, and other embargoes, are justified by the administration under other statutes.

The Battle Act is at the present time obsolete and redundant. I think its elimination is a technical matter.

Mr. SOLARZ. Does the gentleman know what the other statutory authority for embargo on noncritical goods to another country would be if this section is repealed?

Mr. BINGHAM. I would have to get the gentleman that statute. I have a memo on it but I don't have it immediately available.

[Subsequently, the following information was submitted for the record:]

In addition to the Export Administration Act and Title II of the Battle Act, authority to embargo foreign nations is contained in the Trading with the Enemy Act (40 Stat. 415; 12 U.S.C. 95(a)).

Mr. SOLARZ. I understand we are not going to vote on your amendment today. If you could provide that to me before Monday, I would appreciate it.

Mr. BINGHAM. I would be glad to do that.

I can assure the gentleman I have no intention of proposing anything to the committee as radical as that without a full explanation. While at one time I was in favor of repealing the embargo on Cuba, I am not proposing that or recommending that at this time.

These two amendments attempt to remove the emphasis of the act on the Communist countries as the sole target for U.S. export control and to make clear what is already the case in practice, that export controls do and should apply to any country which threatens the national security of the United States.

In that regard, in response to the views of the administration, section 8(B) has been modified in this committee print to make the felony provisions of the act applicable to any violation, not just violations involving illegal sales to Communist countries.

#### REPORTING REQUIREMENTS

The final three amendments attempt to clarify and consolidate existing reporting requirements of the act and to add two special reporting requirements. We are well aware of the burden of reporting and have tried to minimize the reporting requirements. However, two problems revealed by the hearings held by our subcommittee urgently require further attention:

The first is the problem of the export of sensitive technical data through publication. Currently, export controls do not apply to any published material. Several witnesses testified that this loophole may on occasion be used to circumvent export control. It is a difficult and sensitive problem because of the need to preserve freedom of speech and intellectual exchange.

Multilateral export controls are another problem area. Evidence was obtained that multilateral export controls administered by the so-called COCOM—coordinating committee of 15 allied nations which meet weekly in Paris—are ineffective. Since this body is an informal body which functions with only the most general statutory direction, it is difficult to influence the situation legislatively.

We have been constrained here simply to request detailed reports and suggestions for improvement in both these important areas. We have not, frankly, been able to come up with answers at this point.

Mr. SOLARZ. Would the gentleman yield?

Mr. BINGHAM. Yes.

Mr. SOLARZ. On section 10 involving the dissemination of technical information, it seems to me that the language which you suggest might possibly be strengthened if on line 19, page 9, of your amendment, the words "without impairing the freedom of scientific exchange" were amended to read: "without impairing freedom of speech, the press, or scientific exchange."

I wonder if the gentleman would be receptive to such a suggestion when we mark up his amendment next week.

Mr. BINGHAM. Offhand, I would see no objection to that amendment. I think it would be an improvement, but I would like to consider its implication.

Mr. SOLARZ. By all means.

Mr. BINGHAM. Mr. Chairman, that completes my explanation of the amendments.

I appreciate the patience of the committee.

Chairman MORGAN. Mr. Biester.

#### SUPPORT FOR THE BINGHAM AMENDMENTS

Mr. BIESTER. Mr. Chairman, I think the gentleman from New York, the chairman of our subcommittee, has done an excellent job in explaining to the full committee the character and impact of these amendments.

I must say that we on the minority side are very pleased with the cooperation and forthcoming attitude of the majority with respect to a number of objections which we had during the course of consideration of these amendments. By and large, they are agreeable and acceptable to at least the minority members of that subcommittee.

There is one section which has already been adverted to, dealing with the dispersion or potential dispersion, of information to a multiplicity of subcommittees in the Congress as to which I believe the ranking minority member, Mr. Broomfield, has some concern, which he will express, I believe, next week.

As far as I am concerned, we find the proposals eminently satisfactory.

I would like to thank the chairman of the subcommittee for his forthright attitude.

Mr. BINGHAM. I thank the gentleman for his comments.

Chairman MORGAN. Is there any further discussion?

The Chair wants to state he has made commitments to members who can't be here today regarding possible amendments or corrections to the Bingham amendments.

Therefore, the committee stands adjourned until 10 o'clock Tuesday and further discussion of these amendments will be postponed until Tuesday morning.

[Whereupon, at 11:50 a.m., the committee adjourned, to reconvene at 10 a.m., Tuesday, August 31, 1976.]

# EXTENSION OF THE EXPORT ADMINISTRATION ACT OF 1969

TUESDAY, AUGUST 31, 1976

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INTERNATIONAL RELATIONS,  
*Washington, D.C.*

The committee met at 10:20 a.m., in room 2172, Rayburn House Office Building, Hon. Thomas E. Morgan (chairman of the committee) presiding.

Chairman MORGAN. The committee will please come to order.

Today we continue the markup of H.R. 7665, to extend the authority of the Export Administration Act.

Last Thursday the committee approved amendments on the extension of the act, penalties under the act, and nuclear exports. The pending item is a series of amendments by Congressman Bingham designed to improve the export licensing process.

Mr. Bingham, on Thursday you completed explaining your amendments. Do you have any further remarks?

Mr. BINGHAM. Yes, Mr. Chairman.

Mr. Chairman, I would like to make a unanimous consent request, in accordance with the suggestion made by Mr. Findley, since he is not here at the moment, I would like to ask unanimous consent to make the following amendment.

On page 3, line 14, strike the word "submission" and insert the word "receipt", and make the same change at lines 23 and 24 of that same page.

Chairman MORGAN. Any objection to the correction offered by the gentlemen from New York, Mr. Bingham?

The Chair hears no objection, so ordered.

Mr. Bingham.

Mr. BINGHAM. I have nothing further, Mr. Chairman. I believe there are some amendments which have been discussed with me and which are agreeable to me, but I will leave the proponents of those amendments to offer them.

## FOREIGN AVAILABILITY

Mr. SOLARZ. I have an amendment to page 3, line 6, of the Bingham amendment, Mr. Chairman.

Chairman MORGAN. The clerk will read the Solarz amendment.

Mr. CZARNECKI. Amendment offered by Mr. Solarz.

Page 3, line 6, immediately before the closing quotation mark insert the following new sentence.

Where in accordance with this subsection, export controls are imposed for national security purposes notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of appropriate foreign countries for the purpose of eliminating such availability.

Chairman MORGAN. The gentleman from New York is recognized for 5 minutes in behalf of his amendment.

Mr. SOLARZ. Thank you.

I will be very brief. I believe this amendment is noncontroversial. It is acceptable to the author of the amendment, the gentleman from New York Mr. Bingham.

It simply provides that where the President, in spite of the availability of strategic commodities from other countries, decides to prohibit the export of such commodities from our own country, that he should undertake steps to persuade those governments which permit the export of these critical commodities to join us in prohibiting their export on national security grounds.

I think that this would close at least one loophole in the amendment because to the extent that the availability of certain strategic goods to unfriendly countries does constitute a threat to our national security, it would appear that rather than simply throw up our hands on the grounds that these commodities are available from other countries, we ought to make an effort to persuade those countries to join with us in prohibiting their export to unfriendly countries.

Mr. BINGHAM. I thank the gentleman.

I would like to say I think this represents a distinct improvement in the package of amendments we have offered.

Chairman MORGAN. All in favor of the amendment by the gentleman from New York to the Bingham amendment do so by indicating the word "aye."

All opposed.

The ayes have it, and the Bingham amendment is amended by the Solarz amendment.

Are there any further amendments?

Mr. SOLARZ. Mr. Chairman.

Chairman MORGAN. Do you have another amendment?

#### STUDY OF THE EXPORT OF SCIENTIFIC INFORMATION

Mr. SOLARZ. I have one amendment which I think the gentleman from New York has also indicated a willingness to accept.

On page 9, line 19—

Chairman MORGAN. Do you have the amendment in print, Mr. Solarz?

Mr. SOLARZ. I have one right over here. It only adds six words.

Chairman MORGAN. The clerk will read the amendment.

Mr. CZARNECKI. Amendment offered by Mr. Solarz.

Page 9, line 19, immediately after "impairing" insert "freedom of speech, freedom of press, or".

Chairman MORGAN. The clerk will read the amendment again.

Mr. CZARNECKI. [reading]:

On page 9, line 19, immediately after "impairing", insert "freedom of speech, freedom of press, or".

Chairman MORGAN. The gentleman from New York is recognized for 5 minutes in behalf of his amendment.

Mr. SOLARZ. Mr. Chairman, I think this amendment speaks for itself. It is acceptable to the gentleman from New York who authored the amendment. I think it is relatively noncontroversial.

Mr. BIESTER. Could the gentleman explain the rationale for his amendment and what its impact would be?

Mr. SOLARZ. I would be happy to. It amends a subsection of section 10 which requires the Secretary of Commerce to conduct a study dealing with the problem of the export by publications or other means of dissemination of technical data which, if it is available to other countries or corporations outside of the United States, could conceivably prove detrimental to the national security or foreign policy of our own country.

The gentleman from New York, I think, who conducted extensive hearings on this subject, recognized that this was potentially a very serious problem which we weren't dealing with in any serious or systematic way. He doesn't, I think, have the answer as to how to handle this. I certainly don't have the answer. But what we have tried to do in this amendment is to require the Secretary of Commerce to conduct a study with a view toward making recommendations about how we can deal with it.

At the same time I think we are all mindful of the fact that the imposition or at least the potential imposition of controls on the dissemination of printed or written data does potentially raise problems of freedom of speech and freedom of the press. The sole purpose of this amendment, which adds the phrases freedom of speech and freedom of press to the existing phrase in the amendment relating to the freedom of scientific exchange, was to make it clear that whatever recommendations the Secretary of Commerce comes forward with should be sensitive to the comparable concern on the part of the committee.

#### FIRST AMENDMENT RIGHTS

While we want to control the dissemination of this data, we don't want to do it in such a way that we would infringe the first amendment freedoms on which our society and Government is based.

How you actually strike that balance I honestly can't say at this time, but that is the whole purpose of the study which we are requesting in the amendment.

I yield to the gentleman from New York.

Mr. BINGHAM. Well, my view is that the addition of the language really doesn't change the sense of the original. I have no objection to it. I think it perhaps puts in concepts with which we are somewhat more familiar than we are with the concept of the freedom of scientific exchange.

I would visualize, for example, that one type of case that might be involved would be the publication of a scientific article or technical article in a journal that would involve freedom of the press. Freedom of speech might be involved in somebody making a speech at a scientific gathering which involved the same problem.

I think it is a clarifying amendment and I have no objection to it.

Mr. BIESTER. In other words, what the gentleman is after is really to say that his recommendation should be consistent with the Constitution?

Mr. SOLARZ. Precisely.

Mr. WOLFF. I totally agree with the statement that the restrictions should be consistent with the Constitution. However, I cannot see where there is a consistency of controls with freedom of speech or freedom of the press; controls do implant a restriction upon the question of freedom of speech, and I think that you have an anomaly here. In one case you are talking about a constitutional freedom, in the other case you are talking about a restriction that is placed for national security reasons.

How do you reconcile the two?

Mr. SOLARZ. I think the gentleman has made a thoughtful observation. I would simply point out, first, that on line 18 of the amendment the phrase monitoring rather than controlling is used.

I would point out that it is precisely because of the dilemma to which the gentleman referred and that we have asked for a study of the problem together with recommendations which our committee and the Congress can then evaluate.

It may well be it is impossible to meaningfully monitor or control this situation without infringing the Constitution, in which case we might not be able to do anything. But I am not prepared to say in theory that we can't devise some kind of system which is both responsive to the Constitution on the one hand and yet which provides us with a greater measure of security on the other.

Mr. WOLFF. Are we not guided by that principle in everything that we do that the constitutional purposes are involved?

Mr. SOLARZ. I would say in light of some of the things that have happened in this country in the last several years unfortunately we appear not to be. In any case, the language in the amendment already provides that it shouldn't impair the freedom of scientific exchange, so I think this simply clarifies the thrust of that concern by adding freedom of speech and freedom of the press.

Mr. FASCELL. I want to ask the gentleman from New York, Mr. Bingham, wouldn't it be easier to put a period after the word "exports", and strike out the language? We can't add anything to the Constitution by a legislative act. Why not take care of all of that in the report if you think you need some kind of direction or guidance. I can't imagine the Secretary of Commerce would make any recommendation for monitoring which was unconstitutional.

Mr. BINGHAM. Well, I think it serves the purpose to have some such language as this in there to point out that we are aware of the dilemma. There are, of course, many cases where speech is restricted by law, where there are restraints upon the press for reasons of national security and otherwise, so this balancing problem is not an unfamiliar one. But I think that leaving the language in there, expanded, as Mr. Solarz would do, serves the purpose of pointing out that we are aware of the dilemma and this is why we seek recommendations.

This is not a theoretical problem. It is a very real problem which affects the validity of the whole export control operation.

Chairman MORGAN. The time of the gentleman from New York, Mr. Solarz, has expired.

The question has been demanded. All in favor of the Solarz amendment to the Bingham amendment do so by indicating the word "aye."

[Chorus of ayes.]

Chairman MORGAN. All opposed?

[No response.]

Chairman MORGAN. The ayes have it; the amendment is adopted. Mr. Biester.

#### DEFENSE DEPARTMENT REVIEW OF EXPORTS

Mr. BIESTER. Mr. Chairman, I have an amendment which I believe is prepared and can be contributed.

Chairman MORGAN. The staff will pass around the Biester amendment.

The clerk will read the amendment.

Mr. CZARNECKI. Amendment offered by Mr. Biester.

Page 6, strike out lines 22 and 23 and insert in lieu thereof the following:

(3) by striking out "to any such country" in the second sentence and inserting in lieu thereof, "to any nation to which exports are restricted for national security purposes."

Chairman MORGAN. The gentleman from Pennsylvania is recognized for 5 minutes in behalf of his amendment.

Mr. BIESTER. Thank you, Mr. Chairman. I would try not to use the full 5 minutes.

The section of the act of 1969 which these amendments cover, which is section 4(H)(1), originally in its language deals with countries characterized as controlled countries and these, of course, are countries which are basically assumed to be adversary countries to ours.

We, as I understand it, by the Bingham amendments are striking out references to controlled countries and striking out references to the phrase, "significantly increased military capabilities of such country."

The problem that is created is that section 4(H)(1) then tends to cover every export, every potential export, from the United States, and the thrust of this amendment would be to limit the Defense Department's review of exports to exports to any nation to which exports are restricted for national security purposes and thereby somewhat narrow the impact of the Defense Department review to those which really bear upon national security questions and not just any export from the United States.

Mr. BINGHAM. I thank the gentleman for yielding. Again I would like to say I think this is an improvement in the package.

I would call attention of the members to the fact that they have on their desks a Ramseyer of this section 8 which shows the changes that are proposed to be made in section 4(H)(1) of the Export Administration Act, and the particular amendment to which the current Biester amendment refers to comes about line 9 of the Ramseyer.

Chairman MORGAN. Any further discussion upon the amendment by the gentleman from Pennsylvania? If not, all in favor give the usual voting sign.

All opposed?

[No response.]

Chairman MORGAN. The ayes have it and the amendment is adopted.

Any further amendments to the Bingham amendment?

If not, under the unanimous consent request adopted by the committee that this amendment be considered en bloc, all in favor of the Bingham amendments as amended by the Solarz and Biester amendments do so by indicating the word "aye."

All opposed?

[No response.]

Chairman MORGAN. The ayes have it and the Bingham amendments are adopted.

Mr. Bingham.

#### FOREIGN BOYCOTTS AMENDMENTS

Mr. BINGHAM. I have another amendment, Mr. Chairman, which is in the form of a committee print with one change in that print which I will explain to the members.

This is the committee print dated August 28, 1976.

Chairman MORGAN. The clerk will read.

Mr. CZARNECKI. Amendment offered by Mr. Bingham.

Add the following new section at the end of the bill:

#### "FOREIGN BOYCOTTS

"Sec. (a). Section 3(5) of the Export Administration Act of 1969 is amended in subparagraph (B)—(1) by striking out 'encourage and request' and inserting in lieu thereof 'require'; and (2) by striking out 'the furnishing of information or the signing of agreements' and inserting in lieu thereof 'furnishing information or entering into or implementing agreements.'"

Mr. BINGHAM. I ask unanimous consent that the remainder of the amendment be considered as read and I be given the opportunity to explain the one change which is not in all of the copies. It is in the copy in the hands of the clerk.

Chairman MORGAN. Any objections to the request of the gentleman from New York? The Chair hears no objections; so ordered, Mr. Bingham.

Mr. BINGHAM. The one change which is not in all of the copies and which I would ask the members to insert in their copies is on page 2, line 23. And the words to be inserted after the words United States are as follows: "and which is not itself the object of any form of embargo by the United States."

Now, Mr. Chairman, if I may be recognized for the purpose of explaining the amendment.

Chairman MORGAN. Any objections?

Mr. BINGHAM. I am offering it in that form.

Chairman MORGAN. Mr. Bingham.

Mr. BINGHAM. Mr. Chairman, as the committee print indicates, this amendment is offered on behalf of a number of cosponsors. It represents a great deal of consultation and a large measure of agreement by a number of members of the committee.

## HISTORY OF U.S. ANTI-BOYCOTT POLICY

This amendment has a considerable history. Legislation along these lines was first proposed back in 1965 and at that time actually was adopted. Something like it was adopted in the Senate, but did not pass the House. What happened instead was that language was adopted declaring it to be the policy of the United States to oppose such boycotts and indicating that American business would be discouraged from cooperating with the boycotts.

We have had over 10 years of experience with this language and it has proved totally unsatisfactory. The impact of foreign boycotts has increased rather than diminished. The efforts of the Department of State to negotiate a lessening or loosening of the boycott have not been satisfactory. Indeed, in the past year Egypt, which had indicated in the Sinai agreement that it would modify the boycott, has not done so. We have allowed a situation to continue in which American businesses are in effect being told with whom they can do business and with whom they can't if they want to do business with the Arab world.

## PURPOSE OF ANTI-BOYCOTT AMENDMENT

I want to stress that we are not attempting here to tell the Arab States that they can't boycott Israel and have a direct boycott of Israel if they want to. That is their privilege as a sovereign nation. And we have done the same with other States. But we are saying that they have no right to insist that American businesses observe that boycott if they want to do business with them.

This is a protection to those business people who don't want to observe the boycott. To date, those who resisted it on principle were penalized by losing out in the competition for business.

This amendment would prohibit all forms of compliance with a boycott directed against a friendly country. The language I have added would make clear that if we ourselves, the United States, has an embargo or boycott going against any other country then we are not attempting to prohibit a foreign boycott directed against that same country.

The impact of this legislation is, of course, a matter of discussion. Many businesses are concerned about what the reaction of the Arab countries will be. Other businesses have indicated that they would welcome this as a protection against their right to do business with any country that they choose.

I think fundamentally it is a moral question, a question of principle as to whether we are going to go on with a namby-pamby law that doesn't mean anything and has no teeth in it—that simply expresses a policy we do nothing to enforce—or whether we are going to put some teeth in the law and make sure that it is applicable to all businesses so that all are treated alike.

We have indications that some of the businesses in those Arab countries are actually fed up with the boycott and would be happy to see it disappear. Other countries may continue to try to enforce the boycott against U.S. concerns. But in view of the extensive involvement of businesses, including banks, in the working of the boycott

as revealed, for example, before the subcommittee of the Government Operations Committee, chaired by Mr. Rosenthal, it seems that the time has arrived when we have to take the vigorous steps that this legislation embodies.

#### STATE ANTIBOYCOTT LAWS

I would point out finally that several States have themselves acted along these lines. The State of New York, the State of Maryland, and Illinois, have all passed legislation along these lines. And, of course, businesses there are complaining that they are subject to unfair competition as a result from businesses elsewhere.

I understand a similar bill is on its way through the Pennsylvania legislature.

This is a step, in my view, and I think in the view of the other cosponsors of the bill, whose time has come.

I want to express my appreciation to the cosponsors and most especially to Mr. Rosenthal and Mr. Solarz, who have devoted a great deal of time and effort to the development of the amendment in its present form.

Chairman MORGAN. Mr. Rosenthal.

#### NEED FOR ANTIBOYCOTT LEGISLATION

MR. ROSENTHAL. Mr. Chairman, I thank Mr. Bingham for taking the leadership in this area. He is quite correct in saying that this is legislation whose time has come.

The Secretary of the Treasury has stated publicly that boycott compliance could be adjusted on a voluntary basis and that the situation was improving.

The Secretary of State has indicated that political steps were being taken to oppose the continuation of the boycott and that over the long term he was hopeful the problem could be solved. The fact is that the situation has worsened. Unless it is arrested now we will have in this country two classes of international concerns—those that cooperate with the boycott and those that don't cooperate with the boycott.

There are over 1,500 names on the boycott list. Everyone of the 20 Arab countries has a different list. What has arisen is an industry of influence peddling and influence buying to get a company's name off the list. The major defense contractors and Hilton Hotels are operating in Arab countries for one reason or another even though they do business in Israel. The Arabs like to have firms such as United Aircraft, McDonnell Douglas, and Hughes Aircraft in their countries, and so they look the other way.

It has become a rather grievous assignment for anybody to maintain free international trade while the Arab and other foreign boycotts persist.

The area that my subcommittee in Government Operations looked into was the question of letters of credit. This is the means through which the boycott is enforced.

In its latest tabulation covering the period from April 1, 1976 to June 30, 1976, the Department of Commerce reported that 131 banks had engaged in 8,026 transactions involving 15,393 requests to advise

or confirm restrictive trade practices against U.S. firms doing or seeking to do business with Israel. The total value of these boycott transactions was \$479 million. During the previous period it was equally high. Indeed, it is going higher all the time. Of these 15,393 requests during the 3-month period, only 1261 of them was there a rejection of boycott compliance because they involved violations of civil rights laws. But there is an interesting lesson to be learned from this.

#### IMPACT OF ANTIBOYCOTT LEGISLATION

The secretary of the Morgan Guaranty Bank testified before my subcommittee that in 23 out of 24 cases in which they resisted advising objectionable letters of credit, the Arab importer or bank removed the boycott language rather than forego the purchase.

Could this amendment cause some discomfort in the business community? The answer is yes, of course. We are talking about more than \$5 billion a year. But, there is considerable pressure within the Arab business community to forget about the boycott. The fact that four States of the United States have passed laws similar to the one we are applying here is also causing discrimination within the United States, not only corporation against corporation but State against State. The best thing to do to take the burden off American corporations is to pass this kind of legislation.

#### PRESS SUPPORT FOR ANTIBOYCOTT LEGISLATION

This point of view was expressed in the Wall Street Journal in June this year. I will just briefly read:

Arab governments should be told that American businessmen will not be allowed to do the work of enforcing the boycott. Arab economic officials are no fools. They prefer American technology. They have already built large American contracts into their development plans. They are not going to disrupt their progress in futile attempts to tradition.

A similar editorial has appeared in the Los Angeles Times.

Not too many years in the future the nation could have two kinds of auto corporations, steel makers, trading firms and banks—those that deal with Arabs and those that don't. If that happens the two groups would be hampered by the blacklist in their dealings with each other.

Imagine the effect on a nation's economy, the sense of nationhood, its integrity.

And the Times, in closing this editorial said:

Tough specific measures against the blacklist can give American businessmen a united front in their negotiations with Arab customers. That unity is crucial. So is the necessity of insulating American workers and businessmen from the destructive whims of others.

Similar editorials have appeared in papers in every corner of the country. The case is so clear and so overwhelming. My own personal view after speaking to people on both sides of the issue is that everybody will breath a sigh of relief when the Congress passes this legislation and it is signed by the President.

If nations want to have a boycott among themselves, that is their business. But other nations, friendly to both sides, do not want to be enforcers. The last thing this Government should condone is having

American corporations as enforcers, one against the other, permitting one American corporation to say to another, as in the Bechtel situation, that we can't use some of your products because of the kinds of people on your board of directors, or because you do business with certain other countries.

I think this is the most important piece of legislation from a moral point of view that this committee has considered in the 14 years I have been privileged to be a member. It has been an honor to serve on this committee and I would urge all of us wholeheartedly to support this amendment.

Chairman MORGAN. Mr. Findley.

#### CONSEQUENCES OF ANTIBOYCOTT LEGISLATION

Mr. FINDLEY. Mr. Chairman, I don't doubt the motivation of the author and sponsors of this amendment but I think this committee ought to reflect on what the effect of the amendment may be.

It is a little hard for me to believe it would really lead to an end to the Arab boycott.

I would be glad to yield to anyone willing to contend that this will terminate the Arab boycott.

What would be the effect then? I think we have to presume it would work, to reduce substantially U.S. economic involvement with Arab nations. I think if that is the case we ought to reflect seriously on what long-term consequences this reduction in economic involvement may have on the future of the State of Israel. It is really going to make smoother the path to peaceful relations in the Middle East? I don't have the answer to that. I am glad to yield.

#### CHARLOTTE OBSERVER EDITORIAL

Mr. GILMAN. I think one of the best responses to that contention, Mr. Findley, was the comment by the Charlotte Observer editorial on Mr. Jones who appeared before this committee when we were conducting hearings back in June. If you will bear with me, it is a very brief editorial and I would like to read it for the benefit of my colleagues.

This appeared in the Charlotte Observer on June 14, 1976.

Arab Intrusion, Jones' Advises, Is Wrong. Neither common decency nor the best interests of the United States are served by the practices acknowledged by Edwin Jones of Charlotte in his testimony Thursday before a House Committee. Mr. Jones, President of J. A. Jones Construction Corporation, said his corporation in some instances is going along with demands by Arab countries to boycott Israel. Why? Not to create jobs for Americans but to make money. The corporation does a substantial business in Saudi Arabia. Mr. Jones' testimony showed that while the corporation is responsive to the Arab countries foreign policy requirements, it is ignoring American policy. We think the corporation has no business acting, for whatever reason, in a matter that is against the policy of the United States.

Mr. FINDLEY. My friend, my time is going to expire pretty soon. Would it be possible to get more time?

Mr. GILMAN. If the gentleman will yield further, I will go to the closing paragraphs of that editorial.

Jones should have been on the opposite side, as are many American business executives. They know that the best way to counter the Arab government pressure is to have a law on the books which requires them not to yield. Then they could simply tell Arab governments, we have no choice but to comply with American law. Would that put them out of business in the Arab world? It is conceivable, though unlikely that in few cases it would, but it is virtually inconceivable that those developing countries would choose to do without American technology, American scientific development and American management know. Such a law in our view over night would break the back of this impotent intrusion in American life. The larger question is one of morality. The Arab boycott of black listing of firms has been aimed not only at Israel but against American Jews.

If an Arab nation wants to do business with an American firm it should abide by this country's rules of decency and fair play or go elsewhere. We doubt that those countries which are being developed largely by American enterprise would go elsewhere. Congress should make American policy, not a bunch of oil kings and sheiks.

Chairman MORGAN. Time has expired.

Mr. GILMAN. I ask unanimous consent that the gentleman from Illinois be granted additional time.

Chairman MORGAN. The gentleman is granted another 5 minutes.

Mr. ROSENTHAL. Would the gentleman yield on his new grant of time?

Mr. FINDLEY. I will yield, let's say 1 minute.

#### ANTIBOYCOTT ACTION BY OTHER COUNTRIES

Mr. ROSENTHAL. I think the gentleman makes a relevant and important inquiry.

I think in response one should ask what other countries have done under similar circumstances? The German Government in describing this boycott has labeled the Arab boycott as, "A particularly grotesque demonstration of discrimination against freedom—"

Mr. FINDLEY. The German Government said that. What did the German Government do?

Mr. ROSENTHAL. Let me give an example. Volkswagen has a licensee in Israel, and the Arab boycott committee threatened to put Volkswagen on the boycott list. Volkswagen refused to withdraw its license in Israel and the Arabs caved in.

The Common Market, the European community, with which you and I are familiar, has taken strong legislative positions in this area.

Mr. FINDLEY. Is the legislative position taken by the European community comparable to that set forth in this amendment?

Mr. ROSENTHAL. It is comparable. The Dutch Government prohibits notaries from validating boycott documents, the kind of letters of credit conditions I talked about earlier. The Dutch Government prohibits notaries from certifying those documents. Many developed, industrialized countries have taken strong positions in this area. We are among the last when we should be the first.

#### POSSIBLE ADVERSE CONSEQUENCES OF ANTIBOYCOTT LEGISLATION

Mr. FINDLEY. If I could recover my time. I hope our Nation will never get to the point where it puts economic interests above moral interests, and I think we ought to examine this as a moral question,

and I am sure that those who have drafted the amendment believe that this is morally the correct step to take.

Maybe it is. But I think we ought to try to look way down the road and examine at least the possible adverse consequences that that might cause, and if this should cause a new strain in United States-Arab relations, diminish our influence within Arab capitals, cause some new tension in the Middle East, one could hardly argue that we are on the right side of a moral issue in advocating this amendment. Maybe I am wrong, but I think these are questions that members of the committee ought to think seriously about.

Chairman MORGAN. Time has expired. Mr. Fraser.

#### EXAMPLES OF THE DISCRIMINATORY ASPECTS OF THE BOYCOTT

Mr. FRASER. Mr. Chairman, there are two illustrations I would like to give that I think justify this action. First, a friend of mine in an architectural firm in my community who happens to be Jewish told me that his firm has asked him to stand aside with respect to a project on which they were proposing to bid in one of the Arab countries. I found this particularly offensive because what it suggested to me was that anti-Semitism was being exported from the Arab countries into the United States.

Second, I noticed in an article recently that the University of Montana reportedly entered into some kind of long-term arrangement with Saudi Arabia under which the right was reserved by Saudi Arabia to exclude Jews from participating in the program. I hope this is not true. This doesn't really have so much to do with business, it has to do with a kind of ethical standard I think the United States cannot forsake.

I don't think Mr. Rosenthal is arguing that this would end the boycott. In fact he made the point that if the Arabs want to boycott Israel that is up to them. What this does suggest, however, is that it ought not to be for the United States or its citizens to help an Arab boycott, particularly in instances which force us to begin discriminating among ourselves. I think it is so obnoxious that it is essential that we do everything we can to stop it.

Mr. FASCELL. I would like to join the gentleman in his remarks. I can't imagine a more sordid kind of discrimination than that which requires Americans to practice discrimination against a fellow American. This is the only issue involved here. How important is money? That is the issue. I think we need to take a very strong positive legislative step to demonstrate effectively that principle, human and moral values are more important than money.

#### FOREIGN INTERFERENCE IN U.S. BUSINESS

Mr. WOLFF. Thank you, Mr. Chairman. Mr. Chairman, I would like to separate out the question that we are faced with here in the reference to the present boycott that exists and talk about a principle. I think that what we are faced with is a principle of dictation by other nations, the control of American industry rather than the idea of the particular moral question that is involved. Are we as an American Government going to abdicate our responsibility to protect American

industry from the control of other nations and actually permit them to dictate policies by which American firms can operate? I think that is the primary principle that is involved. It is not solely the moral principle that is involved, but the practice which is repugnant. It is the principle of whether or not American industry shall be controlled from the outside by the dictates of other nations.

I think it is for this reason in addition to the moral ones that I support the amendment of the gentleman from New York.

Chairman MORGAN. Mr. Whalen.

Mr. WHALEN. Thank you, Mr. Chairman. I would like to reiterate what Mr. Wolf has just stated. I think the question is not will it halt the boycott. Certainly this we recognize is a valid weapon. I don't suppose it would halt Arab nation efforts to refrain from buying from American firms that sell Israel, for example, if it is determined by the Arab States through their own resources that company XYX does sell to Israel. As had been suggested before, what we are trying to halt is complicity by American firms with efforts to intrude in our internal affairs. That is the issue.

Let me take that a step further. I have heard the question raised in some quarters, "well, isn't this another Vanik-Jackson amendment?" We saw what happened when the Congress enacted that piece of legislation. I don't think the two are analogous at all. I opposed the Vanik-Jackson amendment because I felt it was an intrusion in the internal affairs of the Soviet Union. Indeed I and others predicted exactly what would happen, that is, the flow of immigration from Russia was greatly reduced.

Rather it seems to me that this amendment is directed to the opposite situation. At the present time it is the Arab states which are intruding in our own internal affairs by requiring that companies seeking to do business with them sign certain documents or comply with certain requirements. This amendment in effect is our response, saying to American firms and American individuals that you must not comply with these efforts to involve other nations in our own internal affairs.

I hope that this amendment is adopted.

Chairman MORGAN. Mr. Solarz.

Mr. SOLARZ. Thank you, Mr. Chairman.

#### IMPACT OF ANTI-BOYCOTT LEGISLATION ON MIDDLE EAST SETTLEMENT

I think there is relatively little that can be added to the thoughtful and occasional moving observations on this amendment which have already been made by several members of the committee, but I would like to respond if I may to the question raised by the gentleman from Illinois, Mr. Findley, who posed in his customary thoughtful fashion a serious and legitimate argument against this amendment. I think no member of the committee, no Member of this Congress, would under ordinary circumstances acquiesce in the kind of pressures which the Arab boycott has brought to bear against American business firms.

He asks whether the moral problems which the boycott poses for American business notwithstanding, there isn't a larger consideration at stake here, namely peace in the Middle East. To what extent would

our rejection of the boycott embitter our relations with the Arab countries and decrease our influence in the Arab world—thereby making more difficult the achievement of peace for all of the countries of that region?

I would respond to that question, which I think is a legitimate one, by making the following points:

First, I think it is fairly clear that the willingness of the Arab countries to make peace with Israel in the final analysis more than anything else will be a function not of their relations with us but of their perception of their own political problems and military possibilities. An Arab determination to make peace will spring from considerations within the Arab world itself. And while I think we can have a marginal impact on their attitude and on their willingness to make peace, fundamentally this is an Arab decision to make.

The second point I would make here is that over the course of the last several years, our economic and political relations with the Arab world have increased enormously. We have sold in the last few years alone close to \$6 billion worth of weapons to the Arab countries, and I suspect that in the next few years we will be selling a few billion dollars more in weapons to Arab countries.

We have provided Egypt with almost \$2 billion in economic assistance. We have provided Syria with almost \$200 million in economic assistance. We have provided Jordan with hundreds of millions of dollars in economic assistance.

To the extent that our relationship with the different countries in the Arab world does constitute a positive force for peace, I would submit that we have already paid our dues.

I find it hard to believe, in light of the military assistance we have provided the Arab countries, and in light of the economic and humanitarian assistance we have provided the Arab countries, that the adoption of this amendment is going to so poison the well that our ambassadors and our Secretaries of State and our Presidents will no longer be welcome in the Arab world. I think we will still have a contribution to make to the process of peace, but I think that contribution, such as it is, cannot be at the price of our own morality here at home.

Chairman MORGAN. Time of the gentleman has expired.

Mr. Winn.

Mr. WINN. Thank you, Mr. Chairman.

#### IMPACT OF ANTIBOYCOTT LEGISLATION ON U.S. EMPLOYMENT

Although I will probably vote for this amendment, I would like to ask the prime sponsor, Mr. Bingham, a couple of questions if I may.

It has been brought to our attention in the last couple of days by some American businessmen that this might cause a large unemployment situation among American citizens. Is that true, is that a possibility?

Mr. BINGHAM. I think that this has been the question that has been discussed during the last few minutes of the debate, what the impact will be on American business. I think that there are two answers to it. One is that we cannot allow economic considerations to overwhelm moral considerations. The other is that the Arabs will act in their

own best interests. They want American technology, they want American investment; and they want American products. If the business community reacts in a uniform way and says that they have no choice under the law but to reject the requests for information and for assurances of compliance with the boycott, and so on, it is my best judgment that the Arab countries will not cut off their nose to spite their face. They will not go to the extent of cutting off their exports from the United States.

Mr. WINN. Let me ask—

Mr. BINGHAM. I would answer the gentleman's question by saying that our best judgment is that it will not cause unemployment.

#### IMPACT OF BOYCOTT ON ISRAEL

Mr. WINN. Has this boycott really damaged the Israeli economy? I can see nothing to that effect?

Mr. BINGHAM. I would say in answer to the gentleman's question that the purpose of this amendment is primarily to protect American business and not for the protection of Israel. The impact of the boycott on Israel has been spotty. In many cases, as Mr. Rosenthal brought out, companies such as Volkswagon and so on have continued their relationship with Israel.

The motivation behind this amendment, in other words, is not for the protection of Israel but to maintain a principle with regard to the freedom of American enterprise.

I would like to add with respect to the earlier question of the gentleman from Kansas, that the AFL-CIO has supported the legislation of the sort that we have before us today.

Mr. WINN. If I may ask the gentleman one last question.

#### U.S. BOYCOTTS

Have U.S. boycott practices involved secondary boycott practices?

Mr. BINGHAM. No; they have not. U.S. trade boycotts have been primary boycotts and only in the case of AID programs have we engaged in what might be called a secondary boycott.

Mr. WINN. I thank the gentleman.

Chairman MORGAN. Mr. Riegle.

#### U.S. COUNTENANCE OF THE BOYCOTT

Mr. RIEGLE. Thank you, Mr. Chairman. I have very strong feelings about this, as many other speakers have. I am not going to try to repeat many of the arguments that have already been very well stated, but I do want to make a couple of points.

Unless we take this step, it is clear to me that our country is a party to the boycott. We are, in effect, assisting it and taking part in it. I sense that there has been foot dragging on the part of our own Government in being tough about this, and fighting off this kind of discriminatory effort by countries around the world. And I think if we had the same situation arising not from the Arab world but say from mainland China, that the administration would be tougher in fighting

off this kind of interference in our own economic structure here in this country.

This kind of interference goes right to the heart of what this country is about. It is discrimination. It has to do with saying someone is going to be denied an equal chance or fair chance or is going to be asked to step aside based on that ethnic factor. To even consider possibility that this is something we would tolerate in our own country from our own Government or being imposed upon our country by another government is almost beyond my comprehension.

I think if the Arab countries were not sitting there with all the oil and if we did not have all of the oil-related connections with certain groups within our own society you would not see our Government so willing to knuckle under to this kind of pressure. You would see a much tougher stand. But I think obviously the economic realities related to energy supplies worldwide allow the Arabs to apply this kind of pressure on our Government and in effect get away with a lot of it. I think this is an open invitation to anybody else anytime to try to dictate not only economic realities to us but in effect to ask us to violate the very philosophy and basis of this country. Whether we are talking about Jewish people or talking about Polish people or talking about anybody else in our society, the notion that we are going to allow discrimination to be practiced against them by some outside Government or some outside force, and basically look the other way, repudiates everything this country stands for.

We need to say something strong and clear in this area, because apart from the economic realities and the damage to our own business sector this goes right to the core of what the moral structure and meaning of this country.

So, I intend to cast a very passionate vote for this amendment.  
Chairman MORGAN. Mr. Derwinski.

#### MIDDLE EAST SETTLEMENT

Mr. DERWINSKI. Mr. Chairman, I am not going to say much. I think everybody understands the issue. But there are a couple of factors I think should be emphasized for the record.

One is the members ought to keep in mind the incredibly complex situation in the so-called Arab world. There really isn't any such thing as an Arab world. They claim there is, but that is a facade. And we do see that in their failure to bring any practical solution to the problem in Lebanon, which is a peculiarly Arab problem in many respects.

Another thing is if we are going to be addressing ourselves to the one thing everybody in the committee would agree on, the need for final solution to the Middle East problem and peace and security for Israel, we have to keep in mind that it isn't the conservative kind of countries like Saudi Arabia that are the long-range problem, it is the radical government such as we have in Iraq, Algeria, and Libya, fanning the fires of hatred and creating the real problems in the Middle East. I would just hope after we dispose of this subject, the committee in its wisdom and statesmanship and foresight could figure out some way to handle the problems created by the Qaddafis of the Arab world. In so doing we would be taking an overdue step to end this tragic dilemma.

I would hope, I say, in its wisdom the committee and its leadership, real or appointed, self-appointed, would address itself to those subjects.

Chairman MORGAN. Mr. Buchanan.

Mr. BUCHANAN. Thank you, Mr. Chairman.

#### ANTIBOYCOTT LEGISLATION MORALLY RIGHT

Mr. Chairman, I would hope that this committee and individual members of the committee would do what they believe to be morally right, and I believe that will be the case in this matter.

It would appear that the purpose of this amendment is to in its language protect against "discriminating" against any U.S. person on the basis of race, color, religion, sex, nationality, or national origin. That certainly is morally right. It also seeks to protect American firms against being discriminated against by other firms because of a boycott. That is also right.

The amendment would prevent American firms from being used as instruments of a boycott by another country, against a third country, and that certainly seems to be morally right. But I think we would be very very unwise as a committee if we proceeded without counting the cost.

#### ECONOMIC COST OF ANTIBOYCOTT LEGISLATION

You know people have been crucified for what they believed was right, and I really think we would be most unwise if we blandly assume there may be no price tag on this action.

The price tag may be the kind of action the gentleman from Illinois has visualized of worsening of our relations, generally, with the Arab countries. Almost certainly some companies, I would say to the gentleman from Kansas, Mr. Winn, in some places will suffer substantial loss as a result of this action by the committee and the Congress.

There are a fair number of American companies doing business with Arab countries only and who are in technical compliance with aspects of the boycott not because they have intended policies in that direction, but because they don't happen to do business, because of the nature of their business with other than one or more Arab countries.

Some of these companies will lose business and it will create  $x$  amount of unemployment in those cases. It will certainly equalize the treatment for companies like those in the State of New York where State law is already in line with this and would put them on a more equal footing with those in other States where there is no such State law.

But I think it would be unwise if we were to assume that this action will clearly bring no substantial injury either to our country in the short run or to particular American businesses, because that may well not be the case. It would depend on whether the Arab countries and all of them and each of them respond with reason or irrationally, respond in a way that I would consider wisely or unwise, favorably or unfavorably.

I don't know whether we can count on what kind of responses we may get from individual Arab countries, in this respect.

I would say it is the profound hope in each case they will respond with fairness and with reason recognizing that we must do what we believe is right and in line with our Constitution, with the rights of our people, and I would profoundly hope that we would take this action in light of our understanding that the hope for the Middle East lies in peace, not in war.

A boycott is a form of economic warfare. In this instance it amounts to an attempt to isolate economically and, if possible, to strangle the nation of Israel.

It would hardly make sense for our country, having devoted billions of its dollars to supporting and protecting the life of Israel, to at the same time be a party to its economic isolation and stragulation. I don't think that can be right national policy. Therefore, I think we must support this kind of amendment in legislation. I don't think we can be parties to the violation of the rights of American citizens. That goes in the teeth of all we stand for.

I, therefore, feel this committee has little choice as to the morality of its position and as to what we must do with this amendment, but I would caution the committee, Mr. Chairman, to proceed on the basis of understanding that this may cost something and may have a price.

#### ABSENCE OF BUSINESS RELATIONSHIP

Mr. BINGHAM. Well, I thank the gentleman for yielding. I think he expresses a more pessimistic view perhaps than I expressed earlier. He certainly raises legitimate points.

I would like to make one point, however, with regard to his example of the company that does business with an Arab country and not with Israel. We have specifically indicated in the amendment that that in itself would not be a violation of law. The wording of the amendment is that the mere absence of a business relationship with a boycotted country does not indicate the existence of the intent required by the preceding sentence. A company in that situation is not going to automatically find itself in violation by any means.

Mr. BUCHANAN. I thank the gentleman so much for that legislative history and for the inclusion in the amendment of that sentence, because I do think that is of very great importance.

#### SUPPORT FOR ANTIBOYCOTT AMENDMENT

Mr. Chairman, let me close simply by saying, lest my position not be clear, I think our country has been marked by our being willing to pay whatever price is required for doing what is right. I have no question what is right in this instance. I would close with this one thought pertaining to the country toward which the boycott is directed. I think perhaps the most American thing that has happened in our Bicentennial year began in Tel Aviv and was consummated in Uganda, the courageous operation Thunderbolt, or Jonathan. At last somebody did something significant and right in the matter of rescuing hostages from the other evil of our time, skyjacking, and using innocent people as a bargaining weapon. In line with that very courageous and daring action on the part of Israel, the object of the boycott, I would urge this committee to show its American spirit

by lending its support to that courageous country and to its economy as we already have to its life in terms of the assistance we have offered. Its life has been threatened by hostile military action.

So I would urge the support and adoption of the amendment.  
Mr. BIESTER. Thank you very much.

#### UNITED STATES FOSTERED BOYCOTT

I wonder if I might direct an inquiry to the sponsor, the gentleman from New York?

When we began consideration of this language the gentleman referred to page 2, line 23, and I take it that that is an effort on his part to clarify the potential situation which might otherwise occur with respect to many countries in Africa which do not do business with and in fact have a boycott against the Republic of South Africa.

Would the gentleman respond to that?

Mr. BINGHAM. That would be one case where the clarification that I have added would apply.

It would also be true that if we are maintaining a boycott against, let us say, Cuba and ourselves, we are not going to try to prohibit the effort of some other country to make a boycott against Cuba effective. In other words, it defines a little further the types of countries against whom a boycott would be prohibited. The word "friendly" is a rather vague one and we, therefore, felt it was desirable to clarify it. If we ourselves are imposing any form of embargo and we do have an arms embargo against South Africa, and a total embargo against some other country—then this law would not apply.

Mr. BIESTER. Therefore, it would protect the business dealings of American companies in Africa who boycott South Africa?

Mr. BINGHAM. That is correct.

Mr. BIESTER. And boycott does not mean our own boycott as it occurs in the legislation?

Mr. BINGHAM. Yes.

Mr. FOUNTAIN. The previous question.

Chairman MORGAN. Mr. Hamilton.

#### IMPACT OF THE AMENDMENT ON THE BOYCOTT

Mr. HAMILTON. Thank you, Mr. Chairman. I would like to make a few observations on the amendment.

First of all, let me say I have personally had a great deal of difficulty in deciding how to vote on this particular amendment because I think the issues here are extraordinarily complex. Because of the compelling arguments made by a number of my colleagues on moral grounds I think I will vote for the amendment, but I want to make some observations along the lines that Congressman Buchanan made. I think his statement was excellent.

I have two very serious concerns about their amendment. First of all, I don't think it is going to help end the boycott, I think a lot of things may happen that will involve risks for us and may be counterproductive to our national purposes. U.S. companies are going to do business with the Arab world—the economics are there—and they may be forced to find ways to circumvent this provision.

Business, and at this time particularly construction business, is going to be lost to some European countries. Undoubtedly jobs are going to be lost. And many of the Arab States which do not now pay close attention to most of the Arab boycotts procedures may be forced to pay closer attention to those procedures in the future.

So my first concern simply is I don't think the effort we are seeking here, the purpose we are seeking, the end of the boycott, is going to come about.

#### U.S. RELATIONS WITH SAUDI ARABIA

Second, is a broader concern. I think all of us know that this amendment aims primarily at Saudi Arabia and it will have its greatest impact there. Over the last year, in the Congress, there have been at least seven, maybe more, amendments or bills, each of them well meaning, and in many respects supportable in themselves, and each seeking a laudable goal, but nonetheless all of them aimed exclusively or primarily at Saudi Arabia.

Now, I am beginning to be concerned about the cumulative effect of all of these amendments on United States-Saudia relations, and that cumulative effect could be disadvantageous to important national interests that we have.

Taken individually I think several of those amendments and bills, some of which I supported, have merit. Taken collectively they are sending the wrong message to the Persian Gulf at this time.

I do not need to remind the members of this committee that Saudia Arabia, on the question of Middle East peace efforts, on questions of the price of oil, which is just enormously important to the United States, has basically taken a position supportive of our interests.

#### EXECUTIVE POSITION ON ANTIBOYCOTT LEGISLATION

One other observation. I find most distressing the position of the executive branch on this particular amendment. It has been, for some weeks, very clear to me and very clear to members of this committee that some language was needed and that something like this amendment would be adopted. Yet the administration has refused to come forward with any kind of effort to reach appropriate, acceptable language; the administration has chosen to take a position dead set against any kind of anti-Arab boycott language.

So with these reservations which I wanted to express to the committee, I want also to express my congratulations to Mr. Bingham and to those who have worked with him in really an excellent draftsmanship job on a tough amendment. I find very compelling the moral arguments that they have made, and because of them it is my intention to vote for the amendment, but in doing so I recognize that we may be taking considerable risks, if this amendment becomes law, and I think we in this committee have to face and acknowledge and understand those risks.

Chairman MORGAN. Mr. Bingham.

#### PURPOSE OF ANTIBOYCOTT AMENDMENT

Mr. BINGHAM. I thank the gentlemen for yielding and I thank him for his support of the amendment and I know that he has the respect of all members of this committee and his support is important.

There are one or two points that he made I don't like to leave on the record without raising some clarification.

One point he made was that the purpose is to bring an end to the Arab boycott. I don't think that is precisely the purpose. I don't expect that it will bring an end to the Arab boycott. I think that it will assist American business to resist the Arab boycott, and I think they will be able to do that successfully, but that doesn't mean the Arab boycott will come to an end.

Furthermore I don't think it is accurate to say that this amendment is aimed at Saudia Arabia. It is true that its impact on business in Saudi Arabia may be substantial, but it is also aimed at other Arab countries. And I mentioned Egypt before, which had promised to alleviate the boycott and has not done so.

So that I just think those two points I wanted to clarify. I thank the gentleman.

Chairman MORGAN. Mr. Burke.

#### SUPPORT FOR ANTIBOYCOTT AMENDMENT

Mr. BURKE. I would like to make one comment. I would like to certainly say that the statements of my colleagues here are far more eloquent than I would make, and I do agree with the statements, certainly those that said that we are probably going to face some economic problems as a result of this amendment.

I happen to be proud to be a supporter of this amendment, but let me give you a story that I had the occasion of hearing one time when I had a case before the Supreme Court. There was a gentleman who preceded us on the docket. He represented a \$500 bondholder in a multimillion-dollar bond suit where the bondholder had agreed under the law to consent to a bondholder's agreement, and he appeared representing a \$500 bondholder, and the Chief Justice of the Supreme Court, of our Supreme Court, looked down at him and said, "You mean to tell me you are here after all the bondholders in this particular suit have agreed only representing a \$500 bondholder," and he said, "Yes, Your Honor, that is true, but since when does the dollar sign become a symbol of justice or right in this court or any court in our land or in the hearts or our American people," and the court told him to proceed with his case.

And he did proceed and I think this is part of what my feeling on this thing is. I think it is a question frankly of the right of whether or not we are going to allow sanctions of this particular kind to make us knuckle down perhaps to those countries who think that they can do so merely by economic sanctions.

I don't think the dollar sign should be the symbol to us here as to what is right and I hope you will support this amendment.

Thank you.

Chairman MORGAN. Mr. Guyer.

Mr. GUYER. Thank you, Mr. Chairman.

I would like to join in the general statements and opinions and views stated by Mr. Buchanan, Mr. Hamilton, and others here that preceded me. I do think that perhaps one word of advice or caution should be attended with the voting itself. The job is not getting this amendment out of committee, it is going to be a simple job. As a matter of fact, from the opinions expressed here, I think it is a fore-

gone conclusion, and from the sponsorships that are so multifold there is no problem.

I think what we should do is to face up to the fact that we have a presentation that is not going to be popular. When we go to the floor and go to the public we must outline, for example, the impact on, for example, the flow of oil. We must decide whether this will enhance or decrease our peacemaking role which we have been justly proud of. We must compare the Arab boycott of Israel as to how it differs from boycotts which this Nation has had; for example, the areas with Cuba, Rhodesia, and Communist China.

I think we should properly address ourselves to the economic and commercial impact of what it will do, how it will affect our balance of payments, and I am not saying these are roadblocks but rather as things we should be fully equipped with when we take the issue to the floor where it will be finally decided.

Now, we are dealing with strange people. It has been said here many times the Arab people are strange people. Many of us have been over there. It is a little bit like Reagan and Schweiker. You couldn't bring them together with computer dating.

As a matter of fact, I have a feeling it is going to take more cement and more mucilage to bring those folks together in common thinking. On the other hand, as was well stated here, we would not have had the oil problem at all had it not been for the fact that our expertise and our bits and drills were the only way they could have gotten the oil out in the first place. So we do want to take a measured look at ourselves, and I like what several people have said, including the sponsor, that this is a moral issue and we do have to let the chips fall where they may.

I will conclude by saying this.

Statesmanship, as I see it, is not doing a popular thing when it is wrong but doing the very unpopular thing when it is right. I think with that kind of a spirit and employment we can present this amendment with a better acceptance and more logic and cognizant understanding of why we are doing it.

Chairman MORGAN. Mr. Lagomarsino.

#### DIFFERENCE BETWEEN ANTIBOYCOTT AMENDMENT AND SENATE PROVISION

Mr. LAGOMARSINO. I would like to ask Mr. Bingham a question, if I might.

Could you tell us very briefly the difference between your amendment and that which is contained in the Senate bill?

Mr. BINGHAM. Yes. The Senate bill prohibits only the tertiary boycott; that is, a boycott of one American company by another under foreign pressure. This prohibits compliance with the secondary boycott as well. It prohibits furnishing of information, prohibits supplying of certain certificates of compliance, and all of those things. It prohibits any form of discrimination in response to the boycott. Otherwise the two bills are similar.

This bill provides for full reports by American businesses as does the Stevenson bill in the Senate, and I think substantially the provisions are the same except there is the important difference that the

Senate bill only reaches the tertiary boycott and does not prohibit the secondary boycott.

Mr. LAGOMARSINO. I associate myself with the remarks made by Mr. Buchanan and Mr. Hamilton. I am going to vote for the amendment but I am not entirely sure that the amendment is going to do what its sponsors hope it will do. It might have the opposite effect. It might affect the progress that is being made toward peace in the Middle East. It could adversely affect us economically; but there is no doubt about it. When it comes right down to it, when this moral issue is presented to us, the moral way to go is to vote aye on the amendment, and I intend to do so.

Mr. WOLFF. One very important factor, however, has to be considered, and that is the question of cost. Here we are celebrating the 200th anniversary of our independence. This is nothing else but a restatement of our declaration of independence from the rule or the ruin of other nations of the world—how we as a nation shall proceed as free men and women, rather than as chattels of other nations.

Chairman MORGAN. Mr. Fountain.

Mr. FOUNTAIN. I would like to associate myself as have some others with the expressions made by Mr. Buchanan, Mr. Hamilton, and others. I have reservations about this amendment. I have been pre-occupied back in my home State with something which made it possible for me to return so I might be able to vote not just this year but maybe next. Consequently, I haven't had a chance to analyse all of the pros and cons of this amendment as much as I would like; however, as has been said, it basically is right morally. But it seems to me that even when we insist upon moral principles there are certain ways we can do it, and I think there may be still ways we can soften the boycott proposals in this amendment and still accomplish the goal which it is intended to accomplish.

So, I am going to vote for this amendment, but I say I do so with reservations because of the tremendous economic impact which it may have in a variety of ways. I vote for it because of what has already been said. I think it is a stand we must take but I am hopeful that in the legislative process on the floor of the House and in the conference with the Senate we can come out with something which is softer and yet will accomplish the goal it sets out to accomplish.

It seems to me this is one of those areas where we can temper justice with mercy so far as our own economic interests are concerned and still be morally right.

Chairman MORGAN. Mr. Findley.

#### COMMENT BY REPRESENTATIVE OF THE DEPARTMENT OF STATE

Mr. FINDLEY. Thank you, Mr. Chairman. This is the Foreign Policy Committee of the House of Representatives and as such I think we have a very heavy responsibility, and before we vote on an amendment like this which could have profound effect on our foreign relations I think we ought to seek the comment of someone from the State Department on what affect that amendment may have on our relationship with the major Arab capitals. And if there is someone in the

room today who could comment on that I would be glad to yield to him.

Mr. RIEGLE. Would you yield for a suggestion about something else that I would like to ask them to include with that as long as they are going to comment?

Mr. FINDLEY. Why not get him up here and we can both ask him questions.

Mr. RIEGLE. Let me suggest it to the gentleman, then he can decide whether or not he wants to include it. I would like to know what the effects of the boycott have been thus far.

Mr. FINDLEY. I would be glad to have him report on the record of the U.S. executive branch in resisting the boycott which I don't think is all as bad as it has been indicated here today.

Mr. ROSENTHAL. We have volumes of testimony on this subject. I am not opposed to this idea. But we have heard volumes on the question you asked.

Mr. FINDLEY. He can't speak volumes in 5 minutes.

Chairman MORGAN. The gentlemen from the State Department will identify themselves.

**STATEMENT OF ARTHUR DAY, DEPUTY ASSISTANT SECRETARY  
FOR NEAR EAST AND SOUTH ASIAN AFFAIRS, DEPARTMENT OF  
STATE**

Mr. DAY. To address myself first to the point that Congressman Findley has raised as to the extent of the cost, I think that the State Department approaches this amendment—approaches the boycott question—in the context of its whole policy toward the Middle East. I think that, to put it most graphically, we approach the Middle East in the devout hope, and I think expectation, that the next 25 years are not going to be repetitions of the past 25 years.

Particularly since 1973 we have devoted extraordinary efforts to seeing that in fact they are not, and that we do whatever the United States can do, and I think that is a great deal, to bring about a settlement between the Arabs and the Israelis. To us that is the overwhelming issue. Issues like the boycott itself will not ever be solved except in the context of a settlement that goes far deeper.

I don't see how the boycott legislation which we are discussing today can do anything but hinder us. There can be differences of view as to how much it will hinder us, but I think it will clearly be regarded in the Arab world and in particular in Saudi Arabia, but not only in Saudi Arabia, with a good deal of bitterness. It won't be regarded as an isolated event.

Congressman Hamilton's point was extremely well-taken, that it will be regarded as part of a pattern which they will perceive as being directed against them, as having the effect gradually of separating the United States from the Arab world, loosening the ties which have been growing stronger between us and the Arab world, particularly in recent years, and in the process will materially reduce the influence that we have in the Arab world. And while I agree with one of the Congressmen this morning who said that the Arabs and Israelis will not make peace until they see it in their interest to do so, I also think

that our effect in the Arab world and the Middle East generally can be very important in leading the Arabs and Israelis toward a peace settlement. And without the kind of sympathetic relationship that we have been developing with the Arabs in particular our capability to play this role is going to be markedly reduced.

I think there is a tendency to underestimate the cost both economically and politically. The Arabs simply will not accept it as a matter of dollars and cents which will incline them to make their own concessions in order to get our technology and our trade. Countries simply don't do that. For them this is a gut issue, it is an issue which touches very deeply their own perception of themselves and of their relationship with Israel and they are going to react against it both politically and economically. I think we will find the costs are higher than it seems to me there has been an inclination here this morning to measure.

#### VOTE ON ANTIBOYCOTT AMENDMENT

Chairman MORGAN. The previous question has been demanded, all in favor—

Mr. RIEGLE. I would like to ask for a record vote, not on the previous question but on the issue itself.

Chairman MORGAN. All in favor of the record vote on adoption of the amendment do something by a show of hand. Evidently it is a sufficient number. The clerk will call the roll.

Mr. CZARNECKI. Dr. Morgan.

Chairman MORGAN. Aye.

Mr. CZARNECKI. Mr. Zablocki.

Mr. ZABLOCKI. Aye.

Mr. CZARNECKI. Mr. Hays.

Mr. HAYS. [No response.]

Mr. CZARNECKI. Mr. Fountain.

Mr. FOUNTAIN. Aye.

Mr. CZARNECKI. Mr. Fascell.

Mr. FASCELL. Aye.

Mr. CZARNECKI. Mr. Diggs.

Mr. DIGGS. [No response.]

Mr. CZARNECKI. Mr. Nix.

Mr. NIX. [No response.]

Mr. CZARNECKI. Mr. Fraser.

Mr. FRASER. Aye.

Mr. CZARNECKI. Mr. Rosenthal.

Mr. ROSENTHAL. Aye.

Mr. CZARNECKI. Mr. Hamilton.

Mr. HAMILTON. Aye.

Mr. CZARNECKI. Mr. Wolff.

Mr. WOLFF. Aye.

Mr. CZARNECKI. Mr. Bingham.

Mr. BINGHAM. Aye.

Mr. CZARNECKI. Mr. Yatron.

Mr. YATRON. Aye.

Mr. CZARNECKI. Mr. Taylor.

Mr. TAYLOR. Aye.

Mr. CZARNECKI. Mr. Harrington.

Mr. HARRINGTON. Aye.

Mr. CZARNECKI. Mr. Ryan.

Mr. RYAN. [No response.]

Mr. CZARNECKI. Mr. Riegler.

Mr. RIEGLER. Aye.

Mr. CZARNECKI. Mrs. Collins.

Mrs. COLLINS. [No response.]

Mr. CZARNECKI. Mr. Solarz.

Mr. SOLARZ. Aye.

Mr. CZARNECKI. Mrs. Meyner.

Mrs. MEYNER. Aye.

Mr. CZARNECKI. Mr. Bonker.

Mr. BONKER. Aye.

Mr. CZARNECKI. Mr. Studds.

Mr. STUDDS. Aye.

Mr. CZARNECKI. Mr. Broomfield.

Mr. BROOMFIELD. Aye.

Mr. CZARNECKI. Mr. Derwinski.

Mr. DERWINSKI. Aye.

Mr. CZARNECKI. Mr. Findley.

Mr. FINDLEY. No.

Mr. CZARNECKI. Mr. Buchanan.

Mr. BUCHANAN. Aye.

Mr. CZARNECKI. Mr. Burke.

Mr. BURKE. Aye.

Mr. CZARNECKI. Mr. du Pont.

Mr. DU PONT. [No response.]

Mr. CZARNECKI. Mr. Whalen.

Mr. WHALEN. Aye.

Mr. CZARNECKI. Mr. Biester.

Mr. BIESTER. Aye.

Mr. CZARNECKI. Mr. Winn.

Mr. WINN. Aye.

Mr. CZARNECKI. Mr. Gilman.

Mr. GILMAN. Aye.

Mr. CZARNECKI. Mr. Guyer.

Mr. GUYER. Aye.

Mr. CZARNECKI. Mr. Lagomarsino.

Mr. LAGOMARSINO. Aye.

Mr. CZARNECKI. On this vote by rollcall there are 27 ayes and 1 nay.  
Chairman MORGAN. The amendment is adopted.

It is the Chair's intention to adjourn at 12 o'clock, we have pending one, two, possible five other amendments. The committee adjourns until 10 o'clock tomorrow morning.

[Whereupon at 11:55 a.m. the committee recessed, to reconvene at 10 a.m. the next day.]

# EXTENSION OF THE EXPORT ADMINISTRATION ACT OF 1969

WEDNESDAY, SEPTEMBER 1, 1976

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INTERNATIONAL RELATIONS,  
*Washington, D.C.*

The committee met at 10:25 a.m. in room 2172, Rayburn House Office Building, Hon. Thomas E. Morgan (chairman of the committee) presiding.

Chairman MORGAN. Sixteen members are present and a quorum is on the way. The committee will please come to order.

[At this point, the committee took up other business.]

Chairman MORGAN. We will continue the markup of H.R. 7665, to extend the Export Administration Act. The Chair is aware that there could be at least six more amendments. I will try to take them in order. The first amendment will be an amendment by Mr. Zablocki.

## AMENDMENT ON PETROLEUM EXPORTS

Will you pass the amendment around, please. The clerk will read the amendment.

Mr. CZARNECKI. Amendment offered by Mr. Zablocki:

Amendment to section 4 (f) of the act by adding the following:

"Petroleum products refined in United States Foreign Trade Zones from foreign crude oil shall be excluded from any quantitative restrictions imposed pursuant to section 3(2)(A) of this act, except that, if the Secretary of Commerce finds that a product is in short supply, the Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to limit exports."

Chairman MORGAN. Mr. Zablocki.

Mr. ZABLOCKI. Thank you, Mr. Chairman. Mr. Chairman, our colleagues from the State of Hawaii have called to my attention an amendment adopted on the floor of the other body during the consideration of the export administration bill. It deals with a peculiar problem that the State of Hawaii has.

The amendment is very simple. It is of particular importance to Hawaii because of the location of a small refinery in the foreign trade zone. Hawaii is dependent on foreign oil. The Office of Export Administration of the Department of Commerce at present severely restricts the exportation of petroleum products from foreign subzone 9, sub A. This export control is not consistent with the clearly expressed intents of Congress or the national goal of increasing foreign commerce and improving our balance of payments.

The amendment that I propose is somewhat modified from that adopted in the other body since we have to abide by House rules of

germaneness; the reference that was contained to section 103(e) of the Energy Policy and Conservation Act which the Senate amendment contains would be questioned as to germaneness and would be within the jurisdiction of the Commerce Committee. Therefore I have stricken that from my amendment.

I would be very happy to answer any questions that members may have. It is my understanding that Congressman Spark Matsunaga and Congresswoman Patsy Mink have sent letters to all the members of the committee and I presume all are fully familiar with the intent of the amendment. It is not controversial. It would assist the State of Hawaii.

Mrs. MEYNER. Would the gentleman yield?

Mr. ZABLOCKI. I will be delighted to yield.

Mrs. MEYNER. I would like to commend the gentleman for offering the amendment. I have talked to my colleagues Congresswoman Mink and Congressman Matsunaga about it. The proposed amendment if adopted would strengthen the U.S. position in the world market without changing existing law relating to national security controls and Government authority to act in an emergency embargo situation. I strongly urge the committee to support this proposal.

#### APPROPRIATE SECTION OF THE ACT

Mr. BINGHAM. Will the gentleman yield?

Mr. ZABLOCKI. I will be delighted to yield to the gentleman from New York.

Mr. BINGHAM. I have a question. I am looking at section 4(f) of the act which is to be amended by this proposed amendment. I do not see that it has any pertinence at all. It seems to deal with matters of export to be approved by the Secretary of Agriculture. Would the gentleman comment on that?

Mr. FASCELL. What page is that?

Mr. BINGHAM. Page 1634.

Mr. ZABLOCKI. The committee staff advises me there was an error in drafting. It should be a new section to subsection 4 rather than 4(f).

Mr. BINGHAM. I thank the gentleman.

Mr. ZABLOCKI. I ask unanimous consent that the proposed amendment be amended accordingly.

Chairman MORGAN. Is there any objection to the unanimous consent request?

Mr. RYAN. Reserving the right to object.

Chairman MORGAN. Mr. Ryan reserves the right to object.

Mr. RYAN. I am not familiar with this amendment. I have just asked my colleague from California, Mr. Lagomarsino, if he was and he is not. Mr. Bonker, from Washington, is not here. The three of us represent the entire west coast on this committee. I don't have any objection to the offer of an amendment by Mr. Matsunaga or anybody else from Hawaii, through a very distinguished colleague, Mr. Zablocki. In fact it is in very good hands, but I do not know anything about this amendment. My own legislative experience in the last many years tells me that amendments of this kind that are directed to a

particular problem can become pestiferous, I guess is the word I want to use.

I need to know the actual reason why the amendment is offered; who benefits from it and what the particular effect is rather than the general effect. Until I have such reassurance and such information, I would have to object to the unanimous consent request.

Mr. ZABLOCKI. If the gentleman from California will yield.

Mr. RYAN. I will be glad to yield.

Mr. ZABLOCKI. My unanimous consent request was merely to strike the reference to 4 (f), a drafting error.

Mr. RYAN. Excuse me, I have no objection to that. I will withdraw my objection if that is the extent.

#### EFFECT OF THE AMENDMENT ON OIL EXPORTS

Chairman MORGAN. Mr. Zablocki still has the time. He yields to Mr. Ryan.

Mr. RYAN. My comment remains the same, Mr. Chairman, regarding the substance of this particular amendment. I do it with some hesitancy because I have, as I say, great respect and affection for the gentleman from Wisconsin. However, I would like to know more about the amendment because I will be asked about it out in California when I get out there. I would like to have some information about it. I was not contacted by anybody in Mr. Matsunaga's office or Mrs. Mink's office.

Mr. ZABLOCKI. If I may on my time reply to the gentleman, on the basis of my study of this amendment, it affects only Hawaii; Hawaii has only one small refinery that would be affected. This would not in any way affect the exportation of oil from our country. It is the importation of oil to Hawaii. It would affect only Hawaii.

Mr. RYAN. What company is involved?

Mr. ZABLOCKI. I don't know. It is only one small company.

Mr. RYAN. Mr. Chairman, again I say that I don't know enough about this to be able to go along with it.

Mrs. MEYNER. Will the gentleman yield?

Mr. ZABLOCKI. May I suggest: Has the gentleman had an opportunity to read the letter and the proposed amendment and the questions and answers on the proposed amendment that was sent by our colleagues Sparky Matsunaga and Patsy Mink?

Mr. RYAN. No; I have not.

Mr. ZABLOCKI. May I share them with the gentleman because I think they may alleviate the concerns that the gentleman has. Questions may arise in the minds of some and they are adequately answered in the letter. If there were any question in the mind of the gentleman from Wisconsin that this is a questionable or objectionable amendment, I would not sponsor it on behalf of our colleagues from the State of Hawaii.

Mr. RYAN. My only response is my ignorance of the specifics of that particular amendment and the fact that I need to be reassured regarding what company will benefit from this, the reasoning behind it and what the particulars are regarding it.

Mr. ZABLOCKI. It is obviously an independently owned company, but I don't know the name of it.

Chairman MORGAN. The gentleman from New York.

Mr. BINGHAM. I don't have any doubt about the substance of the amendment because I think it is quite clear on the face of it what it is intended to do. The purpose of section 3(2)(A), which is referred to here, is to protect the domestic economy from the excessive drain of scarce material. That could apply and is applied, I suppose, from time to time to petroleum products.

This says that if there is refining in a State of foreign crude oil, then that refined product can be reexported without this restriction, and that makes sense because what may be in short supply is the petroleum itself, and what I assume this does is to permit a refinery in Hawaii to import crude oil and export refined product without the danger of its being blocked. So that I don't have any problem with the substance of it.

I do feel that it is somewhat inartfully drawn in that section 3(2)(A) is a statement of policy and not of authority, so I am not sure that the amendment would accomplish the purpose that the drafters had in mind. Since it is requested by them, I would have no objection to it.

Mr. ZABLOCKI. Mr. Chairman, I have no further requests for time.

Chairman MORGAN. All in favor of the amendment offered by the gentleman from Wisconsin so signify by indicating by the word "aye."

Mr. RYAN. Mr. Chairman, I was not aware you were going to bring up the question this quickly. I would like to make a point on this amendment.

#### OIL IMPORTS

Chairman MORGAN. The chairman has no objection. Mr. Zablocki, I am sure, will withdraw the request for the question.

Mr. ZABLOCKI. I withdraw the request.

Mr. RYAN. Mr. Chairman, I speak in opposition to the amendment, not to the author. It is obvious this morning that this amendment deals with the importation of oil and oil products in Hawaii. The whole question of oil and its use and control in this country is one of enormous controversy, difficulty and misunderstanding.

My own conclusion, from having listened to those who discussed the matter, is that it is safe to say that there is room here, including the gentleman from Wisconsin, who has in depth knowledge or an adequate amount of time to study and get into the problem.

Since it deals with energy, with the importing and exporting of oil and oil products, I intend to vote no and will urge a "no" vote on this until such time as we have a chance to look at the amendment and its impact, what company is involved, what the reasons are for wanting this amendment and the usual questions about legislation that effects a single company and tends to either benefit or hurt those who are involved.

Mr. LAGOMARSINO. I would like to join my colleague Mr. Ryan in expressing concern about this amendment. I really don't understand what it will do. I am not sure it will not do exactly what we have been very careful not to do in several instances. We have drafted and passed legislation, for example, that prohibits the export of Alaskan oil without special consent of Congress. We have done the same thing with regard to oil developed on the Outer Continental Shelf.

It sounds to me that this might be a foot in the door toward reversing that policy. Maybe it should be reversed; I don't know. I don't know what it does. I don't know what the effect will be on California.

Mr. RYAN. I will be happy to yield to the lady from New Jersey.

Mrs. MEYNER. If you will check your offices, you will find that Congresswoman Mink and Congressman Matsunaga sent you a detailed description of this bill. If you didn't have a chance to read it before coming here, I suggest you do so now; it does outline it in detail and it will answer any questions you might have.

Mr. RYAN. I will be happy to yield further if the lady can tell me what company will benefit from this particular legislation, for example.

Mrs. MEYNER. Maybe Mr. Zablocki had better answer that.

Mr. RYAN. That is part of my problem. This deals with a matter that may affect the western part of the United States, where Mr. Lagomarsino, Mr. Bonker and I have a heavier degree of responsibility, coming from the west coast as we do.

That being the case, and not being able to answer those people who will question what we have done today, I would be constrained to vote "no" and ask others to do the same.

Mr. ZABLOCKI. Will the gentleman yield?

Mr. RYAN. I will be happy to yield.

Mr. ZABLOCKI. I am now advised that the name is Hawaiian Independent Refinery, Inc. It is not the refinery that we are concerned about. It is the need for oil by the State of Hawaii, which is completely and solely dependent on imported oil.

The amendment clearly states that if the Secretary of Commerce finds that a product—in this case, oil—is in short supply, then the Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to limit exports. That is all it does.

#### IMPACT ON THE WEST COAST

Mr. RYAN. Mr. Chairman, I intend to vote no. I want to point out to the committee that I do not intend to ask for a rollcall, because I recognize the good will and the good intent of the authors who suggested the amendment to Mr. Zablocki; Mr. Matsunaga and Mrs. Mink. Even though there is a letter on my desk; you know as well as I do that we get so many letters every day it is hard to climb through the pile and find what is important, I am simply serving notice that where it affects the west coast, as this does, from now on I will be a little bit tougher on matters of that kind than I am right now. I will vote no and not ask for a rollcall vote, which would, in effect, kill the amendment.

Mr. ZABLOCKI. I can fully understand the gentleman's concern, coming from the west coast. If this proposed amendment to give some consideration to the situation in Hawaii would in any way affect the energy source—oil in this instance—the gentleman from Wisconsin would be even more concerned than the gentleman from California. But the amendment does not in any way affect that energy supply as far as the United States, the 48 States in the United States, other than Hawaii, is concerned.

Mr. RYAN. I am happy to be reassured by the gentleman from Wisconsin but I renew my point that I vote in ignorance and this does have an effect on my district. I am a member of the International Relations Committee, as are Mr. Lagomarsino and Mr. Bonker, and none of us has any assurance of what this amendment is about.

Chairman MORGAN. The time of the gentleman from California has expired. Mr. Guyer.

Mr. GUYER. Is it true, Mr. Zablocki, that all this does is continue what is now the status of operations in Hawaii at the present time?

Mr. ZABLOCKI. That is true.

Mr. GUYER. Thank you.

Chairman MORGAN. Mr. Biester.

#### FOREIGN-TRADE ZONES

Mr. BIESTER. Mr. Chairman, since the language refers in the plural to "U.S. foreign trade zones," could the sponsor of the amendment inform me as to whether that would apply to any other areas near the United States, such as the Virgin Islands or other places, or Puerto Rico?

Mr. ZABLOCKI. It is my understanding that it could.

Mr. BIESTER. It would not affect refineries in the Virgin Islands and Puerto Rico?

Mr. ZABLOCKI. I don't believe we have any refineries in foreign-trade zones in the Virgin Islands and Puerto Rico.

Mr. BIESTER. There are refineries there.

Mr. ZABLOCKI. There are no refineries in U.S. free trade zones there.

Mr. BIESTER. Does the phrase "U.S. foreign trade zones" embrace Puerto Rico or the Virgin Islands?

Mr. ZABLOCKI. It is my understanding they would be.

Mr. FASCELL. They may have a free trade zone but they don't have a refinery in the free trade zone. That is different. I haven't made a study of it but the only refinery I know of is the one in Hawaii that is inside a free trade zone.

The argument that is being made is that Hawaii is totally dependent on its import of foreign oil. That refinery refines for Hawaii's domestic use. I gather it goes out of the free trade zone and then the product is imported in Hawaii for use and the amendment would allow them to export it out of the free trade zone to some other place.

Mr. BIESTER. Isn't that the process used in the refineries in the Caribbean area?

Mr. FASCELL. I don't know, but the whole purpose of the free trade zone is to come out from under U.S. laws.

Mr. GUYER. Isn't it true that the Senate went into it rather thoroughly and, if there had been a discrepancy, they would have found it there?

Mr. BIESTER. I don't trust the Senate.

Mr. GUYER. Do you want to go on record that you don't trust the Senate? I don't think you meant that.

#### AFFECT ON OIL IMPORTS AND EXPORTS

Mr. WHALEN. I would like to pose a question or two to the author of the amendment, Mr. Zablocki. Concern has been expressed about

Hawaii's need to import oil. Of course, the bill that we are considering deals with exports. How would this amendment affect imports?

Mr. ZABLOCKI. Let me first correct the gentleman, that I am the sponsor of the amendment, not the author. It does make a difference.

Chairman MORGAN. I just want to read an answer to a question, and the question is this: "Won't this cause a lot of oil now being used domestically to leave the country?" The answer is: "No. Since the proposed amendment is limited to products which have been refined from imported crude oil, there will be no drain of domestic supply."

Mr. WHALEN. Mr. Chairman, my point is simply this: Are we talking about oil that has been imported into the United States, specifically the State of Hawaii, refined there and then exported? If this is the case, I don't think the argument should be predicated upon the domestic needs of the State of Hawaii for oil.

Mr. FASCELL. The whole purpose of a free trade zone is to bring in imports and then export without being subjected to the rules and regulations of the United States. I gather in this case that there are exports from the free trade zone into Hawaii. In addition to that, they want to be able to continue exporting from the free trade zone to non-U.S. territory.

Mr. WHALEN. I think it would be helpful as to just how much has been exported in the past several years. I yield the balance of my time, Mr. Chairman.

Chairman MORGAN. Is there any further discussion?

If not, all in favor of the amendment offered by the gentleman from Wisconsin will give the usual sign; all opposed.

In the opinion of the Chair the ayes have it and the amendment is adopted.

#### AMENDMENT ON STORAGE OF AGRICULTURAL PRODUCTS

The next amendment is listed as an amendment by Mr. Fascell. The clerk will read the amendment offered by Mr. Fascell.

Mr. CZARNECKI. Amendment by Mr. Frascell offered on behalf of Mr. Fountain and himself:

Section 4(f) of the act is amended by designating the existing paragraph as subparagraph (1) and adding at the end thereof the following new subparagraph:

"(2) Upon approval of the Secretary of Commerce, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed pursuant to section 3(2)(A) of this act subsequent to such approval. The Secretary of Commerce may not grant approval hereunder unless he receives adequate assurance and, in conjunction with the Secretary of Agriculture, so finds that such commodities will eventually be exported, that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to implement this subparagraph."

Chairman MORGAN. The gentleman is recognized for 5 minutes in behalf of his amendment.

Mr. FASCELL. Mr. Chairman, first of all I am advised that the administration is not opposed to this amendment and it is already in the bill

passed by the other body; but this amendment if adopted, if certain prescribed conditions are met, will exempt from export administration agricultural commodities which had previously been purchased by or for use in a foreign country and were in certified storage in the United States at the time restrictions were imposed.

In reading the amendment, you notice there are ample safeguards thrown around the decision of the Secretary of Commerce in allowing these products to be exported. For example, he has to determine in conjunction with the Secretary of Agriculture that the commodities would eventually be exported; that the sale or export would not result in excessive drain of scarce materials and have a serious inflationary impact; and that there would be storage space.

Basically what the amendment does is provide for stability in the market on agricultural purchases by allowing foreign purchasers to come in. Assuming that storage space is available, they could then store in the United States. That gives them a chance to come in, in time of surplus, to buy and store in the United States for export later.

You understand that all sales now over 100,000 tons have to be announced. In carrying out the national security policy or national economic policy, if the Secretary did not want to approve the sale, he wouldn't have to agree to the sale in the first place.

#### HONORING CONTRACTS WITH FOREIGN PURCHASERS

All this section would do is provide a mechanism whereby we could avoid the kind of situation that occurred with respect to the embargo of grain products on a previously made sale. For example, soybeans to Japan. After the sale was made and the soybeans were still here, an embargo was entered and the total effect of that embargo was disastrous not only to the United States and Japan politically but it was disastrous for the farmers and the Government.

I am informed that the price for soybeans on original purchase started at around \$240. Then the embargo went on and the international price went up to \$400 a ton. We still had all the soybeans. The sale was canceled. Eventually the price dropped down to \$180 a ton and we were stuck with the soybeans, and the Japanese went to Brazil for their soybean needs.

It seems to me that we ought to clear up the uncertainty that exists under the present law.

There is another small aspect to this matter, and that is that it really seems that there is something wrong when you can consummate a transaction and then come along by Government fiat later and undo that transaction with no redress to anybody, either the American farmer or the foreign purchaser. There is something wrong with that.

Mr. FINDLEY. I want to congratulate the gentleman for offering this amendment. I feel that it does fill a great need in our export policy.

Mr. FASCELL. As far as carrying out U.S. policy we are adequately protected and it gives the farmer some kind of reasonable assurance and allows the foreign buyers, as I see it, to come in to the market on a little easier basis, assuming we have the product and the storage space.

In other words, it does make it possible for the foreign buyer to come in if we have the storage capacity which he has to pay for. It makes it easier for him to do that. I don't see anything wrong with that.

Chairman MORGAN. Mr. Winn.

Mr. WINN. Thank you, Mr. Chairman.

As the gentleman from Florida and the chairman realize, I came into the committee yesterday with an identical amendment before I knew that Mr. Fountain was working on this. Really, I think it is important to this committee because this exact wording is in the bill S. 3084 which has already been approved by the other body. It would permit agricultural commodities purchased by or for use in a foreign country to be stored in the United States free from short supply export limits which may be imposed subsequently if the Secretary of Commerce, in consultation with the Secretary of Agriculture, receives the assurances.

I won't go into those, the gentleman from Florida has covered those. This is very important to our farmers, particularly those growing the soy beans, wheat and cotton. I think it is something that if we approve it today, can avoid any problems in the conference.

Thank you, Mr. Chairman.

Mr. SOLARZ. Mr. Chairman.

Chairman MORGAN. Mr. Solarz.

Mr. SOLARZ. Thank you, Mr. Chairman.

First, I just want to say that I would hope that the adoption of this amendment would enable us to muster enough support for the Export Administration Act from our friends from the farming areas of the country that it would help us persuade the President not to veto what would then be an obviously meritorious piece of legislation. I trust that some of our distinguished colleagues on the committee who have expressed reservations about other sections of this bill, if this amendment were adopted, would feel that on balance it would be something that we should enact into law.

#### NATIONAL SECURITY

I have one question to ask about the amendment, if I may, of the sponsor of the amendment, Mr. Fascell. I might even suggest an amendment to the amendment. Right now, as I understand it, under existing law the President is empowered to embargo the export of agricultural commodities for either national security purposes or for inflationary purposes.

This amendment is very carefully drafted to give the President an out in the event that the export of agricultural commodities—

Mr. FASCELL. He still retains authority, if the gentleman will yield, for the two purposes you have described. This does not change that.

Mr. SOLARZ. As I read this amendment, the President would be empowered to prohibit the export of agricultural commodities that had already been purchased if by exporting them it would create a serious domestic inflationary problem. However, I don't see any language in the amendment which would give the President the power to prohibit

export of commodities already purchased if by doing so it would endanger the national security.

I wonder if it might not make sense to add language to this amendment toward the bottom of page 1 where you say "Neither the sale nor export thereof will result in excessive drain of scarce materials and have a serious domestic inflationary impact," add the words "or endanger the national security," so that if a situation developed where a country had purchased these agricultural commodities but where the President felt that the national security would be endangered by permitting their export, nonetheless that he would still be empowered—

Mr. FASCELL. Will the gentleman yield?

Mr. SOLARZ. Yes.

Mr. FASCELL. As I told the gentleman, I am no expert on this thing, but as I recall the President under another section of the law has full authority with respect to national security. The section 4(f) for which this would be an additional section only deals with scarce supply.

Mr. BINGHAM. I think the gentleman from Florida is correct. Section 3(2) (a), which is referred to here, which would be the authority for imposing the quantitative limitations, refers only to the excessive drain of scarce materials and to reduce a serious inflationary impact. The other sections of the act deal with national security. I don't think that raises the problem.

Since I have the floor, I would like to say that I think to some extent I share the unhappiness of the gentleman from California, Mr. Ryan. I think it is unfortunate that these amendments were not brought by the sponsors—and I don't mean from this committee, but I mean from those interested—and before the committee at the time the hearings were announced on the extension of the Export Administration Act. I think we would have had a much better chance to review them and understand them.

Mr. FASCELL. I certainly agree with the gentleman from New York. I don't know where these people were at the time you were holding hearings on this bill. I don't have the slightest idea. But it is a very real problem. I think the amendment is very clear and there are ample safeguards in it, so I think we should go ahead and adopt it.

Chairman MORGAN. All in favor of the amendment offered by the gentleman from Florida, Mr. Fascell, will indicate by indicating the usual voting sign. All opposed.

The "ayes" have it and the amendment is adopted.

Chairman MORGAN. Mr. Fraser, you have an amendment. Do you intend to offer your amendment?

#### TRAINING OF FOREIGN NATIONALS IN NUCLEAR TECHNOLOGY

Mr. FRASER. Mr. Chairman, the amendment I was planning to offer would call for a study of the training of foreign national in nuclear technology. I think there is a question that needs to be examined because apparently some of the people we are training now are being trained in reprocessing techniques, including people from the Republic of China, which is astonishing to me in view of our efforts to attempt to limit this. There apparently is a question of what would happen to the referral of the bill if the amendment were added, so I will not offer it at this time.

Chairman MORGAN. I think the gentleman has a good amendment. I hope we can get a proper vehicle some day.

Mr. FRASER. I may try to reshape it and offer it on the floor but I will consult with the chairman on this matter.

Chairman MORGAN. Mr. Hamilton, you have an amendment that also is controversial. Do you wish to offer your amendment?

#### AMENDMENT ON NUCLEAR POWERPLANTS

Mr. HAMILTON. I would like to offer it, Mr. Chairman.

Chairman MORGAN. Mr. Hamilton, we don't in any way amend the foreign assistance funds of this bill.

Mr. HAMILTON. I understand that, Mr. Chairman. The amendment certainly deals with exports. We have already adopted another amendment dealing with nuclear exports. It seems to me that the amendment is germane for that reason.

Chairman MORGAN. The clerk will read the Hamilton amendment.

Mr. CZARNECKI. Amendment offered by Mr. Hamilton.

#### NUCLEAR POWERPLANTS

None of the funds authorized by the Foreign Assistance Act of 1961 may be used to finance the construction of, the operation or maintenance of, or the supply of fuel for, any nuclear powerplant in Israel or Egypt which has been approved under an agreement for cooperation between the United States and either such country.

Chairman MORGAN. The gentleman from Indiana is recognized for 5 minutes in behalf of his amendment.

Mr. HAMILTON. This amendment has already been adopted by the House on a previous occasion and enacted into law. Subsequently, the authority expired and the prohibition provided in the amendment expired. The amendment simply prohibits the use of aid funds for use of powerplants in Israel or Egypt. I think most members understand that nuclear agreements are now in the final stages of discussions with both these countries. They are about to be concluded and may be submitted to the Congress soon. There are some indications that Egypt might very well come to the United States in a few months for some funding help for its proposed nuclear power facility.

I just think we ought to go on record now as saying that we are not going to permit economic aid funds to be used by recipient countries to help purchase nuclear powerplants. We have given extensive aid to both Egypt and Israel for very good reasons but that aid, it seems to me, should not encompass the development of nuclear power in this volatile region.

The other point I want to make is the precedent that might be established in Egypt or for that matter in other countries. Right now, I gather Egypt is the most likely country to want to use aid funds to develop nuclear power.

I don't think the United States ought to set that kind of precedent with its economic aid funds. The United States should not be in the business of promoting nuclear exports and in using its aid funds to encourage nuclear exports. I urge the adoption of the amendment.

Mr. BINGHAM. Will the gentleman yield?

Mr. HAMILTON. I will be glad to yield to the gentleman from New York.

Mr. BINGHAM. I have two questions. Will the gentleman spell out a little more clearly what the situation is with regard to the existing legislation or the previously adopted legislation which he says contains the same provision?

Second, why is this amendment, if it is desirable, limited to Israel and Egypt? Why isn't it a blanket prohibition?

Mr. HAMILTON. I am not sure I can go through all the steps, but we did adopt this precise amendment in the International Security Assistance Act of 1974. It was enacted into law. Then through a series of legislative oversights, not all of which I can spell out for the gentleman, involving, in part, the wording of that amendment, it remained in the bill until the security assistance bill for fiscal year 1976 was adopted at which time the power lapsed.

There is now under law no prohibition on the use of aid funds for the purchase of these nuclear powerplants.

#### COUNTRIES AFFECTED BY AMENDMENTS ON NUCLEAR POWER PLANTS

Now, why is it limited to Israel and Egypt? It is limited to them because those are the two countries where you have parallel agreements which are now under discussion. This is an amendment aimed specifically at those countries. I am not aware that there is another problem or another such agreement being negotiated right now where aid funds might be used.

Mr. BINGHAM. If the gentleman would yield further, what objection would there be to making it general.

Mr. ZABLOCKI. Let us do that.

Mr. HAMILTON. I have no objection at all.

Mr. BINGHAM. I would like to propose an amendment to the amendment, to delete the words "in Israel or Egypt."

Mr. SOLARZ. You would have to say then "any other country" instead of "such country," "under agreement for cooperation between the United States and any other country."

Chairman MORGAN. All in favor of the Bingham amendment indicate by saying "aye"; all opposed.

The question now occurs on the amendment by Mr. Hamilton.

All those in favor of the amendment by Mr. Hamilton will indicate by saying "aye"; all opposed.

The amendment is adopted.

#### EXPORT OF HORSES FOR SLAUGHTER

Mrs. Meyner, are you going to offer your amendment?

Mrs. MEYNER. Mr. Chairman, I had intended to offer an amendment to this bill to prohibit the exportation of horses intended for slaughter. The Senate included language to this effect in their amendment to the Export Administration Act passed last Friday. This committee received testimony from Congressman James Florio of New Jersey on this subject earlier this month. Congressman Florio and I have introduced legislation to accomplish this purpose.

However, I do want to point out that I have decided to refrain from offering an amendment at this time because of the danger that such

an amendment could result in a point of order being raised against the entire bill. But I would like to take this opportunity to bring this matter briefly to the attention of this committee.

Most horses which are exported for purposes other than slaughter are transported by air. However, an increasing number of American horses are being exported for slaughter, especially to Europe, and they almost always travel by sea under deplorable conditions. Since the animals will be slaughtered when they reach their destination and their economic value is rather low, little effort is made to insure their safety during the 2-week voyage. Those that die along the way are just thrown overboard. Those horses that survive the trip often arrive emaciated, sick and with broken legs or spines. Often the European horse dealers refuse to put the animals out of their misery until they are transported to the slaughter houses for fear of decreasing the economic value of the carcasses.

The Government of Canada imposed a ban on the export of horses by sea in July of 1974. One result of this ban however has been to increase the export of live horses for slaughter from the United States. The Department of Agriculture Horse Industry Advisory Committee recommended in December 1975 that horses not be exported by water for slaughter in other countries.

Nevertheless, the Department of Agriculture has merely proposed further study of this problem. It is difficult to see what further study would accomplish except to confirm what is already known.

This problem demands immediate action. A ban on these exports has been endorsed by several American and international animal protection organizations and horse industry groups. As Congressman Florio stated before this committee, there is no reason why we cannot encourage the slaughter of horses for human consumption in this country and then have the meat shipped abroad. It would be far more humane and would be economically beneficial for American slaughter houses.

Therefore, I would like to request that the committee report on this bill express the committee's concern with this problem.

Furthermore, I would request the House conferees to give sympathetic consideration to the Senate amendment on this subject when the House-Senate conference convenes.

Mr. Chairman, I yield back the balance of my time.

#### EXPORT CONTROLS ON AGRICULTURAL PRODUCTS

Chairman MORGAN. Mr. Findley, you have an amendment.

Mr. FINDLEY. Yes, Mr. Chairman. I have an amendment to the export controls of agricultural commodities. To save time, Mr. Chairman, may I state that this amendment was adopted by the Senate. The effect of it is to give the Congress 30 days in which to pass a concurrent resolution overturning a determination the President may make to impose export controls on agricultural commodities. I don't know of any opposition or objection to it.

[Vote is called for.]

Chairman MORGAN. The clerk will read the amendment.

Mr. CZARNECKI. Amendment offered by Mr. Findley.

Section 4(f) of the Export Administration Act of 1969 is amended by adding at the end thereof the following new sentences:

"However, no export controls on any agricultural commodity may be imposed pursuant to the President's determination that the exercise of the authority conferred by this section is required to effectuate the policies set forth in subparagraph (b) of paragraph (2) of section 3 of this Act until (1) the President's determination has been transmitted to the Congress, and (2) a period of thirty days has expired following the date of receipt of the determination by the Congress without the adoption by both Houses of the Congress of a concurrent resolution stating that the Congress does not favor the imposition of export controls pursuant to the President's determination. In the computation of the thirty-day period, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain or an adjournment of the Congress sine die."

Mr. BINGHAM. Mr. Chairman, I am kind of amazed at the way we are proceeding this morning. I have never heard the Senate referred to as if it were the ultimate authority. I have serious question about this amendment. I would like to have some discussion of it. I think it may impose a serious restraint on the President's authority to take action in an emergency. I haven't had a chance to examine the amendment. To suggest that we adopt it without any discussion I find extraordinary.

Mr. FINDLEY. I am glad to make a brief comment about it.

The President has seen fit to impose export controls on agricultural commodities but if the committee members will recall the circumstances, there was no urgency which would have made difficult or against the national interest a delay of 30 days in the effective date of the export controls. I think it is improbable that the Congress would overturn a decision of the President dealing with this but the existence of this 30-day period I think would cause the President to think long and hard before he made the decision and would make him more reluctant to go this route.

I think it is clearly in the public interest. If he does decide that circumstances require the imposition of export controls, then this would simply give the Congress an opportunity to review that decision before it became effective and the process of review I think would reinforce the President's decision if the Congress in fact sustain it.

#### IMPACT ON THE MARKET

Mr. WHALEN. With all due respect to the sponsor of the amendment and the other body, I think this is a disastrous amendment. I believe it would be self-defeating. Let us see what it proposes.

In effect the President is saying "Look, I am going to impose an embargo 30 days from now." This would have terrible consequences in the market. What would it mean? It means that people would come into the futures market in droves. This would invite foreign customer to come in, and it would be terribly upsetting to the market.

I might say further that I have had some discussions with representatives of the executive branch, specifically the Department of Agriculture, and they are concerned about this amendment and indeed oppose it.

Mr. FINDLEY. If I could comment on the gentleman's intervention, there is no question but what this has market impact. There is no

question also that a Presidential embargo has massive market impact as it did when the embargo was last imposed.

The embargo on the market is something that no one can really predict but one of the factors that the market would take into account is the expected decision of the Congress. If there was clear public support for the embargo, the market trend would be almost exactly as it would be without the 30-day review opportunity.

Mr. BINGHAM. Will you yield?

Mr. FINDLEY. Yes, I yield.

#### IMPACT OF AMENDMENT ON CONTRACTS

Mr. BINGHAM. I join Congressman Whalen in expressing serious concern. It seems to me if you combine this with the amendment offered by the gentleman from Florida for Mr. Fountain, it would mean that during the 30-day period contracts could be entered into and there would then be no possibility of extending an embargo.

I think we are getting mixed up here with Presidential politics. I point out that the 30-day period would not run in the event that Congress were out of session. For example, if we succeeded in adjourning sine die on October 2d, there would be a period of 90 days in which nothing could be done. I am concerned about this and will oppose it.

Mr. FINDLEY. The contract will not take effect until the 30-day period has expired. Between the time the President makes his announcement and the effective date of the embargo, contracts could occur and I am sure would be recognized and carried out.

Mr. FASCELL. I have a problem with this thing, with the 30-day period. It seems to me the sheer dynamics of the marketplace would be that the minute you made an announcement that you can't put something into effect for 30 days the market would go bananas.

Mr. FINDLEY. That would not be the effect of the announcement. The announcement would be the President's intention to impose the embargo but it could not be effective until at the very least 30 days later.

During that 30-day period contracts could go forward. It could very well have an unsettling effect on the market and that is one factor that the President could and should take into account before he makes a fundamental decision to control exports.

Mr. FASCELL. Would it not have the opposite effect of what the President is trying to do? If the President makes a determination that the national interest or for one reason or another he has to have an embargo and then he announces it for 30 days, it lets everybody get out from under.

Mr. FINDLEY. The President never does and never should take action impulsively. He also should think through all the consequences including the effect on the market.

Mr. FASCELL. Why wouldn't the other amendment be sufficient? I don't quite understand what protection the farmers are looking for under this one.

Mr. FINDLEY. This would give the Congress, the people's branch of the Government, a chance to review a decision that has massive impact on the income prospects of the farmer. The other does not.

## IMPACT OF AMENDMENT ON AN EMBARGO

Mr. FRASER. I share the concerns of others. I have less concern if the embargo becomes effective and could be terminated by congressional action. In its present form I would have to oppose it reluctantly.

Mr. LAGOMARSINO. I am very concerned about embargoes. I think the last embargo was not wise and should not have been done. I think this goes too far. Suppose we have a situation where the Arabs embargo oil to us and it is determined that in the national interest what we have to do is embargo wheat shipments to them or something of that kind. If you have to wait around 30 days to find out whether that arrow in that quiver is any good I don't think it will have much effect. I think this thing goes too far.

Mr. FINDLEY. It would prevent us from striking out in that fashion, I think it argues.

Chairman MORGAN. All in favor of the Findley amendment indicate by the word "aye." All opposed.

The "noes" have it and the amendment is not adopted.

I don't know of any further amendments. The Chair hopes that now we have completed the markup so that we can vote out a clean bill. We will proceed to consider a resolution which Mr. Fraser wants to call up at this time.

[At this point, the committee took up other business.]

Chairman MORGAN. The Chair wants to state at this time that I have been informed by the Speaker and Parliamentarian this morning that the Speaker received a communication from Chairman Price and ranking minority Member Mr. Anderson that the Joint Committee on Atomic Energy is raising strong objections to amendments adopted by this committee—to the Zablocki amendment and Hamilton amendment. The joint committee apparently feels that such matters are under its jurisdiction. I understand they are laying claim to legislation that deals with nuclear matters.

Now, we do not know how the Speaker will rule on this issue because he never announces his rulings in advance. There is at this point the presumption that he would consider favorably the request of the Joint Committee for coreferral of this legislation.

Now, we have two courses open. We can either go ahead and introduce a clean bill, report it out of our committee this morning and take our chances, hoping that the bill will not be coreferred to the Joint Committee, or, second, we can go with the original one-paragraph bill, attaching everything that the committee has agreed to as amendments to this bill.

In the second case, then the legislation would not go to the Joint Committee on Atomic Energy but some of our amendments such as those dealing with nuclear matters may be knocked out on the floor as nongermane to the bill.

At this very point, George Ingram is still in consultation with the Parliamentarian. I thought I would put it before the committee because after 12 o'clock the committee will have to make a decision.

Mr. ROSENTHAL. Mr. Chairman, would you say that again.

Chairman MORGAN. We have two choices open. We could either go ahead and introduce a clean bill, report it out to our committee this morning and take our chances that it will not be coreferred to the Joint Committee—

Mr. FASCELL. I guarantee it will be coreferred.

#### OPTIONS ON REPORTING THE EXPORT ADMINISTRATION BILL

Chairman MORGAN. We just heard from the Parliamentarian. Marian, I will let you state the third option.

Mr. CZARNECKI. The third option is—

Mr. ROSENTHAL. Will you go one, two, and three?

Mr. CZARNECKI. The first option is that all the action taken by the committee is introduced as a clean bill and referred out of this committee immediately. That course involves the possibility that the minute that bill is introduced it might have to be coreferred to the Joint Committee. The possibility is very strong right now.

Mr. ROSENTHAL. That would cause interminable delay.

Mr. CZARNECKI. Right.

The second possibility is that we take the original one-paragraph bill and attach the amendments to it and report the original bill as amended, in which case some of the amendments would be vulnerable on the floor unless protected by a rule waiving points of order.

Amendments other than just the nuclear amendments could be considered nongermane to a one-paragraph bill simply extending the life of the Export Administration.

Let me explain the third possibility. The Parliamentarian feels that the Hamilton amendment would not provide the ground for referral to the Joint Committee. The committee could introduce a clean bill without the Zablocki amendment, have it immediately referred to us, amend the bill by adding the Zablocki amendment at the end thereof, and report it as amended, in which case the only thing that might be vulnerable on the floor would be the Zablocki amendment. But on that question, the Parliamentarian would not tell us how he would rule.

Mr. ROSENTHAL. I like the third choice first; the second choice second, and the first choice third.

Mr. FASCELL. I don't see why on the third choice you get out from anything.

Mr. CZARNECKI. If the bill does not contain the nuclear amendment to which they object, they do not have the grounds to claim coreferral. Therefore, a clean bill without that one provision would be referred right back to this committee and the committee could then work its will in attaching the Zablocki amendment to that. You thereby bypass the Joint Committee.

Mr. FASCELL. You put the Zablocki amendment on a clean bill. It is a separate bill amending another law.

Mr. BINGHAM. I favor option 3. I am afraid we are going to have trouble with the Joint Committee. Option 3 would involve introduction of a clean bill which does not raise the jurisdictional question. We then amend the clean bill so that we have one committee amend-

ment to go to the floor with rather than a whole slew of committee amendments.

Mr. ROSENTHAL. Do you think if we take option 3 that it won't be jointly referred?

Mr. CZARNECKI. These are the indications that we have received right now.

Mr. FRASER. Mr. Chairman, aren't we in fact able to do all three if we want to? We can report out three different versions of the bill and sort it out later.

Mr. BINGHAM. I think that is a fair idea. The gentleman can say, "Look, we have a bill referred to us and we are considering it and now you propose to go ahead."

Mr. ROSENTHAL. Can we move to adopt No. 3 if Mr. Zablocki finds that agreeable because I think he has the greatest burden of decision here.

Mr. ZABLOCKI. I fully understand that we have certain amendments that we are deeply interested in; the Bingham amendment and others that we had adopted in committee and if we take the route of the third choice, we will only have one fight on the floor and that is my amendment. At any rate, whichever route we take we will have a fight on the floor. The question is, Do we jeopardize the whole bill or a third of it?

I will go along with the rest of the members. Although I am deeply interested in my amendment—I think it is a good amendment—I will go along with the committee on the third option.

Mr. BUCHANAN. I would hope that we would take the third option.

Mr. SOLARZ. Mr. Chairman.

#### INTRODUCTION OF A CLEAN BILL

Chairman MORGAN. Can I get permission from the clerk to call over and introduce a clean bill with the exception of the Zablocki amendment?

Mr. ZABLOCKI. To make it absolutely legal, I ask unanimous consent to withdraw my amendment from the bill just passed. The bill we will introduce will be the clean bill.

Chairman MORGAN. Any objection?

There is no objection.

Mr. Solarz.

Mr. SOLARZ. On this possibility, I assume the strategy now is once the bill comes before the committee for us to adopt the Zablocki-Findley amendment as an amendment to the clean bill. Having done that is there any possibility at that point, having added this amendment to the bill, that the joint committee will come in and say, "Now, it is a matter relative to our jurisdiction, we want a referral before it can come up on the floor"?

Chairman MORGAN. There is no way amendments can be referred. Only a bill can be referred.

Mr. SOLARZ. At this point it means a separate vote can be taken on the floor on the Zablocki-Findley amendment. Even if that strategy were not followed, they could have introduced an amendment to delete it. There is no way to avoid an attempt to delete this amend-

ment no matter what strategy we adopt. If we adopt this strategy, it means we avoid the problem of the joint referral—which would have meant delay in consideration.

[At this point, the committee took up other business.]

Mr. ROSENTHAL. Could I make the same unanimous consent request if it is necessary on the Export Administration Act? I don't know if anybody is going to offer separate views. I doubt that anybody will. I would ask unanimous consent that the 3-day rule be waived.

Mr. SOLARZ. Until midnight tonight.

Chairman MORGAN. Any objection to the midnight tonight?

The Chair hears no objection.

[At this point, the committee took up other business.]

#### VOTE ON EXPORT ADMINISTRATION BILL

Chairman MORGAN. We have our bill number. Our bill number is H.R. 15377.

Mr. Zablocki.

Mr. ZABLOCKI. Mr. Chairman, I have an amendment to the bill H.R. 15377.

Chairman MORGAN. Any objection to the request of Mr. Findley?

The Chair hears no objection.

Mr. Zablocki.

Mr. ZABLOCKI. Mr. Chairman, I think we all know what is contained in my amendment. I call for the previous question.

Chairman MORGAN. All in favor of the Zablocki amendment indicate by the word "aye."

Anybody opposed?

The bill H.R. 15377 as amended by the Zablocki amendment, it has been moved that it be reported.

All in favor indicate by the word "aye."

All opposed.

The bill will be reported.

Mr. BINGHAM. I would like to record the fact that had there been a record vote I would have voted Mr. Harrington "aye" by proxy.

[Whereupon, at 12:10 p.m., the committee adjourned.]



## APPENDIX 1

## TEXT OF BILL CONSIDERED DURING MARKUP

94TH CONGRESS  
1ST SESSION**H. R. 7665**

## IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 1975

Mr. MORGAN (by request) (for himself and Mr. BROOMFIELD) introduced the following bill; which was referred to the Committee on International Relations

**A BILL**

To extend the Export Administration Act of 1969, as amended.

- 1     *Be it enacted by the Senate and House of Representa-*  
2     *tives of the United States of America in Congress assembled,*  
3     That the Export Administration Act of 1969 (Public Law  
4     91-184, 50 U.S.C. App. 2401, et seq.), as amended, is  
5     further amended by striking out "September 30, 1976" in  
6     section 14, and inserting in lieu thereof "September 30,  
7     1979".

I

## APPENDIX 2

TEXT OF CLEAN BILL AS REPORTED BY THE COMMITTEE

Union Calendar No. 754

94<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**H. R. 15377**

[Report No. 94-1469]

## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 1, 1976

Mr. MORGAN (for himself, Mr. ZABLOCKI, Mr. FASCELL, Mr. NIX, Mr. FRASER, Mr. ROSENTHAL, Mr. HAMILTON, Mr. YATRON, Mr. BINGHAM, Mr. RYAN, Mrs. COLLINS of Illinois, Mr. SOLARZ, Mrs. MEYNER, Mr. BROOMFIELD, Mr. BURKE of Florida, Mr. WHALEN, Mr. BIESTER, Mr. WINN, Mr. GILMAN, and Mr. GUYER) introduced the following bill; which was referred to the Committee on International Relations

SEPTEMBER 2, 1976

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Insert the part printed in *italic*]**A BILL**

To amend the Export Administration Act of 1969.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 EXTENSION OF EXPORT ADMINISTRATION ACT

4 SECTION 1. The Export Administration Act of 1969  
5 (50 U.S.C. App. 2401 et seq.) is amended in section 14  
6 by striking out "September 30, 1976" and inserting in lieu  
7 thereof "September 30, 1977".

8 PENALTIES FOR VIOLATIONS

9 SEC. 2. (a) Section 6(a) of the Export Administration  
10 Act of 1969 is amended—

1 (1) in the first sentence, by striking out "\$10,000"  
2 and inserting in lieu thereof "\$25,000"; and

3 (2) in the second sentence, by striking out  
4 "\$20,000" and inserting in lieu thereof "\$50,000".

5 (b) Section 6(b) of such Act is amended by striking  
6 out "\$20,000" and inserting in lieu thereof "\$50,000".

7 (c) Section 6(c) of such Act is amended by striking  
8 out "\$1,000" and inserting in lieu thereof "\$10,000".

9 (d) Section 6(d) of such Act is amended by adding at  
10 the end thereof the following new sentences: "Further, the  
11 payment of any penalty imposed pursuant to subsection (c)  
12 may be deferred or suspended in whole or in part for a time  
13 equal to or less than any probation period (which may ex-  
14 ceed one year) that may be imposed upon such person. Such  
15 deferral or suspension shall not operate as a bar to the collec-  
16 tion of the penalty in the event that the conditions of the  
17 suspension, deferral, or probation are not fulfilled."

18 **AUTHORIZATION OF APPROPRIATIONS**

19 **SEC. 3.** The Export Administration Act of 1969 is  
20 amended by inserting after section 12 the following new  
21 section 13 and redesignating existing sections 13 and 14  
22 as sections 14 and 15, respectively:

23 **"AUTHORIZATION OF APPROPRIATIONS**

24 **"SEC. 13.** Notwithstanding any other provision of law,  
25 no appropriation shall be made under any law to the Depart-

1 ment of Commerce for expenses to carry out the purposes of  
2 this Act for any fiscal year commencing on or after Octo-  
3 ber 1, 1977, unless previously and specifically authorized  
4 by legislation enacted after the enactment of this section.”.

5 **FOREIGN AVAILABILITY**

6 **SEC. 4.** Section 4 (b) of the Export Administration Act  
7 of 1969 is amended—

8 (1) by striking out paragraphs (2) through (4)  
9 and redesignating section 4 (b) (1) as section 4 (b) ;  
10 and

11 (2) by striking out “, regardless” and all that  
12 follows thereafter in the third sentence of such section  
13 4 (b) and inserting in lieu thereof a period and the fol-  
14 lowing: “The President shall not impose export controls  
15 for national security purposes on the export from the  
16 United States of articles, materials, or supplies, including  
17 technical data or other information, which he determines  
18 are available without restriction from sources outside the  
19 United States in significant quantities and comparable  
20 in quality to those produced in the United States, unless  
21 the President determines that adequate evidence has  
22 been presented to him demonstrating that the absence of  
23 such a control would prove detrimental to the national  
24 security of the United States. The nature of such evidence  
25 shall be included in the semiannual report required by

1 section 10 of this Act. Where in accordance with this  
2 subsection, export controls are imposed for national secu-  
3 rity purposes notwithstanding foreign availability, the  
4 President shall take steps to initiate negotiations with  
5 the governments of the appropriate foreign countries for  
6 the purpose of eliminating such availability.”.

7 PERIOD FOR ACTION ON EXPORT LICENSE APPLICATIONS

8 SEC. 5. Section 4 (g) of the Export Administration Act  
9 of 1969 is amended to read as follows:

10 “(g) (1) It is the intent of Congress that any export  
11 license application required under this Act shall be ap-  
12 proved or disapproved within 90 days of its receipt. Upon  
13 the expiration of the 90-day period beginning on the date  
14 of its receipt, any export license application required under  
15 this Act which has not been approved or disapproved shall  
16 be deemed to be approved and the license shall be issued  
17 unless the Secretary of Commerce or other official exercising  
18 authority under this Act finds that additional time is re-  
19 quired and notifies the applicant in writing of the specific  
20 circumstances requiring such additional time and the esti-  
21 mated date when the decision will be made.

22 “(2) With respect to any export license application not  
23 finally approved or disapproved within 90 days of its receipt  
24 as provided in paragraph (1) of this subsection, the appli-

1 cant shall, to the maximum extent consistent with the na-  
2 tional security of the United States, be specifically informed  
3 in writing of questions raised and negative considerations or  
4 recommendations made by any agency or department of the  
5 Government with respect to such license application, and shall  
6 be accorded an opportunity to respond to such questions, con-  
7 siderations, or recommendations in writing prior to final  
8 approval or disapproval by the Secretary of Commerce or  
9 other official exercising authority under this Act. In making  
10 such final approval or disapproval, the Secretary of Com-  
11 merce or other official exercising authority under this Act  
12 shall take fully into account the applicant's response.”.

13 **AVAILABILITY OF INFORMATION TO CONGRESS**

14 **SEC. 6. (a)** Section 7(c) of the Export Administration  
15 Act of 1969 is amended by adding at the end thereof the  
16 following new sentences: “Nothing in this Act shall be con-  
17 strued as authorizing the withholding of information from  
18 Congress, and any information obtained under this Act,  
19 including any report or license application required under  
20 section 4(b) and any information required under section  
21 4(j) (1), shall be made available upon request to any com-  
22 mittee of Congress or any subcommittee thereof. No such  
23 committee or subcommittee shall disclose any information  
24 obtained under this Act which is submitted on a confi-

1 **dential basis unless such committee or subcommittee deter-**  
2 **mines that the withholding thereof is contrary to the national**  
3 **interest.”.**

4 (b) Section 4 (c) (1) of such Act is amended by insert-  
5 ing immediately before the period at the end of the last  
6 sentence thereof “and in the last two sentences of section  
7 7(c) of this Act”.

8 **TECHNICAL ADVISORY COMMITTEES**

9 **SEC. 7.** Section 5 (c) (2) of the Export Administration  
10 Act of 1969 is amended by striking out the third sentence  
11 and inserting in lieu thereof the following: “The Secretary  
12 shall include in each semiannual report required by sec-  
13 tion 10 of this Act an accounting of the consultations under-  
14 taken pursuant to this paragraph, the use made of the ad-  
15 vice rendered by the technical advisory committees pursuant  
16 to this paragraph, and the contributions of the technical  
17 advisory committees to carrying out the policies of this  
18 Act.”.

19 **SIMPLIFICATION OF EXPORT REGULATIONS**

20 **SEC. 8.** Section 7 of the Export Administration Act of  
21 1969 is amended by adding at the end thereof the following  
22 new subsection (e) :

23 “(e) The Secretary of Commerce, in consultation with  
24 appropriate United States Government departments and  
25 agencies and with appropriate technical advisory committees

1 established under section 5 (c), shall review the rules and  
2 regulations issued under this Act in order to determine how  
3 compliance with the provisions of this Act can be facilitated  
4 by simplifying such rules and regulations or by any other  
5 means. Not later than six months after the enactment of this  
6 subsection, the Secretary of Commerce shall report to Con-  
7 gress on the actions taken on the basis of such review to  
8 simplify such rules and regulations. Such report may be  
9 included in the semiannual report required by section 10 of  
10 this Act.”.

11 CONTROL OF EXPORTS FOR NATIONAL SECURITY PURPOSES

12 SEC. 9. (a) Section 4 (h) (1) of the Export Adminis-  
13 tration Act of 1969 is amended—

14 (1) by striking out “to a controlled country” in  
15 the first sentence;

16 (2) by striking out “significantly increase the mili-  
17 tary capability of such country” in the first sentence and  
18 inserting in lieu thereof “make a significant contribution  
19 to the military potential of any other nation or nations  
20 which would prove detrimental to the national security  
21 of the United States”;

22 (3) by striking out “such country” in the second  
23 sentence and inserting in lieu thereof “nation to which  
24 exports are restricted for national security purposes”;  
25 and

1           (4) by striking out "significantly increase the mili-  
2           tary capability of such country" in the second sentence  
3           and inserting in lieu thereof "make a significant contri-  
4           bution to the military potential of any other nation or  
5           nations which would prove detrimental to the national  
6           security of the United States".

7           (b) The second sentence of section 4 (h) (2) of such  
8           Act is amended to read as follows: "The appropriate export  
9           control office or agency to whom a request which falls  
10          within such types and categories is made shall notify the  
11          Secretary of Defense of such request, and such office may  
12          not issue any license or other authority pursuant to such  
13          request prior to the expiration of the period within which  
14          the President may disapprove such export."

15          (c) Section 4 (h) (2) (A) of such Act is amended to  
16          read as follows:

17                 "(A) recommend to the President that he dis-  
18                 approve a request for the export of any goods or tech-  
19                 nology which he determines will make a significant con-  
20                 tribution to the military potential of any nation or  
21                 nations which would prove detrimental to the national  
22                 security of the United States;"

23          (d) Section 4 (h) (2) (C) of such Act is amended by  
24          striking out "export of such goods or technology" and in-  
25          serting in lieu thereof "request".

1 (e) Section 4 (h) (2) of such Act is amended by strik-  
2 ing out "the export of such goods or technology to such  
3 country" in the last sentence and inserting in lieu thereof  
4 "such export".

5 (f) Section 4 (h) (4) of such Act is amended—

6 (1) by inserting "and" at the end of subparagraph  
7 (A); and

8 (2) by striking out the semicolon at the end of  
9 subparagraph (B) and all that follows thereafter  
10 through "1961" at the end of subparagraph (C).

11 (g) Section 6 (b) of such Act is amended by striking  
12 out "Communist-dominated nation" and inserting in lieu  
13 thereof "country to which exports are restricted for national  
14 security or foreign policy purposes".

15 **REPEAL OF TITLE II OF THE MUTUAL DEFENSE**

16 **ASSISTANCE CONTROL ACT**

17 **SEC. 10.** (a) Title II of the Mutual Defense Assistance  
18 Control Act of 1951 (22 U.S.C. 1612-1612b) is repealed.

19 (b) Section 301 of such Act (22 U.S.C. 1613) is  
20 amended by striking out "and title II".

21 **EXPORTS OF TECHNICAL INFORMATION**

22 **SEC. 11.** Section 4 of the Export Administration Act of  
23 1969 is amended by adding at the end thereof the following  
24 new subsection (j):

1       “(j) (1) Any person (including any college, university,  
2 or other educational institution) who enters into any agree-  
3 ment for, or which may result in, the transfer from the  
4 United States of technical data or other information to any  
5 nation to which exports are restricted for national security  
6 or foreign policy purposes shall furnish to the Secretary of  
7 Commerce such information with respect to such agreement  
8 as the Secretary shall by regulation require in order to enable  
9 him to monitor the effects of such transfers on the national  
10 security and foreign policy of the United States.

11       “(2) The Secretary of Commerce shall conduct a study  
12 of the problem of the export, by publications or any other  
13 means of public dissemination, of technical data or other  
14 information from the United States, the export of which  
15 might prove detrimental to the national security or foreign  
16 policy of the United States. Not later than 6 months after  
17 the enactment of this subsection, the Secretary shall report  
18 to the Congress his assessment of the impact of the export  
19 of such technical data or other information by such means  
20 on the national security and foreign policy of the United  
21 States and his recommendations for monitoring such exports  
22 without impairing freedom of speech, freedom of press, or the  
23 freedom of scientific exchange. Such report may be included  
24 in the semiannual report required by section 10 of this Act.”.

## 1 SEMIANNUAL REPORTS

2 SEC. 12. (a) Section 10 of the Export Administration  
3 Act of 1969 is amended by adding at the end the following  
4 new subsection (e) :

5 “(e) Each semiannual report shall include an account-  
6 ing of—

7 “(1) any organizational and procedural changes  
8 instituted, any reviews undertaken, and any means used  
9 to keep the business sector of the Nation informed, pur-  
10 suant to section 4 (a) of this Act;

11 “(2) any changes in the exercise of the authorities  
12 of section 4 (b) of this Act;

13 “(3) any delegations of authority under section  
14 4 (e) of this Act;

15 “(4) the disposition of export license applications  
16 pursuant to sections 4 (g) and 4 (h) of this Act;

17 “(5) the effects on the national security and for-  
18 eign policy of the United States of transfers from the  
19 United States of technical data or other information  
20 which are reported to the Secretary of Commerce pur-  
21 suant to section 4 (j) of this Act;

22 “(6) consultations undertaken with technical ad-  
23 visory committees pursuant to section 5 (c) of this Act;  
24 and



1           “(1) the current list of commodities controlled for  
2 export by agreement of the group known as the Coordinating  
3 Committee of the Consultative Group (hereafter  
4 in this section referred to as the ‘Committee’) and an  
5 analysis of the process of reviewing such list and of the  
6 changes which result from such review;

7           “(2) data on and analysis of requests for excep-  
8 tions to such list;

9           “(3) a description and an analysis of the process  
10 by which decisions are made by the Committee on  
11 whether or not to grant such requests;

12           “(4) an analysis of the uniformity of interpreta-  
13 tion and enforcement by the participating countries  
14 of the export controls agreed to by the Committee  
15 (including controls over the re-export of such commodi-  
16 ties from countries not participating in the Committee),  
17 and information on each case where such participating  
18 countries have acted contrary to the United States in-  
19 terpretation of the policy of the Committee, including  
20 United States representations to such countries and the  
21 response of such countries;

22           “(5) an analysis of the problem of exports of ad-  
23 vanced technology by countries not participating in the  
24 Committee, including such exports by subsidiaries or  
25 affiliates of United States businesses in such countries;



1 (b) Section 4 of such Act is amended—

2 (1) by striking out the next to the last sentence of  
3 subsection (b), as so redesignated by section 4 of this  
4 Act; and

5 (2) by adding the following new subsection (k)  
6 immediately after subsection (j), as added by section 11  
7 of this Act:

8 “(k) (1) (A) Rules and regulations prescribed under  
9 subsection (b) shall implement the provisions of section  
10 3(5) of this Act and shall require that any United States  
11 person receiving a request for furnishing information or enter-  
12 ing into agreement as specified in that section must report  
13 this fact to the Secretary of Commerce for such action as the  
14 Secretary may deem appropriate to carry out the policy  
15 of that section.

16 “(B) Any report filed under subparagraph (A) after  
17 the enactment of this subsection shall be made available  
18 promptly for public inspection and copying. The Secretary  
19 of Commerce shall transmit copies of such reports to the  
20 Secretary of State for such action as the Secretary of State,  
21 in consultation with the Secretary of Commerce, may deem  
22 appropriate for carrying out the policy set forth in section  
23 3(5). The provisions of section 7(c) shall not apply to re-  
24 ports filed under subparagraph (A) of this paragraph.

25 “(2) (A) In furtherance of the policy set forth in sec-

1 tions 3(5) (A) and (B), no United States person shall  
2 take any action with intent to comply with or to further or  
3 support any trade boycott fostered or imposed by any for-  
4 eign country against a country which is friendly to the  
5 United States and which is not itself the object of any form of  
6 embargo by the United States. The mere absence of a busi-  
7 ness relationship with a boycotted country does not indicate  
8 the existence of the intent required by the preceding sentence.

9 “(B) For the purpose of enforcing the prohibition con-  
10 tained in subparagraph (A) of this paragraph, the Secretary  
11 of Commerce shall issue rules and regulations prohibiting  
12 any United States person from taking any action with the  
13 required intent, including the following actions:

14 “(i) Discriminating against any United States per-  
15 son, including any officer, employee, agent, director, or  
16 stockholder or other owner of any United States person,  
17 on the basis of race, color, religion, sex, nationality, or  
18 national origin.

19 “(ii) Boycotting or refraining from doing business  
20 with any United States person, with the boycotted coun-  
21 try, with any business concern in or of the boycotted  
22 country with any national or resident of the boycotted  
23 country, or with any business concern or other person  
24 which has done, does, or proposes to do business with  
25 the boycotted country, with any business concern in or of

1 the boycotted country, or any national or resident of  
2 the boycotted country.

3 “(iii) Furnishing information with respect to the  
4 race, color, religion, sex, nationality, or national origin  
5 of any past, present, or proposed officer, employee, agent,  
6 director, or stockholder or other owner of any United  
7 States person.

8 “(iv) Furnishing information about any past, pres-  
9 ent, or proposed business relationship, including a rela-  
10 tionship by way of sale, purchase, legal or commercial  
11 representation, shipping or other transport, insurance,  
12 investment, or supply, with any United States person,  
13 with the boycotted country, with any business concern  
14 in or of the boycotted country, with any national or  
15 resident of the boycotted country, or with any business  
16 concern or other person which has done, docs, or pro-  
17 poses to do business with the boycotted country, with  
18 any business concern in or of the boycotted country, or  
19 any national or resident of the boycotted country.”.

20 (c) (1) Section 6 of such Act is amended by redesignig-  
21 nating subsection (g) as subsection (h) and by inserting  
22 immediately after subsection (f) the following new subsec-  
23 tion (g) :

24 “(g) Any United States person aggrieved by action  
25 taken as a result of a violation of section 4 (k) (2) of this

1 Act may institute a civil action in an appropriate United  
2 States district court, without regard to the amount in con-  
3 troversy, and may recover threefold actual damages, reason-  
4 able attorney's fees, and other litigation costs reasonably  
5 incurred, and obtain other appropriate relief.”.

6 (2) Section 6(h) of such Act, as so redesignated by  
7 paragraph (1) of this subsection, is amended by striking out  
8 “or (f)” and inserting in lieu thereof “(f), or (g)”.

9 (d) Section 12 of such Act, as so redesignated by section  
10 13 of this Act, is amended by adding at the end thereof the  
11 following: “The term ‘United States person’ includes any  
12 United States resident or national, any domestic business con-  
13 cern (including any domestic subsidiary or affiliate of any  
14 foreign business concern), and any foreign subsidiary or  
15 affiliate of any domestic business concern.”.

16 CERTAIN PETROLEUM EXPORTS

17 SEC. 15. Section 4 of the Export Administration Act of  
18 1969, as amended by sections 11 and 14 of this Act, is  
19 further amended by adding at the end thereof the following  
20 new subsection (l) :

21 “(l) Petroleum products refined in United States For-  
22 eign-Trade Zones from foreign crude oil shall be excluded  
23 from any quantitative restrictions imposed pursuant to sec-  
24 tion 3 (2) (A) of this Act, except that, if the Secretary of  
25 Commerce finds that a product is in short supply, the Secre-

1 tary of Commerce is authorized to issue such rules and reg-  
2 ulations as may be necessary to limit exports.”.

3 **EXEMPTION FOR CERTAIN AGRICULTURAL COMMODITIES**  
4 **FROM CERTAIN EXPORT LIMITATIONS**

5 **SEC. 16.** Section 4 (f) of the Export Administration Act  
6 of 1969 is amended—

7 (1) by redesignating such section as section  
8 4 (f) (1) ; and

9 (2) by adding at the end thereof the following new  
10 paragraph:

11 “(2) Upon approval of the Secretary of Commerce, in  
12 consultation with the Secretary of Agriculture, agricultural  
13 commodities purchased by or for use in a foreign country  
14 may remain in the United States for export at a later date  
15 free from any quantitative limitations on export which may  
16 be imposed pursuant to section 3(2) (A) of this Act sub-  
17 sequent to such approval. The Secretary of Commerce may  
18 not grant approval hereunder unless he receives adequate  
19 assurance and, in conjunction with the Secretary of Agri-  
20 culture, so finds that such commodities will eventually  
21 be exported, that neither the sale nor export thereof will  
22 result in an excessive drain of scarce materials and have  
23 a serious domestic inflationary impact, that storage of such  
24 commodities in the United States will not unduly limit the  
25 space available for storage of domestically owned commodi-

1 ties, and that the purpose of such storage is to establish a  
2 reserve of such commodities for later use, not including resale  
3 to or use by another country. The Secretary of Commerce  
4 is authorized to issue such rules and regulations as may be  
5 necessary to implement this paragraph.”.

6 **NUCLEAR POWERPLANTS**

7 **SEC. 17.** None of the funds authorized by the Foreign  
8 Assistance Act of 1961 may be used to finance the construc-  
9 tion of, the operation or maintenance of, or the supply of  
10 fuel for, any nuclear powerplant under an agreement for  
11 cooperation between the United States and any other  
12 country.

13 **NUCLEAR EXPORTS**

14 **SEC. 18.** *The Export Administration Act of 1969 is*  
15 *amended by adding at the end thereof the following new*  
16 *section:*

17 **“NUCLEAR EXPORTS**

18 **“SEC. 17. (a) (1)** *The Congress finds that the export*  
19 *by the United States of nuclear material, equipment, and*  
20 *devices, if not properly regulated, could allow countries to*  
21 *come unacceptably close to a nuclear weapon capability,*  
22 *thereby adversely affecting international stability, the foreign*  
23 *policy objectives of the United States, and undermining the*  
24 *principle of nuclear nonproliferation agreed to by the United*

1 *States as a signatory to the Treaty on the Non-Proliferation*  
2 *of Nuclear Weapons.*

3       “(2) *The Congress finds that nuclear export activities*  
4 *which enable countries to possess strategically significant*  
5 *quantities of unirradiated, readily fissionable material are*  
6 *inherently unsafe.*

7       “(3) *It is, therefore, the purpose of this section to*  
8 *implement the policies stated in paragraphs (1) and (2)*  
9 *of section 3 of this Act by regulating the export of nuclear*  
10 *material, equipment, and devices which could prove detri-*  
11 *mental to United States national security and foreign policy*  
12 *objectives.*

13       “(b) (1) *No agreement for cooperation providing for*  
14 *the export of any nuclear material, equipment, or devices*  
15 *for civil uses may be entered into with any foreign country,*  
16 *group of countries, or international organization, and no*  
17 *amendment to or renewal of any such agreement may be*  
18 *agreed to, unless—*

19               “(A) *the provisions of the agreement concerning*  
20 *the reprocessing of special nuclear material supplied by*  
21 *the United States will apply equally to all special nuclear*  
22 *material produced through the use of any nuclear reactor*  
23 *transferred under such agreement; and*

24               “(B) *the recipient country, group of countries, or*

1     *international organization, has agreed to permit the*  
2     *International Atomic Energy Agency to report to the*  
3     *United States, upon a request by the United States, on*  
4     *the status of all inventories of plutonium, uranium 233,*  
5     *and highly enriched uranium possessed by that country,*  
6     *group of countries, or international organization and*  
7     *subject to International Atomic Energy Agency safe-*  
8     *guards.*

9     “(2) *The Secretary of State shall undertake consulta-*  
10    *tions with all parties to agreements for cooperation existing*  
11    *on the date of enactment of this section in order to seek*  
12    *inclusion in such agreements of the provisions described*  
13    *in paragraphs (1)(A) and (1)(B) of this subsection.*

14    “(3)(A) *No license may be issued for the export of*  
15    *any nuclear material, equipment, or devices pursuant to an*  
16    *agreement for cooperation unless the recipient country, group*  
17    *of countries, or international organization, has agreed that*  
18    *the material, equipment, and devices subject to that agree-*  
19    *ment will not be used for any nuclear explosive device,*  
20    *regardless of how the device itself is intended to be used.*

21    “(B) *Subparagraph (A) of this paragraph shall take*  
22    *effect at the end of the one year period beginning on the*  
23    *date of enactment of this section.*

24    “(4) *In any case in which a party to any agreement*  
25    *for cooperation seeks to reprocess special nuclear material*

1 *produced through the use of any nuclear material, equipment,*  
2 *or devices supplied by the United States, the Secretary of*  
3 *State may only determine that safeguards can be applied*  
4 *effectively to such reprocessing if he finds that the reliable*  
5 *detection of any diversion and the timely warning to the*  
6 *United States of such diversion will occur well in advance*  
7 *of the time at which that party could transform strategic*  
8 *quantities of diverted nuclear material into explosive nuclear*  
9 *devices.”.*